

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

CALL TO ORDER

Mayor Neil Henry called the September 8, 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 Louis Garubo
Councilman Brad Badal

Also present: Fred Semrau, Esq.

Absent: Councilman Stephen Carr
Ellen Sandman, Administrator

CONSENT AGENDA:

Approval of minutes of the Regular Session meeting of August 3, 2009
Request For Road Closure-Forest Dr.-9/19/09-(4PM-8PM)
Request For Road Closure-Hoffman Rd-Bowers to Mtn. Ave.-9/12/09
(Raindate 9/13/09) (1PM-8PM)
Approval of Raffle for Sisters of Christian Charity-50/50 Cash-10/17/09

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 Murphy

Discussion: None

Roll Call – the vote was as follows:

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

Opposed: None

Abstain: Cm Andrus abstained from the approval of the August 3, 2009 minutes.

Absent: Carr

DISCUSSION ITEMS:

Mendham Borough's Historic District:

-Adrian Humbert, Planner
-Dennis Bertland, Historic Preservation Consultant

The Historic District Phase I will be discussed at the Planning Board meeting on September 14th, 2009. Adrian Humbert presented an overview to update the Council and the public on the current status. Mr. Humbert read aloud the amendment that will be discussed and reviewed at the Planning Board level. He further commented that the Borough's Master Plan adopted approximately 3 years ago is one of the best in the State of NJ. He noted that there is a hand full of properties in the Mendham Historic District Overlay Zone. (Hampton Road, Bridge Street, Sheep Farm-63 East Main Street). He shared with the Council and the public two (2) maps that have been reviewed and approved by the Planning Board.

Mendham Borough's Historic District:(Cont'd.)

Dennis Bertland and Mayor Henry noted that Mr. Bertland's comments are limited since his work is pending review by the Historic Commission and Planning Board.

Mr. Bertland has attended meetings this summer at the County Historic Preservation Office and noted that the general criteria for selection for the historic district would need to meet the historic preservation standards.

Mayor Henry thanked Mr. Humbert and Mr. Bertland for attending this evening's meeting.

Swine Flu-Lucy Forgione, Health Officer:

Ms. Forgione reviewed the swine flu preparedness stressing community education and surveillance of school nurses. She noted that the virus is targeting the young population between the ages of 12-17. She further noted school closings are not being recommended because it has been determined not to be effective. Schools are being recommended to take control by wiping down all surfaces, sending home and isolating sick students. There has been a recent press release with additional information. The Mayor recommended that the Clerk post this press release on the website and publish in the Mendham Messenger. Ms. Forgione also requested that the two posters she has to be placed around the Borough requesting residents to go to the Bernard Township website for additional information and current updates.

Lt. Paula Oswald of Mendham First Aid commented on the anticipated increase in the number of calls and asked about the distribution sites and plans for the H1N1 vaccine. She asked about the vaccinating of the emergency workers, police and fire members. Lt. Oswald reported that the Borough did not seem to be receiving all the information that they need in a timely manner. The flow of information down to the Borough was discussed and Councilman Murphy requested that the last OEM resolution that was passed with the names of the emergency team be forwarded to the County.

ORDINANCE INTRODUCTION:

ORDINANCE #13-09
**AN ORDINANCE AUTHORIZING A SPECIAL
EMERGENCY APPROPRIATION OF \$67,500 FOR THE
PREPARATION AND EXECUTION OF A PROGRAM TO
UPDATE AND MAKE CURRENT A PREVIOUS
REVALUATION PROGRAM IN THE BOROUGH OF
MENDHAM, IN THE COUNTY OF MORRIS, NEW
JERSEY, FOR THE USE OF THE LOCAL ASSESSOR
OF THE BOROUGH**

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

ORDINANCE #13- 09
**AN ORDINANCE AUTHORIZING A SPECIAL
EMERGENCY APPROPRIATION OF \$67,500 FOR THE
PREPARATION AND EXECUTION OF A PROGRAM TO
UPDATE AND MAKE CURRENT A PREVIOUS
REVALUATION PROGRAM IN THE BOROUGH OF
MENDHAM, IN THE COUNTY OF MORRIS, NEW
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OF THE BOROUGH**

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, 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 Murphy

Discussion: Councilman Andrus commented that this is an emergency appropriation, which is a process that the Borough normally do. This revaluation program will offset the previous tax evaluation completed when the market was high. Atty. Semrau referred to

ORDINANCE #13- 09: (Cont'd.)

resolution #128-09 on this agenda for adoption, refunding judgments recommended by the Tax Assessor based on tax appeals filed, as an example for the need for this program. The County Tax Board has approved the Borough to complete a hybrid reassessment program and the data gathered to be used by the Tax Assessor.

Roll Call-the vote was as follows:

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

Opposed: None

Abstain: None

Absent: Carr

ORDINANCE PUBLIC HEARING/ADOPTION:

ORDINANCE #12- 09

AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, AND STATE OF NEW JERSEY TO AMEND AND SUPPLEMENT CHAPTER 168, SEWERS, OF THE CODE OF THE BOROUGH OF MENDHAM WITH THE ADDITION OF ARTICLE IX, ENTITLED, "FERTILIZERS, APPLICATION OF"

Was published in full in the Observer Tribune.

(A copy of Ordinance #12-09 attached to these minutes.)

Mayor Henry opened the public hearing on Ordinance #12-09. There were no comments from the public.

The public hearing was closed.

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

ORDINANCE #12- 09

AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, AND STATE OF NEW JERSEY TO AMEND AND SUPPLEMENT CHAPTER 168, SEWERS, OF THE CODE OF THE BOROUGH OF MENDHAM WITH THE ADDITION OF ARTICLE IX, ENTITLED, "FERTILIZERS, APPLICATION OF"

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 Witczak

Discussion: None

Roll Call-the vote was as follows:

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

Opposed: None

Abstain: None

Absent: Carr

ACTIONS TO BE TAKEN:

Res. #119-09 Refund Escrow Fees-Roxiticus Golf Club

(A copy of Resolution #119-09 is attached to these minutes)

Motion to approve was made by Councilman Andrus

Second by Councilman Witczak

Discussion: None

Roll Call - the vote was as follows:

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

Opposed: None

Abstain: None

Absent: Carr

**Res. #120-09 Refund Engineering Inspection Escrow Fees-
Roxiticus Golf Club**

(A copy of Resolution #120-09 is attached to these minutes)
Motion to approve was made by Councilman Andrus
Second by Councilman Murphy
Discussion: None
Roll Call - the vote was as follows:
In favor: Andrus, Murphy, Garubo, Badal, Witczak
Opposed: None
Abstain: None
Absent: Carr

Res. #121-09 Rehabilitation-Mendham Area Senior Housing ("MASH")

(A copy of Resolution #121-09 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: Murphy, Garubo, Badal, Witczak, Andrus
Opposed: None
Abstain: None
Absent: Carr

**Res. #122-09 Acceptance of Grant- Preparation of National/State Registry
Nomination-Expansion Mendham Borough Historic District**

(A copy of Resolution #122-09 is attached to these minutes)
Motion to approve 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

Res. #123-09 Approval of Sanitary Sewer App- B 603, L11.01

(A copy of Resolution #123-09 is attached to these minutes)
Motion to approve was made by Councilman Witczak
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

**Res. #124-09 Award Contract-Pumping, Hauling, Disposal of Sludge
Borough's WRF- to R&D Trucking, Inc.**

(A copy of Resolution #124-09 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: Badal, Witczak, Andrus, Murphy, Garubo
Opposed: None
Abstain: None
Absent: Carr

**Res. #125-09 Award Contract-Reassessment-Tax Equalization
Purposes to Appraisal Systems, Inc. (Rev.)**

(A copy of Resolution #125-09 is attached to these minutes)
Motion to approve was made by Councilman Andrus as revised to reflect, 'subject to adoption of Ordinance #13-09'.
Second by Councilman Murphy
Discussion: Atty. Semrau noted that the Tax Assessor's comments were outlined in a memo previously forwarded to the Mayor and Council.

Res. #125-09: (Cont'd.)

Roll Call - the vote was as follows:

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

Opposed: None

Abstain: None

Absent: Carr

Res. #126-09 Return Performance Bonds-Roxiticus Golf Club

(A copy of Resolution #126-09 is attached to these minutes)

Motion to approve 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. #127-09 Contract L-3 Communications Mobile-Vision Inc.(Police)

(A copy of Resolution #127-09 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: Murphy, Garubo, Badal, Witczak, Andrus

Opposed: None

Abstain: None

Absent: Carr

Res. #128-09 Refund County Tax Board Judgments

(A copy of Resolution #128-09 is attached to these minutes)

Motion to approve 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

Res. #129-09 Refund Over Payment Taxes-B2301/L12

(A copy of Resolution #129-09 is attached to these minutes)

Motion to approve was made by Councilman Andrus

Second by Councilman Garubo

Discussion: None

Roll Call - the vote was as follows:

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

Opposed: None

Abstain: None

Absent: Carr

Res. #130-09 Settlement- Combe Fill South Landfill Litigation

(A copy of Resolution #130-09 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

Opposed: None

Abstain: None

Absent: Carr

ADMINISTRATOR REPORT:

Administrator Sandman was not present at this meeting. There was no administrator's report to review.

COUNCIL REPORTS, OLD & NEW BUSINESS:

Councilman Andrus reported that the Clerk received a request from the owners of the Black Horse Inn for copies of some of the photos in the "Reflections of a Community" book. He noted that some of the photos belonged to the Borough but others belonged to residents. Permission would need to be given by the owner of any photos requested before a copy is released.

Councilman Badal discussed the placement of the 'parking signs' in the Phoenix House parking lot.

ATTORNEY ITEMS:

Atty. Fred Semrau reported that the December 9, 2009 deadline to respond regarding the Borough's 'Highlands' decision has been extended to June, 2010. He further commented that he will be discussing with the Administrator the last proposal received and alternatives regarding the Telecommunications issue and will discuss public safety issues in executive session.

MAYOR'S ITEMS:

Mayor Henry reported that an "occupancy limitation ordinance" is being considered. The Mayor commented that he has received calls from residents of Franklin Estates with issues that fall in a gray area of concern. This type of ordinance is subject to Planning Board review.

PUBLIC COMMENT:

Bob Orgera, 59 Mountain Avenue, noticed that a sign at the mud hole in the Borough Park needed repair and offered to do the work. The Mayor thanked Mr. Orgera but will have Public Work Superintendent Ken O'Brien take a look at it and report back.

Councilman Murphy asked about a response to the Borough's letter PNC Bank, the owner of the former 'Mariques' restaurant property regarding the poor condition of the outside of the property. He further commented on the professionalism of the Borough police force and how they handled an incident at the Labor Day festivities.

Rich, Franklin Road, thanked the Mayor and Council on a fast response on consideration of an occupancy limitation ordinance.

APPROVAL OF VOUCHERS:

Minute Book Attachment Bill List dated September 8, 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

Opposed: None

Abstain: None

Absent: Carr

EXECUTIVE SESSION:

Res. #131-09 Executive Session: Public Safety/Contract Negotiations

(Read aloud by the Clerk) (A copy of Resolution #131-09 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: Badal, Witczak, Andrus, Murphy, Garubo

Opposed: None

Abstain: None

Absent: Carr

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 10:15P.M. next to convene at the Regular Meeting to be held on September 21, 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