

**DRAFT #2 (08/12 /10)**

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

**AGENDA – REGULAR BUSINESS MEETING**  
**August 16, 2010**  
**4:30 P.M.**  
**BOROUGH HALL**

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

- 1. CALL TO ORDER:                      TIME:**
  
- 2. OPEN PUBLIC MEETING STATEMENT:** Mayor Nebel will 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:**  
    **Absent:**  
  
    **Also Present:**
  
- 4. PLEDGE OF ALLEGIANCE:** The Mayor will lead the assembly in the Pledge of Allegiance.
  
- 5. PRIVILEGE OF THE FLOOR:** The Mayor will open the meeting for public comment and questions about the agenda.
  
- 6. MINUTES OF PREVIOUS MEETINGS:** Regular Meeting of July 19, 2010. (Final, complete copy attached.)
  
- 7.     COMMITTEE REPORTS AND RECOMMENDATIONS**

**FINANCE COMMITTEE, COUNCILMAN WITKOWSKI**

**A.** Councilman Witkowski will introduce the Municipal Finance Officer Michelle Swisher who will present the monthly finance report.

**B. Action Items:**

Councilman Witkowski moves the following \_\_\_\_\_ resolutions.

**RESOLUTION: ACCEPTANCE OF THE REPORT OF THE MUNICIPAL FINANCE OFFICER June 30, 2010**

**WHEREAS**, the Chief Finance Officer has presented a report on the status of the 2010 municipal budget as of June 30, 2010; and

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

ACCOUNT	BUDGET	EXPENDED BALANCE YEAR TO DATE	ENCUMBERED
2010 Current Year Appropriation	\$4,079,249.10	\$2,121,693.44 1,905,837.44	\$ 51,718.22 \$
2009 Appropriation Reserves	\$ 385,348.95	\$ 120,850.92 260,213.03	\$ 4,285.00 \$
Capital	\$1,643,939.99	\$ 186,323.60 \$1,457,616.39	

ACCOUNT	REVENUE THIS MONTH	REVENUE YEAR TO DATE
Cash Receipts	\$ 225,411.44	\$4,681,027.42

**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: PAYMENT OF BILLS FOR THE MONTH OF AUGUST, 2010**

**WHEREAS**, the Municipal Finance Officer has presented a list of bills in the total amount of **\$1,750,827.50** 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: APPROVING A TAX REFUND OF OVERPAYMENT OF TAXES DUE TO A TAX APPEAL**

**WHEREAS**, a State Tax Court Judgment has been favorably awarded to Emil W. Solomine, Block 23, Lot 3, for the fiscal year 2009; and,

**WHEREAS**, such judgment has resulted in an overpayment of 2009 property taxes in the amount of \$4,451.90 in principal,

**NOW THEREFORE BE IT RESOLVED**, by the Mayor and Council of the Borough of Mantoloking, County of Ocean, State of New Jersey, that the Chief Financial Officer be hereby authorized to issue a check in the amount of \$4,451.90 for said overpayment to Sitar Law Offices, LLC of 1481 Oak Tree Road, Iselin, NJ 08830,

attorney for Emil W. Solomine, legal mailing address on file: 830 S. Ocean Blvd, Palm Beach, Fl. 33480 for the property known as 1025 Ocean Ave, Mantoloking, NJ 08738.

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

**RESOLUTION: ACCEPTANCE OF 2009 MUNICIPAL AUDIT REPORT**

**WHEREAS**, N.J.S.A. 40A:5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions, and,

**WHEREAS**, the Annual Report of Audit for the year 2009 has been filed by a Registered Municipal Accountant with the Municipal Clerk as per the requirements of N.J.S. 40A:5-6, and a copy has been received by each member of the governing body, and,

**WHEREAS**, the Local Finance Board of the State of New Jersey is authorized to prescribe reports pertaining to the local fiscal affairs, as per R.S. 52:27BB-34, and,

**WHEREAS**, the Local Finance Board has promulgated a regulation requiring that the governing body of each municipality shall, by resolution, certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, at a minimum, the sections of the annual audit entitled:

General Comments  
Recommendations

And,

**WHEREAS**, the members of the governing body have personally reviewed at a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled:

General Comments  
Recommendations

As evidenced by the group affidavit form of the governing body (original attached), and,

**WHEREAS**, such resolution of certification shall be adopted by the governing body no later than forty-five (45) days after receipt of the annual audit, as per the regulations of the Local Finance Board, and,

**WHEREAS**, all members of the governing body have received and have familiarized themselves with at least the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board, and,

**WHEREAS**, failure to comply with the promulgations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52 – to wit:

R.S. 52:27BB-52 – “A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the Director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.”

**NOW, THEREFORE, BE IT RESOLVED**, that the governing body of the Borough of Mantoloking, hereby states that it has complied with the promulgation of the Local Finance Board of the State of New Jersey dated July 30, 1968 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

**PUBLIC SAFETY COMMITTEE, COUNCILMAN GILLINGHAM:**

- A. **Reports of the Public Safety Committee:** Councilman Gillingham will present the reports of the Police Department, Municipal Court, Fire Company and Emergency Management.
- B. **Action Items:** None

**PUBLIC WORKS COMMITTEE, COUNCILWOMAN NELSON**

- A. **Reports of the Public Works:** Councilwoman Nelson will present reports from the Public Works Superintendent, Construction Official and Land Use Officer.
- C. **Action Items:**

Councilwoman Nelson moves the following \_\_\_\_\_ resolutions.

**RESOLUTION: APPROVING ITEMS OF REVENUE AND APPROPRIATION NJS 40A:4-87**

**WHEREAS**, NJS 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount was not determined at the time of the adoption of the budget; and

**WHEREAS**, the Director may also approve the insertion of an item of appropriation for equal amount,

**NOW, THEREFORE, BE IT RESOLVED**, that the Council of the Borough of Mantoloking in the County of Ocean, New Jersey, hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2010 in the sum of \$4,000.00, which is now available from the State of New Jersey, Solid Waste Administration.

**BE IT FURTHER RESOLVED**, that the like sum of \$4,000.00 is hereby appropriated under the caption of 2010 Clean Communities Grant; and

**BE IT FURTHER RESOLVED** that the above is the result of funds from the State of New Jersey, Solid Waste Administration in the amount of \$4,000.00.

**RESOLUTION: APPOINTMENT OF PERSONNEL – PART TIME HELP**

**RESOLVED**, the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey approves the following appointments with the terms and conditions indicated:

<i>Name</i>	<i>Position</i>	<i>Effective Date</i>	<i>Salary</i>
<i>Robert A. Nelson</i>	<i>Plumbing Subcode Inspector</i>	<i>July 22, 2010</i>	<i>\$4,000.00 per year</i>
<i>Brian Hendricks</i>	<i>Deputy Plumbing Subcode Inspector</i>	<i>August 16, 2010</i>	<i>\$25.00 per hour</i>

**RESOLUTION: AWARD SALE OF SURPLUS MUNICIPAL PERSONAL PROPERTY**

**WHEREAS**, the Borough Clerk advertised for sealed bids for the sale of surplus municipal personal property; and

**WHEREAS**, bids were publicly opened and read aloud at 11:00 a.m. on August 16, 2010 in the office of the Borough Clerk with the following results:

**Item A** – One (1), used 1988 Fiat Allis 14C Bulldozer, Serial No. 53026 (Equipment is not in operating condition, is in disrepair, and is sold without warranties, express or implied, “where is, as is”.)

<b>Bidder</b>	<b>Amount of Bid</b>

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**WHEREAS**, the bid submissions have now been reviewed by the Borough Attorney, now therefore, be it **RESOLVED**, the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey awards the sale to the highest bidder in the amount of \_\_\_\_\_ for **Item A – One (1)**, used 1988 Fiat Allis 14C Bulldozer, Serial No. 53026: Equipment is not in operating condition, is in disrepair, and is sold without warranties, express or implied, “where is, as is” to \_\_\_\_\_.

**Item B - One (1)**, used 1965 Caterpillar D7F Bulldozer, Serial No. 96N783 (Equipment is not in operating condition, is in disrepair, and is sold without warranties, express or implied, “where is, as is”).

Bidder	Amount of Bid

**WHEREAS**, the bid submissions have now been reviewed by the Borough Attorney, now therefore, be it **RESOLVED**, the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey awards the sale to the highest bidder in the amount of \$\_\_\_\_\_ for **Item B - One (1)**, used 1988 Fiat Allis 14C Bulldozer, Serial No. 53026: Equipment is not in operating condition, is in disrepair, and is sold without warranties, express or implied, “where is, as is” to \_\_\_\_\_.

**RESOLUTION: CONSIDER WAIVER OF PERMIT FEES FOR MANTOLOKING PARTICIPANTS IN THE FALL 2010 “PROJECT GRADUATION COMMITTEE OF PT. PLEASANT BEACH, BAY HEAD AND MANTOLOKING TOWN-WIDE GARAGE SALE CHARITY FUND RAISER” TO BE HELD ON SEPTEMBER 25, 2010 (RAIN DATE-SEPTEMBER 26, 2010)**

**WHEREAS**, pursuant to Ordinance, any garage sale permit applicant shall pay a permit fee to the Borough; and

**WHEREAS**, the Project Graduation Committee of Point Pleasant Beach, Bay Head and Mantoloking desires to host a garage sale to support its charitable, public interest purposes; and

**WHEREAS**, it is the desire of the governing body to encourage and support the efforts of the Committee.

**IT IS NOW, THEREFORE**, this 16th day of August, 2010, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. That the collection of a garage sale permit fee from the Municipal Alliance Committee would be inimical to the spirit of the effort and the public interest.
2. Payment of the 2010 garage sale permit fee by the Project Graduation Committee of Point Pleasant Beach, Bay Head and Mantoloking is hereby waived as an expression of endorsement and appreciation for the efforts of the Project Graduation Committee.
3. Due to unsafe conditions concerning illegal parking on certain roadways, the Mantoloking Police Chief has ordered that the “No Parking” regulations of the Borough of Mantoloking will be strictly enforced.
4. Upon adoption, the Borough Clerk shall issue a certified copy of this resolution to the Coordinator of the Project Graduation Committee.

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

- A. Report of the Dune & Beach Renourishment Committee
- B. Action Items:

**MUNICIPAL SERVICES COMMITTEE, COUNCILMAN BROWN**

- A. Councilman Brown will present the reports of the Municipal Services Committee.
- B. Action Items:

**PUBLIC HEARING:** Mayor Nebel will open the meeting for a Public Hearing on Ordinance No. 590, Regulations on the collection of recyclable material in the Borough of Mantoloking. \_\_\_\_ comments were made.

Councilman Brown moves the following resolution.

**RESOLUTION: ADOPTION OF ORDINANCE NO. 590 – REGULATIONS ON THE COLLECTION OF RECYCLABLE MATERIAL**

**WHEREAS**, on the 16<sup>th</sup> day of August, 2010 a public hearing on Ordinance No. 590 was held and \_\_\_\_ 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. 590  
AN ORDINANCE OF THE BOROUGH OF MANTOLOKING,  
OCEAN COUNTY, NEW JERSEY, PROVIDING FOR THE COLLECTION OF RECYCLABLE  
MATERIAL, AND PROVIDING PENALTIES FOR VIOLATIONS, RESCINDING ARTICLES 19-1  
THROUGH 19-1.12 OF CHAPTER XIX,  
REVISED GENERAL ORDINANCES OF THE BOROUGH OF MANTOLOKING AND ADOPTING THE  
FOLLOWING PROVISIONS**

**MANTOLOKING COMMITTEE, COUNCILMAN NESS**

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

**8. MAYOR AND COUNCIL COMMENTS**

**9. PUBLIC COMMENTS PERIOD**

**10. EXECUTIVE SESSION**

**RESOLUTION: 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: (select one or more)*

- a matter rendered confidential by federal or state law*
- a matter in which release of information would impair the right to receive government funds*
- material the disclosure of which constitutes an unwarranted invasion of individual privacy*
- a collective bargaining agreement and/or negotiations related to it*
- a matter involving the purchase, lease, or acquisition of real property with public funds*
- protection of public safety and property and/or investigations of possible violations or violations of law*
- pending or anticipated litigation or contract negotiation and/or matters of attorney-client privilege*
- specific prospective or current employees unless all who could be adversely affected request an open session*
- deliberation after a public hearing that could result in a civil penalty or other loss, and be it*

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

**11. OPEN SESSION AS NECESSARY**

**12. NEXT MEETING** Regular Council Meeting, September 20, 2010 @ 4:30 p.m.

**13. ADJOURNMENT**