

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

CALL TO ORDER

Mayor Henry called the July 19, 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.

Oath of Office: David Sharkey-Oath of office was administered by the Clerk.
Councilman Sharkey will serve the unexpired term of Councilman Carr expiring 12/31/10.

ATTENDANCE:

Mayor Neil Henry

Council President David Murphy
Councilman Louis Garubo
Councilman Brad Badal
Councilman Stanley Witzak
Councilman John Andrus
Councilman David Sharkey

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

Absent: None

CONSENT AGENDA:

Approval of minutes of the Regular Session Meeting of June 21, 2010
Approval of minutes of the Executive Session Meeting of June 21, 2010
Res. #108-10 Approval Fireworks-Pastime Club-Labor Day
Approval of Raffle App/Pastime Club/Wheels of Chance-9/3/10-9/6/10
Res. #109-10 Amend Res. #104-10-Special Item of Revenue-
Clean Communities Grant
Approval of Request for Road Closure-Block Party-9/12/10-4:00pm-7:00pm
Approval of "Turn the Towns Teal" Ribbon/Sign Campaign
Res. #113-10 Extended Grace Period-3rd Quarter Tax Bills/Late Mailing
Res. #114-10 2nd Qtr. 2010-Overpayment Returns

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 Witzak
Seconded by Councilman Garubo

Discussion: None

Roll Call – the vote was as follows:

In favor: Garubo, Witzak, Murphy

Opposed: None

Abstain: Councilman Badal abstained on approval of the regular and executive session minutes.

Councilman Witzak announced that he is a member of the Pastime Club but does not hold a position of authority.

Absent: None

DISCUSSION:

ORDINANCE INTRODUCTION:

**ORDINANCE #10-10
AN ORDINANCE CONCERNING SALARIES FOR OFFICERS
AND EMPLOYEES OF THE BOROUGH OF MENDHAM**

(A copy of Ordinance #10-10 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 **August 16, 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 #10-10 was made by Councilman Murphy.

Second by Councilman Garubo

Discussion: No further discussion

Roll Call - the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

ORDINANCE PUBLIC HEARING/ADOPTION:

ORDINANCE #9-10

AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, AND STATE OF NEW JERSEY TO AMEND AND SUPPLEMENT CHAPTER 102, FEES, SECTION 102-4, FEES FOR COPIES OF PUBLIC DOCUMENTS, OF THE CODE OF THE BOROUGH OF MENDHAM

Was published in full in the Observer Tribune

Attorney Semrau commented that the fees lowered and this ordinance amended based on a recent Appellate Court decision. Council members voiced their objections to the lowering of the fees and the amount of money it costs the municipality for the time invested by employees responding to voluminous OPRA requests. The Council requested Atty. Semrau to prepare a resolution voicing these objections for the next meeting. Atty. Semrau recommended that the public hearing be opened for comments. After the public hearing is closed it was recommended that the ordinance be tabled to the next meeting pending its revision.

Mayor Henry opened the public hearing.

No one wished to be heard, the public hearing was closed.

Motion to table the adoption of Ordinance #9-10 to the August 16, 2010 meeting was made by Councilman Witczak

Second by Councilman Badal

Discussion: No further discussion

Roll Call - the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

ACTIONS TO BE TAKEN:

Res. #110-10 Sanitary Sewer App- B203, L84 Michael and Maryanne Farina

(A copy of Resolution #110-10 is attached to these minutes)

Motion to approve Resolution #110-10 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, Sharkey

Opposed: None

Abstain: None

Absent: None

Res. #111-10 Sanitary Sewer App- B601, L3-Fun House Furnishing/Design, LLC

(A copy of Resolution #111-10 is attached to these minutes)

Motion to approve Resolution #111-10 was made by Councilman Andrus

Second by Councilman Murphy

Discussion: Councilman Andrus noted the change in the sanitary sewer application approval process. Resolutions now state conditions of approval with an inspection and written report that fixtures are in place.

Roll Call-the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

Res. #112-10 Affirm the Borough's Civil Rights Policy

(A copy of Resolution #112-10 is attached to these minutes)

Motion to approve Resolution #112-10 was made by Councilman Murphy

Second by Councilman Andrus

Discussion: Atty. Semrau noted that this is an insurance requirement as a result of litigation involving a municipal volunteer.

Roll Call-the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

Res. #115-10 Award Bid-Ironia Road Resurface Project-English Paving Co

(A copy of Resolution #115-10 is attached to these minutes)

Motion to approve Resolution #115-10 was made by Councilman Andrus

Second by Councilman Badal

Discussion: Councilman Andrus reported that this bid did come in a few thousand dollars over expectation. He noted that it is a fair bid and money can be used that was allocated for other paving jobs to offset the difference.

Roll Call-the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

ADMINISTRATOR REPORT: There were no further comments from Administrator Sandman and no further questions from the Council.

COUNCIL REPORTS, OLD & NEW BUSINESS:

Councilman Badal commented that the salary ordinance will be adopted at the next meeting along with a salary resolution for Council consideration.

Councilman Murphy commented that after consulting with the Fire Chief and First Aid Captain he spoke with the Borough resident regarding the siren. It was concluded that the siren is necessary to volunteers and to get the turn out needed for response. The pagers presently being utilized do not offer the security that the siren does that volunteers are being alerted. The County is offering new pagers to EMS at which time this issue can be readdressed.

Councilman Garubo asked the Borough Recreation Director Bruce DiBisceglie to attend to answer any question with regard to the use of the fields and the summer day camp. Councilman Garubo and Andrus met with Bruce and discussed the current 'field request form'. After discussion and review, the form was revised and it was confirmed that any 'for profit' use of the fields will need Council approval.

Councilman Badal questioned where the fields were subject to green acres funding and if so how this would impact the use of the fields 'for profit' by the general public. Atty. Semrau will research and advise.

Recreation Director DiBisceglie reported on the summer program and its success so far. Attendance is down slightly but it is still showing a profit. He complimented

COUNCIL REPORTS, OLD & NEW BUSINESS: (Cont'd.)

the staff and what a great job they are doing. Bruce further commented that the concerts and the Labor Day line up are going well.

Councilman Andrus will have a land use report for the August meeting. He commended on the amount of information in a letter received from a resident with regarding cell towers and alternatives.

There was mention made regarding debris and corrections to the work that was done on Route #24 under the direction of Morris County. It was noted that the company will be back this week to clean up and make the necessary adjustments to the paving project.

Student Representative Michael Szbara commented on the cancelling of courtesy busing for the High School and its impact on traffic in the borough.

Mayor Henry commented that Dr. Anthony DiBattista was approached by a resident at a high school meeting complaining about the same issue. After the first couple of weeks of school it will be determined if this is a concern and if so the volume of traffic will be addressed.

ATTORNEY ITEMS:

Attorney Semrau acknowledged receipt of a letter regarding the Borough's telecommunications ordinance. Mr. Semrau noted that the information contained in this letter would have no impact on an applications pending but could initiate changes in the present ordinance that would impact future applications.

Attorney Semrau noted correspondence received from the Department of Environmental Protection regarding the closing of our landfill. He further reported that the Borough's contract with Metcalf and Eddy included the preparation of a Landfill Closure Plan. A letter was sent from his office to Metcalf & Eddy, Inc.

Councilman Murphy commented that the Borough's telecommunications ordinance was written based on the Master Plan.

Councilman Badal asked about the status of a public gathering ordinance discussed at a prior meeting. Atty. Semrau responded that he had prepared his opinion which was circulated to the Council. Briefly stated, few municipalities adopt such an ordinance due to the difficulty in balancing freedom of speech and right to assemble with any regulation that might be misunderstood for control. It was suggested that it be discussed and reviewed by the Public Safety Committee.

Councilman Badal responded that the ordinance could address where to assemble and what behavior is expected.

MAYOR'S ITEMS:

Mayor Henry reported that a meeting held to discuss Phase II of the Historic District expansion went well. Land Use Coordinator will circulate the minutes of the meeting to the Council. The occupancy ordinance has been adopted and the process of registration is on track and compliance is due by October 1, 2010.

PUBLIC COMMENT: There were no public comments.

Bruce DiBisceglie, Recreation Director, announced that West Field has been closed due to the lack of rain. There was some discussion as to whether or not this field has sprinklers.

Mayor Henry reported that the tree planted at Police Headquarters in memory of Sgt. Richard Morales has died. Another will be replanted in September.

APPROVAL OF VOUCHERS:

Minute Book Attachment Bill List dated July 19, 2010
Motion to approve was made by Councilman Andrus
Second by Councilman Murphy
Discussion: None
Roll Call - the vote was unanimous as follows:
In favor: Garubo, Badal, Witzak, Andrus, Murphy, Sharkey
Opposed: None
Abstain: None
Absent: None

EXECUTIVE SESSION:

Res. #116-10 Executive Session- Atty./Client Privilege
(A copy of Resolution #116-10 is attached to these minutes)
Motion to approve Resolution #116-10 was made by Councilman Murphy
Second by Councilman Garubo
Discussion: None
Roll Call-the vote was as follows:
In favor: Badal, Witzak, Andrus, Murphy, Sharkey, 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 by a voice vote, the meeting was adjourned at approximately 10:15 P.M. next to convene at the Regular Meeting on August 16, 2010 at 8:00 P.M. at the Garabrant Center, 4 Wilson Street, Mendham, New Jersey 07945.

Respectfully submitted,

Maureen Massey, RMC, CMC
Borough Clerk