

**DRAFT #1 (09/07/2012)**

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

**MINUTES OF THE REGULAR BUSINESS MEETING**  
**AUGUST 20, 2012**

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 Donald S. Ness, Peter R. Strohm, Stanley F. Witkowski, 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 Lt. John Barcus 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. 08/20/2012 - 01: APPROVAL OF MINUTES**  
Councilwoman Nelson moved that the minutes of the Regular Meeting of July 16, 2012 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 report.
  - B. Action Items:**

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

**RESOLUTION NO. 08/20/2012 – 02: ACCEPTANCE OF THE REPORT OF THE MUNICIPAL FINANCE OFFICER June 30, 2012**

**WHEREAS**, the Chief Finance Officer has presented a report on the status of the 2012 municipal budget as of June 30, 2012; and

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

ACCOUNT	BUDGET	EXPENDED YEAR TO DATE	ENCUMBERED	BALANCE
2012 Current Year Appropriation	\$4,041,973.78	\$ 2,253,761.96	\$ 72,168.74	\$1,716,043.08
2011 Appropriation Reserves	\$ 447,532.84	\$ 154,311.11	\$ 87.76	\$ 293,133.97
Capital	\$1,595,592.49	\$ 144,365.16		\$1,451,227.33

ACCOUNT	REVENUE THIS MONTH	REVENUE YEAR TO DATE
Cash Receipts	\$121,434.61	\$4,878,516.89

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. 08/20/2012 – 03: PAYMENT OF BILLS FOR THE MONTH OF AUGUST 2012**

**WHEREAS**, the Municipal Finance Officer has presented a list of bills in the total amount of **\$531,272.82** 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. 08/20/2012 – 04: ACCEPTANCE OF 2011 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 2011 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 introduced Lt. Barcus who presented the report of the Police Department. Councilman Gillingham concluded with the presentation of the reports of the Municipal Court and Fire Company. Emergency Management Coordinator made a verbal presentation concerning the hurricane procedures.

**B. Action Items:**

Councilman Gillingham moves the following four (4) resolutions. The motion was seconded by Councilman Brown and approved by unanimous voice vote.

**RESOLUTION NO. 08/20/2012 – 05: AUTHORIZED OTHER PROFESSIONAL SERVICE CONTRACT FOR 2012**

**WHEREAS**, the award of contracts for professional services in the Borough, 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 agreements in accordance with the following list, which identifies the services and providers thereof. Said contracts are to be executed following approval, as to form, by the Borough Attorney and Purchasing Agent. Copies of the contracts are available for inspection at the Clerk’s office during regular business hours.
2. Notice of this action is to be published as a contract award without competitive bidding as professional services pursuant to N.J.S.A. 40:55D-24.

POSITION	OFFICIAL	CONTRACT AMOUNT	BUSINESS NAME
Public Defender	Margarie M. Herlihy, Esq.	\$200/Case, \$100/Hr. Misc. Exp.	Herlihy & Young Attorneys
Alternate Public Def.	Kevin E. Young, Esq.	\$200/Case, \$100/Hr. Misc. Exp.	Herlihy & Young Attorneys
Alternate Public Def.	Thaddeus D. Niemiec, Esq.	\$200/Case, \$100/hr. Misc. Exp.	Herlihy & Young Attorneys

**RESOLUTION NO. 08/20/2012 – 06: REQUESTING REFUND OF POLICE OUTSIDE EMPLOYMENT FEES**

**WHEREAS**, the Finance Office of the Borough of Mantoloking has researched the balance of the following Police Outside Employment accounts which have been completed,

**WHEREAS**, the projects have been completed and the balance left on the account is due back to the contractors,

**NOW THEREFORE BE IT RESOLVED**, that the Mayor and the Council of the Borough of Mantoloking authorize the Chief Financial Officer to refund the following balances:

Escrow Applicant	Amount
Earle	\$737.35
First Energy	250.80
Verizon	140.00

**RESOLUTION NO. 08/20/2012 – 07: APPOINTMENT OF PERSONNEL – SEASONAL/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:

Name	Position	Effective Date	Salary
John A. Miceli	Parking Enforcement Officer	July 21, 2012	\$ 9.00/Hour
Scott J. Ferguson	Road Crossing Guard	August 4, 2012	\$9.00/Hour

**RESOLUTION NO. 08/20/2012 – 08: AUTHORIZE SALE OF MUNICIPAL PERSONAL PROPERTY – POLICE VEHICLE**

**WHEREAS**, the Borough of Mantoloking has determined that certain personal property, to wit: 1 (One), Used, 2008 Ford Crown Victoria Police Vehicle, VIN: 2FAFP71V28X179430 is surplus property; and

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

**IT IS NOW, THEREFORE**, this 20<sup>th</sup> day of August, 2012, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. The equipment: 1 (One), Used, 2008 Ford Crown Victoria Police Vehicle, VIN: 2FAFP71V28X179430 is 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 the reports of the Public Works Superintendent, Construction Official and Land Use Officer.
- B. Action Items:**

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

**RESOLUTION NO. 08/20/2012 – 09: CONSIDERED THE SALE OF MUNICIPAL SURPLUS PROPERTY – PUBLIC WORKS BULLDOZER**

**WHEREAS**, the Council has authorized solicitation of buyers for the purchase of surplus personal property, to wit: One (1), used, 1987 Fiat Allis T-7 Bulldozer, Model 140, Serial no. 0052285; and **WHEREAS**, the bid return date was 11:00 a.m. on August 8, 2012 in the office of the Borough Clerk with the following results:

Bidder	Amount of Bid
<i>Jersey One Auto Sales</i>	<i>\$6,222.99</i>
<i>Devino Used Truck Parts</i>	<i>\$6,267.00</i>
<i>Liberty Motors Ins.</i>	<i>\$2,239.99</i>

**WHEREAS**, the bid submissions have now been reviewed by the Borough Attorney, now therefore, be it **RESOLVED**, this 20<sup>th</sup> day of August, 2012, the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. The bid of Devino Used Truck Parts, the sum of \$6,267.00, is hereby accepted upon the following terms and conditions:
  - (i) payment for and removal of the vehicle from Ocean County 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. 08/20/2012 – 10: CONSIDERED THE SALE OF MUNICIPAL SURPLUS PROPERTY – PUBLIC WORKS PICKUP TRUCK**

**WHEREAS**, the Council has authorized solicitation of buyers for the purchase of surplus personal property, to wit: One (1), used, 2000 Ford 150 Pick-Up, VIN. No. 1FTZF1721YNB20021; and **WHEREAS**, the bid return date was 11:00 a.m. on August 8, 2012 in the office of the Borough Clerk with the following results:

Bidder	Amount of Bid
<i>Liberty Motors Inc.</i>	<i>\$913.99</i>
<i>R. Ferreira</i>	<i>\$968.53</i>
<i>Dan Dames</i>	<i>\$1,411.11</i>
<i>Jersey One Auto Sales</i>	<i>\$1,822.99</i>

**WHEREAS**, the bid submissions have now been reviewed by the Borough Attorney, now therefore, be it **RESOLVED**, this 20<sup>th</sup> day of August, 2012, the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. The bid of Jersey One Auto Sales, the sum of \$1,822.99, 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.

**PUBLIC HEARING:** Mayor Nebel opened the meeting for a public hearing on Ordinance No. 614, Amendment of the Land Use Regulations. No comments were made.

Councilwoman Nelson moved the following resolution. The motion was seconded by Councilman Gillingham and approved by unanimous voice vote.

**RESOLUTION NO. 08/20/2012 – 11: ADOPTION OF ORDINANCE NO. 614 – AMEND LAND USE ORDINANCE (FENCES)**

**WHEREAS**, on the 20<sup>th</sup> day of August, 2012 a public hearing on Ordinance No. 614 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:

**ORDINANCE NO. 614**

**AN ORDINANCE OF THE BOROUGH OF MANTOLOKING, OCEAN COUNTY, NEW JERSEY, AMENDING CHAPTER XXX, OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF MANTOLOKING, 2007, LAND USE REGULATIONS, ARTICLE 30-6.13, FENCES**

**WHEREAS**, the fence replacement without permit limitation, sub-article k., 30 linear feet, is unreasonably burdensome in view of the prevailing length of available fence sections, 8 linear feet; and

**WHEREAS**, the public interest will be advanced by reasonable facilitation of fence replacement.

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

1. Article 30-6.13, sub-article k. is hereby amended by deletion of 30', and insertion of 32' ". . .an owner may replace thirty-two (32) linear feet. . . "
2. All provisions of the Land Use Regulations, not hereby amended shall remain in full force and effect.
3. This Ordinance shall become effective upon final adoption.

winxp-p 7/13/12 2:48 PM

Deleted: thirty (30)

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

**A. Report of the Dune & Beach Renourishment Committee and Ocean County Block Grant Program**

**B. Action Items:**

Councilman Strohm moves the following resolution. The motion was seconded by Councilwoman Nelson and approved by unanimous voice vote.

**RESOLUTION NO. 08/20/2012 -12: DEDICATION OF CENTENNIAL COMMEMORATIVE PLAQUE**

**WHEREAS**, in 2011, the Borough of Mantoloking celebrated the 100th Anniversary of the incorporation of the Borough; and

**WHEREAS**, for several years preceding, the Centennial Celebration Committee, a volunteer group of residents and others associated with the Borough did develop a plan for a multi-faceted celebration; and

**WHEREAS**, the Centennial Celebration included a flower show by The Seaweeder's Garden Club of Bay Head and Mantoloking, clambake, dance and an elegant waterborne fireworks display by Grucci; and

**WHEREAS**, the cooperation of the Mantoloking Yacht Club, the Mantoloking Police and Fire Departments, Brick Township Fire Officials, U. S. Coast Guard and New Jersey State Police and their associated personnel facilitated the successful Centennial Celebration; and

**WHEREAS**, funding for the event was provided by the generous donations from a broad spectrum of residents and friends of Mantoloking; and

**WHEREAS**, a list of volunteers is annexed hereto, as Exhibit A, and is incorporated as a portion of this Resolution; and

**WHEREAS**, a Commemorative Plaque has been affixed to the Borough Hall to memorialize the event and the contributions of all involved in the Centennial Celebration.

**IT IS NOW, THEREFORE**, this 20th day of August, 2012, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. The Mayor and Council, on behalf of the entire Borough, do hereby express their most sincere appreciation for the planning and successful implementation of the Centennial Celebration.
2. The official Centennial Commemorative Plaque, now affixed to the Borough Hall, is hereby dedicated as permanent, public recognition of the Centennial and all who were responsible for the successful celebration.

**EXHIBIT A**

**2011 CENTENNIAL CELEBRATION VOLUNTEER LIST**

Mayor George C. Nebel	Councilman Donald S. Ness, Chairman
Sarah Dewing, Co-Chairwoman	Jane Post
Constance Kapp, Co-Chairwoman	Robert Post
William B. Tubbs, Co-Chairman	Lynn O'Mealia (Clambake Chairwoman)
Steve Gillingham, Finance Chairman	Virginia Sigety
Anne L. Benedict, Historian	Terri Alvator
Lynn Foristall	Nancy Ness
Linda Hejduk	Betsy Nelson
Doreen Duggan	Nancy Plumeri
Robert S. McIntyre, Jr.	Peter Flihan
Midge Foristall	Jennifer Buck
Nancy Cunningham (Clambake Co-Chairwoman)	Edwin C. O'Malley
Betsy Colie (Honorary)	Suzanne Sayia (Centennial Dance Co-Chairwoman)
Runyon Colie (Honorary)	Anne Dunning (Centennial Dance Co-Chairwoman)
Ellen Earle (Bake-Off Chairwoman)	Jane White
Barbara Earle (Deceased)	Helen Kerr
James Earle (Deceased)	Mary Anne Finch (Seaweeder's Flower Show Chairwoman)
Barbara Koechling (Deceased)	
Eileen McIntyre	

**PUBLIC HEARING:** Mayor Nebel opened the meeting for a public hearing on Ordinance No. 615, Amendment of the Borough Beach Regulations. No comments were made.

Councilman Strohm moved the following resolution. The motion was seconded by Councilman Brown and approved by unanimous voice vote.

**RESOLUTION NO. 08/20/2012 – 13: ADOPTION OF ORDINANCE NO. 615 – AMEND BEACH REGULATIONS**

**WHEREAS**, on the 20<sup>th</sup> day of August, 2012 a public hearing on Ordinance No. 615 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:

**ORDINANCE NO. 615**

**AN ORDINANCE OF THE BOROUGH OF MANTOLOKING,  
OCEAN COUNTY, NEW JERSEY, AMENDING CHAPTER V OF THE REVISED GENERAL  
ORDINANCES OF THE BOROUGH OF MANTOLOKING, 2007, ANIMAL CONTROL, ARTICLE 5-4.5,  
RESTRAINT OF DOGS OUTDOORS ON BEACHES AND PUBLIC PROPERTY**

WHEREAS, sub-article 5-4.5 b.1.a provides for the absolute exclusion of dogs on the Lyman Street beach and access way; and

WHEREAS, it is the desire of the governing body to permit dogs in that area subject to the general seasonal and time of day constraints as are generally applicable to dogs on beaches and public property in the Borough.

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

1. Sub-article 5-4.5b.1. is hereby amended by the deletion of sub-section 1.a.
2. All provisions of Chapter V, not hereby amended shall remain in full force and effect.
3. This Ordinance shall become effective upon final adoption.

**MUNICIPAL SERVICES COMMITTEE, COUNCILMAN BROWN**

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

**MANTOLOKING COMMITTEE, COUNCILMAN NESS**

- A. Councilman Ness stated that no reports of the Mantoloking Committee and the Environmental Commission were submitted.
- B. Action Items:

Councilman Ness moved the following resolution. The motion was seconded by Councilman Witkowski and approved by unanimous voice vote.

**RESOLUTION NO. 08/20/2012 – 14: RECYCLING ENHANCEMENT ACT TAX IDENTIFICATION STATEMENT**

**WHEREAS**, The Recycling Enhancement Act, P.L. 2007, chapter 311, has established a recycling fund from which tonnage grants may be made to municipalities in order to encourage local source separation and recycling programs; and

**WHEREAS**, There is levied upon the owner or operator of every solid waste facility (with certain exceptions) a recycling tax of \$3.00 per ton on all solid waste accepted for disposal or transfer at the solid waste facility.

**WHEREAS,** Whenever a municipality operates a municipal service system for solid waste collection, or provides for regular solid waste collection service under a contract awarded pursuant to the “Local Public Contracts Law”, the amount of grant monies received by the municipality shall not be less than the annual amount of recycling tax paid by the municipality except that all grant moneys received by the municipality shall be expended only for its recycling program.

**NOW THEREFORE BE IT RESOLVED** by the Borough of Mantoloking that the Borough of Mantoloking certifies a submission of expenditure for taxes paid pursuant to P.L. 2007, chapter 311, in 2011 in the amount of \$1,491.00. Documentation supporting this submission is available at 202 Downer Avenue, Mantoloking, New Jersey and shall be maintained for no less than five years from this date.

**8. MAYOR AND COUNCIL COMMENTS**

Councilman Witkowski commented on the 2011 Financial Audit which was excellent and thanked those who were involved. Councilwoman Nelson commented on the Bergen Avenue Pat Brand Memorial Garden that the Shaffer Family and Larry Penza helped beautify.

**9. PUBLIC COMMENTS PERIOD**

Community Relations Manager Peter Johner of Jersey Central Power and Light Company brought those in attendance up to date on the preparations being made by JCP&L.

**10. NEXT MEETING** Regular Meeting, Monday, September 17, 2012 @ 4:30 p.m.

**11. ADJOURNMENT**

There being no further business for this meeting, it was moved by Councilwoman Nelson to adjourn. The motion was seconded by Councilman Witkowski and approved by unanimous voice vote at 5:03 p.m.

Respectfully submitted,

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