

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

**CALL TO ORDER**

Mayor Henry called the May 17, 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 Louis Garubo  
Councilman Brad Badal  
Councilman Stanley Witczak  
Councilman John Andrus

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

Absent: Councilman Stephen Carr

**CONSENT AGENDA:**

Approval of minutes of the Executive Session Meeting of May 3, 2010  
Approval of minutes of the Regular Session Meeting of May 3, 2010

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 Garubo  
Seconded by Councilman Andrus

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: Carr

**DISCUSSION:**

- **Presentation/Gift of Patriot's Map-Charles Topping**

Mr. Topping gave a wonderful and detailed history of this historic gift of the Patriot's Map to the Borough of Mendham. He also gave a quick list of other donations made to the Borough which will serve to preserve and enrich the history of the town.

Motion to approve the expend approximately \$1,800 in funds to preserve (frame) and showcase (locked cabinet) this historic Patriot's Map at Police Headquarters was made by Councilman Garubo

Second by Councilman Murphy

Discussion: None

Roll Call - the vote was as follows:

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

Opposed: None

Abstain: None

Absent: Carr

**ORDINANCE INTRODUCTION:**

**ORDINANCE #8-10**  
**AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING THE REVISED GENERAL ORDINANCES WITH THE ADDITION OF CHAPTER 161 ENTITLED "RENTAL DWELLING UNITS, REGISTRATION, CERTIFICATION & OCCUPANCY LIMITATIONS OF"**

(A copy of Ordinance #8-10 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 June 21, 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 #8-10 was made by Councilman Murphy  
Second by Councilman Andrus

Discussion: None

Roll Call - the vote was as follows:

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

Opposed: None

Abstain: None

Absent: Carr

**ORDINANCE PUBLIC HEARING/ADOPTION:**

**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)**

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 #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 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 #3-10 was made by Councilman Andrus  
Second by Councilman Murphy

Discussion: None

Roll Call - the vote was as follows:

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

Opposed: None

Abstain: None

Absent: Carr

**ORDINANCE PUBLIC HEARING/ADOPTION:**

**ORDINANCE #4-10**

**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**

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 #4-10**

**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**

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 #4-10 was made by Councilman Witczak  
Second by Councilman Garubo

Discussion: None

Roll Call - the vote was as follows:

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

Opposed: None

Abstain: None

Absent: Carr

**ORDINANCE PUBLIC HEARING/ADOPTION:**

**ORDINANCE #5-10**

**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**

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 #5-10**

**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**

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 #5-10 was made by Councilman Andrus  
Second by Councilman Witczak

Discussion: None

Roll Call - the vote was as follows:

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

Opposed: None

Abstain: None

Absent: Carr

**ORDINANCE PUBLIC HEARING/ADOPTION:**

**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**

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 #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**

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 #7-10 was made by Councilman Andrus  
Second by Councilman Witczak

Discussion: None

Roll Call - the vote was as follows:

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

Opposed: None

Abstain: None

Absent: Carr

**ACTIONS TO BE TAKEN:**

**Res. #82-10 Sanitary Sewer App B801, L12-Tiger Realty Corp.**

(A copy of Resolution #82-10 is attached to these minutes)

Motion to approve Resolution #82-10 was made by Councilman Witczak

Second by Councilman Garubo

Discussion: None

Roll Call-the vote was as follows:

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

Opposed: None

Abstain: None

Absent: Carr

**Res. #83-10 Sanitary Sewer App B501, L41-Ted Pellichero**

(A copy of Resolution #83-10 is attached to these minutes)

Motion to approve Resolution #83-10 was made by Councilman Badal

Second by Councilman Murphy

Discussion: None

Roll Call-the vote was as follows:

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

Opposed: None

Abstain: None

Absent: Carr

**Res. #84-10 Sanitary Sewer App B801, L20-Pet Valu, Inc.**

(A copy of Resolution #84-10 is attached to these minutes)

Motion to approve Resolution #84-10 was made by Councilman Murphy

Second by Councilman Garubo

Discussion: None

Roll Call-the vote was as follows:

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

Opposed: None

Abstain: None

Absent: Carr

**Res. #85-10 West Morris Regional High School Budget**

(A copy of Resolution #85-10 is attached to these minutes)

Motion to approve Resolution #85-10 was made by Councilman Andrus

Second by Councilman Murphy

Discussion: Mayor Henry noted that he and Councilman Andrus represented the Borough in the negotiations with West Morris Regional High School. He noted that all 5 towns had to agree on the terms listed in this resolution. He commented further on how difficult it is to get that many players to agree on any thing. It was completed successfully and with professionalism and respect. Councilman Andrus commented from the finance side of this resolution. The line items in this resolution are a suggestion, the Board of Education can elect to cut other areas.

Roll Call-the vote was as follows:

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

Opposed: None

Abstain: None

Absent: Carr

**Res. #86-10 Mendham Borough School Budget**

(A copy of Resolution #86-10 is attached to these minutes)

Motion to approve Resolution #86-10 was made by Councilman Badal

Second by Councilman Witczak

Discussion: Councilman Badal and Councilman Witczak represented the Borough in these negotiations on the local school defeated budget. They summarized the recommendations outline in this resolution. They noted that no teaching positions will be cut. The suggestion for a pay freeze was rejected by the unions. Councilman Witczak commented that education is the paramount consideration.

Roll Call-the vote was as follows:

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

Opposed: None

Abstain: None

Absent: Carr

**Res. #87-10 Refund Overpayments-2008-2009-Tax Appeals**

(A copy of Resolution #87-10 is attached to these minutes)

Motion to approve Resolution #87-10 was made by Councilman Murphy

Second by Councilman Witczak

Discussion: None

Roll Call-the vote was as follows:

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

Opposed: None

Abstain: None

Absent: Carr

**Res. #88-10 Fireworks Roxiticus Golf Club**

(A copy of Resolution #88-10 is attached to these minutes)

Motion to approve Resolution #88-10 was made by Councilman Badal

Second by Councilman Witczak

Discussion: None

Roll Call-the vote was as follows:

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

Opposed: None

Abstain: None

Absent: Carr

**Res. #89-10 Sanitary Sewer App B301, L35-LaPergola, Inc.**

(A copy of Resolution #89-10 is attached to these minutes)

Motion to approve Resolution #89-10 was made by Councilman Witczak

Second by Councilman Murphy

Discussion: None

Roll Call-the vote was as follows:

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

Opposed: None

Abstain: None

Absent: Carr

**Res. #90-10 Amending Res. #52-10- Grant App-2010 Smart Growth-Loop Trail**

(A copy of Resolution #90-10 is attached to these minutes)

Motion to approve Resolution #90-10 was made by Councilman Andrus

Second by Councilman Badal

Discussion: None

Roll Call-the vote was as follows:

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

Opposed: None

Abstain: None

Absent: Carr

**Res. #91-10 Emergency Management Members-Mendham Borough**

(A copy of Resolution #91-10 is attached to these minutes)

Motion to approve Resolution #91-10 was made by Councilman Murphy

Second by Councilman Badal

Discussion: None

Roll Call-the vote was as follows:

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

Opposed: None

Abstain: None

Absent: Carr

**ADMINISTRATOR REPORT:**

Administrator Sandman commented on the success of the electronics recycling and the shredding program. Ms. Sandman had circulated a written administrator's report prior to the meeting.

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

Councilman Badal reported that there was a personnel meeting held earlier this evening and noted that the employee evaluations were complete except for three and will have recommendations for the next meeting.

Councilman Garubo reported that the recreation committee is working on the Labor Day parade and the summer camp.

Councilman Andrus noted the public hearing for the 2010 municipal budget will be at the next meeting, June 7<sup>th</sup>. He commented that the loop trail was discussed at the last open space meeting and it was noted that it has been between 20-25 years since this was first considered. Mr. Andrus mentioned that Mr. Topping (Historic Society) has received and "invitation to comment" correspondence from EBI Consulting on a possible cell tower for Bernardsville Road.

Councilman Murphy noted that funding for training of EMT's from the State has been cut. This is a financial burden on volunteers and may impact service throughout the State. The Borough will fund the training.

**ATTORNEY ITEMS:**

Atty. Semrau reported that appeals are down significantly from the last 2 years. The County appeals are scheduled for this Wednesday but the Borough has a defensible position.

**MAYOR'S ITEMS:**

Mayor Henry commented that at his Mayor's meeting with Mayor Krieg and Administrators' from both towns a discussion was held with regard to shared services in the department of public works. He asked that Councilman Witczak come to the next meeting to discuss this in detail. Administrator Sandman will coordinate dates between the parties for the next meeting.

Mr. Lee of 54 West Main Street is complaining again about trucks parking near West Field. A suggestion of a fence was made by Mr. Lee. The consensus of the Council was not favorable to funding and erecting a fence at this location. It was noted that Mr. Lee can put up a fence at his expense and after compliance with the Borough Code and obtaining permits required.

Mayor Henry introduced Mike Szpara who will be the new student liaison starting in September 2010.

**PUBLIC COMMENT:**

John Morel, 70 East Main Street, asked for an explanation of process going forward with regard to the defeated local school budget and the resolution adopted this evening. The Mayor explained that the Council and school representatives worked hard to identify line items and make the recommendations for the cuts in the school budget as outlined in the resolution adopted this evening. They can be accepted by the School Board on or a decision made to cut in other areas. Mayor Henry recommended that residents routinely attend Board of Education meetings. Councilman Murphy commented that there was a special public comment session held at the last council meeting with regard to the defeated budgets.

Carol Brady, 8 Loryn Lane, thanked the Mayor and Council for their part and extra work that went into the defeated school budgets. It was appreciated.

Alexa Lewandowski, 250 Mountainside Road, asked the Council how much the property tax rate would increase with the cuts in the budget vs. prior to the budget defeats. The exact figures were not available but Councilman Andrus responded with approximate dollar figures.

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 and asked that the Council make reductions using a 2.5% CAP. He expects the municipality to be held accountable on the same level as the schools.

Councilman Badal responded that the recommended line item cuts for the Mendham Borough School would not affect the quality of education. Suggestions were not made by percentage or a dollar amount but by line item reductions that would not have an impact on the education of the students.

Betsy Bellamy, 6 Garabrant Street, commented that she does attend the Board of Education meetings and there is only an average of 2-3 other residents in attendance.

She recommended attendance at these meeting in the future as well as to Council meetings.

Councilman Andrus commented that years ago the Council worked to not raise the tax rate by more than one cent, which did not work well in the end. This lead to not having more for big items and did not pay down Borough debt.

Administrator Sandman commented that the fund balance consists of monies set aside for emergency purposes.

Councilman Murphy commented that the 10 year Capitol program is working. In turn, the Borough had money to comply with the Highlands Act, COAH and Waste Water Management.

Alicia Ford, 73 Hampshire Drive, commented on the cost of State mandates and general maintenance that the Borough needs funds for.

Councilman Badal commented again that the suggested local school cuts adopted by resolution this evening will not affect education.

Alexa Lewandowski, 250 Mountainside Road, commented that the Council members are in awkward position and are not educators. In the next phase the cuts suggested may not be approved.

#### **APPROVAL OF VOUCHERS:**

Minute Book Attachment Bill List dated May 17, 2010  
Motion to approve was made by Councilman Murphy  
Second by Councilman Garubo  
Discussion: None  
Roll Call - the vote was unanimous as follows:  
In favor: Garubo, Badal, Witczak, Andrus, Murphy  
Opposed: None  
Abstain: None  
Absent: Carr

#### **EXECUTIVE SESSION:**

**Res. #92-10 Executive Session-Atty-Client Privilege**  
(A copy of Resolution #92-10 is attached to these minutes)  
Motion to approve this resolution was made by Councilman Garubo  
Second by Councilman Andrus  
Discussion: None  
Roll Call - the vote was as follows:  
In favor: Garubo, Badal, Witczak, Andrus, Murphy  
Opposed: None  
Abstain: None  
Absent: Carr

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

This executive session ended at approximately 9:40PM.

#### **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 9:45P.M. next to convene at the Regular Meeting on June 7, 2010 at 8:00 P.M. at the Garabrant Center, 4 Wilson Street, Mendham, New Jersey 07945.

Respectfully submitted,

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Maureen Massey, RMC, CMC  
Borough Clerk