

**DRAFT #3 (09/26/2008)**

**THE BOROUGH OF MANTOLOKING**  
**MAYOR AND COUNCIL**

**MINUTES OF THE REGULAR BUSINESS MEETING**  
**September 15, 2008**  
**4:30 P.M.**

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 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 Chief Mark Wright 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. No comments were made.
  
6. **MINUTES OF PREVIOUS MEETINGS:**  
**RESOLUTION NO. 09/15/2008 - 01: APPROVAL OF MINUTES**  
Councilman Strohm moved that the minutes of the Regular Meeting of August 18, 2008 be approved as distributed. The motion was seconded by Councilman Gillingham 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 two resolutions. The motion was seconded Councilwoman Nelson and approved by unanimous voice vote.

**RESOLUTION NO. 09/15/2008 – 02: ACCEPTANCE OF THE REPORT OF THE MUNICIPAL FINANCE OFFICER July 31, 2008**

**WHEREAS**, the Chief Finance Officer has presented a report on the status of the 2008 municipal budget as of July 31, 2008; and

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

ACCOUNT	BUDGET	EXPENDED	ENCUMBERED	
		BALANCE YEAR TO DATE		
2008 Current Year Appropriation	\$3,786,218. 48	\$2,328,910.72 \$1,394,379.59	\$	62,928.17
2007 Appropriation Reserves	\$ 383,181.59	\$ 123,731.93 259,351.66	\$	98.00
Capital	\$1,503,851. 17	\$ 181,516.86 \$1,322,334.31		

ACCOUNT	REVENUE	REVENUE
	THIS MONTH	YEAR TO DATE
Cash Receipts	\$ 441,157.53	\$4,377,077.17

**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. 09/15/2008 – 03: PAYMENT OF BILLS FOR THE MONTH OF September 2008**

**WHEREAS**, the Municipal Finance Officer has presented a list of bills in the total amount of **\$246,837.11** 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.

**PUBLIC SAFETY COMMITTEE, COUNCILMAN GILLINGHAM:**

**A. Reports of the Public Safety Committee:** Councilman Gillingham introduced Chief Wright who presented the reports of the Police Department. Councilman Gillingham then presented the reports of the Municipal Court, Fire Company and Emergency Management Coordinator.

**B. Action Items:**

Councilman Gillingham moved the following:

**RESOLUTION NO. 09/15/2008 – 04: PROVIDING FOR AMENDMENT OF SECTION 5 OF PROPOSED ORDINANCE NO. 557 BY DELETION OF SUBSECTION C. OF PROPOSED ARTICLE 30-4.18 – EXISTING GRADE**

**WHEREAS**, proposed Section 5, Article 30-4.18, c. Existing Grade, would impose a two (2) year moratorium upon the construction of certain improvements following issuance of a permit to raise lot grade; and

**WHEREAS**, such provision is deemed to be arbitrary, unreasonable and would not advance the purposes of the Municipal Land Use Law or the Land Use Ordinance of the Borough.

**IT IS NOW, THEREFORE**, this 15<sup>th</sup> day of September, 2008, RESOLVED by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, that Article 30-4.18, c. of proposed Ordinance No. 557 shall be deleted and that consideration of final adoption of the amended proposed Ordinance No. 557 shall proceed forthwith. The motion was seconded by Councilman Strohm and approved by unanimous voice vote.

**PUBLIC HEARING: AMENDING ORDINANCE NO. 557 – CHAPTER XXX, LAND USE REGULATIONS**

Mayor Nebel will open the meeting to the public for a public hearing. Two (2) comments were made by the public.

Councilman Gillingham moved the following:

**RESOLUTION NO. 09/15/2008 – 05: ADOPTION OF AMENDING ORDINANCE NO. 557 – CHAPTER XXX, LAND USE REGULATIONS**

**WHEREAS**, on the 15<sup>th</sup> day of September, 2008 a public hearing on Ordinance No. 557, as amended, was held and two (2) comments were made by the public, now, therefore, be it

**RESOLVED**, the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, hereby adopt the following Ordinance entitled: (Copy attached)

**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**

The motion was seconded by Councilman Witkowski. The motion to approve the ordinance was approved by the following roll call vote: Yes: Ness, Gillingham, Witkowski and Strohm. No: Nelson and Jones.

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

**RESOLUTION NO. 09/15/2008 – 06: INTRODUCTION OF ORDINANCE NO. 559-REGULATIONS FOR FILMING**

**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. 559**

**AN ORDINANCE REGULATING FILMING  
IN THE BOROUGH OF MANTOLOKING,  
OCEAN COUNTY, NEW JERSEY**

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](http://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. 09/15/2008 – 07: APPROVAL OF AWARD OF CONTRACT FOR PURCHASE OF A POLICE ENFORCEMENT VEHICLE**

**WHEREAS**, the Borough Clerk advertised for sealed bids for the purchase of one (1), new, police enforcement vehicle.

**WHEREAS**, bids were publicly opened and read aloud at 3:00 p.m. on September 8, 2008 in the office of the Borough Clerk with the following results:

Bidder	NJ Bus Reg Cert	Amount of Bid
<i>Pacifico Marple Ford (2008 Model)</i>	Yes	\$29,595.00
<i>Warnock Fleet (2009 Model)</i>	Yes	\$27,777.00
<i>Plaza Ford/Motors Fleet (2009 Model)</i>	Yes	\$27,825.48
<i>Winner Ford of Cherry Hill (2009 Model)</i>	Yes	\$28,370.00
<i>Route 23 Ford Auto Mall (2009 Model)</i>	Yes	\$28,182.00

**WHEREAS**, the bid submissions have now been reviewed by the Borough Attorney. It is noted that the low bidder, Warnock Automotive Inc., in the amount of \$27,777.00 does not propose to supply the specified installed searchlight. The next lowest bidder, Plaza Ford/Motors Fleet, in the amount of \$27, 825.48 does include the specified installed searchlight;

**THEREFORE, BE IT RESOLVED**, that the bid of Warnock Automotive, Inc. is rejected as non-responsive and that the contract is awarded to the lowest responsive and responsible bidder, Plaza Ford/Motors Fleet, in the amount of **\$27,825.48** .

**RESOLUTION NO. 09/15/2008 – 08: AUTHORIZED SALE OF MUNICIPAL PERSONAL PROPERTY**

**WHEREAS**, the Borough of Mantoloking has determined that certain personal property, to wit:

- (A) 2004 Ford Crown Victoria Police Interceptor; VIN No. 2FAFP71W34X165961; and
- (B) 2004 Vantage Truck, VIN No. LFWA1F1234JA95164; and
- (C) 2003 Metro Mini Truck, VIN No. KNCHNP8023K511421

**WHEREAS**, N.J.S.A. 40A:11-36 requires that all such personal property be sold at public sale to the highest, responsible bidder.

**IT IS NOW, THEREFORE**, this 15<sup>th</sup> day of September, 2008, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

- 1. The equipment:
  - (A) 2004 Ford Crown Victoria Police Interceptor; VIN No. 2FAFP71W34X165961; and
  - (B) 2004 Vantage Truck, VIN No. LFWA1F1234JA95164; and
  - (C) 2003 Metro Mini Truck, VIN No. KNCHNP8023K511421

are hereby declared to be surplus, no longer needed for public purposes; and

- 2. The Borough Clerk is hereby authorized and directed to advertise a public sale of said property by sealed bid in accordance with the applicable law.

3. The Borough reserves the right to reject any and all bids if it determines that to do so will be in the public interest.

**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 three (3) resolutions. The motion was seconded by Councilman Gillingham and approved by unanimous voice vote.

**RESOLUTION NO. 09/15/2008 – 09: AWARD OF CONTRACT FOR SEWAGE PUMP STATION WET WELL MATERIAL REPLACEMENTS AND REPAIRS**

**WHEREAS**, the Borough Engineer, Thomas S. Guldin, P.E. solicited sealed bids for the Sewage Pump Station Wet Well Material Replacements and Repairs at the Herbert Street Pump House in the Borough of Mantoloking; and

**WHEREAS**, the quotations were received on September 11, 2008 with the following results:

Bidder	Amount of Bid	Bid Bond	Surety	Non-Collusion	Owner	Business Reg	Affirmative	Subcontractor
D & D Utility Contractors, Inc.	\$65,961.00	x	x	x	x	x	x	x
T & T Commonwealth Const. Co.	\$89,640.00	x	x	x	x	x	x	x
Municipal Maintenance Co.	\$64,400.00	x	x	x	x	x	x	x

And

**WHEREAS**, the quotation has been reviewed by the Borough Engineer and Borough Attorney, now, therefore, be it

**RESOLVED**, the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey awards a contract in the amount of \$64,400.00 for Sewage Pump Station Wet Well Material Replacements and Repairs to Municipal Maintenance Company.

**RESOLUTION NO. 09/22/2008 – 10: CONSIDER RESCINDING RESOLUTION NO. 07/21/2008 – 09: “REQUESTING APPROVAL OF THE DIVISION OF LOCAL GOVERNMENT SERVICES OF A CHANGE OF TITLE OR TEXT OF 2008 BUDGET APPROPRIATION”**

**WHEREAS**, on July 21, 2008, the Mayor and Council adopted a Resolution seeking approval by the Division of Local Government Services of certain corrections in the 2008 Budget – General Appropriations under the Operations category within the ‘CAPS” Section; more particularly, changing Sub-Code Official Inspector - Salaries and Wages to Sub-Code Official Inspector – Other Expenses; and

**WHEREAS**, subsequent to the adoption of the Resolution, it became apparent to the governing body that Sub-Code Officials would be hired on a salaried basis.

**IT IS NOW, THEREFORE**, this 15<sup>th</sup> day of September 2008, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. The above described Resolution dated July 21, 2008, is rescinded;
2. The Director of the Division of Local Government Services is now petitioned to permit restoration of the appropriations to the status quo ante, to the same effect as would be the case if the Resolution of July 21, 2008 had not been adopted;

3. A true copy of this Resolution, with a copy of the July 21, 2008 Resolution annexed as an exhibit, shall be forwarded to the Director of the Division of Local Government Services.

**RESOLUTION NO. 09/15/2008 – 11: CONSIDER SITE ACCESS AGREEMENT FOR SOIL TESTING ON BOROUGH PROPERTY (BAY AVENUE STORAGE YARD) BY ROUX ASSOCIATES INC.**

**WHEREAS**, in conjunction with ongoing environmental investigation activities, New Jersey Manufacturers Insurance Company (insurer for Clifford Lindholm) has, through its agent, Roux Associates, Inc., requested the execution of an Agreement for site access to Borough owned property (Bay Avenue Maintenance Yard); and

**WHEREAS**, the attached proposed form of Contract has been reviewed by counsel for the Borough and is rejected in the form presented; and

**WHEREAS**, it is the desire of the Borough to cooperate and assist in the effort.

**IT IS NOW, THEREFORE**, this 15<sup>th</sup> day of September 2008, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, that the Mayor and Clerk may execute a Site Access Agreement in such form as may be recommended by the Borough Engineer and the attorney, and which is reasonably satisfactory to the Mayor.

**DUNE & BEACH RENOURISHMENT COMMITTEE, COUNCILMAN JONES**

A. **Councilman Jones** presented the report of the Dune & Beach Renourishment Committee and offered his position on the changes in minimum required base flood elevation.

B. **Action Items:**

Councilman Jones moved the following:

**RESOLUTION NO. 09/15/2008 – 12: CONSIDER REJECTION OF BEACHFRONT PROPERTY OWNER BULLDOZING APPEALS**

**WHEREAS**, the captioned Ordinance obligates oceanfront real property owners to maintain and restore sand dunes on their property; and

**WHEREAS**, in the event that, following notice, the owners shall fail to provide such maintenance or restoration, the Borough may undertake such mandated restoration; and

**WHEREAS**, the owners of Lots 52, 55 and 56, Block 23 (Tax Map) have been advised of the determination of the Dune Inspector that the dune on each of said lots is in such condition as necessitates restoration (bulldozing); and

**WHEREAS**, the owners have failed to comply and have petitioned the Mayor and Council for relief from the order of the Dune Inspector, which mandates that the dunes be restored; and

**WHEREAS**, the Mayor and Council have considered the written petitions of the owners and the advice of the Dune Inspector; and

**WHEREAS**, it is recognized that the continued existence of an area of unrestored dunes constitutes an unwarranted exposure to the property of adjoining owners, public infrastructure and to the general public good and welfare.

**IT IS NOW, THEREFORE**, this 15<sup>th</sup> day of September, 2008, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. The petitions of the property owners seeking relief from the orders of the Dune Inspector are rejected;
2. The Borough Council shall forthwith issue the enforcement notice provided for in Section 11-4.1;
3. In the event that the owners shall fail to fully comply with the directions of the Dune Inspector within thirty (30) days, the Borough shall take such action, pursuant to Ordinance, as may be deemed to be in the public interest.

**LEGISLATIVE ACTION COMMITTEE, COUNCILMAN STROHM**

A. **Report of the Legislative Action Committee**

B. **Action Items:**

**MANTOLOKING COMMITTEE, COUNCILMAN NESS**

- A. Councilman Ness presented the reports Mantoloking Committee and the Environmental Commission.
- B. Action Items: None

**7. MAYOR AND COUNCIL COMMENTS**

Mayor Nebel announced that in consideration of the comments and questions raised on Land Use Amending Ordinance No. 557, flag pole zoning review fees, description of third floor building area and the base flood elevations heights will be referred to the Mantoloking Planning Board for future consideration.

**9. PUBLIC COMMENTS PERIOD**

None

**10. EXECUTIVE SESSION**

Councilman Gillingham moved the following resolution.

**RESOLUTION NO. 09/15/2008 – 13: ADJOURN TO CLOSED SESSION IN COMPLIANCE WITH THE OPEN PUBLIC MEETINGS ACT**

*WHEREAS, the Open Public Meetings Act, N.J.S.A. 10: 4-11, permits municipal governing bodies to meet in closed session to discuss certain matters, now, therefore be it*

*RESOLVED, the Mayor and Council adjourns to closed session to discuss pending or anticipated litigation or contract negotiation and/or matters of attorney-client privilege*

*FURTHER RESOLVED, the minutes of this closed session be made public when the need for confidentiality no longer exists.*

The motion was seconded by Councilwoman Nelson and approved by unanimous voice vote at 5:17 p.m. Mayor Nebel announced that the Council will not be returning to open session at the conclusion of the closed session.

**11. NEXT MEETING Regular Council Meeting of October 20, 2008 @ 4:30 p.m.**

Respectfully submitted,

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