

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

INSURANCE SAFETY SEMINAR was rescheduled from the April 20, 2009 (7PM)

CALL TO ORDER

Mayor Neil Henry called the May 4, 2009 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

Councilman Stanley Witczak
Council President John Andrus
Councilman David Murphy
Councilman Stephen Carr
Councilman Louis Garubo
Councilman Brad Badal

Also present: Fred Semrau, Esq.
Ellen Sandman, Administrator
Connor Monahan, Student Representative

Absent: None

CONSENT AGENDA:

Approval of minutes of the Regular Session meeting of April 6, 2009
Approval of minutes of the Regular Session meeting of April 20, 2009

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.

Motion to approve the Consent Agenda was made by Councilman Garubo
Seconded by Councilman Witczak
Discussion: Councilman Murphy and Badal recused from approving the April 6th, 2009 minutes due to their absence from that meeting.

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

DISCUSSION ITEMS:

Cadette Girl Scout Troop 892:

Troop Leader Debi Miller explained that the troop is made up of Haley Miller, Emily Niehoff and Megan Reiling all 8th graders from Mendham. They are working toward a Silver Award and have decided to connect Mendham Borough and Mendham Township and share the Historic sites for someone to see as they walk or ride through the Mendhams. Their brochure will contain Historic sites and will have the approximate mileage shown for citizens to clock miles as they “exercise for wellness” and learn some history at the same time. The troop will also be promoting recycling and a “greener community” by placing recycling receptacles at public sites on their map.

Haley Miller commented that there will be history including pictures and data on the Historic sites selected. Megan Reiling addressed the health benefits of the walk between the Mendhams and Emily Niehoff reported that after research it was decided that the recycle receptacles were best placed near garbage receptacles.

It was noted that DPW Superintendent Ken O'Brien has confirmed that DPW can and will empty the recycling receptacles. Administrator Sandman noted that there may be some funding for the recycling receptacles from Clean Communities or Recycling accounts.

Christine Malone-Comp Comm/Stratus Telecom Managers, LLC:

Ms. Malone's presentation gave an overview and preliminary feasibility assessment of the DAS (Distributed Antenna System) for the Borough of Mendham. She explored the advantages/disadvantages; implementation options; feasibility for Mendham Borough; as well as the next steps and the resources and the main DAS builders/operators to consider contacting.

(Student Representative, Connor Monahan, left the meeting at approximately 8:55PM)

Demand, placement of the antennas, range of service, design and expense of DAS system comparison to cell towers were topics of discussed.

Frank Lupo, 17 Dean Road, questioned leverage by municipalities to force carriers to use the DAS system. Ms. Malone reminded the public that municipalities cannot prohibit or having the effect to prohibit cell towers by ordinance either by technology or financial. Ms. Malone cleared up confusion Mr. Lupo was having and explained that a system could be either analog or digital system and this would be independent of frequency issues. Over time all sites have become digital with some remote holdouts.

Atty. Semrau commented that Comp Comm/Stratus Telcom Managers, LLC was contracted at the request of the governing body to obtain information on an alternative system and the discussion being held is to be kept to an informative presentation only.

Dan Pierson, 23 Dean Road, asked a question regarding fixed capacity with a cell tower vs. the DAS system. Ms. Malone commented that there are different ways to solve a problem, such as a cost-benefit analysis and/or area dependent.

Atty. Semrau stressed that Ms. Malone's telecommunications opinion has no impact or reflection on the Board of Adjustment review process of an application. Further, it is also not within the authority of the Mayor and Council to direct the BOA, nor did they review, discuss, or influence any application before this board. This presentation and discussion was for information and to provide future planning perspectives.

Mayor Henry asked Ms. Malone for a proposal for the next step in this process. The information received so far will open conversations for internal discussions at committee work sessions.

ORDINANCE INTRODUCTION:

ORDINANCE #6- 09

ORDINANCE PROVIDING FOR THE ACQUISITION OF EQUIPMENT FOR USE BY THE POLICE AND FIRE DEPARTMENTS OF THE BOROUGH OF MENDHAM, IN THE COUNTY OF MORRIS, NEW JERSEY, AND APPROPRIATING \$55,500 THEREFOR, CONSTITUTING PROCEEDS OF OBLIGATIONS OF THE BOROUGH HERETOFORE ISSUED

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

ORDINANCE #6- 09

ORDINANCE PROVIDING FOR THE ACQUISITION OF EQUIPMENT FOR USE BY THE POLICE AND FIRE DEPARTMENTS OF THE BOROUGH OF MENDHAM, IN THE COUNTY OF MORRIS, NEW JERSEY, AND APPROPRIATING \$55,500 THEREFOR, CONSTITUTING PROCEEDS OF OBLIGATIONS OF THE BOROUGH HERETOFORE ISSUED

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 1, 2009** 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 by Councilman Murphy

Second by Councilman Garubo

Roll Call-the vote was as follows:

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

Opposed: None

Abstain: Badal- conflict of interest

Absent: None

ORDINANCE INTRODUCTION:

ORDINANCE #7- 09

ORDINANCE AMENDING TWO APPROPRIATION ORDINANCES OF THE BOROUGH OF MENDHAM, IN THE COUNTY OF MORRIS, NEW JERSEY, HERETOFORE ADOPTED ON JUNE 18, 2007 (#14-07) AND JUNE 2, 2008 (#09-08, AS HERETOFORE AMENDED ON SEPTEMBER 15, 2008 BY ORDINANCE #14-08)

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

ORDINANCE #7- 09

ORDINANCE AMENDING TWO APPROPRIATION ORDINANCES OF THE BOROUGH OF MENDHAM, IN THE COUNTY OF MORRIS, NEW JERSEY, HERETOFORE ADOPTED ON JUNE 18, 2007 (#14-07) AND JUNE 2, 2008 (#09-08, AS HERETOFORE AMENDED ON SEPTEMBER 15, 2008 BY ORDINANCE #14-08)

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 1, 2009** 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 by Councilman Andrus

Second by Councilman Carr

Roll Call-the vote was as follows:

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

Opposed: None

Abstain: Badal- conflict of interest

Absent: None

ORDINANCE PUBLIC HEARING/ADOPTION:

ORDINANCE #3- 09

AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, AND STATE OF NEW JERSEY TO AMEND AND SUPPLEMENT CHAPTER 183, SOLID WASTE, OF THE CODE OF THE BOROUGH OF MENDHAM WITH THE ADDITION OF ARTICLE II, CURBSIDE COLLECTION OF BRUSH

Was published in full in the Observer Tribune.
(A copy of Ordinance #3-09 attached to these minutes.)

Mayor Henry opened the public hearing on Ordinance #3-09
Atty. Semrau reviewed non-substantive revisions which have been made to the ordinance on the agenda this evening for adoption.

Ronald Weissman, 15 Tempe Wick Road, expressed his concerns with brush placed at the curbside for extended periods of timely waiting for pickup by DPW causing unsightly conditions. In response, it was noted that pickup is by appointment made with DPW.

Keith Usiskin, 3 Ogden Road, asked if this would include leaves and was informed by Councilman Andrus that it does not. Mr. Usiskin further inquired as to whether DPW would be open on Saturdays and the response was that only in the Fall would it remain open.

The public hearing was closed.

**BE IT RESOLVED, by the Borough Council of the Borough of Mendham that,
ORDINANCE #3- 09**

**AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY
OF MORRIS, AND STATE OF NEW JERSEY TO AMEND AND
SUPPLEMENT CHAPTER 183, SOLID WASTE, OF THE CODE
OF THE BOROUGH OF MENDHAM WITH THE ADDITION
OF ARTICLE II, CURBSIDE COLLECTION OF BRUSH**

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 by Councilman Badal with minor changes as discussed under "BRUSH", second sentence to indicate.... 6" in diameter vs. 6'; and inclusion of 'weather permitting' under 183-15. Collection of brush...."A.throughout the year, weather permitting,.....".

Second by Councilman Murphy

Roll Call-the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

ACTIONS TO BE TAKEN:

Res. #82-09 Agreement Road Opening – Morris County

(A copy of Resolution #82-09 is attached to these minutes)

Motion to approve was made by Councilman Witczak

Second by Councilman Badal

Discussion: None

Roll Call - the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

Res. #83-09 Vehicle Wash/Water Recovery System

(A copy of Resolution #83-09 is attached to these minutes)

Motion to approve was made by Councilman Badal

Second by Councilman Andrus

Discussion: None

Roll Call - the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

Res. #84-09 Sanitary Sewer Application- B601, L2

(A copy of Resolution #84-09 is attached to these minutes)

Motion to approve was made by Councilman Badal

Second by Councilman Murphy

Discussion: None

Roll Call - the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

Res. #85-09 Award Bid-Curbside Collection/Disposal of Trash

(A copy of Resolution #85-09 is attached to these minutes)

Motion to approve was made by Councilman Garubo

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

**Res. #87-09 Oppose Governor Corzine's Plan to Deplete the Dedicated
EMT Training Fund**

(A copy of Resolution #87-09 is attached to these minutes)

Motion to approve 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, Carr

Opposed: None

Abstain: None

Absent: None

ADMINISTRATOR REPORT:

Administrator Sandman reported on an Office of Emergency Management meeting she attended on Swine Flu and the additional information she received. She further updated the Council on V-Fee paving for May 26th; drilling at the MASH; progress of the Phoenix House garden and a June 13th meeting on the Library.

COUNCIL REPORTS, OLD & NEW BUSINESS:

Councilman Carr reported that there will be an Ad-Hoc Land Use Committee meeting on May 14th to discuss with Paul Ferriero the spending in Module 1 of the Highlands Grant Program.

Councilman Garubo commented that the summer camp personnel is commencing.

ATTORNEY ITEMS:

Atty. Semrau has an item to discuss in executive session under Contract Negotiations and will further discuss tax appeals and the reassessment process also in closed session.

MAYOR'S ITEMS:

Mayor Henry reported that he attended the Mayor's Conference in Atlantic City and discussed with other mayors shared services in the areas of courts, police dispatching, construction and zoning code officials.

PUBLIC COMMENT:

Ronald Weissman, 15 Tempe Wick Road, commented that he has stormwater issues and will be meeting to discuss with the Administrator. He thanked the Borough Clerk and Attorney for working with him on his recent OPRA request. He asked and received clarification from Atty. Semrau on the denial received to his request. Atty. Semrau noted that case law suggests, but is unclear to the fact, that the document he requested is proprietary in nature and not subject to copying for the requestor. Atty. Semrau did contact the Engineer who prepared the requested document and he confirmed that he had no issues with it be duplicated for Mr. Weissman. This document was copied and released to Mr. Weissman per his OPRA request.

Mr. Weissman asked for a review of the current traffic flow specifically in the area from Bernardsville Road-North to Talmadge Road. He offered some suggestions such as consideration of 'one-way designations' and weight restrictions. Councilman Murphy requested he forward his concerns in writing to the Administrator for discussion at the committee level.

Keith Usiskin, 3 Ogden Road, expressed his concerns with regard to pedestrian safety with the traffic on Route #24, specifically mentioned the area near Temp Wick Road. Councilman Murphy will discuss these concerns with Police Chief Taylor.

Atty. Semrau stated that there was a public comment made at a previous meeting with regard to the Borough accepting a donation toward the cost of the website from a bank that does business with the town. Atty. Semrau will have a meeting in response to this comment for the next meeting.

APPROVAL OF VOUCHERS:

Minute Book Attachment Bill List dated May 4, 2009

Motion to approve by Councilman Andrus

Second by Councilman Garubo

Discussion: There were questions from the Council with regard to the payment of voucher for Convention hotel and miscellaneous reimbursements for the Fire Department. It was agreed that this would be held until the questions posed by the Council are answered.

Roll Call - the vote was unanimous as follows:

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

Opposed: None

Abstain: Councilman Badal recused himself for the approval of check number 001635 due to a conflict of interest.

Absent: None

EXECUTIVE SESSION:

Res. #86-09 Executive Session: Atty. Client Privilege/Contract Negotiations

(A copy of Resolution #86-09 is attached to these minutes)

Motion to approve was made by Councilman Garubo

Second by Councilman Murphy

Discussion: None

Roll Call - the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

On a motion duly made, seconded and unanimously carried, the Council returned to open session.

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, the meeting was adjourned at approximately 10:25PM next to convene at the Regular Meeting to be held on May 18, 2009 at 8:00 P.M. at the Garabrant Center, 4 Wilson Street, Mendham, New Jersey 07945.

Respectfully submitted,

Maureen Massey, RMC, CMC
Borough Clerk