

DRAFT #1 (01/14/2010)

THE BOROUGH OF MANTOLOKING
MAYOR AND COUNCIL

MINUTES OF THE REGULAR BUSINESS MEETING
December 21, 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 Chief Mark Wright and Fire Chief Laurence Gilman

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

MAYOR AND COUNCIL PRESENTED SERVICE PLAQUES AND CERTIFICATES

Recipients - Recognition of Service Certificates

Elizabeth Boettger, Deputy Court Administrator
Courtney Bixby, Fire Captain
Laurence Gilman, Fire Chief
Patrolman William Shewan, Mantoloking Police
Sgt. John D. Barcus, Mantoloking Police
Lt. Michael Dreher, Mantoloking Police (Certificate & Retirement Plaque)

Councilman Gillingham moves the following resolution:

RESOLUTION NO. 12/21/2009 – 01: CONSIDERED PROMOTIONS OF POLICE PERSONNEL

RESOLVED, The Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, approve the following promotions within the Mantoloking Police Department effective January 1, 2010.

Sergeant John Barcus #28 to Lieutenant
Patrolman Gino Saccone #29 to Sergeant

MAYOR AND COUNCIL PRESENTED SERVICE PLAQUES AND CERTIFICATES (Con't.)

Recipients – Recognition of Service Plaques

- Nancy Klumb, Deputy Borough Clerk
- Patricia Peterson, Treasurer-Mantoloking Board of Education
- Barbara DeAmicis, Member-Mantoloking Board of Education
- Sandra McIntyre, Member-Mantoloking Board of Education
- Joyce Popaca, Member-Mantoloking Board of Education

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. 12/21/2009 – 02: APPROVAL OF MINUTES

Councilwoman Nelson moved that the minutes of the Regular Meeting of November 23, 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 Municipal Finance Officer finance report.

B. Action Items:

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

RESOLUTION NO. 12/21/2009 – 03: ACCEPTANCE OF THE REPORT OF THE MUNICIPAL FINANCE OFFICER October 31, 2009

WHEREAS, the Chief Finance Officer has presented a report on the status of the 2009 municipal budget as of October 31, 2009; and

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

ACCOUNT	BUDGET	EXPENDED ENCUMBERED		
		BALANCE YEAR TO DATE		
2009 Current Year Appropriation	\$3,924,585. 79	\$3,063,692.73 749,275.81	\$ 111,617.25	\$
2008 Appropriation Reserves	\$ 337,600.67	\$ 122,284.21 212,290.02	\$ 3,026.44	\$
Capital	\$1,334,028. 99	\$ 263,383.71 1,070,645.28		\$

ACCOUNT	REVENUE THIS MONTH	REVENUE
		YEAR TO DATE
Cash Receipts	\$642,624.10	\$7,132,022.67

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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. 12/21/2009 – 04: PAYMENT OF BILLS FOR THE MONTH OF December 2009

*WHEREAS, the Municipal Finance Officer has presented a list of bills in the total amount of **\$202,451.77** 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. 12/21/2009 – 05: APPROVED OF THE 2010 ROSTER OF COUNCIL MEETINGS

RESOLVED, the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey hereby adopt the following roster of Council Meetings for 2010:

PLEASE BE ADVISED that the following is the schedule of the Annual Organization and Regular Council Meetings for 2010 for the Borough of Mantoloking. All meetings are held at the Borough Hall, 202 Downer Avenue, in the Borough of Mantoloking, at 4:30 p.m., unless otherwise noted.

- ORGANIZATION MEETING:** Monday, January 4, 2010
- REGULAR MEETINGS:** Tuesday, January 19, 2010
- Monday, February 22, 2010
- Monday, March 22, 2010
- Monday, April 19, 2010
- Monday, May 17, 2010
- Monday, June 21, 2010
- Monday, July 19, 2010
- Monday, August 16, 2010
- Monday, September 20, 2010
- Monday, October 18, 2010
- Monday, November 22, 2010
- Monday, December 20, 2010
- 2011 Organization Meeting Monday, January 3, 2011 (TENTATIVE)

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 concluded with the presentation of the reports of the Municipal Court and Fire Company. No report by the Emergency Management coordinator was submitted.

B. Action Items:

Sergeant Barcus announced, to those in attendance, that the new “Reverse 911” System is up and functional. It is an important tool for the town to use in conjunction with the “We Care Program” in notifying residents during times of emergency events or other situations. He urged all residents to log on to the police department page of the Mantoloking website and register for the “Reverse 911” System service.

PUBLIC HEARING Mayor Nebel opened the public meeting for a Public Hearing on Ordinance No. 576. No comments were made by the public.

Councilman Gillingham moved the following two (2) resolutions. The motion was seconded by Councilwoman Nelson and approved by unanimous voice vote.

RESOLUTION NO. 12/21/2009 – 06: ADOPTION OF ORDINANCE NO. 576 – LAND USE AMENDMENT

WHEREAS, on the 21st day of December, 2009 a public hearing on Ordinance No. 576 was held and no 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. 576
AN ORDINANCE AMENDING THE PROVISIONS OF CHAPTER XXX,
OF ORDINANCE 531, “THE REVISED GENERAL ORDINANCES OF THE
BOROUGH OF MANTOLOKING, 2007”
(FENCE HEIGHT AND VEGETATION)**

RESOLUTION NO. 12/21/2009 – 07: INTRODUCTION OF ORDINANCE NO. 578 – 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. 578
AN ORDINANCE AMENDING CHAPTER XXX, SECTION 30-2.2
OF THE MUNICIPAL CODE OF THE BOROUGH OF MANTOLOKING,
OCEAN COUNTY, NEW JERSEY, PROVIDING FOR DELETION OF “HALF-STORY”;
AND AMENDING THE DEFINITION OF “ATTIC”**

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 reports of the Public Works Superintendent, Construction Official and Land Use Officer.

C. Action Items:

Councilwoman Nelson moved the following seven (7) resolutions. The motion was seconded by Councilman Gillingham and approved by unanimous voice vote.

RESOLUTION NO. 12/21/2009 – 08: PROVIDING FOR RESCISSION OF THE INTRODUCTION OF PROPOSED ORDINANCE FOR PURCHASE OF REAL PROPERTY

WHEREAS, on November 23, 2009, a proposed Ordinance authorizing the purchase of real property was introduced and passed (by Title Only); and

WHEREAS, pursuit of the contemplated purchase is not presently deemed feasible.

IT IS NOW, THEREFORE, this 21st day of December, 2009, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, that the introduction of proposed Ordinance number 577, providing for purchase of real property is hereby rescinded:

RESOLUTION NO. 12/21/2009 – 09: RESCINDING RESOLUTION NO. 10, DATED NOVEMBER 23, 2009, AND PROVIDING FOR RE-AWARD OF BID FOR PURCHASE OF SURPLUS VEHICLE

WHEREAS, the Council authorized solicitation of buyers for the purchase of surplus personal property, to wit: One (1), used 2000 Ford Ranger Pickup vehicle, VIN: 1FTYR10X3YTB18792; and

WHEREAS, the bid return date was 11:00 a.m. on November 13, 2009 in the office of the Borough Clerk with the following results:

Bidder	Amount of Bid
<i>Jersey One Auto Sales, Inc.</i>	<i>\$912.00</i>
<i>Laurence Gilman</i>	<i>\$708.00</i>
<i>State Surplus Auto Sales II</i>	<i>\$350.00</i>

WHEREAS, Jersey One Auto Sales, Inc. has failed to complete the submission of payment within the designated time period in accordance with Council Resolution (Award of Contract) No. 11/23/2009 – 10; and

WHEREAS, the Bid of Laurence Gilman, \$708.00, is in full force and effect.

RESOLVED, this 21st day of December, 2009, by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. The award of contract to Jersey One Auto Sales, Inc. is rescinded due to non-compliance with the terms of the Resolution of Award.
2. The bid of Laurence Gilman, the sum of \$708.00, is hereby accepted upon the following terms and conditions:
 - (i) payment for and removal of the vehicle from Borough property shall be completed not later than seven (7) days from the date of this Resolution;
 - (ii) payment shall be in cash or unendorsed bank check, payable to the order of the Borough of Mantoloking;
 - (iii) the purchaser shall, upon delivery, accept the bill of sale or title document and shall execute and deliver to the Clerk a statement acknowledging that the sale is made on an “as is”, “where is” basis, without representations or warranties of any nature whatsoever. Title shall pass upon delivery of payment to the Borough.

RESOLUTION NO. 12/21/2009 – 10: CONSIDER CHANGE ORDER REQUEST FOR THE EAST AVENUE ROADWAY IMPROVEMENTS PROJECT, CONTRACT NO. 2009-1, CHANGE ORDER NO. 1

WHEREAS, the Borough has entered into a Contract with S. Brothers, Inc. (Contract 2009-1) to provide roadway improvements: and

WHEREAS, due to the need for emergency road restoration for damaged water service on East Avenue, S. Brothers, Inc. has submitted Change Order No. 1; and

WHEREAS, it is deemed to be in the public interest to accept Change Order No. 1; and

WHEREAS, the Borough Engineer, Laurence Plevier, P.E., C.M.E. (Hatch Mott MacDonald) has, by letter dated December 7, 2009, (Exhibit "A", attached) recommended the execution of Change Order No. 1 which added to an overall increase of the total cost of the project by \$2,795.66.

IT IS NOW, THEREFORE, this 21st day of December, 2009, RESOLVED by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, that Change Order No. 1, is hereby approved and shall forthwith be executed by the Mayor and Borough Clerk.

FURTHER RESOLVED, that this Mayor and Council approval is subject to the New Jersey Department of Transportation executed approval.

RESOLUTION NO. 12/21/2009 – 11: CONSIDER CHANGE ORDER REQUEST FOR THE EAST AVENUE ROADWAY IMPROVEMENTS PROJECT, CONTRACT NO. 2009-1, CHANGE ORDER NO. 2

WHEREAS, the Borough has entered into a Contract with S. Brothers, Inc. (Contract 2009-1) to provide roadway improvements: and

WHEREAS, due to the need for an adjustment for the difference between actual cost of Traffic Control provided by the Borough of Mantoloking Police and the Contract Allowance as per Information for Bidders Section 0.34 Allowances of the Contract Documents, S. Brothers, Inc. has submitted Change Order No. 2; and

WHEREAS, it is deemed to be in the public interest to accept Change Order No. 2; and

WHEREAS, the Borough Engineer, Laurence Plevier, P.E., C.M.E. (Hatch Mott MacDonald) has, by letter dated December 14, 2009, (Exhibit "B", attached) recommended the execution of Change Order No. 1 which added to an overall increase of the total cost of the project by \$2,580.30.

IT IS NOW, THEREFORE, this 21st day of December, 2009, RESOLVED by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, that Change Order No.2, is hereby approved and shall forthwith be executed by the Mayor and Borough Clerk.

FURTHER RESOLVED, that this Mayor and Council approval is subject to the New Jersey Department of Transportation executed approval.

RESOLUTION NO. 12/21/2009 – 12: CONSIDER EAST AVENUE ROADWAY IMPROVEMENTS PROJECT (CONTRACT NO. 2009-1) – PAYMENT NO. 1

WHEREAS, the Borough has entered into a Contract with S. Brothers, Inc. to provide roadway improvements: and

WHEREAS, the Contractor's Application for Payment No. 1 has been reviewed and recommended for payment by the Borough Engineer, Larry Plevier, P.E., C.M.E. in the sum of \$131,353.51, by letter dated December 14, 2009; and

WHEREAS, funds have heretofore been appropriated by Ordinance No. 548.

IT IS NOW, THEREFORE, this 21st day of December, 2009, RESOLVED by the Mayor and Council of the Borough of Mantoloking that the Application for Payment No. 1 to S. Brothers, Inc. is hereby approved in the sum of \$131,353.51 and shall be paid forthwith from funds heretofore appropriated and shall be disbursed upon receipt, by the Chief Financial Officer, of appropriate documentation.

RESOLUTION NO. 12/21/2009 – 13: AWARD OF CONTRACT FOR CORE SAMPLE TESTING – CONTRACT NO. 2009-1, EAST AVENUE ROADWAY IMPROVEMENTS

WHEREAS, the Borough Engineer, Larry Plevier, P.E., C.M.E. solicited quotes for post-construction test borings within the limits of the East Avenue Roadway Improvements; and

WHEREAS, the quotations with the following results:

Key-Tech	\$1,500.00
Jersey Boring and Drilling Co., Inc.	\$2,475.00
Sor Testing Laboratories, Inc.	\$3,225.00

And

WHEREAS, the quotations have been reviewed by the Borough Engineer and the 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 \$1,500.00 for the furnishing of post-construction test borings within the limits of the East Avenue Roadway Improvements to Key-Tech, Keyport, New Jersey.

RESOLUTION NO. 12/21/2009 – 14: MISCELLANEOUS SUPPLY, SERVICE AND MAINTENANCE CONTRACT FOR 2009 (OCEAN COUNTY SCHEDULE "C" PROGRAM)

WHEREAS, the award of contracts for services, supplies and maintenance of Borough facilities, equipment and personnel obligations enumerated in this resolution is necessary and in the public interest to provide for the efficient operation of the Borough; and

WHEREAS, A Certificate of Funds Availability has been filed with the Borough Clerk; now, therefore, be it

RESOLVED by the Mayor and Council of the Borough of Mantoloking as follows:

1. The Mayor and Clerk are hereby authorized and directed to execute service and maintenance amendatory agreement in accordance with the following list, which identifies the services and providers thereof. Said contract is to be executed following approval, as to form, by the Borough Attorney. Copies of the contracts are available for inspection at the Clerk's office during regular business hours.

SERVICE - Schedule "C" Program, Road Department **AMENDATORY CONTRACT AMOUNT** \$2,000.00
BUSINESS NAME - County of Ocean **YEAR TO DATE TOTAL** \$6,000.00
CONTRACT ORIGINAL AMOUNT - \$4,000.00

DUNE & BEACH RENOURISHMENT COMMITTEE, COUNCILMAN STROHM

A. Report of the Dune & Beach Renourishment Committee

B. Action Items:

Councilman Strohm moved the following resolution.

RESOLUTION NO. 12/21/2009 – 15: PROVIDING FOR RESTORATION OF STORM DAMAGE TO THE DUNE SYSTEM

WHEREAS, recent storms have caused severe erosion of the dune system along the entire length of the ocean beachfront; and

WHEREAS, the Dune Consultant, Robert Mainberger, P. E. (Hatch Mott MacDonald) has identified critical areas which should be accorded priority upon commencement of beach restoration efforts; and

WHEREAS, the Dune Inspector has determined that restoration is necessary along the entire ocean beachfront and without regard to the presently existing distance between the "new" scarp and existing improvements; and

WHEREAS, mechanical restoration (bulldozing) is predicated upon the availability of sufficient sand, as determined by the Dune Inspector; and

WHEREAS, it is recognized that the “critical” areas, as determined by the Dune Inspector, must be accorded priority in the restoration effort and shall be restored on an emergent basis whenever suitable sand is available; and

WHEREAS the oceanbeach dune system is the principal available defense against the assault of storm tides and waves and must be promptly and uniformly maintained; and

WHEREAS, it is the desire of the Mayor and Council to maintain the protective dune system for the benefit of all property within the Borough (public and private).

IT IS NOW, THEREFORE, this 21st day of December, 2009, RESOLVED by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. A state of emergency exists as relates to the storm damaged protective oceanbeach dune system;
2. The dunes shall be restored, by bulldozing, promptly upon the availability of suitable sand in the beach system;
3. No bulldozing or other mechanical restoration shall be commenced, at any location, without prior issuance of a permit from the Dune Consultant (Dune Inspector);
4. Restoration shall be performed in strict compliance with the terms, conditions and directions of the Dune Consultant (Dune Inspector). Violation of permit terms or conditions will result in revocation of the permit and/or the imposition of other available sanctions;
5. It is the intention of the Borough to provide bulldozing utilizing Borough employees, supplemented by such contractors as may, from time-to-time, be engaged by the Borough. Restoration by Borough forces or by contractors engaged by the Borough shall be at the sole expense of the Borough;
6. An oceanfront owner may, at his, her or its election and upon receipt of a permit, provide or perform restoration subject to and in accordance with the terms, conditions and specifications of the permit, including but not limited to commencement and duration. Such private efforts shall be at the sole risk and expense of the owner.
7. The Borough will deliver to each oceanfront owner an application for issuance of a dune restoration permit. The applicant shall either designate its proposed restoration contractor or shall identify the Borough as its restoration provider. All costs incurred, by any owner, in the event of selection of a private contractor shall be borne solely by the Owner(s); the Borough will provide restoration free of charge for the service.
8. The Borough of Mantoloking Code, Chapter XI – Protection of Beaches and Dunes, 11-1, Preservation and Protection of Dunes, provides:
 - (a) that the dune system (and maintenance thereof) benefits the entire Borough: “. . . interior lands as well as oceanfront premises. . .”
 - (b) that the Borough has the right to “cause their restoration in the event of damage or destruction. . .”;
 - (c) declares that (the Ordinance) is “. . . an exercise of the police power, in the interest of safety and welfare for the protection of persons and property. . .”;
 - (d) Sub-article 11.4, Enforcement and Protection, 11-4, provides for corrective action by an owner upon the direction of the Dune Inspector. Failure to comply with such directive shall enable the Borough to perform such act of protection and/or restoration at the ultimate cost of the property owner(s). Failure to comply with the directive of the Dune Consultant (Inspector) shall be a violation of the Ordinance.

The motion was seconded by Councilwoman Nelson and approved by unanimous voice vote.

- A. Councilman Ness announced that no reports of the Mantoloking Committee and the Environmental Commission were submitted.
- B. Action Items: None

MUNICIPAL SERVICES COMMITTEE, COUNCILMAN BROWN

- A. Councilman Brown announced that no reports of the Municipal Services Committee were submitted.
- B. Action Items: None

8. MAYOR AND COUNCIL COMMENTS

Councilman Witkowski urged all residents to dig out the large amount of snow covering fire hydrants adjacent to their property. This will help the fire fighters, in the event of a fire, to quickly utilize the hydrant.

Councilman Brown commented that clarification of the dune bulldozing effort be made by the committee.

9. PUBLIC COMMENTS PERIOD

One resident commented on the recent snowstorm.

10. OPEN SESSION AS NECESSARY

- 11. NEXT MEETING** Organizational Meeting, January 4, 2010 @ 4:30 p.m. & Regular Council Meeting, January 19, 2010 @ 4:30 p.m.

12. ADJOURNMENT

There being no further business for this meeting, it was motioned by Councilman Brown to adjourn. The motion was seconded by Councilwoman Nelson and approved by unanimous voice vote at 5:08 p.m.

Respectfully submitted,

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

ORDINANCE NO. 578

**AN ORDINANCE AMENDING CHAPTER XXX,
SECTION 30-2.2 OF THE MUNICIPAL CODE OF THE BOROUGH OF
MANTOLOKING, OCEAN COUNTY, NEW JERSEY, PROVIDING FOR
DELETION OF “HALF-STORY”; AND
AMENDING THE DEFINITION OF “ATTIC”**

BE IT ORDAINED by the Mayor and Council of the Borough of Mantoloking, as follows:

- I. (a) The definition of “half story”, Section 30-2.2 is deleted;
- (b) The definition of “attic”, Section 30-2.2 is amended.
“Attic” – The level(s) proximately below the roof of a building and above the second story, which may be constructed or utilized for habitation.
- II. Appendix B, Bulk Standard:
Delete the column “Half Story Habitation Area, To Second Floor Area Ratio”.
- III. Chapter XXX, Section 30-2.2 as hereby amended shall remain in full force and effect.
- IV. 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 21st day of December, 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 19th day of January, 2010, 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.