

THE BOROUGH OF MANTOLOKING
MAYOR AND COUNCIL

MINUTES OF THE REGULAR BUSINESS MEETING
October 17, 2005
BOROUGH HALL

The regular monthly meeting of the Mayor and Council was held this day in the meeting room of Borough Hall.

1. CALL TO ORDER: TIME: 8:00 p.m.

2. OPEN PUBLIC MEETING STATEMENT: Mayor Dunbar

This meeting is called pursuant to the provisions of the New Jersey Open Public Meetings Law. This meeting date was included in a list of meetings sent to the Ocean County Observer, Asbury Park Press, and Ocean Star and posted continuously on the bulletin board in the Municipal Building since December 21, 2004. In addition, a copy of this notice is and has been available to the public and is on file in the office of the Municipal Clerk.

3. ROLL CALL

Mayor William K. Dunbar, III, Council President Steve Gillingham, Councilmen Elbert E. Husted, III, John H. Jones, George C. Nebel, Douglas J. Popaca

ABSENT: Alan Laymon

4. PLEDGE OF ALLEGIANCE

5. PRIVILEGE OF THE FLOOR: The Mayor will open the meeting for public comment and questions about the agenda and any other matter of public interest.

6. MINUTES OF PREVIOUS MEETINGS:

RESOLUTION NO. 10/17/2005 – 01: APPROVAL OF COUNCIL MEETING MINUTES

Councilman Husted moved that the following minutes as distributed are approved. Regular Meeting & Closed Session of August 15, 2005, Special Meeting of August 29, 2005, Regular Meeting & Closed Session of September 19, 2005. The motion was seconded by Councilman Jones and unanimously approved by voice vote.

7. MAYOR'S REPORT

Mayor Dunbar reported that the Post Office will be open on Saturdays until 2:00 p.m.; the Borough Hall will return to winter hours, 9:00 a.m. to 1:00 p.m.; the main channel under the Mantoloking Bridge will be closing for sub-marine cable crossing; Herbert Street will be resurfaced in about two weeks during night hours and due to dangerous conditions for postal workers to deliver mail to Mrs. Betty Wagner, the Post Office will give her a box, free of charge.

8. DEPARTMENT REPORTS

- A. Police Report
- B. Municipal Court Report
- C. Fire Report
- D. Emergency Coordinator Report
- E. Public Works Superintendent Report
- F. Construction Official Report
- G. Land Use Officer Report
- H. Chief Financial Officer Report

Councilman Nebel moved the following:

RESOLUTION NO. 10/17/2005 – 02: ACCEPTANCE OF THE REPORT OF THE MUNICIPAL FINANCE OFFICER August 31, 2005

WHEREAS, the Chief Finance Officer has presented a report on the status of the 2005 municipal budget as of August 31, 2005; and

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

ACCOUNT	BUDGET	EXPENDED YEAR TO DATE	ENCUMBERED	BALANCE
2005 Current Year Appropriation	\$3,034,122.12	\$1,985,251.80	\$54,541.14	\$ 994,329.18
2004 Appropriation Reserves	\$ 249,250.37	\$ 97,413.20	\$11,416.95	\$1,036,197.33
Capital	\$1,336,276.44	\$ 300,079.11		

ACCOUNT	REVENUE THIS MONTH	REVENUE YEAR TO DATE
Cash Receipts	\$1,738,041.13	\$6,158,236.91

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.

The motion was seconded by Councilman Husted and unanimously approved by voice vote.

9. ORDINANCES: Councilman Nebel moves the following:

RESOLUTION NO. 10/17/2005 – 03: PUBLIC HEARING/ADOPTION OF ORDINANCE NO. 500

WHEREAS, on the 17th day of October, 2005 a public hearing on Ordinance No. 500 was held.

No comments were made by the public.

RESOLVED, the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, hereby adopt the following Ordinance No. 500 entitled: *(Copy attached)*

ORDINANCE NO. 500

AN ORDINANCE AMENDING ORDINANCE 471, THE MANTOLOKING BOROUGH SALARY ORDINANCE, REVISING SALARIES FOR THE DEPUTY MUNICIPAL COURT ADMINISTRATOR, COURT PERSONNEL CALL-OUT TIME (HOURLY) AND CREATING THE POSITION OF MUNICIPAL COURT VIOLATIONS CLERK AND THE SALARY FOR SAID OFFICE IN THE BOROUGH OF MANTOLOKING, OCEAN COUNTY, NEW JERSEY

10. COMMITTEE REPORTS AND RECOMMENDATIONS

FINANCE COMMITTEE, COUNCILMAN NEBEL:

- A. Activities of the Finance Committee
- B. Action Items:

Councilman Nebel moved the following eight (8) resolutions. The motion was seconded by Councilman Husted and unanimously approved by voice vote.

RESOLUTION NO. 10/17/2005 – 04: PAYMENT OF BILLS FOR THE MONTH OF OCTOBER 2005

WHEREAS, the Municipal Finance Officer has presented a list of bills in the total amount of \$67,846.99 and recommended that they be paid, now, therefore, be it

RESOLVED, the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey approves

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. 10/17/2005 – 05: TRANSFERRING CURRENT YEAR APPROPRIATIONS #1-2005

WHEREAS, N.J.S.A. 40A:4-58 provides for transfers within certain appropriations within the Municipal Budget during the last two months of the fiscal year; and

WHEREAS, the Chief Financial Officer has advised the Mayor and Council of the Borough of Mantoloking that the need for certain transfers within the 2005 Municipal Budget exists; and

WHEREAS, it is recommended that these budget transfers be made;

NOW, THEREFORE BE IT RESOLVED, that the following budget transfers be made in the 2005 Municipal Budget effective November 1, 2005:

<u>CURRENT ACCOUNT</u>		<u>TO</u>	<u>FROM</u>
Municipal Clerk	SW	\$ 2,000.00	
Municipal Clerk	OE		2,000.00
Engineer	OE	10,000.00	
Planning	SW	2,000.00	
Planning	OE		12,000.00
Construction	SW	2,000.00	
Construction	OE	2,000.00	
Group Insurance	OE	4,000.00	
Police	SW	12,000.00	
Fire	OE	5,000.00	
Roads	SW	1,000.00	
Buildings & Grounds	OE		1,000.00
Sewer	OE		10,000.00
Natural Gas	OE	2,000.00	
Gasoline	OE	8,000.00	
Beach Maintenance	OE		25,000.00
TOTAL		\$50,000.00	\$50,000.00

RESOLUTION NO. 10/17/2005 – 06: REQUESTING THE CANCELLATION OF OUTSTANDING CHECKS

WHEREAS, the Borough of Mantoloking’s Other Trust checking account has issued numerous checks drawn on this account; and

WHEREAS, there exists checks which have been outstanding for over one year or more and are therefore non-negotiable,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Mantoloking that the following checks drawn on the Other Trust Account be canceled and the balance turned over to the Current Miscellaneous Revenue Account in the total amount of \$220.00

<u>VENDOR</u>	<u>CK #</u>	<u>AMOUNT</u>	<u>DATE ISSUED</u>
Mitchell Shivers	223	\$220.00	09/22/04

WHEREAS, the Borough of Mantoloking’s Current checking account has issued numerous checks drawn on this account; and

WHEREAS, there exists checks which have been outstanding for over one year or more and are therefore non-negotiable,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Mantoloking that the following checks drawn on the Current Account be canceled and the balance be returned to the Current Miscellaneous Revenue Account in the total amount of \$130.00

<u>VENDOR</u>	<u>CK#</u>	<u>AMOUNT</u>	<u>DATE ISSUED</u>
Point Pleasant Beach	7838	\$100.00	04/16/02
Barry Rogers	8777	30.00	07/21/03

WHEREAS, the Borough of Mantoloking’s Payroll Account has issued numerous checks drawn on this account; and

WHEREAS, some of these checks have been outstanding for over one year or more and are therefore non-negotiable,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Borough of Mantoloking that the following checks drawn on the Payroll Account be canceled and the balance be turned over to the Current Miscellaneous Revenue Account in the total amount of \$269.68

<u>CK#</u>	<u>AMOUNT</u>
8625	\$63.07
8926	206.61

RESOLUTION NO. 10/17/2005 – 07: REFUND OF OVERPAYMENT OF PROPERTY TAXES, BLOCK 13 –LOT 6

BE IT RESOLVED by the Council of the Borough of Mantoloking that a check be drawn to the property owner listed below in the designated amount representing an overpayment of Property Tax:

<u>BLOCK/LOT</u>	<u>NAME AND ADDRESS</u>	<u>AMOUNT</u>
13 6	SNYDER, JOHN H. & HARRIET T. 944 OCEAN AVENUE	\$176.84

RESOLUTION NO. 10/17/2005 – 08: PROVIDING FOR GRANT OF ADDITIONAL SICK LEAVE – NANCY KLUMB

WHEREAS, as a matter of policy the Borough Council may, in its discretion, upon petition, grant extensions to an employee's sick leave; and

WHEREAS, due to demonstrated need, Nancy Klumb, has been caused to utilize all of her allocated sick leave for 2005 and has petitioned for an increased allotment of sick leave for 2005; and

WHEREAS, Council is satisfied that the circumstances presented are extraordinary and that Nancy Klumb is deserving of its favorable consideration of her petition.

IT IS NOW, THEREFORE, this 17th day of October, 2005, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, that, for good cause shown, Nancy Klumb is hereby granted sixty-three (63) hours additional sick leave to cover her absence through September 16, 2005.

RESOLUTION NO. 10/17/2005 – 09: GRANT OF UNPAID FAMILY LEAVE FOR NANCY KLUMB, DEPUTY BOROUGH CLERK

WHEREAS, Nancy Klumb has petitioned for grant of unpaid family leave due to family health problems (son) for up to two weeks, and

WHEREAS, Nancy Klumb is a valued Borough employee, in good standing; and

WHEREAS, council deems it to be appropriate and in the interest of the employee and the Borough to grant the relief requested.

IT IS NOW, THEREFORE, this 17th day of October, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, that the request of Nancy Klumb for grant of unpaid family leave, for good cause shown not to exceed twelve (12) weeks in a twelve month period is hereby approved.

RESOLUTION NO. 10/17/2005 – 10: GRANT OF UNPAID SICK LEAVE FOR SUSAN DOLAN, POLICE DISPATCHER

WHEREAS, Susan Dolan has petitioned for grant of unpaid sick leave due for an undetermined amount of time between October 1, 2005 and December 31, 2005, and

WHEREAS, Susan Dolan is a valued Borough employee, in good standing; and

WHEREAS, council deems it to be appropriate and in the interest of the employee and the Borough to grant the relief requested.

IT IS NOW, THEREFORE, this 17th day of October, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, that the request of Susan Dolan for grant of unpaid sick leave, for good cause shown.

RESOLUTION 10/17/2005 – 11: PROVIDING FOR APPROVAL OF ASSIGNMENT OF 2005 CONTRACT FOR MUNICIPAL ENGINEERING SERVICES WITH STETLER AND GULDIN (THOMAS GULDIN, P.E.) TO HATCH MOTT MAC DONALD

WHEREAS, the firm of Stetler and Guldin was appointed as Borough Engineer for 2005; and

WHEREAS, Thomas S. Guldin, has acted to terminate the operation of Stetler and Guldin and has been employed by Hatch Mott MacDonald; and

WHEREAS, Hatch Mott MacDonald Engineering will provide the continuation of services desired and has assigned Thomas S. Guldin, P. E. to serve as the firm's representative of Municipal Engineering Services, which are to be provided to the Borough, pursuant to the Stetler and Guldin Contract; and

WHEREAS, the compensation to be earned by Hatch Mott MacDonald for 2005, shall be at the same rates as are charged under the Stetler and Guldin Contract; and

WHEREAS, the Borough has heretofore been well served by both engineering firms; and

WHEREAS, Stetler and Guldin has requested that the Borough consent to Assignment of its Contract and Hatch Mott MacDonald is willing to provide services pursuant to an Assignment of the contractual undertakings of Stetler and Guldin to Hatch Mott MacDonald; and

WHEREAS, the Borough desires to accommodate the transition in an economical and orderly manner.

IT IS NOW, THEREFORE, this 17th day of October, 2005, RESOLVED by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. Effective as of August 29, 2005, the assignment of the rights and obligations of Stetler and Guldin Engineering Inc. Contract with the Borough to Hatch Mott MacDonald is endorsed and approved subject to the continued assignment of Thomas S. Guldin, P. E. as project manager for services which are to be provided for the Borough. Hatch Mott MacDonald shall memorialize its acceptance of assignment of contract in such form as shall be endorsed by the Borough Attorney.
2. The compensation to be paid to Hatch Mott MacDonald under the assigned contract shall remain as set forth in the Stetler and Guldin Contract.
3. The Mayor is authorized to execute, on behalf of the Borough, any document which may be required to more formally memorialize this consent to assignment.

PUBLIC SAFETY COMMITTEE, COUNCILMAN GILLINGHAM:

A. Activities of the Public Safety Committee

B. Action Items:

Councilman Gillingham moved the following four (4) resolutions. The motion was seconded by Councilman Nebel and unanimously approved by voice vote.

RESOLUTION NO. 10/17/2005 – 12: IN SUPPORT OF THE NATIONAL MULTIPLE SCLEROSIS SOCIETY, (MID-JERSEY CHAPTER) “COAST THE COAST” BIKE TOUR

WHEREAS, the National Multiple Sclerosis Society (Mid-Jersey Chapter), has requested permission to utilize roadways in the Borough in conjunction with the bike tour, on Saturday and Sunday, May 20, 2006 and May 21, 2006; and

WHEREAS, the Mayor and Council wish to endorse and support the National Multiple Sclerosis Society, Mid-Jersey Chapter.

IT IS NOW, THEREFORE, this 17th day of October, 2005, RESOLVED by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. The request to utilize roadways within the Borough, as part of the “Coast the Coast” bike tour, is hereby granted subject only to endorsement by the Chief of Police.
2. Upon endorsement by the Chief, a copy of this Resolution shall be forwarded to The National Multiple Sclerosis Society, Mid-Jersey Chapter, Attention: Steve McCurdy, Logistics Coordinator.
3. This approval and endorsement is subject to such conditions, if any, as shall be established by the Chief.

RESOLUTION NO. 10/17/2005 – 13: IN SUPPORT OF STATE FUNDING FOR STATE MANDATED USE OF ALCOTEST 7110 MKIII-C

WHEREAS, State Statute N.J.S.A. 39:4-50 *et seq.* (“drunk driving laws”) makes it unlawful to operate a motor vehicle on a municipal street while under the influence of alcohol; and

WHEREAS, municipalities are charged with responsibility for enforcing drunk driving laws; and

WHEREAS, the municipal police have used the Breathalyzer to test citizens to determine whether they are under the influence of alcohol; and

WHEREAS, the State of New Jersey has recently introduced a new device to measure alcohol consumption, known as the Alcotest 7110 MK III-C (“Alcotest”), which will cost approximately \$13,000 per machine; and

WHEREAS, the State of New Jersey had advised that it will no longer support the Breathalyzer, so that Breathalyzers currently owned by municipal police will no longer be capable of being used to measure blood alcohol; and

WHEREAS, the introduction of the Alcotest machine and the refusal of the State to support the Breathalyzer machine has in essence created a State mandate that municipalities purchase the Alcotest; and

WHEREAS, the State of New Jersey has passed cap laws that limit the ability of municipalities to increase spending in many categories of municipal budgets; and

WHEREAS, the State of New Jersey recently created a \$250 fee to be imposed on all persons who plead guilty in municipal courts to a violation of N.J.S.A. 39 :4-97-2, which fee is a revenue generating mechanism by the State of New Jersey not associated and unrelated to the enforcement of the motor vehicle laws; and

WHEREAS, it is appropriate that the State of New Jersey provide to or reimburse municipalities for the purchase of the Alcotest machine either out of general revenue of the State of New Jersey or through the funds raised by the fees imposed by the State in connection with guilty pleas or convictions pursuant to N.J.S.A. 39:4-97-2.

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

1. MK III-C is a State imposed mandate upon municipalities that should be funded by the State of New Jersey.
2. That the requirement that municipalities purchase an Alcotest 7110 in light of the cap limitations on revenue raising by municipalities imposed by the State of New Jersey, the State should have the obligation to pay for or reimburse municipalities for the purchase of the Alcotest 7110 MK III-C.
3. That the State of New Jersey should reimburse or allow municipalities to take a credit against the \$250 State imposed fee in connection with a plea to or finding of guilt in connection with N.J.S.A., 39:4-97-2, so as to fund the purchase of the Alcotest 7110 MK III-C by municipalities.
4. A copy of this Resolution shall be sent to the following representatives:
 - A. The Honorable Senator Andrew R. Ciesla
 - B. The Honorable Assemblyman David W. Wolfe
 - C. The Honorable Assemblyman James W. Holzapfel
5. A copy of this Resolution shall be sent to each municipality in the State of New Jersey.

RESOLUTION NO. 10/17/2005 – 14: APPROVAL OF PBA CONTRACT SETTLEMENT PROPOSAL

RESOLVED, the Mayor and Council renew its contract with the Borough of Mantoloking Police Department Employees for the period January 1, 2006 to December 31, 2009 incorporating only those changes included in the attached Contract Settlement Proposal.

RESOLUTION NO. 10/17/2005 – 15: PROVIDING FOR APPROVAL OF THE ADOPTION OF REVISED BY-LAWS OF THE MANTOLOKING VOLUNTEER FIRE COMPANY NO. 1 (FIRE COMPANY)

WHEREAS, the By-Laws of the Fire Company provide that any revision of the By-Laws shall not be effective or valid unless approved by the Mayor and Council of the Borough of Mantoloking; and

WHEREAS, the Fire Company has proposed a significant revision of its By-Laws, which has been reviewed by the Borough Attorney; and

WHEREAS, it is the desire of the governing body to endorse and approve the revised By-Laws in the form annexed as Exhibit A of this Resolution.

IT IS NOW, THEREFORE, this 17th day of October, 2005, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. The above referenced By-Laws are hereby approved by the Mayor and Council;
2. A true copy of the By-Laws and the Fire Company's valid Resolution of adoption shall be provided to the Borough Clerk.
3. The Fire Company is hereby commended for its efforts to provide for the governance of its organization.

GARBAGE & RECYCLING COMMITTEE, COUNCIL

A. Activities of the Garbage and Recycling Committee

B. Action Items: None

BEAUTIFICATION OF MANTOLOKING COMMITTEE, COUNCILMAN LAYMON:

- A. Activities of the Beautification of Mantoloking Committee
- B. Action Items:

Councilman Laymon reports that the Fall Beach Sweeps will be held on Saturday, October 22, 2005. The clean-up is organized by the Clean Ocean Action organization.

DRUG & ALCOHOL ALLIANCE & COUNTY BLOCK GRANT COMMITTEES, COUNCILMAN LAYMON:

- A. Activities of the Drug & Alcohol Alliance & Ocean County Block Grant Committees
- B. Action Items: None

PUBLIC WORKS & PUBLIC WORKS FACILITIES COMMITTEES, COUNCILMAN POPACA

- A. Activities of the Public Works & Public Works Facilities Committees
- B. Action Items:

Councilman Popaca moved the following four (4) resolutions. The motion was seconded by Councilman Nebel and unanimously approved by voice vote.

RESOLUTION NO. 10/17/2005 – 16: AWARD OF CONTRACT FOR SURGE SUPPRESSION SYSTEM IN MUNICIPAL BUILDING

WHEREAS, the Borough Engineer, Thomas S. Guldin, P.E. solicited quotes for the furnishing of a Surge Suppression System in the Municipal Building (Contract No. 2005-4) in the Borough of Mantoloking; and **WHEREAS**, the quotations were received on September 13, 2005 with the following results:

Bidder	Amount of Bid	Bid Bond	Surety Guarantee Non-Collusion	Owner Disclosure Site Visitation	Affirmative Action	Subcontractors
Absolute Power Systems	\$11,738.00					
Lake Electric of Toms River	\$25,400.00					

And

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

It IS NOW, THEREFORE, this 17th day of October, 2005, RESOLVED, the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey as follows:

1. Awards a contract in the amount of \$11,738.00 for the furnishing of a Surge Suppression System in the Municipal Building (Contract No. 2005-4) to Absolute Power Systems, Marlton, New Jersey.
2. The award of Contract is subject to the delivery, by bidder, of revised documentation and the mutual execution of a formal Contract in form endorsed by the Borough Attorney.

RESOLUTION NO. 10/17/2005 -17: PROVIDING FOR CONTRACT CLOSE OUT AND RELEASE OF REMAINING CONTRACT BALANCES AND RETAINAGE FOR F & P CONTRACTORS, INC. CURB, SIDEWALK, AND STORM DRAINAGE IMPROVEMENTS FOR BARNEGAT LANE (LYMAN STREET TO BERGEN AVENUE) CONTRACT NO. 2003-2

WHEREAS, F & P Contractors, Inc. has submitted all required post construction documentation, including but not limited to Maintenance Bond No.: VCN-1140667MN, issued by Old Republic Insurance Company, July 21, 2005, all having been reviewed and approved by counsel; and

WHEREAS, the contractor has submitted its Application for Final Payment in the sum of \$16,459.81 (including retainage); and

WHEREAS, the Borough Engineer has recommended Approval for Final Payment as submitted; and

WHEREAS, a Certificate of Funds Availability has been filed.

IT IS NOW, THEREFORE, this 17th day of October, 2005, RESOLVED by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. The Maintenance Bond, described above, is accepted;
2. Final payment, the sum of \$16,459.81, shall be forthwith released to F & P Contractors, Inc.

RESOLUTION NO. 10/17/2005 – 18: APPLICATION FOR PAYMENT FROM NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR STORM WATER GRANT NO. WQ05-449

The governing body of the Borough of Mantoloking desires to further the public interest by obtaining a grant from the State of New Jersey in the amount of \$6,041.00 to fund stormwater activities as described in the Scope of Services.

Therefore, the governing body resolves that William K. Dunbar, III or the successor to the office of Mayor is authorized (a) to make application for such a grant, (b) if awarded, to execute a grant agreement with the State and (c) to execute any amendments thereto which do not increase the Grantee's obligations.

The Grantee agrees to comply with all applicable federal, State, and municipal laws, rules, and regulations in its performance pursuant to the agreement.

RESOLUTION NO. 10/17/2005 – 19: APPROVE REQUEST TO THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR EXTENSION OF AWARD OF CONTRACT FOR PAVING OF BARNEGAT LANE (BERGEN AVENUE TO HERBERT STREET)

WHEREAS, the Borough has been awarded a Municipal Aid FY 2005 Grant, by the New Jersey DOT, allocating \$140,000.00 for the Barnegat Lane (Bergen Avenue to Herbert Street) resurfacing project; and

WHEREAS, the Borough is actively prosecuting other roadway projects at this time and militate in favor of deferral of this project to 2006 (summer); and

WHEREAS, the Borough Engineer (Thomas S. Guldin, P.E.) has recommended deferral of this project into 2006; and

IT IS NOW, THEREFORE, this 17th day of October, 2005, RESOLVED by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. All of the prefatory recitals are deemed included by reference into this Resolution.
2. The Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, do hereby petition the State of New Jersey, Department of Transportation, to grant a six (6) month extension of time, from January 23, 2006 to July 23, 2006, for award of this Contract, to insure that the allotment of \$140,000.00 will remain available for this project.
3. Upon adoption, a sealed, true copy of this Resolution with original signature of the Clerk, shall be forthwith forwarded to the District III Office of the New Jersey DOT and to the Borough Engineer, Hatch Mott MacDonald (Thomas S. Guldin, P.E.)
4. The Borough Engineer is hereby authorized and directed to take all action necessary to obtain the grant extension now requested.

REGIONALIZATION & SHARED SERVICES COMMITTEE, COUNCILMAN POPACA:

- A. **Activities of the Regionalization & Shared Services Committee**
- B. **Action Items: None**

UTILITY SERVICES COMMITTEE, COUNCILMAN POPACA:

- A. **Activities of the Utility Services Committee**
- B. **Action Items:**

Councilman Popaca moved the following two (2) resolutions. The motion was seconded by Councilman Husted and unanimously approved by voice vote.

RESOLUTION NO. 10/17/2005 – 20: GRANTING FRANCHISE TO NEW JERSEY NATURAL GAS COMPANY

WHEREAS, New Jersey Natural Gas Company has heretofore been granted a franchise and consent to lay, maintain and operate natural gas facilities in the Borough of Mantoloking, which has, by its terms, expired; and

WHEREAS, New Jersey Natural Gas Company is desirous of obtaining a new franchise and consent of the municipality to continue serving the municipality.

IT IS NOW, THEREFORE, this 17th day of October, 2005, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, that the Borough hereby grants a franchise to New Jersey Natural Gas Company to lay, maintain and operate, for a term of FIFTEEN (15) YEARS from date, its conductors, mains and pipes, together with all appurtenances thereto, in, above and below grade, in all of the public streets, alleys, squares and public places within the Borough of Mantoloking for the purpose of conducting, transmitting and distributing gas or any mixture of gases, including natural gas upon the following terms and conditions:

1. In all cases in which excavations are to be made for the within described purposes, the pavement or surface of the streets or roadways and sub-strata thereof shall be cut, opened and restored in compliance with the terms of permits issued pursuant to applicable Borough Ordinances governing such activity within the streets or roads of the Borough. All of the foregoing to be at the sole risk and cost of the New Jersey Natural Gas Company, or any successor.
2. Absent specific written prior Borough approval, any installation of above grade facilities shall be sited only in the proximate area of the extension of lot (or combined parcel of lots) side lines and not along the street right-of-way frontage of any lot.
3. The New Jersey Natural Gas Company, or any successor, shall defend, indemnify and hold harmless the Borough of Mantoloking, its officials, agents and employees from and against any and all claims, costs, loss or damage arising from or based upon the acts or omissions of New Jersey Natural Gas Company, or its successors, in conjunction with this franchise, or the immediately preceding franchise, now expired.
4. The franchise hereby granted shall be subject to its written acceptance by New Jersey Natural Gas Company and its express agreement to be bound by the terms and conditions hereof. The acceptance shall be filed with the Borough Clerk within SIXTY (60) DAYS from date.
5. This grant of franchise shall not be effective unless and until it is approved by the Board of Public Utilities of the State of New Jersey, with notice provided to the Borough Clerk.

RESOLUTION NO. 10/17/2005 – 21: URGING THE LEGISLATURE TO REJECT EFFORTS BY TELECOMMUNICATIONS COMPANIES TO ELIMINATE CABLE TELEVISION MUNICIPAL CONSENTS

WHEREAS, the New Jersey Cable Television Act provides a primary role for local governments to negotiate the terms and conditions under which a wire line cable television company may provide cable television service to its residents pursuant to a municipal consent ordinance, and this requirement of law is consistent with the long-standing principle of ascertaining and addressing community cable-related needs at the local level; and

WHEREAS, New Jersey's wire line cable television companies constructed and now operate cable television systems under municipal consents that address the specific needs of local communities consistent with the provisions of the New Jersey Cable Television Act with expiration terms that range from 5 to 15 years; and

WHEREAS, competition in the provision of cable televisions service is desirable and has the potential for producing consumer benefits through increased choice, and the Borough of Mantoloking supports competition; and

WHEREAS, Verizon-NJ has announced its intentions to provide competitive cable television services to more than 50 New Jersey Municipalities, but has not made clear whether or not the Borough of Mantoloking will enjoy the benefits of competition to the same extent as these 50 communities; and

WHEREAS, in order to guarantee non-discriminatory and equal access to competitive services consistent with Federal and State Law, the Borough of Mantoloking has an obligation to ensure that its residents are among those to whom Verizon's competitive services will be made available by a date certain; and

WHEREAS, Verizon-NJ has expressed the intention to seek State legislation that would exempt it from the municipal consent process to which all cable television companies now operate; and

WHEREAS, a statewide cable franchise would disable the Borough’s ability to ensure competition is offered on equal terms; and

WHEREAS, a statewide cable franchise would have the effect of eliminating any meaningful opportunity for the Borough of Mantoloking to address any specific cable-related needs that otherwise might be fulfilled by Verizon-NJ; and

WHEREAS, Verizon Chairman and CEO, Ivan Seidenberg has referred to the local cable franchising process as “Mickey Mouse procedures” and “a march through purgatory”; and

WHEREAS, Verizon recently announced that it is seeing more than 250 local franchises in other states, and has secured local franchises in Texas, Florida, Virginia and California; and

WHEREAS, it is unclear to the citizens of Mantoloking why Verizon is willing to seek local franchise agreements in other States, but not New Jersey; and

WHEREAS, municipalities and their residents have a significant and specific interest in the terms and conditions attendant to the award of a cable television franchise;

IT IS NOW, THEREFORE, this 17th day of October, 2005, **RESOLVED** by the Mayor and council of the Borough of Mantoloking, Ocean County, New Jersey, that the Mayor and Council urge the New Jersey State Legislature, in the strongest possible manner, to oppose any effort to eliminate the municipal consent process for competitive providers of cable television service until, at a minimum, a thorough evaluation is completed of the current system and the effect of any proposed changes on local governments residents, competitors and incumbents is analyzed.

BE IT FURTHER RESOLVED that the New Jersey State Legislature request from the New Jersey Board of Public Utilities a report on the status of Verizon-NJ’s commitments and operations under Opportunity NJ, and the extent to which Opportunity NJ, or any other instrument of the Board, contemplates and authorizes Verizon-NJ to utilize municipal rights of way for the purpose of providing cable televisions service and exempts it from the requirement to apply for and obtain municipal consent as otherwise required of companies that provide or intend to provide cable telephone service under the New Jersey Cable Television Act (N.J.S.A. 48:5A-1, et seq.)

BE IT FURTHER RESOLVED that a copy of this Resolution shall be certified and forwarded to:

1. Acting Governor/Senate President Richard J. Codey;
2. Assembly Speaker Albio Sires; and
3. The Ocean County Delegation of the State Legislature.

LONG RANGE PLANNING COMMITTEE, COUNCILMAN HUSTED:

- A. Activities of the Long Range Planning Committee
- B. Action Items: None

DUNE & BEACH RENOURISHMENT COMMITTEE, COUNCILMAN HUSTED:

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

LEGISLATIVE ACTION COMMITTEE, COUNCILMAN HUSTED:

- A. Activities of the Legislative Action Committee
- B. Action Items: None

DUNE WALK COMMITTEE, COUNCILMAN JONES:

- A. Activities of the Dune Walk Committee
- B. Action Items:

Councilman Jones moved the following:

RESOLUTION NO. 10/17/2005 – 22: DECLARING THE EXISTENCE OF A STATE OF EMERGENCY CONCERNING THE DUNE AND BEACH SYSTEM AND PROVIDING FOR RESTORATION OF THE DUNE AND BEACH SYSTEM UNDER AND PURSUANT TO REGULATIONS N.J.D.E.P. (CAFRA) AND THE DUNE ORDINANCE OF THE BOROUGH OF MANTOLOKING

WHEREAS, storm events have, over relatively large reaches of the ocean front, caused severe reliction of the beaches and have so diminished the dune system as to present an imminent risk of damage to private property and public infra-structure; and

WHEREAS, the normal replenishment of sand, by natural forces, has not, to date, been universal or adequate to renourish the system or to provide sufficient sand to permit immediate restoration by bulldozing; and

WHEREAS, the Borough's Dune Consultant, Stewart Farrell, Ph. D, has represented that the availability of material is being enhanced on a daily basis; and

WHEREAS, under N.J.D.E.P. (CAFRA) regulations, the Borough has been issued a general Permit, which includes the right to bulldoze sand from the beach into the dune system; and

WHEREAS, it is the desire of the governing body of the Borough to provide for enhancement of the beach and dune system, with due regard to the regulatory scheme imposed by CAFRA and the Borough's Dune Ordinance; and

WHEREAS, the beach and dune system is, essentially, comprised of private property; and

WHEREAS, the governing body, in reliance upon the findings and advice of the Dune Consultant and dune Inspector, is of the view that the condition of the beach and dune system, generally, presents a condition of public emergency, necessitating prompt remedial action; and

WHEREAS, it is the affirmative duty of the Borough council to enforce the beach and dune maintenance standards set forth in the Dune Ordinance of the Borough; and

WHEREAS, the emergent nature of this condition requires prompt, efficient and coordinated response; action by the owners of the properties involved so that all restoration may be completed as promptly as determined by the Dune Inspector and Dune Consultant.

IT IS NOW, THEREFORE, this 17th day of October, 2005, RESOLVED by the Mayor and council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. All of the foregoing recitals are deemed incorporated into this Resolution as substantive elements hereof;
2. The current status of the dunes and beach system constitute a post storm emergency condition which warrants immediate remedial action;
3. The Dune Inspector and/or the governing body shall, forthwith, provide written notice to the ocean front owners, which will specifically request their timely compliance with beach and dune maintenance requirements;
4. The notice shall also describe a proposed arrangement designed to facilitate the implementation of an efficient, coordinated and fiscally responsible methodology for responding to this dune emergency condition.
5. This Resolution shall be posted on the Borough website and a copy shall be mailed to each ocean front owner, along with the letter/notice described above.

The motion was seconded by Councilman Gillingham and unanimously approved by voice vote.

Flood Strategy Committee, Councilman Jones:

- A. Activities of the Flood Strategy Committee**
- B. Action Items: None**

NFIP FLOOD HAZARD MITIGATION PLANNING COMMITTEE, COUNCILMAN JONES:

- A. Activities of the NFIP Flood Hazard Mitigation Planning Committee**
- B. Action Items: None**

13.NEXT MEETING Regular Meeting of November 21, 2005 at 8:00 p.m.

14. ADJOURNMENT

There being no further business for this meeting, it was motioned by Councilman Nebel to adjourn at 8:48 p.m. The motion was seconded by Councilman Jones and unanimously approved by voice vote.

Respectfully submitted,

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