

**DRAFT #3 (07/15/11)**

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

**AGENDA – REGULAR BUSINESS MEETING**  
**July 18, 2011**  
**4:30 P.M.**  
**BOROUGH HALL**

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 June 20, 2011. (Final, complete copies attached.)

**RESOLUTION** - Correction to minutes of May 16, 2011, Resolution No. 05/16/2011-09: SUSPENSION OF ENFORCEMENT OF TWO (2) HOUR TIME LIMIT PARKING ON BAY AVENUE FOR MANTOLOKING YACHT CLUB EVENTS

**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 May 31, 2011**

**WHEREAS**, the Chief Finance Officer has presented a report on the status of the 2011municipal budget as of May 31, 2011; and

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

ACCOUNT	BUDGET	EXPENDED BALANCE YEAR TO DATE	ENCUMBERED
2011 Current Year Appropriation	\$4,055,418. 66	\$1,688,338.14 \$2,321,779.89	\$ 45,300.63
2010 Appropriation Reserves	\$ 376,253.59	\$ 129,244.94 246,562.13	\$ 446.52 \$
Capital	\$1,201,518. 26	\$ 101,036.48 \$1,100,481.78	

ACCOUNT	REVENUE THIS MONTH	REVENUE YEAR TO DATE
Cash Receipts	\$1,455,040. 44	\$4,306,815.17

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 July 2011**

*WHEREAS, the Municipal Finance Officer has presented a list of bills in the total amount of **\$446,882.70** 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 APPROVAL OF ITEMS OF REVENUE AND APPROPRIATION NJS 40A:4-87**

**WHEREAS, NJS 40A:4-87** provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount was not determined at the time of the adoption of the budget; and

**WHEREAS,** the Director may also approve the insertion of an item of appropriation for equal amount,

**NOW, THEREFORE, BE IT RESOLVED,** that the Council of the Borough of Mantoloking in the County of Ocean, New Jersey, hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2011 in the sum of \$4,000.00, which is now available from the State of New Jersey, under the title of 2011 Clean Communities Grant.

**BE IT FURTHER RESOLVED,** that the like sum of \$4,000.00 is hereby appropriated under the caption of 2011 Clean Communities Grant; and

**BE IT FURTHER RESOLVED** that the above is the result of funds from the State of New Jersey, Solid Waste Administration in the amount of \$4,000.00.

**RESOLUTION: REQUESTING APPROVAL OF ITEMS OF REVENUE AND APPROPRIATION NJS 40A:4-87**

**WHEREAS, NJS 40A:4-87** provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or

municipality when such item shall have been made available by law and the amount was not determined at the time of the adoption of the budget; and

**WHEREAS,** the Director may also approve the insertion of an item of appropriation for equal amount,

**NOW, THEREFORE, BE IT RESOLVED,** that the Council of the Borough of Mantoloking in the County of Ocean, New Jersey, hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2011 in the sum of \$593.28, which is now available from the State of New Jersey, under the title of 2011 Alcohol Education Rehab Grant.

**BE IT FURTHER RESOLVED,** that the like sum of \$593.28 is hereby appropriated under the caption of 2011 Alcohol Education Rehab Grant; and

**BE IT FURTHER RESOLVED** that the above is the result of funds from the State of New Jersey, Alcohol Education Rehab Fund DWI in the amount of \$593.28.

**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: APPOINTMENT OF PERSONNEL – SEASONAL/PART TIME HELP**

***RESOLVED***, the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey approves the following appointments with the terms and conditions indicated:

<b>Name</b>	<b>Position</b>	<b>Effective Date</b>	<b>Salary</b>
<i>Herdia, Christopher</i>	<i>Special Class I Police Officer</i>	<i>June 4, 2011</i>	<i>\$9.50/Hr.</i>
<i>Kenny, Daniel</i>	<i>Special Class I Police Officer</i>	<i>June 4, 2011</i>	<i>\$9.50/Hr.</i>
<i>Gambarella, Edward</i>	<i>Special Class II Police Officer</i>	<i>June 21, 2011</i>	<i>\$13.00/Hr.</i>

**RESOLUTION: IN SUPPORT OF THE AMERICAN DIABETES ASSOCIATION (ADA) ANNUAL JERSEY SHORE TOUR DE CURE**

**WHEREAS**, the American Diabetes Association (ADA), has requested permission to utilize roadways in the Borough in conjunction with the bike tour, on Saturday, September 17, 2011; and

**WHEREAS**, the Mayor and Council wish to endorse and support the American Diabetes Association annual Jersey Shore Tour de Cure.

**IT IS NOW, THEREFORE**, this 18<sup>th</sup> day of July 2011, **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 Tour de Cure bike tour, 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 American Diabetes Association (ADA), Attn: Sarah Costello, Manager-Fundraising & Special Events.
3. This approval and endorsement is subject to such conditions, if any, as shall be established by the Chief.

**PUBLIC HEARING:** Mayor Nebel will open the meeting to the public for a hearing on Ordinance No. 603 – PURCHASE OF POLICE EQUIPMENT. \_\_\_\_\_ comments were made.

**RESOLUTION: ADOPTION OF ORDINANCE NO. 603 – CAPITAL ORDINANCE, PURCHASE OF POLICE EQUIPMENT**

**WHEREAS**, on the 20<sup>th</sup> day of June, 2011, Ordinance No. 603 was introduced and passed upon

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first reading by title, only, and

**WHEREAS**, Ordinance No. 603 was published in The Ocean Star (newspaper) and on the Borough's Website, and

**WHEREAS**, on the 18<sup>th</sup> day of July, 2011 a public hearing on Ordinance No. 603 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:

**ORDINANCE NO. 603**  
**BOND ORDINANCE OF THE BOROUGH OF MANTOLOKING, OCEAN COUNTY, NEW JERSEY,**  
**PROVIDING FOR PURCHASE OF POLICE RADIOS AND ATV AT A COST OF**  
**\$30,000.00,**  
**AUTHORIZING THE ISSUANCE OF BONDS AND NOTES IN THE PRINCIPAL SUM OF**  
**\$28,000.00,**  
**AND APPROPRIATING THE SUM OF \$2,000.00 FROM THE CAPITAL IMPROVEMENT FUND FOR SAID PURPOSE**

BE IT ORDAINED by the Borough Council of the Borough of Mantoloking, in the County of Ocean, State of New Jersey (not less than two-thirds of all the members thereof affirmatively concurring), as follows:

SECTION 1: The improvement described in Section 3 of this Bond Ordinance is hereby authorized by the Borough of Mantoloking, County of Ocean and State of New Jersey. For the said purpose stated in said Section 3, there is hereby appropriated the sum of \$30,000.00, said sum being inclusive of all appropriations heretofore made for this purpose. There is also appropriated from the capital improvement fund of the Borough of Mantoloking the sum of \$2,000.00 as a down payment for the contemplated project.

SECTION 2: For the financing of said purpose and to meet the said \$30,000.00 appropriation, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$28,000.00 pursuant to the Local Bond Law of New Jersey. In anticipation of the issuance of said bonds and to temporarily finance said improvements, the negotiable notes of the Borough in a principal amount not exceeding \$28,000.00 are hereby authorized to be issued pursuant to and within the limitations prescribed by said Law.

SECTION 3: (a) The purpose for which said obligations are to be issued is for the purchase of Police Radios and ATV.

(b) The estimated amount of bonds or notes to be issued for said purpose is \$28,000.00.

(c) The estimated cost to the Borough of said project is \$30,000.00.

SECTION 4: The following additional matters are hereby determined, declared, recited and stated:

(a) The said purpose described in Section 3 of this Bond Ordinance is a general improvement and the cost thereof will be paid by the Borough of Mantoloking.

(b) The period of usefulness of said improvements within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the said bonds authorized by this Bond Ordinance, is five (5) years.

(c) The supplemental debt statement required by said Law has been duly made and filed in the Office of the Borough Clerk and a complete executed duplicate thereof has been filed in the Office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey, and such statement shows that the gross debt of the Borough, as defined in said

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Law, is increased by the authorization of the bonds and notes provided in this Bond Ordinance by \$28,000.00, and the issuance of said obligations authorized by this Bond Ordinance will be within the debt limitations prescribed by Law.

(d) An aggregate amount not exceeding \$2,000.00 for interest on said obligations, cost of issuing said obligations and other items of expense listed in and permitted under Section 40A:2-20 of said Law may be included as part of the cost of said improvements, and is included in the foregoing estimate thereof.

(e) This Bond Ordinance authorizes obligations of the Borough solely for purposes described herein and said purposes are in the public interest and are for the health, welfare, convenience or betterment of the inhabitants of the Borough; the amounts to be expended for said purposes pursuant to this Bond Ordinance are not unreasonable or exorbitant and issuance of the said obligations will not materially impair the credit of the Borough or substantially reduce its ability to pay punctually the principal of and interest on its debts or to supply other essential public improvements and services.

SECTION 5: All funds received from any sources by way of grant, gift or otherwise for the purpose described in Section 3 hereof shall be applied either to direct payment of the cost of the improvements or to payment of the obligations (Bonds and Notes) issued pursuant to this Ordinance. The amount of debt obligations authorized herein shall be directly reduced to the extent that the funds described herein are actually received.

SECTION 6: The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal and interest on the obligations authorized by this Bond Ordinance. Said obligations shall be direct, unlimited obligations of the Borough and the Borough shall be obligated to levy ad valorem taxes upon all the taxable property within the Borough for the payment of said obligations and interest thereon without limitation of rate or amount.

SECTION 7: This Bond Ordinance shall take effect twenty (20) days after the first publication thereof after final adoption as provided by said Local Bond Law.

#### **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: REQUESTING SIX MONTH EXTENSION, OF THE TIME FOR AWARD OF CONTRACT FOR LAGOON LANE IMPROVEMENTS NJDOT FY 2010 MUNICIPAL AID PROGRAM**

**WHEREAS**, the Borough is the recipient of a New Jersey DOT Municipal Aid Program Grant from fiscal year 2010 for Lagoon Lane Improvements project in the sum of \$250,000.00; and

**WHEREAS**, the New Jersey DOT Contract award deadline is September 12, 2011;

and

**WHEREAS**, at this time the Contract Drawings are approximately 50% complete and drawings and progress prints are available in the Office of the Borough engineer at the Borough Hall; and

**WHEREAS**, the project scope of work is the improvement of roadway conditions and to address the frequency of street flooding, which is a result of surcharging from storm sewer by the waters of Barnegat Bay; and

**WHEREAS**, the initial design concept was to raise the street elevation which would necessitate significant restoration and modification of private improvements, including lawns, landscaping, hardscaping, fencing, lighting, driveways, walkways, mailboxes and utilities, along with the acquisition of temporary construction easements;

**WHEREAS**, as a result of the desire to mitigate private property disturbance and the cost of reconstruction, there is an ongoing effort to identify a potential alternate solution, without the need to revise the street elevation. Flood control measures (check valves) were installed by the Municipal Department of Public Works on June 7, 2011. The anticipated function of the check value is to allow the passage of storm water from the streets to the downstream waters and to remain closed during dry periods to prevent tidal water from surcharging the storm sewer during high tides and adverse winds.

**WHEREAS**, the Borough has, by Ordinance, imposed a moratorium on work within the Municipal right-of-way between July 4<sup>th</sup> and Labor day; and

**WHEREAS**, it is useful and appropriate to allow for a monitoring period to evaluate the efficiency of the recently installed valves and to make a final determination of the scope of work, to complete the Contract Documents and to receive bids at a date more proximate to the actual construction period following the summer moratorium.

**IT IS NOW, THEREFORE**, this 18<sup>st</sup> day of July, 2011, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. that the Borough shall and hereby does request that the New Jersey DOT, Local Aid Office, grant a six (6) month extension of the deadline for Contract award for this project;
2. the rationale in support for this request is set forth in the prefatory recitals which are deemed substantive and are incorporated in this Resolution;
3. a true copy of this Resolution shall be forwarded forthwith to:
  - a. The New Jersey DOT, Local Aid Office ( Project Manager); and
  - b. Hatch Mott McDonald (Larry Plevier, P. E.)

**RESOLUTION: PROVIDING FOR THE SALE OF SURPLUS PERSONAL PROPERTY**

**WHEREAS**, the Borough of Mantoloking has determined that certain personal property, to wit:

- (a) 1 Used, 2007, M & B Companies, Inc. - Hydraulic Power Broom, Model No. LB; With water tank & pump. (Serial No. 17-0894) Attachment is for skid steer type loaders. Size: 8.5' wide; Minimum Bid: \$5,000.00

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

**IT IS NOW, THEREFORE**, this 18<sup>th</sup> day of July 2011, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. The above described personal property is hereby declared to be surplus, no longer needed for public purposes; and
2. The Borough Clerk is hereby authorized and directed to advertise a public sale of said property by sealed bid in accordance with the applicable law.
3. The Borough reserves the right to reject any and all bids if it determines that to do so will be in the public interest.

**RESOLUTION: PROVIDING FOR APPROVAL CHANGE ORDER NO. 3 AND PAYMENT APPLICATION NO. 3 - FINAL PAYMENT FOR CONTRACT NO. 2010-2 (CHANNEL LANE AND BERGEN AVENUE IMPROVEMENTS) TO JADS CONSTRUCTION CO., INC.**

**WHEREAS**, the Contractor has submitted Change Order No. 3 – Final, dated July 1, 2011, and Payment Application No. 3, in the sum of \$10,799.23; and

**WHEREAS**, the Borough engineer has recommended approval of the Change Order and the requested payment, subject to legal review of contractually required “close-out” documents; and

**WHEREAS**, counsel has reviewed copies of the tendered close-out documents, more particularly Final Release and Indemnity Agreement, Maintenance Bond B1095671 dated July 6, 2011, issued by Selective Insurance Company of America and Consent of Surety Company to Final Payment dated July 6, 2011 issued by Selective Insurance Company of America, all of which are deemed acceptable.

**IT IS NOW, THEREFORE**, this 18<sup>th</sup> day of July, 2011, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. The contractually required close-out documents tendered by Jads Construction Co., Inc. are hereby accepted. (Original signed documents to be provided prior to release of funds);
2. Change Order No. 3 – Final is approved;
3. Payment Application No. 3 in the sum of \$10,799.23 is approved, subject to NJDOT approval.

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

- A. Report of the Dune & Beach Renourishment Committee and Ocean County Block Grant Program
- B. Action Items: None

**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:

Councilman Ness moves the following \_\_\_\_ resolutions.

**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** Regular Council Meeting, Monday, August 15, 2011 @ 4:30 p.m.

**13. ADJOURNMENT**