

DRAFT #2 (08/26/2009)

THE BOROUGH OF MANTOLOKING
MAYOR AND COUNCIL

MINUTES OF THE REGULAR BUSINESS MEETING
August 17, 2009

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 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 Stanley F. Witkowski, Councilmen Steve Gillingham, Peter R. Strohm, Donald S. Ness, James J. Brown 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 S. McIntyre, Jr.
- 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. No comments were made.

6. MINUTES OF PREVIOUS MEETINGS:

RESOLUTION NO. 08/17/2009 - 01: APPROVAL OF MINUTES

Councilwoman Nelson moved that the minutes of the Regular Meeting of July 20, 2009 be approved as distributed. The motion was seconded by Councilman Strohm and approved by unanimous voice vote.

7. COMMITTEE REPORTS AND RECOMMENDATIONS

FINANCE COMMITTEE, COUNCILMAN WITKOWSKI

- A. Councilman Witkowski presented the monthly finance report.
- B. **Action Items:**

Councilman Witkowski moved the following four (4) resolutions. The motion was seconded by Councilwoman Nelson and approved by unanimous voice vote.

RESOLUTION NO. 08/17/2009 – 02: ACCEPTANCE OF THE REPORT OF THE MUNICIPAL FINANCE OFFICER June 30, 2009

WHEREAS, the Chief Finance Officer has presented a report on the status of the 2009 municipal budget as of June 30, 2009; and

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

ACCOUNT	BUDGET	EXPENDED BALANCE YEAR TO DATE	ENCUMBERED
2009 Current Year Appropriation	\$3,924,585.79	\$2,151,391.25 1,672,519.36	\$ 100,675.18 \$
2008 Appropriation Reserves	\$ 337,600.67	\$ 123,637.71 210,936.52	\$ 3,026.44 \$
Capital	\$ 968,028.99	\$ 212,268.81 755,760.18	\$

ACCOUNT	REVENUE THIS MONTH	REVENUE YEAR TO DATE
Cash Receipts	\$145,289.74	\$4,069,531.30

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. 08/17/2009 – 02: PAYMENT OF BILLS FOR THE MONTH OF August 2009

WHEREAS, the Municipal Finance Officer has presented a list of bills in the total amount of **\$1,564,606.18** 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. 08/17/2009 – 03: REQUESTING A TAX REFUND OF OVERPAYMENT OF TAXES DUE TO A TAX APPEAL

WHEREAS, a State Tax Court Judgment has been favorably awarded to Arthur and Marilyn D’Alessandro, Block 35, Lot 1, for the fiscal year 2008; and,

WHEREAS, such judgment has resulted in an overpayment of 2008 property taxes in the amount of \$4,164.15 in principal,

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Mantoloking, County of Ocean, State of New Jersey, that the Chief Financial Officer be hereby authorized to issue a check in the amount of \$4,164.15 for said overpayment of property taxes, plus interest in the amount of \$165.31 for a total of \$4,329.46 to Arthur and Marilyn D’Alessandro, 1301 Ocean Ave, PO Box 734, Mantoloking, NJ 08738.

BE IT FINALLY RESOLVED, that a certified copy of this Resolution be forwarded to the Tax Collector, Chief Financial Officer and property owner.

RESOLUTION NO. 08/17/2009 – 04: APPROVE RELEASE OF CASH SURETY BOND TO DANIEL S. CUSACK, INC.

WHEREAS, the Borough is the beneficiary of a Surety Bond posted by Daniel S. Cusack, Inc. in conjunction with the demolition of a single family home located at 980 Lagoon Lane; and

WHEREAS, the Construction Official, John Wardell, has advised that a final inspection has been completed, the debris has been completely cleared and it is appropriate to release the Bond at this time.

IT IS NOW, THEREFORE, this 17th day of August, 2009, resolved by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. The referenced Surety Bond posted by Daniel S. Cusack, Inc. in the amount of \$1,000.00 shall be released, forthwith;
2. All officials having jurisdiction in the matter shall take such action as may be necessary to implement this Resolution.

PUBLIC SAFETY COMMITTEE, COUNCILMAN GILLINGHAM:

A. Reports of the Public Safety Committee: Councilman Gillingham introduced Sgt. John Barcus who presented the report of the Police Department. Councilman Gillingham followed with the introduction of Emergency Management Coordinator Robert S. McIntyre, Jr. who presented a verbal report. Councilman Gillingham concluded with the presentation of the reports of the Municipal Court and Fire Company.

B. Action Items:

Councilman Gillingham moved the following six (6) resolutions. The motion was seconded by Councilwoman Nelson and approved by unanimous voice vote.

RESOLUTION NO. 08/17/2009 – 05: MEMORIALIZING THE CONTRIBUTIONS AND PUBLIC SERVICE OF JOHN “JACK” R. BITTEL-DECEASED - JUNE 6, 2009

WHEREAS, Jack Bittel generously provided 24 years of faithful and dedicated service as a firefighter; and

WHEREAS, it is the desire of the Mayor and Council to recognize and honor the service and contributions of Jack Bittel; and

WHEREAS, he, with pleasant efficiency and commendable distinction served as Lieutenant, Captain, Assistant Chief and Chief, as well as a Trustee of Mantoloking Volunteer Fire Company No. 1; and

WHEREAS, his dedication to the Fire Company, his fellow firefighters, the Borough and to public safety was, in all respects, exemplary and consistent with the highest standards of the fire service; and

WHEREAS, his service performance and his leadership of fellow firefighters was inspirational and effective.

IT IS NOW, THEREFORE, this 17th day of August, 2009, RESOLVED by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. All of the prefatory statements above are incorporated by reference.
2. The Mayor and Council, for themselves and for all residents of the Borough do hereby express to his family their most sincere appreciation for the valued service, contributions and dedication of John “Jack” R. Bittel. Further, they extend their condolences to his family, along with reassurance that his service will be long remembered, with heartfelt appreciation.
3. A true copy of this Resolution shall be presented to his family.
4. A copy shall also be provided to the Fire Company, to be prominently posted in the firehouse.

RESOLUTION NO. 08/17/2009 – 06: SUPPORTED THE PROVISION OF PROPER MEDICAL AND LOST WAGE COMPENSATION INSURANCE TO VOLUNTEER FIRE INSTRUCTORS AND TO ALLOW FOR COUNTYWIDE FIRE TRAINING

WHEREAS, the firefighters of Ocean County are trained by Fire Instructors who volunteer their time, energy and experience teaching their fellow firefighters, and

WHEREAS, these Fire Instructors spent countless hours obtaining the required educational experience required to teach and maintain their instructor certifications, and

WHEREAS, these Fire Instructors volunteer hundreds of hours every year teaching, without any reimbursement for expenses that they incur, and

WHEREAS, our firefighters require continual training to protect our residents and keep themselves safe, and such training should take place in the best possible location to support the training objectives, as well as take into account the time and expense of travel on our volunteers and Fire Departments, and

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Mantoloking do hereby request that the Ocean County Board of Freeholders supplies adequate insurance protection that includes coverage for medical care and lost wages for any Fire Instructor injured in the Line of Duty. Additionally, we request that the Ocean County Board of Freeholders set such policies that facilitate fire training at all such locations possible that provide a safe and suitable learning environment.

RESOLUTION NO. 08/17/2009 – 07: APPROVED FIRE COMPANY BYLAWS AND COMPLY WITH FEDERAL AND STATE REQUIREMENTS

WHEREAS, that the members of the Mantoloking Fire Company No. 1 have approved the attached Bylaws for operation of the company and submitted them to the Borough Council for approval as required, now, therefore be it

RESOLVED, the Borough Council of the Borough of Mantoloking approves the Bylaws as submitted and orders them filed for future reference, and

WHEREAS, Borough officials have recommended the MFC take steps to apply to the IRS for recognition as a 501c(3) organization and register as a charitable organization with the State of New Jersey and have agreed to pay the necessary fees and costs to do so, now therefore be it

RESOLVED, the Borough Council of the Borough of Mantoloking authorizes the Borough Clerk to engage the Borough Auditor to carry out this process.

RESOLUTION NO: 08/17/2009 – 08: APPLICATION FOR MEMBERSHIP-MANTOLOKING FIRE COMPANY NO. 1 (JEFFREY B. POPPE)

WHEREAS, Jeffrey B. Poppe has applied for membership in the Mantoloking Fire Company No. 1; and

WHEREAS, the fire company has approved the application; and

WHEREAS, pursuant to the provisions of the By-Laws of the Mantoloking Fire Company No. 1, all applications are also subject to approval of Council.

IT IS NOW, THEREFORE, this 17th day of August, 2009 **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, that the application of Jeffrey B. Poppe is hereby approved, subject to receipt of satisfactory physical examination report.

RESOLUTION NO. 08/17/2009 – 09: INTRODUCTION OF ORDINANCE NO. 574 – AMEND SOLICITATION ORDINANCE TO INCLUDE PEDDLER PERMITS

***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. 574

**AN ORDINANCE OF THE BOROUGH OF MANTOLOKING,
OCEAN COUNTY, NEW JERSEY, PROVIDING FOR THE REGULATION
OF PEDDLERS**

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. 08/17/2009 – 10: INTRODUCTION OF ORDINANCE NO. 575 – AMEND LAND
USE ORDINANCE**

*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. 575

**AN ORDINANCE OF THE OF THE BOROUGH OF MANTOLOKING, OCEAN COUNTY, NEW JERSEY
AMENDING THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF MANTOLOKING, 2007,
MORE PARTICULARLY LAND USE REGULATIONS, SECTION 30-4.3 SURFACE WATER
MANAGEMENT, SECTION D, DATA REQUIRED 2(C) SITE TOPOGRAPHY AND PROVIDING FOR
TECHNICAL CORRECTION**

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.*

PUBLIC WORKS COMMITTEE, COUNCILWOMAN NELSON

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

C. Action Items:

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

RESOLUTION NO. 08/17/2009 – 11: ACCEPTANCE OF RESIGNATION – NANCY A. KLUMB

*RESOLVED, the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey accepts the
following resignation(s):*

Name	Position	Effective Date
Nancy A. Klumb	a. Deputy Borough Clerk b. Technical Assistant to the	August 3, 2009

	<i>Construction Official</i>	<i>August 3, 2009</i>
	<i>c. Deputy Registrar of Vital Statistics</i>	<i>August 3, 2009</i>
	<i>d. Administrative Assistant to the Tax Assessor, Fire Official and Dune Inspector</i>	<i>August 3, 2009</i>

RESOLUTION NO. 08/17/2009 – 12: APPOINTMENT OF PERSONNEL – PERMANENT PART TIME HELP

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>Lynne Hazelet</i>	<i>a. Technical Assistant to the Construction Official b. Deputy Registrar of Vital Statistics c. Administrative Assistant to the Tax Assessor, Fire Official and Dune Inspector d. Council Meeting Recording Secretary</i>	<i>August 4, 2009</i>	<i>\$ 31,632.98 (Combined Full-Time Salary) \$40.00 per session</i>
<i>Jennifer B. Krieg</i>	<i>a. Administrative Assistant to the Borough Engineer, Land Use officer and Planning Board b. Planning Board Meeting Recording Secretary</i>	<i>August 24, 2009</i>	<i>\$ 20,357.31 (Combined Part-Time Salary) \$25.00/Hr. (3Hr. Min.)</i>

RESOLUTION NO. 08/17/2009 – 13: PROVIDING FOR EXECUTION OF SITE ACCESS AGREEMENTS, BLOCK 34, LOTS 3 AND 5 AND BLOCK 31, LOTS 6 AND 8 (REMEDIATION COMPLIANCE)

WHEREAS, the Borough is engaged in ongoing remediation of adverse environmental conditions upon, over and adjacent to Borough property (Bay Avenue Storage Yard); and

WHEREAS, the New Jersey DEP has directed the installation of additional monitoring wells; and

WHEREAS, some of the wells are to be installed upon property owned by others; and

WHEREAS, as a prerequisite to the off site well installation, the Borough must obtain the consent of the owners of such property; and

WHEREAS, the Borough Engineer and Borough Counsel have prepared a proposed Site Access Agreement; and

WHEREAS, it is the desire of the Mayor and Council to obtain access at the earliest date practicable.

IT IS NOW, THEREFORE, this 17th day of August, 2009, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. The Mayor and Clerk are authorized to execute, on behalf of the Borough, such final form of Site Access Agreement as may be endorsed and recommended by the engineer and attorney.
2. Upon mutual execution, the Site Access Agreement shall be available for public inspection.

DUNE & BEACH RENOURISHMENT COMMITTEE, COUNCILMAN STROHM

- A. Report of the Dune & Beach Renourishment Committee
- B. Action Items: None

MANTOLOKING COMMITTEE, COUNCILMAN NESS

- A. Councilman Ness announced that there are no reports of the Mantoloking Committee and Environmental Commission at this time.
- B. Action Items: None

MUNICIPAL SERVICES COMMITTEE, COUNCILMAN BROWN

- A. Councilman Brown presented the reports of the Municipal Services Committee.
- B. Action Items: None

8. MAYOR AND COUNCIL COMMENTS

Councilman Strohm reported that Assemblyman Wolfe has invited Mantoloking officials and all other town officials, that border on the Barnegat Bay, to discuss municipal police boat presence on the bay. Councilman Brown announced that the borough will be instructing our solid waste pick-up company to notify residents with red violation stickers when the trash and recycling rules have not been followed.

9. PUBLIC COMMENTS PERIOD

Three (3) comments were made about the recycling procedures in the Borough of Mantoloking.

12. NEXT MEETING Regular Council Meeting of September 21, 2009 @ 4:30 p.m.

13. ADJOURNMENT

There being no further business for this meeting, it was moved by Councilwoman Nelson to adjourn. The motion was seconded by Councilman Brown and was approved by unanimous voice vote at 4:53 p.m.

Respectfully submitted,

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

ORDINANCE NO. 574

**AN ORDINANCE OF THE BOROUGH OF MANTOLOKING,
OCEAN COUNTY, NEW JERSEY, PROVIDING FOR THE REGULATION
OF PEDDLERS**

WHEREAS, the Mayor and Council find that the presence of unidentified street vendors (peddlers) who offer merchandise and food from vehicles, or on foot, within the public right-of-way, may, at times, constitute a nuisance and/or a risk of harm to the resident public, particularly children; and

WHEREAS, it is the desire of the Mayor and Council to implement procedures which reduce the perceived nuisance and risk.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. Chapter IV of the Revised General Ordinances of the Borough of Mantoloking, 2007, is amended:

(a) 4-1.2b, **Definitions**, Add:

“Peddling” the act of vending merchandise or food while in a vehicle or on foot within the public right-of-way.

“Peddler” the person and/or entity engaged in the act of peddling.

“Permit”, following ‘solicitation’, add ‘peddling’:

Peddling shall mean the act of selling or offering merchandise, food or services of any nature whatsoever from a vehicle, or on foot, within the public right-of-way.

2. **Permit Required**, 4-13, insert “peddling” following “solicitation”.

3. **Application for Peddling Permit**, 4-1.5.1. Any person or entity seeking to engage in peddling shall apply to the Police Department for issuance of a

Peddler-Peddling Permit. The information to be provided by the applicant shall be as is set forth in See 4-1.5 b. 1-10, c, d. e, g.

4. **Application Fee**: Each individual applicant shall pay the sum of \$50.00 as a non-refundable application fee.
5. **Issuance of Permit**, 4-1.6.1. The Chief of Police or, in his absence, the Officer in Charge, shall issue a permit upon presentation of a complete application, the application fee and a satisfactory criminal background investigation concerning each applicant. A record of conviction of crimes of moral turpitude shall constitute grounds for refusal of issuance of a permit. Any applicant may appeal such denial by application to the governing body within 10 days of receipt o notice of appeal.
6. Sub-article 4-1.7.1, **Carry and Display of Permit**:

Each permitted peddler shall carry the permit while engaged in the Borough and shall display the same upon request of any officer or resident.
7. 4.1.8.1. All peddling permits shall expire on November 30th of each year.
8. No peddler shall utilize any sound generating device, including but not limited to voice, before 12:00 noon or after 6:00 p.m. Any sound which is deemed to constitute a public nuisance is prohibited.
9. All provisions of Chapter IV not specifically amended by this Ordinance shall remain in full force and effect. No portion of Chapter IV is revoked or rescinded by this Ordinance. In the event that any portion of this amendment is deemed to be, for any reason, illegal or unenforceable such portions hereof which are not so adjudicated shall remain in full force and effect. In no event shall any ruling of illegality or unenforceability concerning the amendatory language be relied upon, in whole or in part to diminish the efficacy and purpose of the Ordinance to which this is an amendment. In the event that any part or portion of this amendment is adjudicated to be unenforceable, the remainder shall be construed and applied to effectuate the regulations of peddling and peddler.
10. This Ordinance shall be effective upon final adoption.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed upon first reading at a regular meeting of the Mayor and Council of the Borough of Mantoloking, in the County of Ocean and State of New Jersey held on the 17th day of August, 2009, and said Ordinance will be considered for final passage at the Borough Hall, Downer Avenue, Mantoloking, New Jersey at 4:30 p.m. on the 21st day of September, 2009, or as soon thereafter as said matter may be reached, at which time and place all persons interested will be given an opportunity to be heard.

Irene H. Ryan, R. M. C.

ORDINANCE NO.: 575

**AN ORDINANCE OF THE OF THE BOROUGH OF MANTOLOKING,
OCEAN COUNTY, NEW JERSEY
AMENDING THE REVISED GENERAL ORDINANCES OF THE
BOROUGH OF MANTOLOKING, 2007, MORE PARTICULARLY
LAND USE REGULATIONS, SECTION 30-4.3
SURFACE WATER MANAGEMENT, SECTION D, DATA REQUIRED 2(C)
SITE TOPOGRAPHY AND PROVIDING FOR TECHNICAL CORRECTION**

WHEREAS, the Borough Engineer has recommended that Land Use Regulations, Section 30-4.3, Surface Water Management, Section d, Data Required, 2(c), Site Topography, be amended to correct certain technical matters.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Mantoloking, in the County of Ocean, State of New Jersey as follows:

1. Sub-Section d, 2(c) is amended by deletion of:
“NGVD 1983”
And the insertion of:
“NGVD 1988”.
2. This amendment shall be effective upon final adoption of this Ordinance.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed upon first reading at a regular meeting of the Mayor and Council of the Borough of Mantoloking, in the County of Ocean and State of New Jersey held on the 17th day of August, 2009, and said Ordinance will be considered for final passage at the Borough Hall, Downer Avenue, Mantoloking, New Jersey at 4:30 p.m. on the 21st day of September, 2009, or as soon thereafter as said matter may be reached, at which time and place all persons interested will be given an opportunity to be heard.

IRENE H. RYAN, R. M. C.