

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

**CALL TO ORDER**

Mayor Neil Henry called the June 15, 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 May 4, 2009,  
May 18, 2009 and June 1, 2009  
Approval of minutes of the Executive Session meeting of May 18, 2009  
Res. #97-09 Refund Property Tax Overpayments 2<sup>nd</sup> Qtr.

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: Andrus, Murphy, Carr, Garubo, Witczak, Badal  
Opposed: None  
Abstain: None  
Absent: None

**DISCUSSION ITEMS:**

**Budget Adoption: Resolution (Tabled from 5/18/09, 6/1/09 meetings)**

Mayor Henry commented that the budget has finally been approved by the State of New Jersey. Since it has been two meetings from the public hearing, the Mayor opened the floor to anyone from the public who wanted to comment or who may have questions regarding the 2009 municipal budget. There were not public comments or questions. Mayor Henry asked the Clerk to read the resolution for adoption of the 2009 municipal budget. The Clerk read the resolution aloud. Mayor Henry called for a motion for adoption.

(A copy of Res. #103-09 is attached to the minutes)  
A motion to adopt Res. #103-09 to adopt the 2009 Municipal Budget was made by Councilman Andrus  
Second by Councilman Witczak  
Roll Call-the vote was as follows:  
In favor: Witczak, Andrus, Murphy, Carr, Garubo, Badal  
Opposed: None  
Abstain: None  
Absent: None

Administrator Sandman further commented that the budget was held up by the State pending additional support documentation and not due to any major flaw in the budget document.

**ORDINANCE INTRODUCTION:**

**ORDINANCE #10-09**  
**ORDINANCE PROVIDING FOR IMPROVEMENT  
OF LOWERY LANE IN AND BY THE BOROUGH  
OF MENDHAM, IN THE COUNTY OF MORRIS, NEW  
JERSEY, AND MAKING AN APPROPRIATION OF  
\$70,000 THEREFOR CONSTITUTING PROCEEDS  
OF A GRANT FROM THE NEW JERSEY DEPARTMENT  
OF TRANSPORTATION**

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

**ORDINANCE #10-09**  
**ORDINANCE PROVIDING FOR IMPROVEMENT  
OF LOWERY LANE IN AND BY THE BOROUGH  
OF MENDHAM, IN THE COUNTY OF MORRIS, NEW  
JERSEY, AND MAKING AN APPROPRIATION OF  
\$70,000 THEREFOR CONSTITUTING PROCEEDS  
OF A GRANT FROM THE NEW JERSEY DEPARTMENT  
OF TRANSPORTATION**

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 **July 6, 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 Badal

Second by Councilman Murphy

Discussion: None

Roll Call-the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

**ORDINANCE PUBLIC HEARING/ADOPTION:**

**ORDINANCE #8-09**  
**BOND ORDINANCE PROVIDING FOR THE IMPROVEMENT  
OF VARIOUS ROADS IN AND BY THE BOROUGH OF MENDHAM,  
IN THE COUNTY OF MORRIS, NEW JERSEY, APPROPRIATING  
\$80,000 THEREFOR AND AUTHORIZING  
THE ISSUANCE OF \$76,000 BONDS OR NOTES OF THE  
BOROUGH FOR FINANCING SUCH APPROPRIATION**

Was published in summary in the Observer Tribune.  
(A copy of Ordinance #8-09 attached to these minutes.)

Mayor Henry opened the public hearing on Ordinance #8-09  
The public hearing was closed.

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

**ORDINANCE #8-09  
BOND ORDINANCE PROVIDING FOR THE IMPROVEMENT  
OF VARIOUS ROADS IN AND BY THE BOROUGH OF MENDHAM,  
IN THE COUNTY OF MORRIS, NEW JERSEY, APPROPRIATING  
\$80,000 THEREFOR AND AUTHORIZING  
THE ISSUANCE OF \$76,000 BONDS OR NOTES OF THE  
BOROUGH FOR FINANCING SUCH APPROPRIATION**

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

Second by Councilman Andrus

Discussion: Atty. Semrau clarified that this bond ordinance would be used for the improvement of borough streets namely, but not limited to, Prospect Street, Franklin Road, Halstead Road and Glenbrook Lane.

Roll Call-the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

**ORDINANCE PUBLIC HEARING/ADOPTION:**

**ORDINANCE #9-09  
BOND ORDINANCE PROVIDING FOR THE  
IMPROVEMENT OF THE SANITARY SEWERAGE  
COLLECTION SYSTEM IN AND BY THE BOROUGH OF  
MENDHAM, IN THE COUNTY OF MORRIS, NEW  
JERSEY, APPROPRIATING \$1,600,000 THEREFOR  
AND AUTHORIZING THE ISSUANCE OF \$1,600,000  
BONDS OR NOTES OF THE BOROUGH FOR  
FINANCING SUCH APPROPRIATION**

Was published in summary in the Observer Tribune.  
(A copy of Ordinance #9-09 attached to these minutes.)

Mayor Henry opened the public hearing on Ordinance #9-09  
The public hearing was closed.

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

**ORDINANCE #9-09  
BOND ORDINANCE PROVIDING FOR THE  
IMPROVEMENT OF THE SANITARY SEWERAGE  
COLLECTION SYSTEM IN AND BY THE BOROUGH OF  
MENDHAM, IN THE COUNTY OF MORRIS, NEW  
JERSEY, APPROPRIATING \$1,600,000 THEREFOR  
AND AUTHORIZING THE ISSUANCE OF \$1,600,000  
BONDS OR NOTES OF THE BOROUGH FOR  
FINANCING SUCH APPROPRIATION**

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 Murphy

Second by Councilman Garubo

Discussion: None

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. # 98-09 Release Maintenance Bond Lowery Lane Project**

(A copy of Resolution #98-09 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: Witczak, Andrus, Murphy, Carr, Garubo, Badal

Opposed: None

Abstain: None

Absent: None

**Res. # 99-09 Liquor Licenses Renewal-Plenary Retail Consumption**

(A copy of Resolution #99-09 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: Andrus, Murphy, Carr, Garubo, Badal, Witczak

Opposed: None

Abstain: None

Absent: None

**Res. #100-09 \$2,628,000 Bond Anticipation Notes**

(A copy of Resolution #100-09 is attached to these minutes)

Motion to approve was made by Councilman Andrus

Second by Councilman Murphy

Discussion: Councilman Andrus explained that this is not all new debt. The notes would include roll over from prior ordinances, the ordinances adopted this evening for borough road improvements and the I & I (Inflow and Infiltration) work at the Water Reclamation Facility.

Roll Call - the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

**Res. #101-09 Award Bid-Lowery Lane-Crossroad Const. Corp.**

(A copy of Resolution #101-09 is attached to these minutes)

Motion to approve was made by Councilman Badal

Second by Councilman Carr

Discussion: None

Roll Call - the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

**Res. #102-09 Professional Svc. Agree PS&S (I&I-Water Rec. Fac.)**

(A copy of Resolution #102-09 is attached to these minutes)

Motion to approve was made by Councilman Murphy

Second by Councilman Garubo

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:**

Councilman Murphy asked Administrator Sandman for an update on the Kelley Act with regard to Mendham Commons. She responded that further information is being gathered and a finance committee review will be held. She noted that it is not as clear as it may seem to calculate for lighting and snow plowing.

Administrator Report: (Cont'd.)

Administrator Sandman updated item #5 (Animal Control Services) of her report to the Council. She reported that discussions have taken place with Randolph Township Animal Control Officer and Health Officer and a potential pilot program with the Borough. Administrator Sandman also stated there are also on-going discussions with Chester Township.

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

Councilman Witczak reported that the search for a labor counsel is continuing and suggested that the entire Council meet with any candidates selected for this position.

Councilman Carr reported that he has received phone calls from residents complaining that brush is no longer accepted at DPW when they dispose of their leaves and grass clippings. Brush is picked up curbside by appointment with the DPW. There was a brief discussion with regard to the new brush ordinance adopted and its intent. Councilman Badal will meet to discuss with DPW Superintendent Ken O'Brien. Atty. Fred Semrau noted that the brush ordinance would not have to be amended; accepting brush at the DPW along with curbside pick up would be a policy decision.

Councilman Murphy reported that at the public safety committee meeting a suggestion made by a resident, at the last Council meeting, to post signs at Tempe Wick/Main Street and Halstead/Main Street was discussed. Administrator Sandman will obtain a jurisdictional determination and review the costs involved. The suggestion made by resident Ron Weissman with regard to making Cherry Lane a one-way was also discussed and it was recommended that this would create confusion and additional traffic. It will remain two-way, as needed, to enter and exit this street.

Councilman Murphy reported that a police car was spray painted at headquarters and outdoor surveillance was discussed, utilizing a camera from one of the police cars and installed on the building. Reference was made to a letter received from Dr. Nettune outlining parking issues with regard to his patients and staff. It was suggested that the Borough reopen dialogue with the Audi dealership and employee parking, limiting public parking to 2 hours with a ticket system, and suggesting the Audi dealership rent parking space. Councilman Murphy concluded with an explanation of an OEM resolution that will be available for the next meeting appointing the members of the emergency management team.

Councilman Badal provided information updates on the closing of playing fields due to weather; DPW workforce is down two employees due to injuries and the utilization of summer hires; completion of the wash pad at the Borough DPW in compliance with stormwater regulations. He further reported that the radios in the DPW trucks will be reprogrammed and the Carriage House is in the process of being repainted.

**ATTORNEY ITEMS:**

Atty. Fred Semrau reported that he has the reassessment plan proposal for 2010. In July, he will appear before the County Board of Taxation to reserve a place on their list for the Borough, in preparation to pursue the reassessment if the Borough chooses to do so. He noted that Tax Assessor Scot Holzhauser is very supportive of a reassessment.

Atty. Semrau will have an update at the next meeting on a modified proposal for the DAS system evaluation, utilizing Council comments from the last meeting. Atty. Semrau further reported that Vee Fee has a new store rental and will need a building permit; Vee Fee appeared before the TRC (Technical Review Committee) today; 34B open space parcel closing is on schedule with the approval of the subdivision and preparation of the deeds; and in conclusion he will be working on the Mendham Commons-Kelley Act reimbursement and review of the property code and maintenance with comments and suggestions.

**MAYOR'S ITEMS:** No further items.

**PUBLIC COMMENT:**

Bob Diffen, Mendham Jewelers, offered his suggestions for changes to the recently amended sign ordinance. Councilman Murphy explained in detail the intensive review and reasoning that went into the ordinance. Mr. Diffen will attend the next planning board meeting to discuss his recommendations.

Atty. Semrau responded to a recent comment from a Borough resident with regard to the Borough's business relationship and a donation from the Provident Bank. After a review and discussion with the Borough Administrator he reported that the Borough negotiated an agreement for bank services and it was after this that the institution made a third party donation to the website for the Borough. Atty. Semrau researched the pay to play and banking regulations and found that this is not a political or elective contribution.

**APPROVAL OF VOUCHERS:**

Minute Book Attachment Bill List dated June 15, 2009

Motion to approve by Councilman Andrus

Second by Councilman Murphy

Discussion: None

Roll Call - the vote was unanimous as follows:

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

Opposed: None

Abstain: Councilman Badal abstained from approving check #001817 due to a conflict of interest.

Absent: None

**EXECUTIVE SESSION:** None

**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 9:10 next to convene at the Regular Meeting to be held on July 6, 2009 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