

**DRAFT #1(01/13/11)**

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

**MINUTES OF THE REGULAR BUSINESS MEETING**  
**December 20, 2010**

**PRESENTED CERTIFICATES OF RECOGNITION**

<b>Recipients:</b> Barbara Fischer	Mantoloking Conscientious Citizen
George A. Downes	President, Mantoloking Fire Company No. 1
Richard C. Bradley	Mantoloking Planning Board Member
G. Russell Henshaw	Mantoloking Planning Board Chairman

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 4:35 p.m.
  
- 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:** Mayor George C. Nebel, Council President Stanley F. Witkowski, Councilmen Steve Gillingham, Peter R. Strohm, Donald S. Ness and Councilwoman Ann Elizabeth Nelson  
**Absent:** Councilman James J. Brown  
  
**Also Present:** Municipal Clerk Irene H. Ryan, Borough Attorney Edwin J. O'Malley, Jr., Chief Financial Officer Michelle Swisher, Police Chief Mark Wright 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. 12/20/2010 - 01: APPROVAL OF MINUTES**  
Councilwoman Nelson moved that the minutes of the Regular Meeting of November 22, 2010 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 introduced the Municipal Finance Officer Michelle Swisher who presented the monthly finance report.

**B. Action Items:**

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

**RESOLUTION NO. 12/20/2010 – 02: ACCEPTANCE OF THE REPORT OF THE MUNICIPAL FINANCE OFFICER October 31, 2010**

**WHEREAS**, the Chief Finance Officer has presented a report on the status of the 2010 municipal budget as of October 31, 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	\$4,078,495.48	\$3,278,616.55 761,602.84	\$ 38,276.00 \$
2009 Appropriation Reserves	\$ 385,348.95	\$ 128,932.55 256,416.40	\$ .00 \$
Capital	\$1,643,939.99	\$ 281,910.81 \$1,362,029.18	

ACCOUNT	REVENUE THIS MONTH	REVENUE YEAR TO DATE
Cash Receipts	\$2,633,901.71	\$9,881,686.46

**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. 12/20/2010 – 03: PAYMENT OF BILLS FOR THE MONTH OF NOVEMBER, 2010**

**WHEREAS**, the Municipal Finance Officer has presented a list of bills in the total amount of \$274,217.41 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. 12/20/2010 – 04: APPROVED REQUEST TO REFUND OF ESCROW FEES**

**WHEREAS**, the Finance Office of the Borough of Mantoloking has researched the balance of the following escrow account which has been completed,

**WHEREAS**, the Borough Engineer has been consulted and confer that the following account is completed as far as they are concerned and

**WHEREAS**, the balance left on the account is due back to the escrow applicant

**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 escrow balance:

<u>Escrow Applicant</u>	<u>Amount</u>
NJ American Water 213 Carriage Lane Delran, NJ 08075	\$347.65

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

**RESOLUTION NO. 12/20/2010 – 05: APPROVED REQUEST FOR THE CANCELLATION OF OUTSTANDING CURRENT CHECKS**

**WHEREAS**, the Borough of Mantoloking's Current Account has issued numerous checks drawn on this account; and

**WHEREAS**, the Borough is closing the TD Bank Account because of excessive fees,

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the Borough of Mantoloking that the following checks have been drawn on the TD Bank Current Account to be canceled and voided in the year that they were drawn in the total amount of \$1,257.88.

<u>CK#</u>	<u>PAYEE</u>	<u>AMOUNT</u>
23597	NJ League of Municipalities	\$285.00
23188	Costco Company	873.88
23654	Institute for Professional Dev	99.00

**RESOLUTION NO. 12/20/2010 – 06: APPROVED REQUEST FOR THE CANCELLATION OF OUTSTANDING PAYROLL CHECKS**

**WHEREAS**, the Borough of Mantoloking's Payroll Account has issued numerous checks drawn on this account; and

**WHEREAS**, the Borough is closing the TD Bank Account because of excessive fees,

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the Borough of Mantoloking that the following checks have been drawn on the TD Bank Payroll Account to be canceled and the balance has been turned over to the Current Miscellaneous Revenue Account in the total amount of \$89.61

<u>CK#</u>	<u>AMOUNT</u>
13493	\$89.61

**RESOLUTION NO. 12/20/2010 – 07: APPROVED THE TRANSFER OF CURRENT YEAR APPROPRIATIONS #2-2010**

**WHEREAS**, N.J.S.A. 40A:4-58 provides for transfers within certain appropriations within the Municipal Budget during the last two months of the fiscal year; and

**WHEREAS**, the Chief Financial Officer has advised the Mayor and Council of the Borough of Mantoloking that the need for certain transfers within the 2010 Municipal Budget exists; and

**WHEREAS**, it is recommended that these budget transfers be made and;

**NOW, THEREFORE BE IT RESOLVED**, that the following budget transfers be made in the 2010 Municipal Budget:

<b>CURRENT ACCOUNT</b>		<b>TO</b>	<b>FROM</b>
POLICE	S&W	\$27,000.00	
BEACH GUARD	S&W		\$10,000.00
BEACH GUARD	OE		\$ 1,500.00
ROAD REPAIR	S&W	\$ 7,000.00	
ROAD REPAIR	OE		\$ 3,000.00
SEWER	OE		\$ 5,000.00
GASOLINE	OE	\$16,000.00	
MUNICIPAL COURT	S&W		\$ 5,000.00
BEACH MAINTENANCE	OE		\$25,500.00
<b>TOTAL</b>		<b>\$50,000.00</b>	<b>\$50,000.00</b>

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

**RESOLUTION NO. 12/20/2010 – 08: APPROVAL OF THE 2011 ROSTER OF COUNCIL MEETINGS**

The following is the schedule of the 2011 Organizational and Regular Council Meetings 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 3, 2011
  
- REGULAR MEETINGS:**
  - Tuesday, January 18, 2011
  - Tuesday, February 22, 2011
  - Monday, March 21, 2011
  - Monday, April 18, 2011
  - Monday, May 16, 2011
  - Monday, June 20, 2011
  - Monday, July 18, 2011
  - Monday, August 15, 2011
  - Monday, September 19, 2011
  - Monday, October 17, 2011
  - Monday, November 21, 2011
  - Monday, December 19, 2011
  - 2012 Organization Meeting Monday, January 2, 2012 (TENTATIVE)

**RESOLUTION NO. 12/20/2010 – 09: APPROVED CALLING ON THE STATE LEGISLATURE AND THE GOVERNOR TO EXEMPT THE RESERVE FOR UNCOLLECTED TAXES FROM THE 2% CAP**

**WHEREAS**, on July 13, 2010, Governor Christie signed into law P.L. 2010, c. 44, which reduced the cap on the property tax levy from 4% to 2% and limited the number of exemptions; and

**WHEREAS**, when the property tax levy was reduced, the exemption for the Reserve for Uncollected Taxes was removed; and

**WHEREAS**, in addition to collecting property taxes for its own operations, the Borough of Mantoloking also serves as the collection agent for the county, school districts, fire districts and other special local entities; and

**WHEREAS**, the Borough of Mantoloking must provide those entities with the full amount they deem necessary for their operations, regardless of the actual collection rate; and

**WHEREAS**, due to myriad factors beyond local control, the actual collection rate never equals the total local levy, especially during an economic downturn, when unemployment soars and property values plummet, causing an increase in tax appeals, which the municipality must defend and which subject the municipal budget to further losses, when successful; and

**WHEREAS**, to account for the shortfall and potential losses, State law requires the municipality to budget an appropriation in a line item known as the Reserve for Uncollected Taxes, which is generally determined through a formula driven calculation in which the variables change year to year; and

**WHEREAS**, without a levy cap exemption, municipalities will be forced to further cut their own operations, in order to meet the 2% tax levy cap to provide the county, school districts, fire districts and other special local entities the full amount they deem necessary for their operations; and

**WHEREAS**, those other local entities, which do not have to budget for collection rate short-falls or the impact of declining property values, have been granted levy cap exceptions to address factors beyond their control; and

**WHEREAS**, Assemblymen McKeon and Burzichelli has recently introduced A-3603, which excludes increases in appropriations to the Reserve for Uncollected Taxes in excess of Two percent, from calculations of the municipal adjusted tax levy;

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the Borough of Mantoloking hereby urges the swift passage and signing of A-3603;

**BE IT FURTHER RESOLVED**, that consideration also be given to providing a levy cap exception to account for the impact of tax appeals on local operations; and

**BE IT FURTHER RESOLVED**, that copies of this Resolution be forwarded to New Jersey Governor Christopher Christie, to Senate President Stephen Sweeney, to Assembly Speaker Sheila Oliver, to our State Senator, to our two Representatives in the General Assembly, and to the New Jersey League of Municipalities.

**PUBLIC HEARING** – Mayor Nebel opened the meeting for a Public Hearing on Ordinance No. 591, Mantoloking Borough Salary Ordinance. No comments were made.

Councilman Witkowski moved the following resolution.

**RESOLUTION NO. 12/20/2010 – 10: ADOPTION OF ORDINANCE NO. 591 – MANTOLOKING BOROUGH SALARY ORDINANCE**

**WHEREAS**, on the 20<sup>th</sup> day of December, 2010 a public hearing on Ordinance No. 591 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. 591**

**AN ORDINANCE FIXING SALARY AND COMPENSATION OF CERTAIN OFFICERS, POSITIONS AND EMPLOYEES IN THE BOROUGH OF MANTOLOKING, OCEAN COUNTY, NEW JERSEY, TO BE KNOWN AS THE “MANTOLOKING BOROUGH SALARY ORDINANCE” AND RESCINDING ORDINANCE 561**

The motion was seconded by Councilman Gillingham and approved by unanimous voice vote.

**PUBLIC SAFETY COMMITTEE, COUNCILMAN GILLINGHAM:**

**A. Reports of the Public Safety Committee:** Councilman Gillingham introduced Chief Wright who presented the report of the Police Department. Councilman Gillingham concluded with the presentation of the reports of the Municipal Court and Fire Company. A report of the Emergency Management Coordinator was not submitted.

**B. Action Items:**

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

**RESOLUTION NO. 12/20/2010 – 11: APPROVAL OF MANTOLOKING FIRE COMPANY NO. 1 MEMBER APPLICATION – CHRISTOPHER R. NIEBLING**

**WHEREAS**, Christopher R. Niebling, 2023 Barnegat Blvd., Point Pleasant, N.J., has applied to become a firefighter with the Mantoloking Fire Company No. 1 (MFC) and the Trustees of the MFC have recommended the Borough Council approve his application, and

**WHEREAS**, one or more of the requirements for designation as a firefighter set forth in the MFC bylaws are still in the process of being completed, and

**WHEREAS**, Christopher R. Niebling's appointment must be approved by the Borough Council before he can begin active duty, now, therefore, be it

**RESOLVED**, the Borough Council hereby approves Christopher R. Niebling as a probationary firefighter member of the Mantoloking Fire Company No. 1, effective immediately, but subject to completion of any and all legal and administrative requirements.

**RESOLUTION NO. 12/20/2010 – 12: APPROVED REQUEST FOR NEW JERSEY AMERICAN WATER COMPANY TO IMPLEMENT PROJECT TO COLOR CODE LOCAL FIRE HYDRANTS**

**RESOLVED**, The Mayor and Council of the Borough of Mantoloking request the New Jersey American Water Company to color code local fire hydrants as follows:

1500 GPM	Blue
1000-1499 GPM	Green
500-999 GPM	Orange
Less than 500 GPM	Red

**RESOLUTION NO. 12/20/2010 – 13: IN SUPPORT OF THE NEW JERSEY SPECIAL OLYMPICS "JERSEY SHORE RELAY"**

**WHEREAS**, the SE NJ Elks Special Children's Committee and the Jersey Shore Running Club, have requested permission to utilize roadways in the Borough in conjunction with the foot relay, on Saturday, April 16, 2011 and

**WHEREAS**, the Mayor and Council wish to endorse and support the SE NJ Elks Special Children's Committee and the Jersey Shore Running Club.

**IT IS NOW, THEREFORE**, this 20<sup>th</sup> day of December, 2010, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. The request to utilize roadways within the Borough, as part of the "Jersey Shore Relay", is hereby granted subject only to endorsement by the Chief of Police.
2. Upon endorsement by the Chief, a copy of this Resolution shall be forwarded to The SE NJ Elks Special Children's Committee and the Jersey Shore Running Club, Attention: Bob Both, Jersey Shore Relay Event Director.
3. This approval and endorsement is subject to such conditions, if any, as shall be established by the Chief.

**RESOLUTION NO. 12/20/2010 – 14: PROVIDING THAT THE BOROUGH OF MANTOLOKING SHALL NOT SEEK SUBSTANTIVE CERTIFICATION (COAH)**

**WHEREAS**, the Borough has filed its Housing Plan Element with COAH to avail itself of interim protection from “builder’s remedy” action; and

**WHEREAS**, the Mayor and Council have considered the analysis and opinion provided by the Borough’s Planner, Thomas Planning Associates, Inc. and counsel; and

**WHEREAS**, submittal of a Request for Substantive Certification of the Housing Plan Element by COAH would appear to be contra-indicated when considered in the context of pending legislation which, if adopted, may eliminate COAH and establish a regulatory scheme more accommodating to the interests of the Borough and its residents; and

**WHEREAS**, the planning consultants have recommended that the Borough should not now seek Substantive Certification of the Housing Plan Element of the Borough’s Master Plan;

**IT IS NOW, THEREFORE**, this 20<sup>th</sup> day of December, 2010, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, that the Borough shall not, at this time, seek Substantive Certification of the Housing Element Plan of the Borough’s Master Plan.

Councilman Gillingham moved the following resolution.

**RESOLUTION NO. 12/20/2010 – 15: RESCINDING THE NOVEMBER 22, 2010 AMENDMENT OF PROPOSED ORDINANCE 592 (PARKING PLACES FOR CONSTRUCTION)**

**WHEREAS**, on November 22, 2010, the Borough Council introduced and adopted on first reading, proposed Ordinance 592, as amended in scope to include all streets; and

**WHEREAS**, it is the desire of the Mayor and Council to rescind the amendment of the proposed Ordinance 592.

**IT IS NOW, THEREFORE**, this 20<sup>th</sup> day of December, 2010, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, that the amendment of proposed Ordinance 592, on November 22, 2010, is hereby rescinded.

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

**PUBLIC WORKS COMMITTEE, COUNCILWOMAN NELSON**

**A. Reports of the Public Works:** Councilwoman Nelson presented the reports from the Public Works Superintendent, Construction Official and Land Use Officer.

**C. Action Items:**

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

**RESOLUTION NO. 12/20/2010 – 16: APPOINTMENT OF PERSONNEL – DEPUTY PLUMBING INSPECTOR**

**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>
Salvatore Farruggia	Deputy Plumbing Inspector	November 23, 2010	\$25.00/Hour

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

- A. **Report of the Dune & Beach Renourishment Committee and Ocean County Block Grant Program**
- B. **Action Items:**

**PUBLIC HEARING** – Mayor Nebel opened the meeting for a Public Hearing on Ordinance No. 593, Reconstruction and Reinstallation of Permitted Dune Area Structures. No comments were made.

Councilman Strohm moved the following resolution:

**RESOLUTION NO. 12/20/2010 – 17: ADOPTION OF ORDINANCE NO. 593 – RECONSTRUCTION AND REINSTALLATION OF PERMITTED DUNE AREA STRUCTURES**

**WHEREAS**, on the 20<sup>th</sup> day of December, 2010 a public hearing on Ordinance No. 593 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. 593**

**AN ORDINANCE PROVIDING FOR AMENDMENT OF CHAPTER XI, SECTION 11-3.9 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF MANTOLOKING, OCEAN COUNTY, NEW JERSEY, PROVIDING FOR RECONSTRUCTION AND REINSTALLATION OF PERMITTED DUNE AREA STRUCTURES**

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

**PUBLIC HEARING** – Mayor Nebel opened the meeting for a Public Hearing on the 2011 Ocean County Community Development Block Grant (CDBG) program as published in accordance with the CDBG program rules. No public comments and no applications were made. A second public hearing will be held on January 18, 2011 at 4:30 p.m.

**MUNICIPAL SERVICES COMMITTEE, COUNCILMAN BROWN (Absent)**

- A. **Councilman Brown:** No reports of the Municipal Services Committee were submitted.
- B. **Action Items:** None

**MANTOLOKING COMMITTEE, COUNCILMAN NESS**

- A. **Councilman Ness:** No reports of the Mantoloking Committee and the Environmental Commission were submitted.
- B. **Action Items:**

Councilman Ness moved the following resolution:

**RESOLUTION NO. 12/20/2010 – 18: AUTHORIZING EXECUTION OF CONTRACT BETWEEN BOROUGH OF MANTOLOKING AND FIREWORKS BY GRUCCI, INC. (CENTENNIAL CELEBRATION, JULY, 2011)**

**WHEREAS**, the Borough will celebrate its Centennial in July, 2011; and

**WHEREAS**, the award of a Contract for artistic fireworks performance is not subject to local public contracts bidding requirements; and

**WHEREAS**, Fireworks by Grucci (Grucci), Inc. has designed a performance program which is deemed appropriate; and

**WHEREAS**, the Centennial Committee has, with assistance of counsel, negotiated the form of a proposed Contract between Grucci and the Borough; and

**WHEREAS**, the funding source for the Contract is by donation from the Mantoloking Historical Society, sale of centennial memorabilia and other donations.

**IT IS NOW, THEREFORE**, this 20th day of December, 2010, RESOLVED by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. The Mayor and Clerk are authorized to sign the proposed Contract between the Borough and Fireworks by Grucci;
2. The Contract shall be effective upon execution by Grucci and receipt of the proof of insurance in compliance with contractual requirements.

The motion was seconded by Councilman Strohm and approved by unanimous voice vote.

**8. MAYOR AND COUNCIL COMMENTS**

Mayor Nebel announced that the Tax Assessment books will be open to the public on December 30, 2010. This information will also be posted on the Borough's website.

**9. PUBLIC COMMENTS PERIOD**

Two comments were made by the public about electronic trash pick-up plans and property taxes.

**11. OPEN SESSION AS NECESSARY**

**12. NEXT MEETING** Organization Council Meeting, January 3, 2011 at 4:30 p.m. and Regular Council Meeting, January 18, 2011 at 4:30 p.m.

**13. ADJOURNMENT**

There being no further business for this meeting, it was motioned by Councilwoman Nelson to adjourn. The motion was seconded by Councilman Strohm and was approved by unanimous voice vote at 5:05 p.m.

Respectfully submitted,

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