

DRAFT NO. 2–3/18/2019 **THE BOROUGH OF MANTOLOKING**
MAYOR AND COUNCIL

AGENDA OF THE REGULAR BUSINESS MEETING

March 19, 2019

5:30 p.m.

**Mantoloking Borough Hall
202 Downer Avenue
Mantoloking, New Jersey**

The Regular Business Meeting of the Mayor and Council will be held this day in the Mantoloking Borough Hall.

1. **CALL TO ORDER:** **TIME:**
2. **OPEN PUBLIC MEETING STATEMENT:** Mayor White 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:**
4. **PLEDGE OF ALLEGIANCE:** Mayor White will lead the assembly in the Pledge of Allegiance.

Moment of silence for Joseph Daly

5. **RESOLUTION 2019-50: MINUTES OF PREVIOUS MEETINGS**

RESOLVED, the Mantoloking Borough Council approves the following minutes as distributed.

Council Agenda Setting Meeting- February 12, 2019

Council Regular Business Meeting- February 19, 2019

ROLL CALL VOTE:

6. **PRIVILEGE OF THE FLOOR:** Mayor White will open the meeting for public comment and questions about the agenda.
7. **FINANCE COMMITTEE,** Councilman Amarante will present the monthly finance report and moves the following resolutions.

RESOLUTION NO. 2019 -51

RESOLUTION THE REPORT OF THE MUNICIPAL FINANCE OFFICER

BOROUGH OF MANTOLOKING					
Financial Report for the Month of January 31, 2019					
<u>Status of the Budget on January 31, 2019</u>					
FUND	APPROPRIATION	CURRENT BALANCE	EXPENDED DURING MONTH	ENCUMBERED DURING MONTH	APPROPRIATION BALANCE
2019 TEMPORARY BUDGET	\$1,217,137	\$1,217,137	\$210,905	\$118,719	\$887,513
2018 ADOPTED BUDGET- CURRENT	\$393,797	\$393,797	\$43,190	\$91,795	\$258,812
2018 CAPITAL FUND	\$1,950,425	\$1,950,425	\$486,529	\$91,591	\$1,372,305
SANDY EMERGENCY FUNDS	\$146,568	\$146,568	\$0	\$0	\$146,568
(Subcategory of Capital Fund)					
Construction-Municipal Building	\$5,312,704	\$450,631	\$0	\$139,661	\$310,970
TOTAL	\$7,803,494	\$2,941,421	\$529,718	\$323,048	\$2,088,655
<u>Receipts, Disbursements and Changes in Cash Balance During the Month of January 31, 2019</u>					
FUND	CASH BALANCE JANUARY 1, 2019	CASH BALANCE BEGINNING OF MONTH	CASH RECEIVED	CASH DISBURSED	CASH BALANCE END OF MONTH
2018 CURRENT FUND	\$2,586,920	\$2,586,920	\$972,204	(\$1,781,392)	\$1,777,733
CAPITAL FUND	\$3,321,882	\$3,321,882	\$0	(\$71,913)	\$3,249,968
ANIMAL CONTROL FUND	\$183	\$183	\$51	\$0	\$234
OTHER TRUST FUNDS	\$511,133	\$511,133	\$84	(\$875)	\$510,342
PAYROLL ACCOUNT	\$39,647	\$39,647	\$160,291	(\$167,227)	\$32,711
UNEMPLOYMENT ACCOUNT	\$25,533	\$25,533	\$5	\$0	\$25,539
LAW ENFORCEMENT TRUST	\$2,841	\$2,841	\$1	\$0	\$2,842
TOTAL	\$6,488,139	\$6,488,139	\$1,132,636	(\$2,021,406)	\$5,599,368

RESOLUTION NO. 2019 -52

RESOLUTION: PAYMENT OF BILLS

WHEREAS, the municipal finance officer has presented

- A list of bills in the amount of \$326,250.85 with the recommendation they be paid, and
- A list of bills in the amount of \$131,873.35 that have been paid with the approval of the municipal clerk and the mayor, now, therefore, be it

RESOLVED, the council approves the payment of all the bills and directs that a copy of these lists be attached to and made part of the minutes of this meeting.

RESOLUTION NO. 2019 -53

RESOLUTION: TO ADOPT APPROPRIATION RESERVE TRANSFER #3

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

WHEREAS, the Chief Financial Officer has advised the Mayor and Council of the Borough of Mantoloking that the need for certain transfers within the 2018 Appropriation Reserves exists; and

WHEREAS, it is recommended that these appropriation reserve transfers be made;
NOW, THEREFORE BE IT RESOLVED by the governing body of the Borough of Mantoloking that the following budget transfers be made for the 2018 Appropriation Reserve balances.

<u>DEPARTMENT</u>		<u>TO</u>	<u>FROM</u>
Police	OE	\$ 7,500.00	
Group Health Insurance	OE		\$ 7,500.00
Total		\$ 7,500.00	\$ 7,500.00

RESOLUTION NO. 2019 -54

RESOLUTION: TO ADOPT TEMPORARY EMERGENCY APPROPRIATION #2

WHEREAS, N.J.S.A. 40A: 4-20 provides that an addition to temporary appropriations necessary for the period prior to the adoption of the budget and regular appropriations, the Governing Body may, by resolution adopted by 2/3 vote of the full membership thereof, make emergency temporary appropriations for any purpose for which the appropriations may lawfully be made for the period between the beginning of the current fiscal year and the date of the adoption of the budget for said year.

WHEREAS, the total emergency temporary resolutions adopted in the year 2019 pursuant to the provisions of Chapter 96, P.L. 1951 (N.J.S.A. 40A: 4-20) including this resolution total \$1,920,827.00.

NOW THEREFORE BE IT RESOLVED by the Governing Body of the Borough of Mantoloking, that in accordance with the provisions of N.J.S.A. 40A: 4-20, the Chief Financial Officer be authorized to make the following emergency temporary budget appropriations in the 2019 current fund temporary budget and that said amounts be included under the correct headings in the municipal budget as adopted.

BE IT FURTHER RESOLVED that one certified copy of this resolution be filed with the Director of the Division of Local Government Services and one certified copy with the Chief Financial Officer.

<u>DEPARTMENT</u>	<u>S&W</u>	<u>OE</u>
Municipal Clerk	\$15,000.00	\$ 11,000.00
Finance	\$10,000.00	
Legal	\$ 15,000.00	
Planning	\$ 3,000.00	
Construction	\$10,000.00	\$ 1,500.00
Insurance-Group Health		\$ 50,000.00
Police	\$100,000.00	
Garbage		\$ 15,000.00
Buildings & Grounds		\$ 7,500.00
Electricity		\$ 3,500.00
Telephone		\$ 1,500.00
Water		\$ 750.00
Natural Gas		\$ 2,500.00
DCRP		\$ 1,000.00
TOTAL	\$ 153,000.00	\$ 94,250.00
GRAND TOTAL	\$ 247,250.00	

RESOLUTION NO. 2019 –55

**RESOLUTION OF THE BOROUGH OF MANTOLOKING, COUNTY OF OCEAN,
STATE OF NEW JERSEY, AUTHORIZING A ONE MONTH EXTENSION OF THE
LEASE FOR THE TEMPORARY BOROUGH HALL**

WHEREAS, the construction of the Borough of Mantoloking Municipal Building is complete, however the Borough desires to extend its lease of the temporary Borough Hall for one month in order to make repairs to the leased premises prior to the final vacation of the premises; and

WHEREAS, the Borough and the Landlord, Rajpriya, LLC have agreed that this extension shall be for a maximum of one month at the rate \$3,800.00; and

WHEREAS, the Borough of Mantoloking desires to authorize the payment of \$3,800.00 for this one-month extension of the lease term.

NOW, THEREFORE, BE IT RESOLVED, by the governing body of the Borough of Mantoloking, County of Ocean, State of New Jersey, as follows:

1. That the Governing Body hereby authorizes the payment of \$3,800.00 for a one-month lease payment to Rajpriya, LLC in order for the Borough to make repairs to the premises.
2. That the Mayor is authorized to sign and the Clerk to attest to any documentation necessary to effectuate this Resolution.

ROLL CALL VOTE:

8. **PUBLIC SAFETY COMMITTEE**, Councilman Gillingham will present the monthly reports of the Police Department, Municipal Court, Fire Company, and Emergency Management and moves the following resolutions.

RESOLUTION 2019-56

RESOLUTION: IN SUPPORT OF SPECIAL OLYMPICS NEW JERSEY AND THE JERSEY SHORE RUNNING CLUB “JERSEY SHORE RELAY”

WHEREAS, Special Olympics New Jersey and the Jersey Shore running Club have requested permission to utilize roadways in the Borough in conjunction with the “Jersey Shore Relay”, on Saturday, April 6, 2019; and

WHEREAS, the Mayor and Council wish to endorse and support Special Olympics New Jersey and the Jersey Shore Running Club Jersey Shore Relay; and

IT IS NOW, THEREFORE, this 19th day of March, 2019,

RESOLVED by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. The request to utilize Lyman and East Avenue 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 sent to Special Olympics New Jersey and the Jersey Shore running Club, Attention: Joe Freeman, Race Logistics Coordinator.
3. This approval and endorsement is subject to such conditions, if any, as shall be established by the Chief.

RESOLUTION NO. 2019 –57

RESOLUTION: IN SUPPORT OF POINT PLEASANT BEACH PROJECT GRADUATION AND PTO SENIOR SCHOLARSHIPS 2019 TOWN-WIDE GARAGE SALE, SATURDAY, JUNE 1, 2019- RAIN DATE SUNDAY, JUNE 2, 2019

WHEREAS, Mary Ellen Savage has requested the Mayor and Council support a Town-Wide Garage Sale for Point Pleasant Beach Project Graduation 2019 and PTO Senior Scholarships to be held on Saturday, June 1, 2019 with a rain date Sunday, June 2, 2019; and

WHEREAS, the Project Graduation Committee has requested that the Borough waive the required fee and permit for Mantoloking participants; and

WHEREAS, a \$25.00 donation will be made by participating Mantoloking households to support Project Graduation 2019 and PTO Scholarships.

IT IS NOW, THEREFORE, this 19th day of March , 2019, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County New Jersey, hereby supports Project Graduation 2019 and PTO Scholarships.

RESOLUTION NO. 2019-61

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:

Name	Position	Effective Date	Salary
James Knoeller	SLEO I	4/1/2019	\$13.00

ROLL CALL VOTE:

9. **DUNE & BEACH COMMITTEE**: Councilman Nelson will present the reports of the Dune & Beach Committee and Ocean County Block Grant Program and moves the following resolution.

PUBLIC HEARING – Mayor White will open the floor for comments on Ordinance 683

ORDINANCE NO. 683

AN ORDINANCE OF THE BOROUGH OF MANTOLOKING, COUNTY OF OCEAN, STATE OF NEW JERSEY AMENDING THE BOROUGH CODE OF THE BOROUGH OF MANTOLOKING, SO AS TO AMEND CHAPTER 10, ENTITLED “BEACH REGULATIONS” SO AS TO REMOVE SUNSET PROVISION PERTAINING TO PROVIDING LIFEGUARDS AND ADJUST DATES AND FEES FOR BEACH BADGE SALES

BE IT ORDAINED by the Mayor and Borough Council of the Borough of Mantoloking, County of Ocean, and State of New Jersey, as follows:

SECTION 1. Section 10-1.2 of Chapter 10 of the Borough Code of the Borough of Mantoloking, entitled, “Beach Regulations” is hereby amended and supplemented so as to read in its entirety as follows:

10-1.2 Findings, Declaration and Purpose.

This chapter is declared to be an exercise of the Police power in the interest of safety and welfare for the protection of persons and of property.

Access to the Atlantic Ocean beaches within and abutting the Borough of Mantoloking has, with increased population and improved transportation, become a matter of public concern. The character and quality of the access and use of the beach under the Public Trust Doctrine, as applied in New Jersey and proclaimed in various decisions of our Courts, necessitates that each community bordering on the Atlantic Ocean continuously review its policies, facilities, and procedures, together with an evaluation of the use and demand for use of beaches within the community by members of the public. The Borough is a small, fully developed, single-family, tranquil, noncommercial resort and year-round residential community on a very narrow portion of the barrier beach. Except for certain public access routes, the oceanfront at Mantoloking is privately owned, dedicated and restricted to residential use, up to the mean highwater line. These private property rights are, of course, subject to the rights of the public under the Public Trust Doctrine.

The Borough of Mantoloking recognizes its obligation to provide public access to the ocean under the Public Trust Doctrine. In furtherance of this obligation, the Borough will provide lifeguarding services at a limited number of locations ~~for the summer of 2018~~, Persons utilizing the beach for bathing or swimming at unguarded areas or when lifeguards are not present do so at their own risk. Persons using the beach for surfing, kayaking or any other recreational use are strongly cautioned that they perform such activities at their own risk.

In order to evaluate and implement such participation by the Borough as is deemed appropriate, the Borough has acquired and will continue to acquire relevant data concerning the use of the beaches by requiring those who use the ocean beaches to apply for a seasonal beach badge. Beaches within the Borough are receiving increased use by members of the public who do not reside in the Borough and who may, therefore, not be familiar with local conditions and beach regulations. Further, the increased utilization of the beach by surfers and kayakers necessitates specific regulation of these activities. Surfing presents inherent risks to its participants and to others; surfers and bathers cannot safely co-exist in close proximity to each other. It is, therefore, deemed necessary to control and regulate surfing so that, to the extent reasonably possible, the interests of all persons using the ocean may be reasonably accommodated.

The Borough of Mantoloking does, by the adoption of this chapter, express its continuing intention to establish and maintain a viable and balanced response to judicial determinations concerning rights, both public and private, to the utilization and enjoyment of the ocean and bay beaches. The procedures, rules and regulations, as set forth and authorized herein, are deemed necessary and appropriate to provide for the health, safety and welfare of all concerned.

This chapter is not intended to be administered, enforced or interpreted in any manner that will expand public rights upon private property within the Borough, but rather to provide for access by the public pursuant to the Public Trust Doctrine and to exercise the Borough's general Police power over areas within its jurisdiction.

SECTION 2. Section 10-3 of Chapter 10 of the Borough Code of the Borough of Mantoloking, entitled, “Beach Regulations” is hereby amended and supplemented so as to read in its entirety as follows:

10-3 BEACH BADGES.

10-3.1 When Required.

Beach badges are required for persons **over** twelve (12) years of age, from **the third Saturday of June** to Labor Day of each year, inclusive, between the hours of 10:00 a.m. and **6:00** p.m.

SECTION 3. Section 10-3.2 of Chapter 10 of the Borough Code of the Borough of Mantoloking, entitled, “Beach Regulations” is hereby amended and supplemented so as to read in its entirety as follows:

10-3.2 Application and Fee.

Badges may be purchased at the municipal facilities on Downer Avenue, or such other location(s) as may be advertised, from 10:00 a.m. and **6:00 p.m.** **Individuals desiring to purchase a seasonal beach badge shall be required to pay a fee of \$75.00 if said badge is purchased between April 1st and close of business on Memorial Day. If the seasonal beach badge is purchased after Memorial Day and on or before Labor Day, the cost of such seasonal beach badge shall be \$85.00.** The beach badge shall be valid for the entire summer season of the year it is issued. Half season badges will be available starting the first Saturday in August for \$50.00. Daily badges will be sold for \$10.00 dollars per badge. No replacement badges will be issued without payment of the entire, then current, badge fee.

SECTION 4. Section 10-4.3 of Chapter 10 of the Borough Code of the Borough of Mantoloking, entitled, “Beach Regulations” is hereby amended and supplemented so as to read in its entirety as follows:

10-4.3 Beach Badges.

Display of Badge. All persons upon the beach and access ways or in or upon adjacent waters, as the case may be, shall wear and prominently display an approved current badge which has been registered in the name of that person, or in the name of that person's household.

Enforcement. All persons upon the beach and access ways or in or upon adjacent water during the hours of 10:00 a.m. to **6 p.m. commencing the third Saturday in June** through Labor Day shall, if not in immediate possession of an appropriate beach badge, promptly leave the beach upon the request of authorized enforcement personnel

SECTION 5. Section 10-4.18 of Chapter 10 of the Borough Code of the Borough of Mantoloking, entitled, “Beach Regulations” is hereby amended and supplemented so as to amend and replace subsection b. in its entirety so that it shall read follows:

b. In accordance with the terms of the “New Jersey Smoke Free Air Act,” N.J.S.A. 26:3D-56 et seq., smoking of tobacco products and the use of electronic smoking devices is prohibited at all beaches and accessways within the Borough that are open and available to the public.

SECTION 6. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 7. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 8. This ordinance shall take effect after second reading and publication as required by law.

ROLL CALL VOTE

10. **MUNICIPAL SERVICES COMMITTEE**, Mayor White will present the monthly reports from the Public Works Superintendent, Construction Official, Land Use Officer and Building Committee and Councilman President Gillingham will move the following resolutions.

RESOLUTION NO. 2019 –58

RESOLUTION OF THE BOROUGH OF MANTOLOKING, COUNTY OF OCEAN, STATE OF NEW JERSEY, APPOINTING BART PETRILLO AS ZONING OFFICIAL FOR THE BOROUGH OF MANTOLOKING

WHEREAS, the Borough of Mantoloking is in need of a Zoning Official; and

WHEREAS, Bart Petrillo is duly qualified to be provisionally appointed as Zoning Official; and

WHEREAS, it is the desire of the governing body to appoint Bart Petrillo as Zoning Official for the Borough of Mantoloking.

NOW, THEREFORE, BE IT RESOLVED, by the governing body of the Borough of Mantoloking, County of Ocean, State of New Jersey, as follows:

1. That the governing body hereby authorizes the appointment of Bart Petrillo to serve as Zoning Official for the period of April 8, 2019 through December 31, 2019.
2. That Bart Petrillo shall be compensated at the rate of \$35.00 per hour in accordance with the Employment Agreement attached hereto and incorporated herein as Schedule A.
3. That the Mayor and Borough Clerk are hereby authorized to execute and attest to, respectively, the Employment Agreement attached hereto and incorporated herein as Schedule A.
4. That a certified copy of this resolution shall be forwarded to Bart Petrillo and the Chief Financial Official.

RESOLUTION NO. 2019 –59

RESOLUTION OF THE BOROUGH OF MANTOLOKING, COUNTY OF OCEAN, STATE OF NEW JERSEY, APPOINTING COLLEEN MALVASIO AS DEPUTY ZONING OFFICIAL

WHEREAS, there is a need for appointment to the position of Deputy Zoning Official for the Borough of Mantoloking; and

WHEREAS, Colleen Malvasio, who currently serves as Administrative Assistant/TACO for the Borough

of Mantoloking, is qualified to be appointed as Municipal Zoning Official.

NOW, THEREFORE, BE IT RESOLVED, by the governing body of the Borough of Mantoloking, County of Ocean, State of New Jersey, as follows:

1. That the governing body does hereby appoint Colleen Malvasio as Deputy Zoning Official for the Borough of Mantoloking, March 19, 2019 through December 31, 2019, for which duties she shall receive no additional compensation.
2. That a certified copy of this resolution shall be forwarded to the Chief Financial Officer of the Borough of Mantoloking and Colleen Malvasio.

RESOLUTION NO. 2019 –60
RESOLUTION OF THE BOROUGH OF MANTOLOKING, COUNTY OF OCEAN,
STATE OF NEW JERSEY, APPOINTING COLLEEN MALVASIO AS CODE
ENFORCEMENT OFFICER

WHEREAS, there is a need for appointment to the position of Code Enforcement Officer for the Borough of Mantoloking; and

WHEREAS, Colleen Malvasio, who currently serves as Administrative Assistant/TACO for the Borough of Mantoloking, is qualified to be appointed as Municipal Code Enforcement Officer.

NOW, THEREFORE, BE IT RESOLVED, by the governing body of the Borough of Mantoloking, County of Ocean, State of New Jersey, as follows:

1. That the governing body does hereby appoint Colleen Malvasio as Code Enforcement Officer for the Borough of Mantoloking, March 19, 2019 through December 31, 2019, for which duties she shall receive no additional compensation.
2. That a certified copy of this resolution shall be forwarded to the Chief Financial Officer of the Borough of Mantoloking and Colleen Malvasio.

ROLL CALL VOTE:

ORDINANCE NO. 684

AN ORDINANCE OF THE BOROUGH OF MANTOLOKING, COUNTY OF OCEAN, STATE OF
NEW JERSEY AMENDING AND SUPPLEMENTING THE BOROUGH CODE OF THE BOROUGH
OF MANTOLOKING, SO AS TO AMEND CHAPTER 30 ENTITLED “LAND USE REGULATIONS.”

WHEREAS, the New Jersey Department of Environmental Protection requires all communities that contain tidal waters to provide for public access; and

WHEREAS, existing and future signage for public access is required; and

WHEREAS, installation and maintenance of signage associated with Public Access locations associated with the Borough’s Municipal Public Access Plan is a requirement of N.J.A.C. 7:7-16.9(r).

BE IT ORDAINED by the Mayor and Borough Council of the Borough of Mantoloking, County of Ocean, and State of New Jersey, as follows:

SECTION 1. The Municipal Code of the Borough of Mantoloking is hereby amended and supplemented so as to amend Chapter 30, entitled “Land Use Regulations,” so as to amend § 30-6.14, entitled “Signs” so as to add subsection f. which shall be entitled “Public access signs” and which shall read as follows:

- f. Public Access Signs.

- i. The Chief of Police shall be responsible for the Borough’s adherence to the signage requirements of the Municipal Public Access Plan.
- ii. The Public Works Manager shall be responsible for the placement and maintenance of the public access signage.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 4. This ordinance shall take effect after second reading and publication as required by law.

ROLL CALL VOTE:

PUBLIC HEARING-Mayor White will open the floor for comments on Ordinance 682

ORDINANCE NO. 682

AN ORDINANCE OF THE BOROUGH OF MANTOLOKING, COUNTY OF OCEAN, STATE OF NEW JERSEY, AUTHORIZING THE SALE OF CERTAIN LANDS OF THE BOROUGH OF MANTOLOKING NOT NEEDED FOR PUBLIC USE

WHEREAS, the Borough of Mantoloking is the owner of certain land located at Block 24, Lot 5.01 on the Tax Map of the Borough of Mantoloking, which nonconforming property is also known as 1030 Ocean Avenue; and

WHEREAS, pursuant to N.J.S.A 40A:12-13, said non-conforming property was offered to the contiguous property owners at the assessed value from two contiguous property owners and, as both were interested in purchasing same an auction was scheduled to be held between such contiguous property owners pursuant to N.J.S.A 40A:12-13. (5), and

WHEREAS, a public auction was duly advertised on December 28, 2018 and January 4, 2019; and

WHEREAS, the public auction was held on January 11, 2019 at 10:00 a.m. and there were two bidders in attendance; and

WHEREAS, the bidder, Whitney de Hosson bid a total of \$50,000.00 and remitted 10% of this amount, or \$5,000.00 by close of business on the day of the auction; and

WHEREAS, by the Borough Council formally accepted the bid submitted by Whitney de Hosson for Block 24, Lot 5.01 in the amount of \$50,000.00. by Resolution.

WHEREAS, the Borough is authorized to sell said land by public auction in accordance with N.J.S.A. 40A:12-13.2.

NOW, THEREFORE, BE IT ORDAINED, by the governing body of the Borough of Mantoloking, County of Ocean, State of New Jersey, as follows:

SECTION 1. The Borough Council hereby authorizes the sale pursuant to N.J.S.A. 40A:12-13 all of the Borough’s right, title and interest in the land described as Block 24, Lot 5.01 on the Tax Map of the Borough of Mantoloking, which property is also known as 1030 Ocean Avenue, to Whitney de Hosson in the amount of \$50,000.00.

SECTION 2. That the Mayor and Borough Clerk are hereby authorized to execute any and all documents to transfer title to said property to Whitney de Hosson for the sum of \$50,000.00. Whitney de Hosson shall be responsible for the payment of the Borough's costs in conveying said property (i.e. attorneys' fees in the amount of \$550.00, publication costs in the approximate amount of \$250.00 and recording fees in the amount of \$110.00).

SECTION 3. This Ordinance shall be published twice in a newspaper approved for legal publications, once not less than seven (7) days prior to the public hearing thereof in accordance with law applicable to the adoption of ordinances generally, and a second time within five (5) days after adoption hereof, at which time it shall also be posted on the bulletin board in the Borough Municipal Building of the Borough of Mantoloking and remain so posted for at least twenty (20) days thereafter. Sworn proof of such publication shall be filed by the Borough Clerk with the Director of the State Division of Local Government Services in the Department of Community Affairs.

SECTION 4. The conveyance of shall be by standard municipal Bargain and Sale Deed without covenants of the Grantor, subject to any statement or facts which an accurate survey would show, subject to all covenants, conditions, easements, liens and restrictions of record, including the condition that the subject property be developed that the property only be used in accordance with the permitted and conditional uses allowed in the Industrial Zone, as well as applicable ordinances of the Borough of Mantoloking shall be without obligation of the Borough of Mantoloking to provide access, public private, or any improvements thereon or thereto, with all sales being "as is" without any representation whatever as to character, quality or condition or otherwise, bidder being deemed to have inspected the premises bid upon and waived any objections to the conditions thereon.

SECTION 5. In the event the bidder should for any reason not pay the balance due as above provided, the Borough reserves the right to cancel the sale and retain the ten percent (10%) deposit as liquidated damages for non-performance. The sale is subject to the buyers review of existing title and the ability to accept or reject same in its sole discretion. In the event title is not insurable by the bidder at prevailing rates by a reputable title insurance company, bidder's sole remedy shall be to give written notice of cancellation of the bid to the Borough within ninety (90) days of the date of bid. The Borough shall refund the deposit, and there shall be no further obligation by either party to the other respecting said bid or any obligations created by the giving or acceptance of said bid.

SECTION 6. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 7. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 8. This ordinance shall take effect after second reading and publication as required by law.

ROLL CALL VOTE:

11. **MUNICIPAL RELATIONS COMMITTEE** Councilman Rzemieniewski will present the report of the Mantoloking Relations Committee.
12. **STRATEGIC PLANNING COMMITTEE** Councilman Nelson will present the report of the Strategic Planning Committee.

13. **ENVIRONMENTAL COMMITTEE** Councilman Batcha will present the report of the Environmental Committee
14. **MAYOR AND COUNCIL COMMENTS**
15. **PUBLIC COMMENTS PERIOD**
16. **EXECUTIVE SESSION**

RESOLUTION NO. 2019-62

RESOLUTION OF THE BOROUGH OF MANTOLOKING, COUNTY OF OCEAN, STATE OF NEW JERSEY, AUTHORIZING AN EXECUTIVE SESSION

WHEREAS, the Open Public Meetings Act authorizes the Borough Council to enter into executive session to discuss certain matters pursuant to N.J.S.A 10:4-12; and

WHEREAS, the Borough Council desires to go into executive session to discuss matters related to Litigation,

NOW, THEREFORE, BE IT RESOLVED, by the governing body of the Borough of Mantoloking, County of Ocean, State of New Jersey, that the Council shall go into executive session to discuss the following items:

1. Litigation N.J.S.A. 10:4-12(b)(7) Saccone v. The Borough of Mantoloking

17. **NEXT MEETING:**

Agenda Setting Council Meeting , April 9, 2019 at 5:30 p.m. at the Mantoloking Borough Hall, 202 Downer Avenue, Mantoloking, NJ, 08738

18. **ADJOURNMENT**