

DRAFT #5 (12/17/10)

THE BOROUGH OF MANTOLOKING
MAYOR AND COUNCIL

AGENDA – REGULAR BUSINESS MEETING
December 20, 2010
4:30 P.M.
BOROUGH HALL

PRESENTED CERTIFICATES OF RECOGNITION

Recipients:	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 will be held this day in the meeting room of Borough Hall.

- 1. CALL TO ORDER:** **TIME:**
- 2. OPEN PUBLIC MEETING STATEMENT:** Mayor Nebel will read the following statement:
In compliance with the provisions of the New Jersey Open Public Meetings Act, adequate notice of this meeting of the Mantoloking Borough Council has been advertised in the manner provided by law.
- 3. ROLL CALL**
 Present:
 Absent:

 Also Present:
- 4. PLEDGE OF ALLEGIANCE:** The Mayor will lead the assembly in the Pledge of Allegiance.
- 5. PRIVILEGE OF THE FLOOR:** The Mayor will open the meeting for public comment and questions about the agenda.
- 6. MINUTES OF PREVIOUS MEETINGS:** Regular Meeting of November 22, 2010. (Final, complete copy attached.)
- 7. COMMITTEE REPORTS AND RECOMMENDATIONS**

FINANCE COMMITTEE, COUNCILMAN WITKOWSKI

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

B. Action Items:

Councilman Witkowski moves the following _____ resolutions.

RESOLUTION: ACCEPTANCE OF THE REPORT OF THE MUNICIPAL FINANCE OFFICER 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	ENCUMBERED	
		BALANCE YEAR TO DATE		
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	REVENUE
	THIS MONTH	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: 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: REQUESTING 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

RESOLUTION: REQUESTING 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: REQUESTING 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: TRANSFERRING 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:

<u>CURRENT ACCOUNT</u>	<u>TO</u>	<u>FROM</u>
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
TOTAL			\$50,000.00 \$50,000.00

RESOLUTION: 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: 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 will open the meeting for a Public Hearing on Ordinance No. 591, Mantoloking Borough Salary Ordinance. _____ comments were made.

RESOLUTION: ADOPTION OF ORDINANCE NO. 591 – MANTOLOKING BOROUGH SALARY ORDINANCE

WHEREAS, on the 20th day of December, 2010 a public hearing on Ordinance No. 591 was held and _____ comments were made by the public, now, therefore, be it

RESOLVED, the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, hereby adopt the following Ordinance entitled: (Copy attached)

ORDINANCE NO. 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

PUBLIC SAFETY COMMITTEE, COUNCILMAN GILLINGHAM:

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

B. Action Items:

Councilman Gillingham moves the following _____ resolutions:

RESOLUTION: 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: REQUEST 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: 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 20th 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: 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 20th 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.

RESOLUTION: RESCINDING THE NOVEMBER 22, 2010 INTRODUCTION OF PROPOSED ORDINANCE 592 (Amended) (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 introduction of the proposed Ordinance 592, as amended.

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, that the introduction of proposed Ordinance 592 (amended), on November 22, 2010, is hereby rescinded.

RESOLUTION: REINTRODUCTION OF ORDINANCE NO. 592 – AMENDMENT TO BOROUGH CODE, CHAPTER XXX, LAND USE FOR THE REQUIRMENT OF A PARKING PLAN FOR ALL NEW OR RENOVATION CONSTRUCTION

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. 592

AN ORDINANCE PROVIDING FOR AMENDMENT OF CHAPER XXX, SECTION 30-3.4, C.15 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF MANTOLOKING, OCEAN COUNTY, NEW JERSEY

and be it

FURTHER RESOLVED, the attached Comprehensive Resolution of Introduction is hereby adopted, 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.

PUBLIC WORKS COMMITTEE, COUNCILWOMAN NELSON

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

C. Action Items:

Councilwoman Nelson moves the following _____ resolutions.

RESOLUTION: 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>
<i>Salvatore Farruggia</i>	<i>Deputy Plumbing Inspector</i>	<i>November 23, 2010</i>	<i>\$25.00/Hour</i>

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 will open the meeting for a Public Hearing on Ordinance No. 593, Reconstruction and Reinstallation of Permitted Dune Area Structures.

Councilman Strohm moves the following resolution:

RESOLUTION: ADOPTION OF ORDINANCE NO. 593 – RECONSTRUCTION AND REINSTALLATION OF PERMITTED DUNE AREA STRUCTURES

WHEREAS, on the 20th day of December, 2010 a public hearing on Ordinance No. 593 was held and _____ comments were made by the public, now, therefore, be it

RESOLVED, the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, hereby adopt the following Ordinance entitled: (Copy attached)

ORDINANCE NO. 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

PUBLIC HEARING – Mayor Nebel will open 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.

_____ comments and _____ applications were made. A second public hearing will be held on January 18, 2011 at 4:30 p.m.

MUNICIPAL SERVICES COMMITTEE, COUNCILMAN BROWN

- A. Councilman Brown will present the reports of the Municipal Services Committee.
- B. Action Items: None

MANTOLOKING COMMITTEE, COUNCILMAN NESS

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

8. MAYOR AND COUNCIL COMMENTS

9. PUBLIC COMMENTS PERIOD

10. EXECUTIVE SESSION

RESOLUTION: ADJOURN TO CLOSED SESSION IN COMPLIANCE WITH THE OPEN PUBLIC MEETINGS ACT

WHEREAS, the Open Public Meetings Act, N.J.S.A. 10: 4-11, permits municipal governing bodies to meet in closed session to discuss certain matters, now, therefore be it

RESOLVED, the Mayor and Council adjourns to closed session to discuss: (select one or more)

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

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

11. OPEN SESSION AS NECESSARY

12. NEXT MEETING Organization Council Meeting, January 3, 2011 @ 4:30 p.m.

13. ADJOURNMENT