



**TOWNSHIP COMMITTEE
TOWNSHIP OF MENDHAM
December 4, 2017
Regular Session 7:30 PM**

ROLL CALL

Mr. Baumann	Resigned as of December 1, 2017
Mr. Cioppettini	Present
Mr. Diegnan	Present
Mr. Gisser	Present
Mayor Orban Brown	Present

Also Present: John M. Mills, III, Esq., Township Attorney
Debbie Bonanno, Administrator
Mary Beth Zichelli, Township Clerk

SALUTE TO THE FLAG

STATEMENT OF ADEQUATE NOTICE:

Adequate notice of this meeting of the Township Committee of the Township of Mendham was given as required by the Open Public Meetings Act as follows: Notice was given to the Daily Record and the Star Ledger on December 1, 2017. Notice was posted on the Bulletin Board in the Township Offices and notice was filed with the Township Clerk.

ANNOUNCEMENTS

Mr. Cioppettini announced that the Finance committee met the past Friday and Saturday and the meetings went well. The next public meeting is scheduled for Tuesday, January 23, 2018 at 5:30 pm.

APPROVAL OF MINUTES

November 13, 2017, regular session

Mayor Orban Brown called for a motion. Mr. Diegnan moved. Mr. Gisser seconded. Mr. Diegnan abstained. All other members voted to approve.

November 13, 2017, executive session

Mayor Orban Brown called for a motion. Mr. Cioppettini moved. Mr. Gisser seconded. Mr. Diegnan abstained. All other members voted to approve.

NEW BUSINESS

Mayor Orban Brown announced that on December 1st, Mr. Baumann resigned as a committeeman due to business obligations. He served since 2013 and was reelected in 2016. His three year term expires December 31, 2018. The Mayor said he was a great asset to the committee and when he became Mayor, there were a lot of problematic issues. He did a good job guiding the committee and one of his first goals was to pay down some of the debt. The Mayor also said she appreciates what he did for the town.

The Mayor went on to explain the procedure when someone resigns. The committee of the party from which the committeeman is voted in nominates three candidates and then the Township Committee nominates and votes for one. The committee of the party met over the weekend and gave the name of three candidates; Rick Blood, Phil Crowley and Nick Monahan. Mayor Orban Brown gave a brief summary of each candidate's qualifications and then asked for a nomination. Mr. Cioppettini nominated Rick Blood, Mr. Diegnan seconded the motion. Mr. Gisser closed nominations. The Mayor asked for all in favor and all voted yes. Mr. Mills administered the oath of office.

CORRESPONDENCE

Nancy Wilson from Brockton Drive wrote an email objecting to the fact that ordinances were introduced without discussing with those involved and thought they were being rushed.

Ernest Biczak wrote an email expressing his opinion in favor of a land use board.

ORDINANCES FOR FIRST READING

ORDINANCE 2017-17

AMENDING SALARY ORDINANCE 2016-8

Mayor Orban Brown called for a motion. Mr. Diegnan moved. Mr. Gisser seconded.

All members voted to approve. Second reading and public hearing will be December 18, 2017

ORDINANCE 2017-16

AMENDING THE LAND USE ORDINANCES OF THE TOWNSHIP OF MENDHAM IN ACCORDANCE WITH N.J.S.A. 40:55D-25 (c) PURSUANT TO WHICH THE PLANNING BOARD SHALL EXERCISE THE COMBINED FUNCTIONS OF THE PLANNING BOARD AND BOARD OF ADJUSTMENT

Mayor Orban Brown called for a motion. Mr. Cioppettini moved. Mr. Diegnan seconded. The Mayor opened up discussion to the Committee.

Mr. Cioppettini explained that the Committee would like to economize and become more efficient by combining boards. By combining the two boards, it reduces the amount of meetings, amount of professionals and the end of the year is the time to do it, not in the middle of the year. After talking to other municipalities, he believes it is the right thing to do for Mendham Township.

Mr. Diegnan commented that he has heard the term "checks and balances" on social media in regards to the merging of the two boards. He explained and asked Mr. Mills for clarification, that while the boards do similar functions, they are statutorily created bodies. The zoning board has jurisdiction over certain matters such as use variances, and the Planning Board is more of a consultative agency that deals with bulk variances when it doesn't change the use of the property. In respect to the checks and balances, they have distinct roles, so there is no reason for checks and balances. Legislature allows towns that are under 15,000 to combine boards and can perform functions of both boards. Mr. Diegnan wanted to also clarify with Mr. Mills that if the Planning Board denied an application, they would not go to the Zoning Board for approval and vice versa. Mr. Mills stated that a denial from the Planning Board would go to the Superior court and a denial from the Zoning Board would go back to the Township

Committee. Mr. Diegnan asked Mr. Mills what the makeup of the land use membership would be comprised of. It would be the following: Class I-Mayor, Class II-Township Official, Class III- Township Committee member and Class IV-6 volunteer citizens (one from Environmental Commission)

Mr. Diegnan asked if there would be any occasions where members must abstain. Mr. Mills noted that the Mayor and Class III member would have to abstain if a use variance application because it could come back to the Township Committee in the appellate process.

Mr. Gisser has two concerns; the process and how we got to this point and the substance of the proposal. From what Mr. Gisser has studied, he does not see a savings on the financial side and is willing to be swayed if he had more facts. He also expressed his concern with respect to the speed of passing the ordinance. He asked Mr. Mills if the dates and timelines will change and Mr. Mills said the dates stay the same due to statute. Mr. Gisser questioned the recusal process that will occur in the proposed board and Mr. Mills stated that the board can have their own rules and procedures, but typically members who have to recuse themselves must leave the room.

Mr. Blood inquired about the 12 out of 13 mayoral appointments and asked if that is consistent with other boards. The Mayor said the Board of Adjustment appointments are made by the Township Committee and the Planning Board is appointed by the mayor except for Class III. Mr. Blood also asked how many permits require going to more than one board and Mr. Mills stated the answer was none.

The Mayor was concerned about the appointments to the land use board being almost entirely by the Mayor and asked to do a friendly amendment. In section 14-1, Class IV: six citizens of the Township of Mendham to be appointed by the Mayor, the mayor asked to change this to "by mayor with the consent of the Township Committee and in section D, where it states "The Mayor shall appoint four alternate members for Class IV members" she asked to change it to "the mayor shall recommend with consent of the Township Committee. Mr. Cioppettini accepted the amendment. Mr. Diegnan seconded it. The Mayor questioned the time limit in section 14-5 and 14-11, to which Mr. Mills stated he would review it. She also asked who the Administrative Officer would be and what is their function. It is listed as the Township Clerk and the function is assembling the records for any appeal before the Township Committee.

Mr. Gisser asked if the merged boards would it be effective for the new year and if there was any pending business. There is only one open item on the BOA involving a homeowner, Mrs. Lombardo.

The Mayor asked to form a subcommittee to approach the two current boards to look for any inconsistencies and problems that may occur before the second reading. Mr. Diegnan and Mr. Gisser offered to be on the subcommittee along with Ms. Foley, the present board secretary.

The Mayor asked if the Master Plan review committee would continue as it is. Mr. Cioppettini thought it would depend on the land use board.

Mr. Blood abstained, Mr. Gisser voted no. The other three members present voted yes. Second reading and public hearing will be December 18, 2017.

RESOLUTIONS

RESOLUTION 2017-182

AUTHORIZING PAYMENT OF BILLS

Mayor Orban Brown called for a motion. Mr. Cioppettini moved. Mr. Gisser seconded. The firefighter 1 bill was put in by accident and will be paid next bill list. All members voted to approve.

RESOLUTION 2017-183

URGING CONGRESS, AS FEDERAL INCOME TAX REFORM ADVANCES, TO PROTECT THE DEDUCTIBILITY OF STATE AND LOCAL TAXES

Mayor Urban Brown called for a motion. Mr. Cioppettini moved. Mr. Gisser seconded. All members voted to approve.

HEARING PERSONS PRESENT

Michael Merritt, 73 Mountainside Road, expressed his strong objection to the process by which the ordinances are being considered. (Full statement attached)

Rich Brusco, 5 Tingley Road, expressed his opinion that both boards are separate and should stay that way.

Amalia Duarte, 22 Brockton Drive, expressed her dismay that Mr. Cioppettini did not talk to the members of the boards and feels it could have been done in a more open approach. She also emphasized how upset she is about the possibility of abolishing the Recreation Commission. (Full statement attached)

Laurie Pettine, 24 Woodland Road, commended Rick Blood on becoming a committee member.

Rob Meyers, 3 Eastridge Road, does not agree with the merge of the boards.

Adam Dubeck, 307 Mendham Road West, feels the ordinances are being rushed.

Brian Hays, 23 West Main Street, did not understand why the two boards needed to be merged and did research. In his opinion, it is not worthwhile. (Full statement attached)

Ryan Guthrie, 28 Cold Hill Road, congratulated Rick Blood and shared court services. He also feels the ordinances are being rushed.

John Mayer, 178 Mendham Road East, commended the Township Committee for their time and questioned the procedure of voting on ordinances.

Matthew Messina, 22 Brockton Drive, expressed his disdain for the combining of boards on both ordinances and commented that if you are looking for a reduction in the budget, look to your own salary.

Jane Tiger, Glenbrook Drive, believes the volunteers may not want to give up power for the benefit of the community, which is why combining boards over the years has been difficult.

DISCUSSION

Mr. Diegnan answered Mr. Merritt by explaining that the Planning Board and Board of Adjustment can both grant variances, but there is no contradiction. He applauded the residents for coming out to show concern against combining boards, but at the same time he said there are many residents out there that agree with the changes. Mr. Diegnan commended the student that spoke and addressed his comment on salary by commenting that although you are a volunteer, it is a job, whether you choose to donate to charity or keep it, it is a job.

Mr. Gisser wanted to update regarding the Tax Assessor and addressing open permits. It is in the process of getting done. He also commented that in the coming months of meetings he hoped the Committee could focus on facts and collective participation.

Mr. Blood thanked the Republican Party Committee and the Township Committee and looks forward to dealing with the challenges that face us.

Mr. Cioppettini thanked everyone for coming and he appreciates all the comments.

Mayor Orban Brown ended the meeting by saying that the meeting runs by law and may not always make sense, but tries to follow all the rules. She also encouraged residents to attend Board of Education meetings to voice your opinion to save taxes.

ADJOURNMENT

The Township Committee adjourned at 9:37 PM.

Respectfully submitted,

Mary Beth Zichelli
Township Clerk

Mary Beth Zichelli

From: Michael Merritt <michael@mischu.me>
Sent: Tuesday, November 28, 2017 10:29 PM
To: Mary Beth Zichelli
Subject: Michael Merritt's comments tonight.

The proposed open space parks and recreation advisory committee ordinance reeks of partisan political retribution. Taken with the parallel proposal to merge the Planning Board and Board of Adjustment, and the recent poorly considered re-zoning ordinance, we have a trifecta, a perfect storm of brazen power grabs that literally ignore the community's express interest. The recent election is an endorsement of the accomplishments of the current Recreation Commission, and an expression of a desire for greater transparency and community involvement in our government and its decisions. This ordinance, in conception, in construction, and in execution, is a negation of that mandate.

Four members of this body endorsed the recent election's losing candidate as significantly more qualified than they are. But your endorsement ignored the even stronger qualifications of the winning candidate...who has served for years on two of the bodies that you now propose to disband! The electorate recognized her qualifications and achievements, and crossed party lines in significant numbers to support the individual who expressly campaigned for recreation and for transparency.

Now, you propose to realign our community on an extremely short schedule. No explanation for this speed has been provided...but the facts are clear, this ordinance would disband the Recreation Commission before Ms. Duarte is seated and can cast a vote. These changes are being proposed and drafted without the input or involvement of the members of the impacted boards...their experience and points of view are of no interest to the architects of this ordinance.

Michael Merritt
Mountainside Rd

Concerned about the process:

Chairs were not consulted
Shared secretary to the Boards already
Zoning Board is at capacity and is a busy, vibrant, working group
Lose the institutional knowledge of these volunteers - some whom have served for more than 20 years
Kevin Giordano has been the Chair since 1995 - that's longer than I have lived in Mendham

Concerned about the timing:

This summer, an ordinance to "down zone" the R-10 to R-5 - meaning we could see a wave of develop across the community
Pitney property is in the process of being sub-divided
In the middle of a Master Plan review

Seems like a bad time to consolidate power into one body rather than continue with the current checks and balances and more citizen input.

We may save a bit of money but lose far more. Very few municipalities in New Jersey have combined boards. This is not the right time to make a change.

If this is adopted, what are the next steps with the Planning and Zoning Boards? Will any of the current members stay on? What happens to pending business and the Master Plan review?

Recreation Commission:

Recreation Commission - we have a meeting scheduled with the mayor and Committeeman Gisser on Dec. 13. I hope you will be open-minded and listen to our concerns. I agree there needs to be a stronger emphasis on field maintenance as I stated in a letter to the Township Committee and at the last meeting. But you don't need to abolish the Recreation Commission which is focused on community events and fund-raising. You can create an Open Space & Parks Committee and leave the volunteers who are committed to Recreation in place.

Again, the Commissioners were not consulted in advance. Idea first came up at the Nov. 13 meeting and was a complete surprise to the Rec. Commissioners

Rec. Commission has had a successful year:

- Raised \$80,000+ for the Rebuild Ralston Playground campaign
- Organized the successful 9th Annual Patriots' Race
- Awarded two college scholarships to Mendham High School seniors
- Supported a group of high school students who ran a Kids' Carnival fund-raiser at Wysong Park
- Sustained operations at Brookside Beach
- Helped hire a new Recreation Director
- Pushed for the repair of the Mount Pleasant tennis courts
- Volunteered at community events like the Middle School Dance and our first town Movie Night

The rationale is the 5-year terms are too long. Then amend the terms. You say we are short-handed and haven't been able to recruit new people. Over the years, the Commission has fluctuated in

membership - sometimes with fewer people but always an active group. I hope we can come to an agreement on a way forward next week that is satisfactory to everyone.

BH – 23 West Main

Thank you all for your service. It's a tremendous time commitment, and thankfully most issues are benign.

When Mr. Cioppitinni asked Mr. Mills to draw up an ordinance combining the Planning and Zoning Board of Adjustment, my thought was why? The points mentioned didn't satisfy me, so I did some research.

I have since had conversations with 2 current and past members of the Planning Board, 4 current and past members of the Board of Adjustment, 2 current and past members of the Township Committee, and 4 mayors or former mayors of Mendham Township and neighboring municipalities.

None were chosen for perceived bias – I was looking for information and opinion. I heard an overwhelming consensus for separate boards unless there is a major cost savings or difficulty recruiting and retaining members. I see neither of these issues here.

Regarding time lines, there is a difference between legal requirements and moral requirements, and this change is important enough that the moral requirements should prevail for the simple reason of full transparency.

Regarding going to the wrong board by mistake, any applicant who speaks to the secretary will NOT end up before the wrong board.

I have to mention one other thing because it has troubled me and others. Mr. Cioppitinni appeared before the Board of Adjustment, I believe on November 9th. The topic was the sale of part of the Pitney property for residential development. The Board, doing the job it is charged with, raised 2 or 3 items that needed resolution. According to 3 people at that meeting, Mr. Cioppitinni became very exercised because he didn't want to hear about issues – he wanted a sign-off.

Less than a week later, Mr. Cioppitinni asked Mr. Mills to draw the ordinance to combine the boards. This could be a total coincidence, but to quote the title of a book I recently finished, that seems "A Bridge Too Far".

In closing, the great majority of Morris County municipalities have 2 boards. Those towns cited 2 meetings ago and tonight as having a combined board are very different from Mendham Township. At the last Township Committee meeting, which I watched from start to finish on TV, a resident advised that Chester Township had studied this idea, and decided against it. He thought it might be worthwhile for us to have a conversation with them. My questions - did that conversation take place, if so with whom, and what was their logic?