

MANTOLOKING BEACH PROTECTION COMMITTEE

Dear Fellow Mantoloking Property Owner,

The purpose of this letter is to provide you with an opportunity to unite to protect our homes, our environment, our town, and yes, our lifestyle. By proactively joining together we can insure that the personal investment we each have made, whether it is primarily emotional, largely financial, or anywhere in between, will be safeguarded. We would like you to take the time to think about life as it is today in Mantoloking, what it can be, and what we can do together to secure its future.

Although you hold various views on the subject of beach replenishment there is one value we all share. Each of us owns property in this town because we truly enjoy being here on this small strip of land sandwiched between the Atlantic Ocean and Barnegat Bay. It is irrelevant how much time any of us spends here. The ability to take pleasure in all that nature offers in this environment is something we all treasure. There is one risk we all share too. Our homes, our land, and the infrastructure that supports daily life are all vulnerable to the powerful forces of nature that define life on this island.

To enable all of our citizens to participate in the process we would like to share the following information with you in this mailing:

- **The Current Environment:** state of the beaches and dunes, beach rights, beach usage and access, responsibilities of ocean front owners
- **The Potential Future Environment:** profile of the proposed beach and dune formation, beach rights, estimated beach usage, proposed access and facilities, responsibilities of the Borough of Mantoloking
- **The Implementation Plan:** required action items and associated responsibilities for oceanfront property owners, the Borough of Mantoloking, the NJDEP (New Jersey Department of Environmental Protection), and the Army Corps of Engineers to make the transition
- **Benefits for Mantoloking property owners**

In addition we will be sending out periodic newsletters with more in depth discussion of various aspects of beach replenishment and their relevance to you. Our goal is to establish a working dialog so that we can move forward together to safeguard our future. We want to insure that each of you will continue to experience that special feeling of joy each time you cross the bridge, and not ever have it replaced by despair.

Sincerely,

The Mantoloking Beach Protection Committee

A. The Current Environment

I. State of Beaches and Dunes:

- Dry beach width is about 100 feet in summer, 30-50 feet in spring tides, and zero in minor storms
- We have a classic unstable beach since the 1992 storm (20 yr storm event)
- After the 1962 storm (50 yr storm event) we received barely 200,000 cubic yards of sand on an emergency basis which has slowly eroded away
- Most of Mantoloking's dunes are at or above the required 22 foot crest elevation, but some areas are lower especially the southern mid center of town
- Dune height varies by area of town ranging from 14 to 24 feet
- Detailed beach and dune reports are posted in Borough Hall and available online on a linked page on the Borough web site
- With the current conditions Mantoloking should survive a 20 to 25 year storm with limited damage. Dune failure and breaching starts with a little larger storm with the potential for severe or total damage.
- According to the Army Corps of Engineers larger storms could result in approximately \$20 million damage to infrastructure, i.e. roads, utilities, and sewers, and damage to private structures could be well over \$250 million.
- Beach properties seriously damaged by a major storm (>50 %) may not be able to be rebuilt in their current locations. The Flood Insurance Program requires that they be landward of the 30 year erosion line, which is 60 feet west of the 1992 scarp. Reconstruction would have to meet all flood construction requirements including building on pilings.

II. Beach Rights

- The deeds for ocean front property usually state that the ocean side lot, typically the xx.01 lot, extends from the seawall line to the mean High Water Line (HWL).
- The HWL is a moving target, typically being 30 to 50 feet from the dune toe in winter and 100 feet in summer. The wet beach area is typically 20 feet westward, and even in minor storms extends to the dune toe
- The NJ Supreme Court has ruled in favor of the Public Trust Doctrine in all cases stating the public has the right to use the beach to the HWL and a reasonable amount of dry sand above the HWL. The amount of dry sand will vary depending on a consideration of factors established in a 1984 ruling, but 50% is the current guideline used by Mantoloking police.

III. Beach Usage and Access

- Mantoloking beaches are subject to high use relatively few days a year. This is typically only on summer weekends and holiday periods, equating to a maximum of 30 days
- There are 13 beach access points in 2.2 miles

- There is parking in the north and south of town, over 300 spaces, but no parking from Lyman to Herbert Street. There is a 2 hour parking limit town wide.
- Currently dune platforms (200 sq. ft. maximum) can be constructed landward of the dune crest

IV. Responsibilities of Ocean Front Property Owners

- All beach cleaning of debris
- Dune maintenance
- Bulldozing
- Fencing
- Dune grass Planting

B. The Potential Future Environment

I. Profile of the Proposed Beach and Dune Formation

- A new stable beach would be built 100 feet to the berm crest, then slope seaward into the water
- 135 cubic yards of sand would be deposited seaward of every oceanfront foot of property. For perspective on the volume of sand please refer to the LBI photos depicting what was completed vs. not completed.
- The dune height would be required to be 22 feet above an engineering datum that lies essentially half way between low & high tide for all areas of town
- The dune width would be typically 80 feet, considerably wider than today in all locations, generally seaward of the current HWL
- Extensive efforts would be made, as with recent replenishment projects, to insure that the proper grain size and quality of sand is maintained
- Beach properties severely damaged by a major storm (>50 %) may not be able to be rebuilt in their current locations. The Flood Insurance Program requires that they be landward of the 30 year erosion line, which is 60 feet west of the 1992 scarp. This could seriously impact 75 oceanfront homes, 2/3 of the oceanfront properties. Reconstruction would have to meet all flood construction requirements including building on pilings. Currently less than ¼ of the homes in Mantoloking meet all of these new regulations so there could be significant consequences throughout the borough.

II. Beach Rights

- Access would be granted to the Army Corps of Engineers, NJDEP, and the Borough of Mantoloking to oceanfront xx.01 lots (consists of dune and beach) for all necessary construction
- The public has the right to use the beach to the dune toe
- The owner has the right to build a walkway over the dune to the beach and we will work with the DEP to continue to allow dune platforms to be built on the back crest of the dune

- There is absolutely no intrusion by any party on the primary lot of the owner
- There is no public access to the dune
- There is no impact on Beach Clubs that allow the public to purchase their beach tags. The Beach Club may still charge their normal fee and enforce their existing policies including limiting use of their beach. As is currently required, the public still has the right to cross the beach near the HWL and may even temporarily rest here.

III. Estimated Beach Usage

- Use density would be significantly lower than currently experienced due to the doubled, or tripled, beach area
- Except for locations with extensive tourist facilities, i.e. restaurants, snack bars, motels, or shops, improved beach protection in other towns has not significantly increased beach use
- The number of people using the beach will increase somewhat from current levels, but they will choose to sit near the water not at the toe of the dune.
- Any infraction of existing beach regulations on the entire beach would be subject to police action

IV. Proposed Access and Facilities

- Our current 13 access points are 4 more than required by NJDEP
- The number of public rest rooms to be made available only during the day in the summer season has to be negotiated with NJDEP. It is possible that four will be needed
- We believe that we have adequate parking already available in the north and south parts of town, with 300 spots.
- Where there is no parking, from Lyman to Herbert Street, we plan to work with NJDEP to try to designate this area as a “light use area” for the development of the piping plover habitat. Prior to the 1992 storm this was a nesting area. It is not feasible to provide parking on Rt. 35 or Barnegat Lane
- The NJDEP has indicated that the minimum parking limit would have to be adjusted to 4 hours from the current 2 hours
- The NJDEP has agreed to designate a specialist to work with us to interpret any requirements and provide guidance on implementation

V. Responsibilities of the Borough of Mantoloking

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|---|---|
| <input type="checkbox"/> Beach cleaning of debris | <input type="checkbox"/> Dune maintenance |
| <input type="checkbox"/> Bulldozing | <input type="checkbox"/> Fencing |
| <input type="checkbox"/> Dune grass planting | <input type="checkbox"/> Increased storm protection |
| <input type="checkbox"/> ALL maintenance of the dune and beach area | |

C. The Implementation Plan

I. Action by Oceanfront Property Owners

- As mandated by the NJDEP and the Army Corps of Engineers property owners must sign an easement entitled “Deed of Dedication and Perpetual Storm Damage Reduction Easement. This must be done for consideration in obtaining the protection and 50 year maintenance of the new dune and beach system. A copy of the conditional easement and a summary of the provisions are included.

II. Action by the Borough of Mantoloking

- The Borough will hold back the effective date of recording signed easements until the project is fully funded and ready to start. The NJDEP has agreed that they do not need them until the project starts, however David Rosenblatt of the NJDEP has said, “Whatever town has gathered all the easements gets the next project.”
- The Borough will continue to monitor the oceanfront beaches and conduct its annual dune assessment survey
- The Borough will maintain strong relations with the congressional delegation and Army Corps headquarters in Washington, DC in order to insure timely funding and implementation of the beach replenishment project.

Action by NJDEP

- The NJDEP must sign a “State Aid Agreement with Mantoloking spelling out all details of beach access, beach use, and visitor facilities.
- Provide 26.25% of the funding with Mantoloking providing 8.75%. Ocean County has agreed to pay half of the 8.75%.

III. Action by the Army Corps of Engineers

- Provide 65% of the funding for the project
- Design, contract for and supervise construction
- Annually monitor project performance
- Conduct maintenance as needed and funded by Congress

D. Benefits for Mantoloking Property Owners

- **A significantly larger beach to enjoy in the summer season with lighter density usage**
- **A beach to sit or walk on every day of the year no matter what the tide**
- **Significantly more privacy for oceanfront owners on their primary lot due to the increased dune size**
- **Protection against a potential 100 year storm and any lesser storm for the entire Borough of Mantoloking, for our homes, our land, and the infrastructure that supports our lives**
- **Protection against the predicted sea level rise that is threatening our coastline**
- **Safeguarding of our personal investments, emotional and financial**
- **Preserving the environment that we treasure here on this small strip of land flanked by the Atlantic Ocean and Barnegat Bay for future generations so that our families can continue share the joy we have experienced**



3/16/2007 DRAFT: Summary of the Key Points of the Required Easements

Included in this mailing is the currently required form of:

“Deed of Dedication and Perpetual Storm Damage Reduction Easement”

as mandated by the NJDEP and the U.S. Army Corp. of Engineers as a condition of the commencement of a beach nourishment project. The document is presented in “plain language”, however the legal effect warrants the following comments:

1. The document grants essentially permanent (perpetual) rights in the signer’s currently private beach property to the Borough and to the State of New Jersey, “the grantees”;
 2. The signer (grantor/s) agree that he or she is obtaining something of value, consideration, for signing the document;
 3. The rights given to the Borough and the State are irrevocable, may be assigned to others, and continue in perpetuity, etc.;
 4. The Easement is granted, in effect, from the mean high water line to a defined line, westward to the “bulkhead line” – full width of the lot;
 5. (a) The State and/or the Borough will have the right to do, perform or cause to be done all of the acts described, “a” through “h”. Generally, to provide beach nourishment, maintenance, operate a public beach, erosion controls, alter dunes, etc., store equipment, supplies, erect and move temporary structures. Further, whatever is necessary to construct the beach nourishment project – together with the right of public use and access (This pertains to the entire easement area).
Additionally, post signs, paintings, fences, preserve vegetation, by limiting access to the dune areas, cut trees.
 - a. The property owner will retain the right to construct and maintain a private dune overwalk, etc.
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1. Although the easement is granted in perpetuity (forever), it is also the case that: if construction of the beach nourishment project has not commenced as of September 30, 2020, the easement shall be released, upon demand. In the interim, the easement is effective and the State and Borough may act upon the land even though the beach is not replenished. The public will have access in the granted area from delivery of the easement to 2020, at minimum.
 2. The document obligates the Borough to “maintain the beach” – best efforts basis and without regard to whether or not the Corps. Or State has acted to do so.
 3. The document recites that the property retains its “private nature”, except for the area where the easement is granted, there the private nature is eclipsed by “public use and access” – lot size, area is unchanged by grant of easement.
The document recites that non-action by the municipality or the State is not a waiver of any rights for later action or enforcement.

