

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

CALL TO ORDER

Mayor Henry called the September 21, 2017 regular meeting of the Mayor and Council to order at 8:02PM 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 John Andrus
Councilman Brad Badal
Councilwoman Christine Serrano Glassner
Councilman David Sharkey
Council President Stanley Witzcak

Also present: Fred Semrau, Borough Attorney
Richard Merkt, Borough Administrator
Margot Kaye, Borough Clerk

CONSENT AGENDA

Minutes of the regular meeting of 9/7/17
Minutes of the executive session of 9/7/17
Raffle Approval: Our Lady of Perpetual Help Parish (On-Premise Draw – 10/2/17)
Road Closure – Harvest Hustle (10/14/17)
Tier I Banner Approval – Harvest Hustle (9/29/17 – 10/13/17)
Mendham Hose Company Appointments: Matthew Marino, Regular Member Candidate
Casey Warcola, Junior Member Candidate
Michael DiMaio, Regular Member Fire Fighter 1

Motion to approve Consent Agenda: Councilman Witzcak

Second: Councilman Sharkey

Discussion: None

Roll Call – the vote was as follows:

In favor: Andrews, Andrus, Badal, Glassner, Sharkey, Witzcak

Opposed: None

Abstain: None

Absent: None

DISCUSSION

Board of Health Fees

Ms. Kaye explained the BOH's position regarding the increase of certain fees to align the Borough with other municipalities. Councilman Glassner stated that businesses in town are already struggling with the high cost of doing business in the Borough. After discussion, there was consensus that the issue be tabled pending further review.

Snow/Ice Removal Plan

The DPW subcommittee is scheduled to meet on September 22, 2017 and will report back to the full Council. Accordingly, the issue is tabled until the October 5, 2017 meeting.

Non-Solicitation Ordinance

Mr. Semrau reviewed a sample ordinance that establishes a non-solicitation list and explained the process by which residents may be added. He confirmed that Ms. Kaye would handle the process administratively while the MBPD would provide enforcement. Mr. Semrau further confirmed that not-for-profit organizations are exempt from the ordinance. Councilman Badal recommended that enforcement include license suspension. Mr. Semrau agreed to prepare a revised ordinance for introduction at the October 5, 2017 Council meeting.

Proposed OPMA/OPRA Legislation

Mr. Semrau summarized the proposed legislation and opined that the additional requirements would be of no benefit to the Borough. He added that the legislation does not provide more transparency and would only mandate additional work that would be burdensome, costly and time-consuming. After discussion, there was consensus that the resolution opposing the legislation be adopted.

ORDINANCE INTRODUCTION

ORDINANCE #09-17

**ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS,
STATE OF NEW JERSEY, AUTHORIZING THE ACCEPTANCE OF A
SANITARY SEWER EASEMENT LOCATED ON BLOCK 301, LOT 39
FROM 15 WEST MAIN, LLC**

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

ORDINANCE #09-17

**ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS,
STATE OF NEW JERSEY, AUTHORIZING THE ACCEPTANCE OF A
SANITARY SEWER EASEMENT LOCATED ON BLOCK 301, LOT 39
FROM 15 WEST MAIN, LLC**

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 October 5, 2017 at 8:00PM 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 introduce Ordinance #09-17: Councilwoman Glassner

Second: Councilman Andrews

Discussion: Mr. Semrau stated that the developer for 15 West Main Street has agreed to relocate the sewer line at its own expense. Ordinance no. 09-17 grants the Borough an easement for access.

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

ORDINANCE ADOPTION: None

ACTIONS TAKEN

Res. #159-17 Open Space Funding – Tranquility Garden Improvements

Motion to approve: Councilman Andrews

Second: Councilman Andrus

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

Absent: None

Res. #160-17 DOT Local Aid 2018 – Cherry Lane Phase II

Motion to approve:

Second:

Discussion: Tabled

Roll Call – the vote was as follows:

In favor:

Opposed:

Abstain:

Absent:

Res. #161-17 Cherry Lane Phase I Contract Award: Top Line Construction Corp.
Motion to approve: Councilwoman Glassner
Second: Councilman Witczak
Discussion: None
Roll Call – the vote was as follows:
In favor: Andrews, Andrus, Badal, Glassner, Sharkey, Witczak
Opposed: None
Abstain: None
Absent: None

Res. #162-17 Tax Appeal Settlement: TD Bank, 29 East Main Street, Block 1501, Lot 13
Motion to approve: Councilman Andrus
Second: Councilman Witczak
Discussion: None
Roll Call – the vote was as follows:
In favor: Andrews, Andrus, Badal, Glassner, Sharkey, Witczak
Opposed: None
Abstain: None
Absent: None

Res. #163-17 MPBD Contract Renewal: xtel Communications, Inc.
Motion to approve: Councilman Andrews
Second: Councilwoman Glassner
Discussion: None
Roll Call – the vote was as follows:
In favor: Andrews, Andrus, Badal, Glassner, Sharkey, Witczak
Opposed: None
Abstain: None
Absent: None

Res. #164-17 S1045 OPMA and S1046 OPRA Opposition
Motion to approve: Councilman Sharkey
Second: Councilman Andrus
Discussion: None
Roll Call – the vote was as follows:
In favor: Andrews, Andrus, Badal, Glassner, Sharkey, Witczak
Opposed: None
Abstain: None
Absent: None

Res. #165-17 PSA: The Canning Group LLC – Police Chief Promotion Examination
Motion to approve: Councilman Andrews
Second: Councilwoman Glassner
Discussion: None
Roll Call – the vote was as follows:
In favor: Andrews, Andrus, Badal, Glassner, Sharkey, Witczak
Opposed: None
Abstain: None
Absent: None

Res. #166-17 PSA: The Canning Group LLC – Administrator Search
Motion to approve: Councilman Andrus
Second: Councilman Badal
Discussion: None
Roll Call – the vote was as follows:
In favor: Andrews, Andrus, Badal, Glassner, Sharkey, Witczak
Opposed: None
Abstain: None
Absent: None

ADMINISTRATOR REPORT

The Administrator's report was distributed previously. Mayor Henry announced that this was Mr. Merkt's last Council meeting before retirement. He thanked Mr. Merkt for his three (3) years of service and wished him good luck in New Hampshire.

Mr. Merkt stated that Mendham Township is exploring the possibility of joining the Chester/Mendham joint court which could result in significant savings for the Borough. Mayor Henry confirmed language in the shared services agreement that guarantees Borough participation in consideration of additional partners and stated that he and Councilman Andrus will assume negotiations on behalf of the Borough.

Mr. Merkt added that the Borough may want to consider streamlining the Site Plan Waiver process for change in occupancy applicants to encourage more businesses in town. Councilman Andrus indicated his support of a simplified process for new tenants.

COUNCIL REPORTS, OLD & NEW BUSINESS

Councilman Andrews – The Public Safety Committee met on September 14, 2017. MFD membership is very stable due to the recent addition of new members and they are funding renovations at the firehouse. There are staffing issues for the MFAS due to a number of members' return to college. Accordingly, they are launching a recruiting drive on Facebook and will be running an EMR class to attract new members. Discussion continues regarding use of the DPW to augment the squad during business hours. The new ambulance broke down and is being repaired at a Chevrolet dealership in Budd Lake. The Borough Engineer is preparing bid specifications for the backup generator and Mr. Semrau confirmed that the FEMA grant comes with certain contingencies. Mr. Merkt added that the Borough will be reimbursed by the grant for costs associated with the preparation of bid specifications. The crosswalks located at Cold Hill, Tempe Wick, Halstead, Hilltop, West Field and the high school have been re-striped. The Mayor and Council are invited to participate in the First Responders Golf Outing on September 25, 2017. An active shooter drill was held at WMMHS in partnership with Chester and Mendham Townships. Discussion regarding MBPD and MTPD shared services will continue at a meeting on October 3, 2017.

Councilman Andrus – 2018 Budget preparation is approaching and the new finance software will be utilized to prepare same. Mayor Henry proposed a meeting with the Auditor, CFO and IT in order to maximize the system's functionality. Should OSAC money be used to fund the dam project, a legal agreement should be drawn up to identify the process by which the money will be repaid and to specify how potential Open Space projects will be funded in the interim. Road projects in 2018 must be planned carefully in order to stay within the projected capital budget.

Councilman Badal – The DPW repaired Borough Park fields which were left in very good condition after the Labor Day carnival. The West Field parking area is nearly completed. The next Public Works Committee meeting will be held on September 22, 2017.

Councilwoman Glassner – The Personnel Committee continues to work with the Canning Group on the Administrator search. Mayor Henry stated that the advertising campaign has earned a great deal of attention and that three (3) viable candidates have already been identified.

Councilman Sharkey – A new pizzeria/restaurant is moving into two (2) spaces in the Mendham Shopping center. The Environmental Commission is looking to host an event at Mountain Valley Park to collect litter and trash. Mr. Semrau recommended getting confirmation from the Borough Engineer whether the upcoming dam project will impact cleanup efforts.

Councilman Witczak – no report.

OTHER BUSINESS

Councilwoman Glassner stated that there is not a portable toilet at West Field for the sports teams that utilize the field. Mayor Henry noted the facilities have been donated in the past and Mr. DiBisceglie added that he advised West Morris Soccer of same. After discussion, there was consensus that Mr. Merkt and Mr. Cooper work together to secure a portable toilet for West Field.

Mr. DiBisceglie proposed Father's Day weekend 2018 for a food truck festival in Borough Park to raise money for a local charity. Councilman Andrus suggested MFAS and Mr. DiBisceglie agreed to make a list of charities for discussion at the next Recreation Committee.

Mayor Henry stated that no agenda items will be accepted after Monday at 12PM before each Council meeting.

ATTORNEY ITEMS

Mr. Semrau acknowledged the rights ensured by the Telecommunications Act but cautioned against potential design changes of the nodes previously approved by Council. The Borough Engineer is supervising the project and expressed concern regarding potential litigation should there be a dispute. Mr. Semrau recommended adopting a resolution that invokes the Municipal Land Use Law and clarifies that certain actions by Verizon will require an application to the Board. He added that in the event a design change triggers the MLUL and/or the Borough Land Use Code, the poles and nodes will be considered development of a structure. Mr. Semrau further confirmed that Mr. Germinario, BOA Attorney, is also monitoring developments to determine whether the local land use code requires an amendment to further regulate placement of telecommunications equipment. Mr. Semrau indicated that should obsolete equipment be abandoned, the Borough may appeal to the BPU.

Res. #167-17 Verizon Wireless Node Placement (Amending Res. #147-17)

Motion to approve: Councilman Witczak

Second: Councilman Andrus

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None
Abstain: None
Absent: None

Mr. Semrau agreed to contact the Canning Group for an update and will advise the Mayor and Council of the appropriate timeline for advertisement of the Chief promotion test.

Mr. Semrau introduced Robert Rossmeissl who recently joined Dorsey & Semrau as an Associate.

MAYOR'S ITEMS

Mayor Henry summarized a resolution that supports the 2% arbitration cap renewal for police and fire contract awards. Ms. Kaye agreed to distribute the resolution to the Council for consideration at the October 5, 2017 meeting.

Mayor Henry announced the formation of a local economic development committee that will focus on building and maintaining a healthy business community in the Borough. The committee will be chaired by Councilwoman Glassner and include members of the Land Use Committee, Planning Board, Board of Adjustment and other interested members of the community.

PUBLIC COMMENT

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

Mr. George Connolly, 22 Hampshire Drive, stated that although Mr. Semrau concluded that Open Space money may be used to fund the dam project, it was not the intent of the voters in 1998. Mr. Connolly restated his previous comments and asked that the Council take action to preserve Open Space funds. Councilman Andrus reiterated that a legal agreement addressing same will be drafted. Mr. Connolly recommended that the Open Space tax be increased to 2% to help replenish the fund which Mr. Semrau confirmed can be done by resolution. There was consensus that the tax be considered during the upcoming budget process.

Mr. Ronald Weissman, 15 Tempe Wick Road, expressed concerns regarding stormwater management in the areas of Orchard Street and Cold Hill Road, Coventry Road, Demarest Drive, Franklin and Drake Roads, Hilltop Road and East Main Street and Franklin Farms Estates. Mayor Henry agreed to have the Borough Engineer assess the areas identified.

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

APPROVAL OF VOUCHERS

Bill Lists dated September 21, 2017

Motion to approve: Councilman Andrus

Second: Councilman Sharkey

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: None

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 by a voice vote, the meeting was adjourned at approximately 9:20PM next to convene at a regular meeting on October 5, 2017 at 8PM at the Garabrant Center, 4 Wilson Street, Mendham, NJ.

Respectfully submitted,

Margot G. Kaye

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Borough Clerk