

DRAFT #2 (09/02 /2008)

THE BOROUGH OF MANTOLOKING
MAYOR AND COUNCIL

MINUTES OF THE REGULAR BUSINESS MEETING
August 18, 2008

The regular monthly meeting of the Mayor and Council was held this day in the meeting room of Borough Hall with the following actions:

- 1. CALL TO ORDER:** Mayor Nebel called the meeting to order at 4:30 p.m.

- 2. OPEN PUBLIC MEETING STATEMENT:** Mayor Nebel will read the following statement:
In compliance with the provisions of the New Jersey Open Public Meetings Act, adequate notice of this meeting of the Mantoloking Borough Council has been advertised in the manner provided by law.

- 3. ROLL CALL**
Present: Mayor George C. Nebel, Council President Steve Gillingham, Councilmen John H. Jones, Peter R. Strohm, Donald S. Ness, Stanley F. Witkowski and Councilwoman Ann Elizabeth Nelson
Absent: None

Also Present: Municipal Clerk Irene H. Ryan, Borough Attorney Edwin J. O'Malley, Jr., Police Sgt. John Barcus and Emergency Management Coordinator Robert McIntyre

- 4. PLEDGE OF ALLEGIANCE:** The Mayor led the assembly in the Pledge of Allegiance.

- 5. PRIVILEGE OF THE FLOOR:** The Mayor opened the meeting for public comment and questions about the agenda. Comments were made about boating regulations on Barnegat Bay and proposed Land Use Amending Ordinance No. 557.

- 6. MINUTES OF PREVIOUS MEETINGS:**
RESOLUTION NO. 08/18/2008 - 01: APPROVAL OF MINUTES
Councilman Gillingham moved that the minutes of the Regular Meeting of July 21, 2008 be approved as distributed. The motion was seconded by Councilwoman Nelson and approved by unanimous voice vote.

- 7. COMMITTEE REPORTS AND RECOMMENDATIONS**
FINANCE COMMITTEE, COUNCILMAN WITKOWSKI
 - A. Report of the Municipal Finance Officer
 - B. Action Items:

Councilman Witkowski moved the following three (3) resolutions. The motion was seconded by Councilman Gillingham and approved by unanimous voice vote.

RESOLUTION NO. 08/18/2008 – 02: ACCEPTANCE OF THE REPORT OF THE MUNICIPAL FINANCE OFFICER June 30, 2008

WHEREAS, the Chief Finance Officer has presented a report on the status of the 2008 municipal budget as of June 30, 2008; and

WHEREAS, that report indicates the following status as of that date:

ACCOUNT	BUDGET	EXPENDED BALANCE YEAR TO DATE	ENCUMBERED
2008 Current Year Appropriation	\$3,786,218. 48	\$2,091,598.57 \$1,655,215.31	\$ 39,404.60
2007 Appropriation Reserves	\$ 383,181.59	\$ 123,731.93 259,351.66	\$ 98.00 \$
Capital	\$1,503,851. 17	\$ 164,494.19 \$1,339,356.98	

ACCOUNT	REVENUE THIS MONTH	REVENUE YEAR TO DATE
Cash Receipts	\$ 119,302.18	\$3,935,919.64

now, therefore, be it

RESOLVED, the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey accept the above referenced and summarized report and directs that a copy be attached to and made part of the minutes of this meeting.

RESOLUTION NO. 08/18/2008 – 03: PAYMENT OF BILLS FOR THE MONTH OF AUGUST 2008

WHEREAS, the Municipal Finance Officer has presented a list of bills in the total amount of **\$1,611,281.81** and recommended that they be paid, now, therefore, be it

RESOLVED, the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey approve payment of the above referenced bills and directs that a copy be attached to and made part of the minutes of this meeting.

RESOLUTION NO. 08/18/2008 – 04: ACCEPTANCE OF 2007 MUNICIPAL AUDIT REPORT

WHEREAS, N.J.S.A. 40A:5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions, and,

WHEREAS, the Annual Report of Audit for the year 2007 has been filed by a Registered Municipal Accountant with the Municipal Clerk as per the requirements of N.J.S. 40A:5-6, and a copy has been received by each member of the governing body, and,

WHEREAS, the Local Finance Board of the State of New Jersey is authorized to prescribe reports pertaining to the local fiscal affairs, as per R.S. 52:27BB-34, and,

WHEREAS, the Local Finance Board has promulgated a regulation requiring that the governing body of each municipality shall, by resolution, certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, at a minimum, the sections of the annual audit entitled:

General Comments
Recommendations

And,

WHEREAS, the members of the governing body have personally reviewed at a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled:

General Comments
Recommendations

As evidenced by the group affidavit form of the governing body (original attached), and,

WHEREAS, such resolution of certification shall be adopted by the governing body no later than forty-five (45) days after receipt of the annual audit, as per the regulations of the Local Finance Board, and,

WHEREAS, all members of the governing body have received and have familiarized themselves with at least the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board, and,

WHEREAS, failure to comply with the promulgations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52 – to wit:

R.S. 52:27BB-52 – “A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the Director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.”

NOW, THEREFORE, BE IT RESOLVED, that the governing body of the Borough of Mantoloking, hereby states that it has complied with the promulgation of the Local Finance Board of the State of New Jersey dated July 30, 1968 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

PUBLIC SAFETY COMMITTEE, COUNCILMAN GILLINGHAM:

A. Reports of the Public Safety Committee: Councilman Gillingham presented the reports of the Police Department, Municipal Court and Fire Company.

B. Action Items:

Councilman Gillingham moved the following three (3) resolutions. The motion was seconded by Councilwoman Nelson and approved by unanimous voice vote.

RESOLUTION NO. 08/18/2008 – 05: INTRODUCTION OF ORDINANCE NO. 557 – AMENDED AND REINTRODUCTION OF ORDINANCE NO. 557

RESOLVED, the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey hereby adopts on first reading (title only) the following Ordinance:

ORDINANCE NO. 557

AN ORDINANCE AMENDING CHAPTER XXX, LAND USE REGULATIONS OF ORDINANCE 531, ADOPTING A CODIFICATION OF THE ORDINANCES OF THE BOROUGH OF MANTOLOKING, OCEAN COUNTY, NEW JERSEY, AND AMENDING PROVISIONS PERTAINING TO LAND USE

and be it

FURTHER RESOLVED, the attached Comprehensive Resolution of Introduction is hereby adopted, and be it **FURTHER RESOLVED**, that copies of all Ordinances introduced and all Resolutions adopted shall be maintained on file for public examination at the office of the Borough Clerk, published on the Borough's Website,

www.mantoloking.org, and provided to anyone free of charge during regular business hours, M-F 8:30am –4:30pm, and be it

FURTHER RESOLVED, the Borough Clerk advertises and takes all other steps required by law to conduct a public hearing on the proposed ordinance at the next regular business meeting of the Mayor and Council following introduction, absent Council's direction to the contrary upon introduction.

RESOLUTION NO. 08/18/2008 – 06: APPOINTMENT OF PERSONNEL – 2008/2009 SPECIALS ACADEMY RECRUITS

RESOLVED, the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey approves the following appointments with the terms and conditions indicated:

Name	Position	Effective Date	Salary
Gloria Atkinson	Class II Special Officer	September 2, 2008	\$7.15 per hour
Shawn Blakeley	Class II Special Officer	September 2, 2008	\$7.15 per hour

RESOLUTION NO. 08/18/20089 – 07: CONCERNING BOATING SAFETY; ENHANCED LOCAL ENFORCEMENT EFFORT AND PETITIONING THE NEW JERSEY BOAT REGULATION COMMISSION TO ADOPT EXPANDED SLOW SPEED, NO WAKE AREA AND A REALISTIC SPEED LIMIT ON BARNEGAT BAY

WHEREAS, the Borough of Mantoloking, in the interest of marine safety, has provided police boat patrol services on Barnegat Bay; and

WHEREAS, it is the desire of the governing body to enhance the effective deployment of the Mantoloking police boat patrol services; and

WHEREAS, rigorous enforcement of existing laws and regulations concerning boating, within the Borough and tidal waters generally, will encourage compliance by vessel operators and, as a consequence, greater safety; and

WHEREAS, it is the desire of the governing body to recruit enhanced enforcement efforts by all municipalities abutting the waters of Barnegat Bay; and

WHEREAS, the New Jersey State Police has authority and responsibility concerning enforcement of laws and regulations concerning boating; and

WHEREAS, the New Jersey Boat Regulation Commission has authority to promulgate regulations concerning the operation of vessels; and

WHEREAS, the existing scheme of regulations concerning speed and wake generation is too limited in scope to effectively address safety issues; and

WHEREAS, excessive speed presents an enhanced risk of personal injury; and

WHEREAS, excessive motor boat wake causes increased turbidity and accelerates the degradation of natural

shoreline vegetation (increases erosion) to the detriment of the general public interest.

IT IS NOW, THEREFORE, this 18th day of August, 2008, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. The marine patrol services of the Mantoloking Police Department shall immediately be enhanced by expanded schedules and more rigorous enforcement of existing boating laws and regulations to the full extent of its authority;

2. The State of New Jersey (N.J. State Police) is hereby petitioned to expand its marine patrol and enforcement efforts;

3. The New Jersey Boat Regulation Commission is hereby petitioned to

immediately adopt expanded slow speed, no wake areas and a realistic motor boat speed limit.

4. Representatives of the Borough shall apply to appear before the New Jersey Boat Regulation Commission in support of this request for the adoption of more effective regulations which will reduce the safety hazards and public nuisance (noise) presented by excessive vessel speed and wake; more particularly:

- (a) designation of the entire area of Barnegat Bay north of a line between Curtis Point and Havens Point, northerly to the "Gunning Ditch", easterly along Herring Island, to Dales Point, as a declared slow speed no wake zone. See Exhibit A.
- (b) establishment of a safe speed limit for vessel operation after sunset;
- (c) establishment of realistic speed limits for open Barnegat Bay waters;
- (d) acknowledgment that existing regulations concerning noise nuisance are practically unenforceable and have not been effective in abating the acknowledged public nuisance;
- (e) establishment of regulations designed effectively address the real public nuisance presented by motorboat noise in a manner which will facilitate both compliance and practical enforcement;
- (f) consideration of requiring larger vessel identification numbers to facilitate enforcement.

5. A copy of this Resolution shall be forwarded to:

- (a) New Jersey Boat Regulation Commission
- (b) State of New Jersey (New Jersey State Police)
- (c) Township of Brick
- (d) Borough of Bay Head.

PUBLIC WORKS COMMITTEE, COUNCILWOMAN NELSON

A. Reports of the Public Works: Councilwoman Nelson presented reports from the Borough Superintendent, Construction Official and Land Use Officer.

C. Action Items:

Councilwoman Nelson moved the following five (5) resolutions. The motion was seconded by Councilman Gillingham and approved by unanimous voice vote.

RESOLUTION NO. 08/18/2008 – 08: APPOINTMENT OF PERSONNEL – CONSTRUCTION DEPARTMENT SUBCODE OFFICIALS

RESOLVED, the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey approves the following appointments with the terms and conditions indicated:

Name	Position	Effective Date	Salary
<i>Steven G. Patterson</i>	<i>Fire Subcode Official</i>	<i>September 1, 2008</i>	<i>\$4,000.00 Annual*</i>
<i>Michael Clayton</i>	<i>Deputy Fire Subcode Off.</i>	<i>September 1, 2008</i>	<i>To be determined.</i>
<i>Hans D. Warnebold</i>	<i>Plumbing Subcode Off.</i>	<i>September 1, 2008</i>	<i>\$4,000.00 Annual*</i>
<i>John Gill</i>	<i>Deputy Plumbing Off.</i>	<i>September 1, 2008</i>	<i>To be determined.</i>
<i>John Helmstetter</i>	<i>Electrical Subcode Off.</i>	<i>September 1, 2008</i>	<i>\$4,000.00 Annual*</i>
<i>Marcel Renson</i>	<i>Deputy Electrical Off.</i>	<i>September 1, 2008</i>	<i>To be determined.</i>

*Subject to Mutual Execution of memorandum of terms and conditions of employment as approved by the Mayor.

RESOLUTION NO. 08/18/2008 – 09: APPROVE THE TRANSPORTATION OF STREET SWEEPER

WHEREAS, the Borough of Mantoloking has contracted with the State of New Jersey and the Federal Government to buy surplus equipment at a nominal fee and

WHEREAS, the equipment known as a street sweeper is located in the State of New York in the Town of Niagara Falls and

WHEREAS the street sweeper needs to be transported from Niagara Falls, NY to the Borough of Mantoloking on a specially made truck and the number of vendors in this category is limited,

NOW THEREFORE IT BE RESOLVED, by the Mayor and Council of the Borough of Mantoloking, that the Borough of Mantoloking contract with the transportation company named Daily Express, Inc. located in Carlisle, Pa in the amount of \$1,466.34 to be paid within fifteen days of receipt of the invoice after the equipment has been moved to the Borough of Mantoloking.

RESOLUTION NO. 08/18/2008 – 10: APPROVE THE TRANSPORTATION OF A BULL DOZER

WHEREAS, the Borough of Mantoloking has contracted with the State of New Jersey and the Federal Government to buy surplus equipment at a nominal fee and

WHEREAS, the equipment known as a bull dozer is located in the State of Missouri in the Town of Puxico and

WHEREAS the bull dozer needs to be transported from Puxico, Mo. to the Borough of Mantoloking on a specially made truck and the number of vendors in this category is limited,

NOW THEREFORE IT BE RESOLVED, by the Mayor and Council of the Borough of Mantoloking, that the Borough of Mantoloking contract with the transportation company named Daily Express, Inc. located in Carlisle, Pa in the amount of \$3,850.00 to be paid within fifteen days of receipt of the invoice after the equipment has been moved to the Borough of Mantoloking.

RESOLUTION NO. 08/18/2008 – 11: PROVIDING FOR REJECTION OF BIDS FOR SEWER WET WELL REPLACEMENTS AND REPAIRS

WHEREAS, the Borough solicited and received bids for the above described project; and

WHEREAS, all of the bids submitted have been reviewed by the Borough attorney; and

WHEREAS, all of the bids are materially deficient, not in compliance with bid specifications, more particularly, that each bidder must supply a certified Financial Statement; and

WHEREAS, none of the bidders supplied a certified Financial Statement; and

WHEREAS, bid specification compliance concerning the mandatory submission of certified Financial Statements is non-waiveable; and

WHEREAS, counsel have advised that legal considerations require rejection of all bids.

IT IS NOW, THEREFORE, this 18th day of August, 2008, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. All bids received for the above referenced project are hereby rejected; bid security shall be released in the ordinary course.
2. The project shall be re-bid.

RESOLUTION NO. 08/18/2008 – 12: PROVIDING FOR TEMPORARY SUSPENSION OF PAVEMENT OPENING MORATORIUM LYMAN STREET – EAST OF ROUTE 35

WHEREAS, in the public interest, the Borough has prosecuted a roadway improvement project to repave Lyman Street – East of Route 35, which is to commence following Labor Day; and

WHEREAS, the Borough has been advised by the New Jersey American Water Company, that it is necessary that they replace their water main in Lyman Street, east of Route 35; and

WHEREAS, it is necessary that the water main be replaced prior to repaving of Lyman Street – east of Route 35; and

WHEREAS, completion of the water main installation is deemed necessary and sufficient to warrant relaxation of Borough policies concerning the periods during which roadway improvement activities would be permitted.

IT IS NOW, THEREFORE, this 18th day of August, 2008, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. That the public interest in the replacement of New Jersey American Water Company's water main in Lyman Street – east of Route 35, prior to repaving of Lyman Street warrants relaxation of the policy prohibition concerning such activity during the summer period and is an appropriate exercise of discretion; a waiver of the prohibition (no construction prior to Labor Day) is hereby granted.

2. During the period of replacement of the water main, traffic between Stephens Place and Lyman Street shall be diverted in the reverse direction to exit East Avenue.

DUNE & BEACH RENOURISHMENT COMMITTEE, COUNCILMAN JONES

A. Councilman Jones presented the report of the Dune & Beach Renourishment Committee

B. Action Items: None

LEGISLATIVE ACTION COMMITTEE, COUNCILMAN STROHM

A. Councilman Strohm presented the report of the Legislative Action Committee

B. Action Items:

Councilman Strohm moved the following:

RESOLUTION NO. 08/18/2008 – 13: OPPOSING SENATE BILL S-1455 REQUIRING CERTAIN MUNICIPAL FUNCTIONS TO BE ASSUMED BY THE COUNTY

WHEREAS, there is now pending in the New Jersey State Senate S-1455 which would require the holding of a binding statewide referendum by county on whether responsibility for certain municipal functions should be assumed by county government; and

WHEREAS, the proposed legislation would transfer the responsibility for the assessment and collection of real property taxes, animal control services, and public health services from the municipalities to the county in accordance with a master plan developed by the Commissioner of Community Affairs, in conjunction with the Director of the Division of Taxation in the Department of the Treasury; and

WHEREAS, the proposed legislation, if approved at a referendum, would transfer the responsibility for the assessment and collection of real property taxes, animal control services, and public health services from municipality to the county; and

WHEREAS, S-1455, if enacted, would result in the municipality's loss of control over its assessment and collection practices, as well as animal control and public health services; and

WHEREAS, the Mayor and Council of the Borough of Mantoloking prefers to maintain local control and share expenses by exercising shared service options and not mandates.

NOW, THEREFORE, BE IT RESOLVED, this 18th day of August, 2008, by the Mayor and Council of the Borough of Mantoloking, County of Ocean, State of New Jersey, hereby strongly opposes the passage of S-1455 for the aforesaid reasons; and

BE IT FURTHER RESOLVED that the Borough Clerk shall forward certified copies of this resolution to the following:

- (a) Honorable Jon S. Corzine, Governor;
- (b) New Jersey State Legislature;

- (c) 9th, 10th and 30th District Legislators;
- (d) Ocean County Board of Chosen Freeholders;
- (e) New Jersey Conference of Mayors; and
- (f) Ocean County Municipalities.

The motion was seconded by Councilman Jones and approved by unanimous voice vote.

MANTOLOKING COMMITTEE, COUNCILMAN NESS

- A. Councilman Ness presented the reports of the Mantoloking Committee.
- B. Action Items:

Councilman Ness moved the following:

RESOLUTION NO. 08/18/2008 – 14: CONFIRMING THE APPOINTMENT OF COMMITTEE MEMBERS

WHEREAS, it is the responsibility of the Mayor with the consent of Council to appoint various individuals such Committee Members;

WHEREAS, AFTER DUE DELIBERATION, the Mayor and Council have determined that the following individuals are nominated for the 2011 Centennial Celebration Committee:

William B. Tubbs

Term to expire, December 31, 2008

Doreen Duggan

Term to expire, December 31, 2008

IT IS NOW, THEREFORE, this 18th day of August 2008, Resolved by the Mayor and Council of the Borough of Mantoloking, as follows:

1. That the Council does, by this Resolution, hereby confirm, ratify, and approve the nomination and appointment and term of office identified as to that position wherein the Mayor has the right to nominate and appoint with the advice and consent of Council or otherwise, and as to that office and position wherein the Council has the right to select said individuals or entities.

The motion was seconded by Councilman Strohm and approved by unanimous voice vote.

8. MAYOR AND COUNCIL COMMENTS

9. PUBLIC COMMENTS PERIOD

Comments were made about the Police Marine Patrol donations, boat regulations on Barnegat Lane, the N.J. Boating Commission and the local library tax.

10. NEXT MEETING Regular Council Meeting of September 15, 2008 @ 4:30 p.m.

11. ADJOURNMENT

There being no further business for this meeting, it was moved by Councilman Strohm to adjourn. The motion was seconded by Councilwoman Nelson and was approved by unanimous voice vote at 5:11 p.m.

Respectfully submitted,

Irene H. Ryan, R.M.C.
Municipal Clerk