

DRAFT NO.1 – 03/17/2014

THE BOROUGH OF MANTOLOKING
MAYOR AND COUNCIL

MINUTES OF THE REGULAR BUSINESS MEETING
JANUARY 7, 2014
Mantoloking Yacht Club
1224 Bay Avenue
Mantoloking, New Jersey

The regular monthly meeting of the Mayor and Council was held this day in the Mantoloking Yacht Club, Mantoloking, New Jersey with the following actions.

1. **CALL TO ORDER:** Mayor Nebel called the meeting to order at 4:42 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 Peter R. Strohm, Robert S. McIntyre, Chris Nelson, Councilwoman Ann Elizabeth Nelson

Absent: Councilman James J. Brown

Also Present: Municipal Clerk Irene H. Ryan, Borough Attorney Edwin J. O'Malley, Jr.

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. **RESOLUTION: MINUTES OF PREVIOUS MEETINGS:**

None

7. COMMITTEE REPORTS AND RECOMMENDATIONS:

FINANCE COMMITTEE, COUNCILMAN STEVE GILLINGHAM

A. Councilman Gillingham presented the monthly finance report.

B. Action Items:

Councilman Gillingham moved the following five (5) resolutions. The motion was seconded by Councilwoman Beth Nelson and approved by unanimous voice vote.

RESOLUTION NO. 01/07/2014 – 01: TO ADOPT APPROPRIATION RESERVE TRANSFER #1

WHEREAS, N.J.S.A. 40A: 4-59 provides that in the first 3 months of the fiscal year, the amount of any appropriation reserve for the immediately preceding fiscal year is insufficient to pay the claims authorized or incurred during said preceding year which were chargeable to said appropriation, and there shall be an excess in any appropriation reserves over and above the amount deemed to be necessary to fulfill its purpose, the governing body may, by resolution adopted by not less than a 2/3 vote of the full membership thereof, transfer the amount of such excess to an appropriation reserve or an appropriation in the prior budget deemed to be insufficient to fulfill its purpose or for which no reserve was provided.

WHEREAS, the Chief Financial Officer has advised the Mayor and Council of the Borough of Mantoloking that the need for certain transfers within the 2013 Appropriation Reserves exists; and

WHEREAS, it is recommended that these appropriation reserve transfers be made;

NOW, THEREFORE BE IT RESOLVED by the governing body of the Borough of Mantoloking that the following budget transfers be made for the 2013 Appropriation Reserve balances

<u>DEPARTMENT</u>		<u>TO</u>	<u>FROM</u>
Police	OE	\$2,000.00	
Beach	OE	3,000.00	
Audit	OE		\$ 500.00
Tax Collector	OE		400.00
Tax Assessor	OE		500.00
Construction	OE		1,000.00
Plumbing Sub-Code	SW		2,000.00
Liability Insurance	OE		600.00
Total		\$5,000.00	
\$5,000.00			

RESOLUTION NO. 01072014 - 02: PAYMENT OF BILLS FOR THE MONTH OF JANUARY 2014

WHEREAS, the Municipal Finance Officer has presented a list of bills in the total amount of \$2,346,447.51 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. 01/07/2014 – 03: AUTHORIZE THE AWARD OF CONTRACTS FOR 2014 PROFESSIONAL SERVICES

WHEREAS, the Borough of Mantoloking has a need to acquire Professional Services as traditional contracts pursuant to the provisions of N.J.S.A. 19:44A-20.4 or 20.5 (as appropriate); and,

WHEREAS, Chief Financial Officer has determined and certified in writing that the value of the acquisitions will exceed \$17,500; and,

WHEREAS, the anticipated term of the contracts is one (1) year; and

WHEREAS, the following have submitted proposals by January 7, 2014 indicating they will provide their listed services:

<u>POSITION</u>	<u>OFFICIAL</u>	<u>CONTRACT AMOUNT</u>	<u>BUSINESS NAME</u>
Attorney	Edwin J. O'Malley, Jr., Esq	\$145-225 /Hr. +Misc Exp	O'Malley, Surman & Michelini
Auditor	Robert S. Oliwa, R.M.A.	\$24,000+\$30-115/Hr.+ Misc. Exp.	Oliwa and Company, CPA
Bond Counsel	Matthew Jessup	\$180-325/Hr. General Services, + \$2,500/Bond Sale+\$1.00/thousand dollars of bonds issued+\$.75/thousand dollars of bonds issued in excess of \$15,000,000, + \$450/review of bond ordinance, compiling & review of certified record of proceedings, + \$.50/thousand dollars of notes issued up to \$15,000,000 (minimum fee), + \$.40/\$1,000 of notes in excess of \$15,000,000 but not less than \$800. (minimum fee), + \$250/arbitrage compliance and related tax analysis, + \$1,000/credit enhancement facility, + \$5,000/refunding bond issue, + \$135-215/Hr. for preparation & appearances before the Local Finance Board	McManimon, Scotland & Baumann

And

WHEREAS, as may be applicable pursuant to N.J.S.A. 19:44-A-20.4, et seq. obligates the professional contractors to certify that they have not made any reportable contributions to a political or candidate committee in the Borough of Mantoloking in the previous one year, and that the contract will prohibit them from making any reportable contributions through the term of the contract, and

WHEREAS, the Business Entity Disclosure Certification shall be executed prior to execution of the professional services contract, and

WHEREAS, a Certificates of Availability of Funds issued by the Chief Financial Officer has been submitted pursuant to N.J.A.C. 5:30-5.4.

NOW THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Mantoloking authorize the Mayor to enter into the contracts with the professional contractors as described herein; and,

BE IT FURTHER RESOLVED that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution. And,

BE IT FURTHER RESOLVED that notice of this action is published as a contract award without competitive bidding as professional services pursuant to N.J.S.A. 40:55D-24.

RESOLUTION NO. 01/07/2014 – 04: AUTHORIZED MISCELLANEOUS SUPPLY, SERVICE AND MAINTENANCE CONTRACTS FOR 2014

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 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.

<u>SERVICE NAME</u>	<u>CONTRACT AMOUNT</u>	<u>BUSINESS</u>
Computer Software Maint.	\$7,829/Annual+\$150/Hr Misc Serv	Edmunds & Associates, Inc.
Financial Consultant	\$2,500/Annual	Phoenix Advisors, LLC

RESOLUTION NO. 01/07/2014 – 05: APPOINTMENT OF PERSONNEL – PART TIME TEMPORARY 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>Christopher Niebling</i>	<i>Part Time Mayoral Administrative Assistant</i>	<i>January 1, 2014</i>	<i>\$25.00/hour</i>

PUBLIC SAFETY COMMITTEE, COUNCILMAN ROBERT MC INTYRE:

A. Reports of the Public Safety Committee: Councilman McIntyre presented the reports of the Police Department, Municipal Court, Fire Company and Emergency Management.

B. Action Items:

Councilman McIntyre moved the following 4 resolutions. The motion was seconded by Councilman Gillingham and approved by unanimous voice vote.

RESOLUTION NO. 01/07/2014 – 06: APPROVING OTHER PROFESSIONAL SERVICE AND MAINTENANCE CONTRACTS FOR 2014

WHEREAS, the award of contracts for professional services 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 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
BUSINESS NA

NAME

CONTRACT AMOUNT

Prosecutor	Kim A. Pascarella, Esq \$100-150 /Hr+Misc Exp	Kim A. Pascarella, Esq, Attorney-at-Law
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RESOLUTION NO. 01/07/2014 – 07: AUTHORIZED MISCELLANEOUS SUPPLY, SERVICE AND MAINTENANCE CONTRACTS FOR 2014

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 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.

<u>SERVICE</u>	<u>PROVIDER</u>	<u>CONTRACT AMOUNT</u>
Animal Control Services	Jersey Shore Animal Shelter	\$3,000 Annual+Emergency Vet Care
Police Dept. Trailer Facilities	Nadler Mobile,LLC11/29/13-11/28/14,	\$875/Mo+\$1,750 Security Deposit

RESOLUTION NO. 01/07/2014 – 08: APPROVE AN INTERLOCAL SERVICES AGREEMENT BETWEEN THE BOROUGH OF MANTOLOKING AND THE COUNTY OF OCEAN CONCERNING THE PROSECUTOR'S PROGRAM FY 2014

WHEREAS, it is deemed to be in the public interest to participate in the Ocean County "Prosecutor's Program"; and

WHEREAS, to the extent officers of the Borough's Police Department provide services under this Agreement, the County will provide compensation at the rate of, not to exceed \$62.70 per hour; and

WHEREAS, all the terms and conditions of the proposed Interlocal Service Agreement have been reviewed by counsel; and

WHEREAS, participation has been endorsed by the Chief of Police.

IT IS NOW, THEREFORE, this 7th day of January, 2014, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County New Jersey, that the Borough shall participate in the 2014 Interlocal Services Agreement and the Mayor and Clerk are authorized to execute the Agreement in the form annexed.

RESOLUTION NO. 01/07/2014 – 09: APPROVE AN INTERLOCAL SERVICES AGREEMENT BETWEEN THE BOROUGH OF MANTOLOKING AND THE COUNTY OF OCEAN CONCERNING THE DRIVING WHILE INTOXICATED ENFORCEMENT PROGRAM FY2014

WHEREAS, it is deemed to be in the public interest to participate in the Ocean County "Driving While Intoxicated Enforcement Program"; and

WHEREAS, to the extent officers of the Borough's Police Department provide services under this Agreement, the County will provide compensation at the rate of, not to exceed, \$62.70 per hour; and

WHEREAS, all the terms and conditions of the proposed Interlocal Service Agreement have been reviewed by counsel; and

WHEREAS, participation has been endorsed by the Chief of Police.

IT IS NOW, THEREFORE, this 7th day of January, 2014, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County New Jersey, that the Borough shall participate in the 2014 Interlocal Services Agreement and the Mayor and Clerk are authorized to execute the Agreement in the form annexed.

PUBLIC WORKS COMMITTEE, COUNCILWOMAN BETH NELSON

A. Reports of the Public Works: Councilwoman Nelson presented reports from the

Public Works Superintendent, Construction Official and Land Use Officer.

B. Action Items:

Councilwoman Nelson moved the following 4 resolutions. The motion was seconded by Councilman Strohm and approved by unanimous voice vote.

RESOLUTION NO. 01/07/2014 – 10: PROVIDING FOR PAYMENT ESTIMATE NO. 12 – EMERGENCY BYPASS PUMPING SYSTEM (CONTRACT 2013-01)

WHEREAS, the Borough has entered into a Contract with Municipal Maintenance Co. (Contract 2013-01) to provide Emergency Bypass Pumping System; and

WHEREAS, the Contractor has submitted Payment Application No. 12, in the sum of \$4,336.50; and

WHEREAS, the Borough Engineer, Lawrence Plevier, P.E. (Hatch Mott MacDonald) has, by letter dated December 26, 2013, (Exhibit A, attached) recommended Payment Application No. 12 be paid.

IT IS NOW, THEREFORE, this 7th day of January, 2014, RESOLVED by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, that Payment Application No. 12 is hereby approved and shall forthwith be executed by the Mayor and Borough Clerk.

RESOLUTION NO. 01/07/2014 – 11: AUTHORIZE THE AWARD OF CONTRACTS FOR 2014 PROFESSIONAL SERVICES

WHEREAS, the Borough of Mantoloking has a need to acquire Professional Services as traditional contracts pursuant to the provisions of N.J.S.A. 19:44A-20.4 or 20.5 (as appropriate); and,

WHEREAS, Chief Financial Officer has determined and certified in writing that the value of the acquisitions will exceed \$17,500; and,

WHEREAS, the anticipated term of the contracts is one (1) year; and

WHEREAS, the following have submitted proposals by January 7, 2014 indicating they will provide their listed services:

<u>POSITION</u> <u>BUSINESS NAME</u>	<u>OFFICIAL</u>	<u>CONTRACT AMOUNT</u>	
Borough Engineer Stormwater Program Coordinator	Lawrence Plevier P.E.	\$48- \$200/Hour + Misc Exp	Hatch, Mott, MacDonald
Ocean County Block Grant Program Representative		“ “	
Assistant Engineer Municipal Planner Dune Inspector Flood Plain Manager Community Rating System Coordinator	Robert Mainberger, P.E.	\$48 -\$200/Hour + Misc Exp	Hatch, Mott, MacDonald And

WHEREAS, as may be applicable pursuant to N.J.S.A. 19:44-A-20.4, et seq. obligates the professional contractors to certify that they have not made any reportable contributions to a political or candidate committee in the Borough of Mantoloking in the previous one year, and that the contract will prohibit them from making any reportable contributions through the term of the contract, and

WHEREAS, the Business Entity Disclosure Certification shall be executed prior to execution of the professional services contract, and

WHEREAS, a Certificates of Availability of Funds issued by the Chief Financial Officer has been submitted pursuant to N.J.A.C. 5:30-5.4.

NOW THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Mantoloking authorize the Mayor to enter into the contracts with the professional contractors as described

herein; and,

BE IT FURTHER RESOLVED that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution. And,

BE IT FURTHER RESOLVED that notice of this action is published as a contract award without competitive bidding as professional services pursuant to N.J.S.A. 40:55D-24.

RESOLUTION NO. 01/07/2014 – 12: AUTHORIZED MISCELLANEOUS SUPPLY, SERVICE AND MAINTENANCE CONTRACTS FOR 2014

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 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.

<u>SERVICE</u>	<u>PROVIDER</u>	<u>CONTRACT AMOUNT</u>
Construction Official Computer Software Maint.	Mitchell Humphrey & Co.	\$2,140.00 Annual

RESOLUTION: INTRODUCTION OF ORDINANCE NO. 634 – CAPITAL ORDINANCE FOR THE PURCHASE OF USED STREET SWEEPER

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. 634
AN ORDINANCE PROVIDING FOR THE APPROPRIATION
OF THE SUM OF \$7,500.00 FROM THE CAPITAL IMPROVEMENT FUND FOR
THE PURCHASE OF USED STREET SWEEPER
IN THE BOROUGH OF MANTOLOKING, OCEAN COUNTY, NEW JERSEY**

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.

DUNE & BEACH RENOURISHMENT COMMITTEE, COUNCILMAN PETER STROHM

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

B. Action Items:

Councilman Strohm moved the following 2 resolutions. The motion was seconded by Councilwoman Ann Elizabeth Nelson and approved by unanimous voice vote.

RESOLUTION NO. 01/07/2014 – 14: AUTHORIZED OTHER PROFESSIONAL SERVICE AND MAINTENANCE CONTRACTS FOR 2014

WHEREAS, the award of contracts for professional services 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 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.

<u>POSITION</u>	<u>NAME</u>	<u>CONTRACT AMOUNT</u>	<u>BUSINESS NAME</u>
Dune Consultant	Dr. Stewart Farrell	Monitor Beaches: (Not to exceed) \$21,477.32/Ann.; Meetings: \$1,318.14/Meet; Requested Special Services: \$6,997.03	Stockton College Coastal Res. Ctr.

RESOLUTION NO. 01/07/2014 – 15: PROVIDING FOR PAYMENT OF FEE CLAIM

WHEREAS, as a result of the Borough's refusal to provide to the requestor the identity of property owners (holdouts who had not voluntarily granted U.S. Army Corps project easements), the requestor filed a Complaint in the New Jersey Superior Court (Ocean County) seeking remedies under the Open Public Records Act; and

WHEREAS, the Court has determined that the failure to provide the requested information constituted a violation of the Open Public Records Act, notwithstanding the Borough's strategy and desire to avoid such disclosure due to the potential for negative and unacceptable impact on the then ongoing negotiations for easement acquisition by voluntary grant; even when viewed in the context of the overwhelming success ultimately attained by the easement acquisition project; and

WHEREAS, the statute provides for an award of legal fees to counsel for a prevailing requestor; and

WHEREAS, counsel, Donald Burke, Esq. has, by way of settlement, requested \$22,352.50; and

WHEREAS, the Borough Attorney has advised that the public interest and economy will be advanced by settlement of the fee issue in lieu of continued litigation with significant risk and exposure that an adjudicated award would significantly exceed the proposed settlement sum and would necessitate additional expenditure of Borough resources in defense of the application for a judicial award of an "enhanced" fee and the attendant prospect for appeal by the Plaintiff; and

WHEREAS, the claimant will, as a result of negotiations, accept the sum of \$18,000.00 in final settlement of the matter.

IT IS NOW, THEREFORE, this 7th day of January, 2014 RESOLVED by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. The Borough shall pay the sum of \$18,000.00 to Donald Burke, Esq.;
2. Payment is conditioned upon execution and delivery of such releases by Donald Burke, Esq. and Stephen Burke and a Stipulation of Dismissal with prejudice as shall be approved by the Borough Attorney.

MUNICIPAL SERVICES COMMITTEE, COUNCILMAN JAMES J. BROWN

- A. Councilman Brown was absent. There were no reports submitted for the Municipal Services Committee.
- B. Action Items: None

MANTOLOKING COMMITTEE, COUNCILMAN CHRISTOPHER NELSON

- A. Councilman Nelson presented the reports of the Mantoloking Committee and the Environmental Commission.
- B. Action Items: None

8. MAYOR AND COUNCIL COMMENTS:

No comments were made.

9. PUBLIC COMMENTS PERIOD:

No comments from the public.

10. NEXT MEETING –

Council Workshop Meeting, Wednesday, February 5, 2014 at 8:30 a.m. at the Borough Temporary Offices, 340 Drum Point Road, Brick, NJ

Regular Council Meeting, Tuesday, February 11, 2014 at 4:30 p.m. at the Mantoloking Yacht Club, 1224 Bay Avenue, Mantoloking, NJ

11. ADJOURNMENT

There being no further business for this meeting, it was motioned by Councilman Gillingham to adjourn. The motion was seconded by Councilman McIntyre and approved by unanimous voice vote at 4:49 p.m.

Respectfully Submitted,

Irene H. Ryan, R.M.C.

Municipal Clerk