

MAYOR AND COUNCIL  
BOROUGH OF MANTOLOKING  
OCEAN COUNTY, NEW JERSEY

Draft #1 (06/07/13)

MINUTES OF THE SPECIAL MEETING  
April 8, 2013

A Special Meeting of the Mayor and Council was held this day in the Auditorium of the G. Harold Antrim Elementary School with the following action.

**CALL TO ORDER** Council President Steve Gillingham opened the meeting at 4:35 p.m.

**OPEN PUBLIC MEETING STATEMENT:** Council President Steve Gillingham

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.

**ROLL CALL**

Present: Council President Steve Gillingham, Councilmen Peter R. Strohm, James J. Brown, Donald S. Ness, Robert S. McIntyre, Jr. and Councilwoman Ann Elizabeth Nelson

Absent: Mayor George C. Nebel

Also Present: Deputy Borough Clerk Lynne A. Hazelet, Borough Attorney Edwin J. O'Malley, Jr., Special Consultant Christopher Nelson

**PLEDGE OF ALLEGIANCE** The Council President led the assembly in the Pledge of Allegiance.

**PUBLIC WORKS COMMITTEE - COUNCILWOMAN ELIZABETH NELSON**

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

RESOLUTION NO. 04/08/2013 – 01: AUTHORIZING A THIRD SPECIAL EMERGENCY APPROPRIATION IN THE AMOUNT OF \$3,100,000.00 AS AN AMENDMENT TO THE ORIGINAL SPECIAL EMERGENCY ADOPTED 12/17/2012 FOR \$2,000,000.00 AND TO THE AMENDMENT TO THAT RESOLUTION DATED 2/26/2013 IN THE AMOUNT OF \$2,000,000.00 FOR A TOTAL AMENDED AMOUNT OF \$7,100,000.00 TO COVER THE COSTS OF EXTRAORDINARY EXPENSES FOR THE REPAIR AND RECONSTRUCTION OF STREETS AND ROADS, SEWER SYSTEMS, AND ALL OTHER PUBLIC PROPERTY DAMAGED, INCLUDING DEBRIS REMOVAL, IN THE BOROUGH OF MANTOLOKING, IN THE COUNTY OF OCEAN, STATE OF NEW JERSEY IN ACCORDANCE WITH N.J.S.A. 40A:4-54

WHEREAS, N.J.S.A. 40A:4-54 provides that a municipality may make a special emergency appropriation and issue “special emergency notes” to finance certain extraordinary expenses for the repair and reconstruction of municipal streets, roads, sewer systems, damages to public property resulting from a flood or hurricane where such expenses were not foreseen at the time of adoption of the annual budget; and

WHEREAS, the Borough of Mantoloking has originally adopted a special emergency resolution on 12/17/2012 in the amount of \$2,000,000.00 and a second special emergency resolution in the amount of \$2,000,000.00 on 2/26/2013 and now wishes to increase that amount by another \$3,100,000.00 for a total special emergency of \$7,100,000.00 attributable to the 2012 budget,

WHEREAS, the Borough of Mantoloking, in the County of Ocean, State of New Jersey (the “Borough”), has suffered substantial damages from Hurricane Sandy that were unforeseen and must make this emergency appropriation to meet certain extraordinary expenses incurred, or to be incurred, as a result of Hurricane Sandy to protect public property, health, safety and welfare.

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE BOROUGH OF MANTOLOKING, IN THE COUNTY OF OCEAN, NEW JERSEY, with the affirmative concurrence of not less than two-thirds of all members thereof,

AS FOLLOWS:

- 1.

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Section 1. Declaration of Emergency. A third special emergency appropriation is hereby made for extraordinary expenses for the demolition and debris removal of certain residences in the Borough of Mantoloking in the amount of \$3,100,000.00, incurred or to be incurred by the Borough as a result of Hurricane Sandy, which expenses are required to protect or promote public property, health, safety and welfare and were unforeseen at the time of adoption of the 2012 annual budget. The amount of the contract to the vendor shall not exceed \$2,859,650.00 and the amount for the administration of the contract shall not exceed \$240,350.00. In accordance with N.J.S.A. 40A:4-54 et seq., such emergency appropriation shall be provided for in the budget of the next succeeding five (5) years by the inclusion of not less than 1,420,000.00 per year.

Section 2. Filing with the Division of Local Government Services. The statement required by the Local Finance Board has been filed with the Clerk and a copy will be transmitted to the Director of the Division of Local Government Services. Two (2) certified copies of this resolution will be filed with the Director of the Division of Local Government Services; however, no approval is required from the Local Finance Board in this particular instance as approved by the Division.

Section 3. Determination of Additional Matters. All other terms of the issuance of the special emergency notes authorized by this Resolution, including, without limitation, the dates thereof, the rates of interest to be paid thereon, the provisions for redemption prior to maturity thereof, and the place or places for payment thereof, shall be determined by subsequent resolutions of the Borough of Mantoloking, as permitted by Section 40A:4-55 of the local Budget Law.

Section 4. Effective Date. This resolution shall take effect immediately upon adoption, this 8<sup>th</sup> day of April, 2013.

### RESOLUTION NO. 04/28/2013 - 03: AWARD OF CONTRACT – CLEANING OF VARIOUS STORM SEWERS AND INLETS, CONTRACT NO. 2013 - 03

WHEREAS, the Municipal Engineer has confirmed that damage to the Borough Street infrastructure constitutes a present risk to the health and well-being of persons in the Borough; and

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WHEREAS, the Engineer has solicited and obtained proposals for the project, pursuant to a detailed request for proposals, to which three (3) potential providers responded; and

WHEREAS, the proposal of American Pipe Cleaning to provide the specified services for the sum of \$29,559.00 was the lowest responsive bid; and

WHEREAS, American Pipe Cleaning will provide the required services immediately; and  
WHEREAS, funds are available and a Certificate of Funds Availability has been filed; and  
WHEREAS, the Mayor has, on behalf of the Borough, is authorized to execute the Contract with American Pipe Cleaning.

IT IS NOW, THEREFORE, this 8<sup>th</sup> day of April, 2013, RESOLVED by the Council of the Borough of Mantoloking, Ocean County, New Jersey, that award of the Contract for cleaning of various storm sewers and inlets project, Contract No. 2013-03. is in the public interest and that the award and Contract execution by the Mayor are now hereby approved.

RESOLUTION NO. 04/08/2013 – 04: APPOINTMENT OF PERSONNEL – HURRICANE RECOVERY EMERGENCY 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
William A. Lackey	Public Works Laborer	04/08/13 – 10/31/13	\$30.00/hour

PUBLIC HEARING – Council President Steve Gillingham opened the meeting for a public hearing on Ordinance No. 617, Land Use Amendment

Councilwoman Nelson moved the following resolution.

RESOLUTION NO. 04/08/2013 – 05: ADOPTION OF ORDINANCE NO. 617 – LAND USE AMENDMENTS

WHEREAS, on the 8<sup>th</sup> day of April, 2013 a public hearing on Ordinance No. 617 was held

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and one (1) comment was 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. 617**

**AN ORDINANCE OF THE BOROUGH OF MANTOLOKING,  
OCEAN COUNTY, NEW JERSEY, AMENDING CHAPTER XXX,  
OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF MANTOLOKING, LAND  
USE REGULATIONS**

BE IT ORDAINED as follows:

I

1. Article 30-2.2: DEFINITIONS: Delete: Scarp Line.
2. Yard front, Delete and provide:

YARD, FRONT – A yard extending across the full width of the lot and lying between the street line, ~~scarp line~~ Dune Reference Line/Seawall Line or bulkhead line (as defined herein), as applicable, of the lot in question and the nearest wall or part of the building. The depth of the front yards shall be measured at right angles to the applicable street line, ~~scarp line~~ Dune Reference Line/Seawall Line or bulkhead line as the case may be. The minimum front yard depth of all lots abutting the Atlantic Ocean shall be sixty (60) feet westwardly from that line designated ~~“scarp line”~~ Dune Reference Line/Seawall Line on the Tax Maps of the Borough, map entitled: “Plan of Borough of Mantoloking, Sanitary Sewerage System, March 1973” as modified based upon field observations on December 30, 1992 and January 2, 1993, by Stetler and Guldin, Incorporated, Borough Engineers locating the scarp line resulting from the northeast storm of December 11, 1992.

3. Add: Following “Dune Area:

DUNE REFERENCE LINE / SEAWALL LINE – A common line shown on the Tax Maps of the Borough that is between a buildable lot and the OS Lot.

4. Add: Following “Variance”:

VERTICAL BUILDING ENVELOPE – The distance between the finished first floor level to the roof ridge line.

5. Add following “Standard of Performance”:

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STEP (STAIRS) – A structure to provide access to the first floor level of a dwelling or deck or stair platform. (See calculation of Lot Coverage (30-6.8) and Appendix B, and Lot Coverage, Total (30-6.8(c)).

6. Section 30-4.14, Temporary Facilities, delete and provide:

### **30-4.14 Temporary Facilities.**

- a. Permits shall be obtained from the **Land Use** Officer for temporary placement of dumpsters, construction trailers, storage trailers, modular temporary storage units and sanitary waste facilities on any lot within the municipality.
- b. Prior to the placement of any temporary construction facility within the Borough, an application, ~~with the required fee~~ and a plan identifying the proposed location of the temporary facilities and the proposed duration of **use**, shall be submitted to the **Land Use** Officer for approval.
- c. Such facilities shall be placed within the building envelope whenever possible. In no event may any such facility be placed on sidewalks or other public property or within 10 feet of any property line of the lot.
- d.
  1. It shall be the applicant's responsibility to maintain such facilities in a neat and sanitary condition at all times and so as not to become a nuisance to abutting or nearby property owners. The **Land Use** Officer may revoke the permit, after notice to the permit holder, if the facility is deemed to be a nuisance.
  2. Only one such facility of each type shall be permitted on the premises at any one time, in addition to a portable sanitary facility.
  3. All permits for temporary facilities shall be revocable by the **Land Use** Officer upon cessation of continuous construction activity or such other approved **use**, subject to terms and conditions of the approved permit.
  4. No temporary facility shall be utilized for habitation and shall not include plumbing, heating, cooling or electrical equipment or devices of any nature.
  5. Any temporary structure which, in the opinion of the Construction Official or the Chief of Police, shall constitute a hazard to the safety of persons or property, shall be removed immediately, at the expense of the permit holder.

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6. Applicants for a temporary facility permit shall complete the application form and submit it to the **Land Use** Officer with their permit/application fee, twenty-five (\$25.00) dollars. Fees are not refundable.

e. No temporary facility may be used to mount a sign for any advertising purpose. A temporary facility may include identification information which shall not exceed two and one-half (2.5) square feet in size.

~~f. No Certificate of Compliance shall be issued until all temporary facilities have been removed from the site~~

f. No Certificate of Compliance shall be issued until all temporary facilities have been removed from the site.

~~e.~~  
7. Article 30:6-9, "Yard Area": Delete and insert:

**30-6.9 Yard Area.**

Every part of a required yard shall be open and unobstructed from its lowest level, except for the ordinary projection of sills, chimneys, flues, ornamental features and eaves, and except for fences, vegetation or landscaping; provided, however, that none of the building projections shall project into the minimum required yard areas by more than twelve (12) inches. ~~Open, unenclosed and unroofed entrance porches and stoops which do not rise above the ground floor level may extend in any yard setback, provided that the total area of such entrance porches or stoops which extend into such yards does not exceed one hundred (100 S.F.) square feet and is located at least five (5) feet from any property line. In Zones R-1, R-2a, R-2b, R-4A, R-RB, R-3A, R-3B, R-3C, R-4A and R-4B, the extension of open, unenclosed and unroofed entrance porches and stoops which do not rise above the ground floor level may extend into any yard setback, provided that the total area of such entrance porches or stoops which extend into such yards does not exceed 150 square feet for the Front and Back Yards and the extension into one Side Yard cannot exceed one hundred square feet (100 S.F.). In all other Zones, the maximum extension is one hundred square feet (100 S.F.) for the Front, Back and one Side Yard. In all cases the extension must be located at least five feet (5') from any property line.~~ Handicap entrances hereafter constructed upon buildings existing as of the adoption of this chapter may be excepted from a strict application of this ~~one hundred (100 S.F.) square feet~~ entrance porch limitation at the discretion of the Land Use Officer and in conformity with all applicable laws and regulations, including but not limited to the Americans with Disabilities Act (ADA). No yard or other open space on one (1) lot shall be considered as providing a yard or open space for a building on any other lot (Ordinance No. 465 §6.8; Ord. No.470 §4.9).

8. Article 30-6.10.b, Setbacks, ~~delete ScarpLine; replace with~~ and Dune Reference Line/Seawall Line.

II

9. Article 30-6.16, Sub-Article 2, Consolidation of certain Lots- Bulk Standards, delete and insert:

**30-6.12.1 — Repeated Use of Vertical Building Envelope Factor:**

Any structure that is elevated after the adoption of Schedule B of Ordinance 617, or as further amended, so that the finished first floor elevation is higher than the maximum that is permitted in the Zone and has applied a previous maximum vertical building envelope modification factor shall not be subsequently permitted to be expanded to the maximum vertical building envelope without first obtaining variance relief from the Planning Board.

**30-6.16 Consolidation of Certain Lots-Bulk Standards.**

If two (2) or more conforming oceanfront lots located south of Lyman Street are consolidated, then the following bulk standards shall apply:

- a. Maximum lot coverage: sixteen (16%) percent.
- b. Maximum building height:

1. If two (2) conforming lots are consolidated: fifty-two (52) feet over crown of road.

2. If three (3) or more conforming lots are consolidated and if the finished first floor is twenty-five (25) feet or higher over the crown of the road, the roof ridges, for not more than sixty percent (60%) of their entire length shall not exceed the height of fifty-five (55) ~~three (53)~~ feet over crown of road. The remainder of the structure shall not exceed fifty-two (52) ~~(50)~~ feet over crown of road. ~~The proposed finished first floor elevation of twenty-five (25) feet, or higher, shall not be more than three (3) feet over the preconstruction average grade elevation along the easterly side (front) of the proposed dwelling.~~

In the event that the finished first floor ~~elevation~~ is less than twenty-five (25) feet, over the crown of the road, the building height shall not exceed fifty-two (52) ~~(50)~~ feet over the crown of road.

- c. Minimum side yard setback:
  - For one side: twenty (20) feet.
  - For both side yards: Thirty-five percent (35%) of the lot frontage
- d. Minimum rear yard setback: Two (2) times the required rear yard setback in the zone.
- e. Buffer: A buffer area at least fifteen (15) feet in depth and landscaped with evergreen trees (minimum height six (6) feet) and other native species shall be provided along and street lint to minimize the visibility of the structures from the road.

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10. Article 30-6.8-3, Lot Coverage (Exclusions): add:

(d) Steps and stair platforms over a permeable area up to 200 square feet in area in both front and rear yards and 75 square feet in only one sideyard area. (This exclusion shall apply only to existing pre-Sandy structures. The steps and stair platforms shall be parallel to lot sidelines and unenclosed in any manner).

IV

- i. Section 30-6.11 (a)(9), Accessory Use and Accessory Structures, delete and provide:

A recreational vehicle (RV) ~~or camper~~ is ~~not~~ a permitted accessory use. The parking ~~or storing~~ and habitation of one RV or camper for more than forty-eight (48) hours in any fourteen (14) day period on a property is prohibited shall be permitted on any residential lot in the Borough. Habitation shall only be permitted for the immediate family members of the owner(s) of the lot on which the RV will be placed. Any power to be supplied to the RV shall be shore power and generators of any kind are prohibited. All sanitary facilities shall be within the RV and shall not be connected to the Borough sanitary sewer system. The RV as placed must maintain a minimum 10 foot set back from all property lines. The property owner shall register and confirm the placement of an RV on the lot with the Zoning Officer of the Borough. No permit fee shall be charged for the registration of the RV. (The permit shall expire at the earlier of one (1) year or the issuance of a Certificate of Occupancy).

V

- ii. Section 30-6.11(a)(5), delete and provide:

The use and/or occupancy ~~for the purpose of habitation of~~ any boat, ~~ship, barge or other vessel is prohibited~~ is permitted as an accessory use ~~except that one transient boat, ship, barge or other vessel may be used for habitation for not more than seven (7) consecutive days following the first day of such use in any year~~ only for the immediate family members of the owner(s) of the lot to which a dock is attached. The boat must be at the dock which is constructed as part of the property of the lot owner. Any power to be supplied to the boat shall be shore power and generators of any kind are prohibited. All sanitary facilities shall be on board and shall not be connected to the Municipal sanitary sewer system. The property owners shall register and confirm with the Zoning Officer or the Borough that the property owner is utilizing a boat for habitation purposes. No permit fee shall be charged for the registration of the boat. (The permit shall expire at the earlier of one (1) year or the issuance of a Certificate of Occupancy).

11. Article 30-8.2 Grandfather Provisions: Add:

A structure which has an existing finished floor elevation which is below the minimum or above the maximum finished floor elevation as set out in Schedule B at the time of adoption of Ordinance 617, or as further amended, shall be acknowledged as a conforming structure. That conforming designation shall apply only to the minimum/maximum first floor elevation requirements and not to any other preexisting nonconformities.

VI

Appendix B: Appendix B, adopted May, 2008, is deleted and is replaced by new Appendix B, attached, revised as of March 8, 2013-

VII

~~4011.~~ All provisions of the Land Use ~~Regulations Ordinance~~, not hereby amended shall remain in full force and effect.

~~4112.~~ This Ordinance shall be effective upon final adoption.

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

Roll call: Aye – Nelson, Strohm, Gillingham, Brown, Ness, McIntyre

Nay – None

Absent - None

PUBLIC HEARING – Council President Steve Gillingham opened the meeting for a public hearing on Ordinance No. 618, Flood Damage Prevention Amendment

RESOLUTION NO. 04/08/2013 – 06: ADOPTION OF ORDINANCE NO. 618 – FLOOD DAMAGE PREVENTION AMENDMENTS

WHEREAS, on the 8<sup>th</sup> day of April, 2013 a public hearing on Ordinance No. 618 was held and four (4) 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. 618**

**ORDINANCE OF THE MAYOR AND COUNCIL OF THE BOROUGH  
OF MANTOLOKING, OCEAN COUNTY, NEW JERSEY,  
PROVIDING FOR AMENDMENT OF ORDINANCE 525, FLOOD DAMAGE PREVENTION, AND  
REVISIONS OF CHAPTER XXIII OF THE  
REVISED GENERAL ORDINANCES OF THE BOROUGH OF MANTOLOKING,  
2007 (THE CODE)**

BE IT ORDAINED AS FOLLOWS:

See partial text of Ordinance 525, which has been marked to show **deletions** and **additions** – **changes** to the following Articles: 23.2.2., 23-3, 23.5.1. 23.5.2, and 23.5.3

### **23-2.2 Definitions.**

**Advisory Base Flood Elevation (ABFE)** — The elevation shown on a community's Advisory Flood Hazard Map that indicates the advisory stillwater elevation plus wave effect (ABFE = SWEL + wave effect) resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

**Advisory Flood Hazard Area (AFHA)** —The land in the floodplain within a community subject to flooding from the 1% annual chance event depicted on the Advisory Flood Hazard Map.

**Advisory Flood Hazard Map** - The official map on which the Federal Emergency Management Administration has delineated the areas of advisory flood hazards applicable to the community.

**Freeboard** - An additional amount of height above the Base Flood Elevation used as a factor of safety (e.g., 2 feet above the Base Flood) in determining the level at which a structure's lowest floor must be elevated or flood proofed.

### **23-3 GENERAL PROVISIONS.**

#### **23-3.2 Basis for Establishing the Areas of Special Flood Hazard.**

The areas of special flood hazard for the Borough of Mantoloking, Community No. 340383, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- a. A scientific and engineering report "Flood Insurance Study, Ocean County, New Jersey (All Jurisdictions)" dated September 29, 2006;

b. Flood Insurance Rate Map for Ocean County, New Jersey (All Jurisdictions), as shown on Index and panel numbers 0216, 0218; whose effective date is September 29, 2006.

c. Advisory Base Flood Elevations and Advisory Flood Hazard Maps titled Point Pleasant SE dated December 12, 2012, with the exception of the Coastal A recommendation. These documents shall take precedence over previous panels and FIS in construction and development regulations only. Where the Special Flood Hazard Area (SFHA) and the Advisory Flood Hazard Area (AFHA) maps conflict or overlap, whichever imposes the more stringent requirement shall prevail.

### **23-5.1 General Standards.**

In all areas of special flood hazards, compliance with the applicable requirements of the Uniform Construction Code (N.J.A.C. 5:23) and the following standards, whichever is more restrictive, is required;~~the following standards are required:~~

d. *Subdivision Proposals.*

1. All subdivision proposals and other proposed new development shall be consistent with the need to minimize flood damage.

2. All subdivision proposals and other proposed new development shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

3. All subdivision proposals and other proposed new development shall have adequate drainage provided to reduce exposure to flood damage.

4. Base flood elevation data shall be provided for subdivision and other proposed new development~~proposals and other proposed development~~ which contain at least fifty (50) lots or five (5) acres (whichever is less).

### **23-5.2 Specific Standards.**

In all areas of special flood hazards where base flood elevation data have been provided as set forth in subsection 23-3.2, Basis for Establishing the Areas of Special Flood Hazard, or in subsection 23-4.3 b., Use of Other Base Flood and Floodway Data, the following standards are required:

a. *Residential Construction.* New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, together with the attendant utilities and sanitary facilities, elevated at or above the base flood elevation or advisory base flood elevation whichever is more restrictive, plus a Freeboard height as provided in Chapter XXX – Land Use Regulations.~~elevated to or above base flood elevation.~~

b. *Nonresidential Construction.* ~~New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or~~

~~1. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;~~

~~2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and~~

~~3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice and meet the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in subsection 23-4.3 c., 2(b).~~

In an Area of Special Flood Hazard, all new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities: either

1. Elevated to or above the base flood elevation or advisory base flood elevation whichever is more restrictive, plus a Freeboard height as provided in Chapter XXX – Land Use Regulations;

or

2. Be floodproofed so that below the base flood level plus a Freeboard height as provided in Chapter XXX – Land Use Regulations, or advisory base flood elevation plus a Freeboard height as provided in Chapter XXX – Land Use Regulations, (whichever is more restrictive) the structure is watertight with walls substantially impermeable to the passage of water;

3. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,

4. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in section 23-4.3 c etal.

*c. Manufactured Homes.*

2. All manufactured homes to be placed or substantially improved within an area of special flood hazard shall be elevated on a permanent foundation such that the top of the lowest floor is at or above the base flood elevation or advisory base flood elevation, plus a Freeboard height as provided in Chapter XXX – Land Use Regulations (whichever is more restrictive).

~~d. *Zone AO.* In Zone AO all new construction or substantial improvement of any residential, commercial, industrial, other nonresidential structure or manufactured home shall have the lowest floor, including basement, elevated to at least the depth number, specified in feet, above the highest adjacent grade and provide adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.~~

~~(Ord. No. 525 § 5.2)~~

d. In an AO zone on the municipality's DFIRM that all new construction and substantial improvement of any residential, or commercial, industrial or other nonresidential structure shall have the lowest floor, including basement, elevated above the highest adjacent grade plus a Freeboard

height as provided in Chapter XXX – Land Use Regulations above the depth number specified in feet (at least three feet if no depth number is specified) or at or above the advisory base flood elevation plus a Freeboard height as provided in Chapter XXX – Land Use Regulations, whichever is more restrictive. And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures:

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e. Any residential, or commercial, industrial or other nonresidential structure shall require a Freeboard height as provided in Chapter XXX – Land Use Regulations. In A Zones, freeboard is measured from the top of the lowest floor. Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork) must be elevated or waterproofed to the base flood elevation plus freeboard.;

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### **23-5.3 Coastal High Hazard Area.**

b. *Construction Methods.*

~~Elevation. All new construction and substantial improvements shall be elevated on piling or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the piling or columns) is elevated to or above the base flood level, with all space below the lowest floor's supporting member open so as not to impede the flow of water, except for breakaway walls as provided for in subsection 23-5.3 b., 4. —~~

a. All new construction and substantial improvements shall be elevated on piling or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the piling or columns) is elevated to or above the base flood elevation, advisory base flood elevation or as required by the Uniform Construction Code (NJAC 5:23), whichever is more restrictive plus a Freeboard height as provided in Chapter XXX – Land Use Regulations and with all space below the lowest floor's supporting member open so as not to impede the flow of water, except for breakaway walls as provided or in subsection 23-5.3 b.4.:

b. Any residential, or commercial, industrial or other nonresidential structure shall require a Freeboard height as provided in Chapter XXX – Land Use Regulations. In V Zones, it is measured from the bottom of the lowest horizontal structural member. Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork) must be elevated or waterproofed to the base flood elevation plus freeboard.:

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

Roll call: Aye – Nelson, Strohm, Gillingham, Brown, Ness, McIntyre

Nay – None

Absent - None

RESOLUTION NO. 04/08/2013 – 02: PROVIDING FOR AWARD OF CONTRACT FOR PRIVATE PROPERTY DEMOLITION AND DEBRIS REMOVAL (SUPERSTORM SANDY)

WHEREAS, the Borough has received 10 bids in response to an advertised request for bids; and

WHEREAS, the bid of D & J Mazza Demolition (Mazza), Tinton Falls, New Jersey, in the sum of \$1,626,775.00 was the lowest bid received; and

WHEREAS, the Borough Engineer has reviewed and tabulated the bids and has made suitable inquiry concerning the ability and reputation of Mazza; and

WHEREAS, the engineer has determined that Mazza has a favorable reputation as a going concern; and

WHEREAS, the Borough Attorney has reported that the supplemental bid documents are acceptable; and

WHEREAS, Mazza has sought the consent of the Borough to its request for withdrawal of bid, citing "mistake or misunderstanding" and reliance upon statutory provisions which, upon conditions, permit bid withdrawal on "public works" projects; and

WHEREAS, on advice of counsel, it appears that the subject project is not a "public works" project and that no sufficient evidence has been provided to support a claim for equitable relief or for relief under the statute, if applicable; and

WHEREAS, the prompt initiation and completion of the project work is in the interest of public health, safety, general and economic welfare; and

WHEREAS, a Certificate of Availability of Funds issued by the Chief Financial Officer has been provided for the award of the project contract.

A. IT IS NOW, THEREFORE, this 8th day of April, 2013, RESOLVED by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. The bid withdrawal request of D & J Mazza Demolition is rejected as being ineffective, not legally applicable and without persuasive supporting documentation;
2. The project Contract is awarded to D & J Mazza Demolition, for the bid price of \$1,626,775.00;
3. The signed Contract (4 copies) and original Performance Bond shall be delivered to the Borough Clerk at 340 Mantoloking Road, Brick, New Jersey, not later than 2:00 p.m. on Friday, April 12, 2013;
4. Failure of D & J Mazza to timely provide the documents described above shall be deemed a breach of the bid/option Contract. The Borough shall, in that event, award the Contract to the next lowest bidder. All claims for damages are reserved.

B. Additionally,

WHEREAS, the low bidder may fail or refuse to perform as requested in

A.3; and

WHEREAS, the public interest necessitates prompt implementation of the project work; and

WHEREAS, Tricon Enterprises, Inc., the next lowest, responsive, responsible bidder has tendered a bid in the sum of \$2,859,775.00; and

WHEREAS, prompt completion of this project is deemed to be imperative and in all respects necessary to protect the public health, safety, welfare and the general public economic well-being; and

WHEREAS, the Borough Engineer has made inquiry concerning the qualifications and reputation of Tricon and has not reported any significant negative findings; and

WHEREAS, the Borough Attorney has reported that the supplemental bid documents are acceptable.

IT IS, FURTHER RESOLVED, that in the event that the above described

conditions of award to D & J Mazza Demolition shall not be timely and completely satisfied, the Contract shall be deemed to be awarded to Tricon Enterprises, Inc. with immediate effect as of 2:00 p.m. April 12, 2013, and without further action of the Mayor and Council.

In such event, Tricon Enterprises, Inc. shall provide the signed Contract and Performance Bond within four (4) days from notification.

### **MAYOR AND COUNCIL COMMENT**

None

### **PUBLIC COMMENTS PERIOD**

Five commentators spoke about storm recovery costs, beach easements and building permits. At the adjournment of this meeting, Special Counselor Christopher Nelson will make a presentation on the Storm Sandy recovery progress by the Borough.

**NEXT MEETING** Regular Council Meeting of Tuesday, April 23, 2013 at 4:30 p.m. – Brick Township Municipal Court, 401 Chambers Bridge Road, Brick, NJ

### **ADJOURNMENT:**

There being no further business for this meeting, it was motioned by Councilman Strohm to adjourn. The motion was seconded by Councilwoman Nelson and approved by unanimous voice vote at 5:55 p.m.

Respectfully submitted by,

Lynne A. Hazelet  
Deputy Borough Clerk