

THE BOROUGH OF MANTOLOKING
MAYOR AND COUNCIL

MINUTES - AGENDA OF THE AGENDA-SETTING MEETING
February 12, 2019
MANTOLOKING FIREHOUSE
202 DOWNER AVENUE
MANTOLOKING, NEW JERSEY

An agenda-setting meeting of the Mayor and Council was held this day in the Mantoloking Firehouse.

1. **CALL TO ORDER** Mayor White called the meeting to order at 5:30 p.m.

2. **OPEN PUBLIC MEETING STATEMENT**: Mayor E. Laurence White read the following statement

In compliance with the provisions of the New Jersey Open Public Meetings Act, adequate notice of this meeting of the Mantoloking Borough Council has been advertised in the manner provided by law.

3. **ROLL CALL**

Present: Mayor White, Council President Gillingham, Councilman Nelson, Councilman Ness, Councilman Batcha

Dialed In: Councilman Amarante, Councilman Rzemieniewski

Absent: None

Also Present: Beverley A. Konopada, Borough Clerk, Jean Cipriani, Borough Attorney
Lynne Hazelet, Deputy Clerk, April Yezzi, CFO, CTC, QPA

4. **PLEDGE OF ALLEGIANCE** Mayor E. Laurence White led the assembly in the Pledge of Allegiance.

5. **PRIVILEGE OF THE FLOOR**: Mayor E. Laurence White opened the meeting for public comment and questions about agenda items only.

7. **NEW BUSINESS**: The Mayor and council committee chairpersons will be previewing reports and proposing legislative action for inclusion on the February 19, 2019 regular business meeting of the council, in the form attached hereto.

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| A. <u>Finance Committee</u> : | Councilman Amarante |
| B. <u>Public Safety Committee</u> : | Councilman Gillingham |
| C. <u>Dune and Beach Committee</u> : | Councilman Nelson |
| D. <u>Municipal Services Committee</u> : | Mayor White |
| E. <u>Municipal Relations Committee</u> : | Councilman Rzemieniewski |
| F. <u>Strategic Planning Committee</u> : | Councilman Nelson |
| G. <u>Environmental Committee</u> : | Councilman Batcha |

8. MAYOR AND COUNCIL COMMENTS

Councilman Rzemieniewski asked Borough Attorney Cipriani to look into assessing partially completed dwellings, in which she replied that she would provide a memo.

Councilman Nelson- Strategic Planning Committee will set a date sometime in March.

9. PUBLIC COMMENT PERIOD

Nancy Ness, 1057 Barnegat Lane, had a comment regarding dwellings that are partially finished for six years.

Linda Flihan, 1105 Barnegat Lane, was advised that roofs no longer require a permit required. She expressed concern regarding the quality of roofs that may be installed and lifting of shingles that may result from lack of inspections.

Borough Attorney Cipriani explained that last year the construction code had changed, no longer requiring a permit for roofs.

**10. NEXT MEETING: Council Meeting, Tuesday, February 19, 2019
Mantoloking Fire House, 202 Downer Avenue, Mantoloking, NJ 08738**

Councilman Rzemieniewski motioned to go into closed session. Councilman Gillingham seconded the motion and was approved by unanimous voice vote at 5:45p.m.

RESOLUTION NO. 2019-39

**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 contractual matters – PBA negotiations

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. Contract Negotiations: N.J.S.A. 10:4-12(4) – PBA Negotiations
2. Contractual matters: N.J.S.A. 10-4-12(7) – pertaining to the building

11. ADJOURNMENT:

Councilman Rzemieniewski motioned to adjourn closed session and to return to open session. The motion was seconded by Councilman Amarante and approved by unanimous voice vote at 6:30 p.m.

During open session, Councilman Batcha discussed recycling issues and his recent visit to the recycling center with the Environmental Committee. He also discussed dead pine trees in town and a proposed smoking ban for our beaches. He will present these items to the public at the February 19, 2019 meeting.

Councilman Gillingham motioned to adjourn open session. The motion was seconded by Councilman Batcha and approved by unanimous voice vote at 6:47 p.m.

ANTICIPATED ACTION ITEMS FOR MEETING OF February 19TH:

REPORT OF THE FINANCE COMMITTEE

Committee Chairperson Amarante proposes the following for this month's regular business meeting:

MONTHLY REPORTS of the Finance Officer.

RESOLUTION NO. 2019 –
RESOLUTION THE REPORT OF THE MUNICIPAL FINANCE OFFICER

RESOLUTION NO. 2019 –
RESOLUTION: PAYMENT OF BILLS

RESOLUTION NO. 2019 –
RESOLUTION: TO ADOPT APPROPRIATION RESERVE TRANSFER # 2

REPORT OF THE PUBLIC SAFETY COMMITTEE

RESOLUTION NO. 2019 –
RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF MANTOLOKING
AUTHORIZING POLICE OFFICER GREGORY POPACA AS ADDITIONAL POWER OF
ATTORNEY TO EXECUTE DOCUMENTS WITH THE NEW JERSEY MOTOR VEHICLE
COMMISSION FOR THE TITLING OF VEHICLES FOR THE BOROUGH

WHEREAS, the Borough of Mantoloking regularly purchase new vehicles for departments of the Borough; and
WHEREAS, said vehicles must be titled in the name of the Borough and as a result several legal documents must be filed with the New Jersey Motor Vehicle Commission; and

WHEREAS, in order to execute and file the required documents with the Motor Vehicle Commission in an efficient manner, the Borough finds it necessary and appropriate to authorize Gregory Popaca to act as an additional power of attorney for the Borough for said purposes.

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

1. Gregory Popaca, Police Officer of the Borough of Mantoloking is hereby authorized to act power of attorney for the Borough to execute and file any required documents with the New Jersey Motor Vehicle Commission related to the sale, purchase, and/or registration of vehicles owned, purchased, or sold by the Borough.
2. That the Mayor is hereby authorized to execute and the Borough Clerk to attest to, respectively, a power of attorney in accordance with the provisions of this resolution.
3. That this resolution shall take effect immediately.

RESOLUTION NO. 2019 –

RESOLUTION: IN SUPPORT OF THE 13TH ANNUAL BAY HEAD SHARK RUN 5K

WHEREAS, the Bay Head Home & School Association, have requested permission to utilize roadways in the Borough in conjunction with the 13th Annual Bay Head Shark Run 5K, on Saturday, September 21, 2019; and **WHEREAS**, the Mayor and Council wish to endorse and support the Bay Head Home & School Association and the 13th Annual Bay Head Shark Run 5K **IT IS NOW, THEREFORE**, this 19th day of February, 2019, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, as follows:

1. The request to utilize East Avenue to Lyman Street and Barnegat Lane, 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 Bay Head Home & School Association, Attention: Jenny Hunziker Kelber Acting Race Director.
3. This approval and endorsement is subject to such conditions, if any, as shall be established by the Chief.

RESOLUTION NO. 2019 –

RESOLUTION: APPLICATION FOR MEMBERSHIP-MANTOLOKING FIRE COMPANY NO.1

WHEREAS, John Patrick Boyle has applied for membership in the Mantoloking Fire Company No. 1; and **WHEREAS**, the fire company has approved the applications; and **WHEREAS**, pursuant to the provisions of the By-Laws of the Mantoloking Fire Company No. 1, all applications are also subject to approval of Council. **IT IS NOW, THEREFORE**, this 19th day of February, 2019, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, that the application of John Patrick Boyle is hereby approved, subject to receipt of satisfactory physical examination report.

REPORT OF THE MUNICIPAL SERVICES COMMITTEE

Committee Chairperson Mayor White proposes the following for this month's regular business meeting:

MONTHLY REPORTS of the Public Works Superintendent, Construction Official, Land Use Officer and Building Committee.

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, Lots 1, 4-6 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.

REPORT OF THE DUNE AND BEACH COMMITTEE

MONTHLY REPORTS of the Dune and Beach Committee.

RESOLUTION NO. 2019 –

RESOLUTION: OF THE BOROUGH OF MANTOLOKING, COUNTY OF OCEAN, STATE OF NEW JERSEY, ACCEPTING THE PROPOSAL OF AND AUTHORIZING THE EXECUTION AN AGREEMENT WITH DR. STEWART FARRELL AND THE STOCKTON UNIVERSITY COASTAL RESEARCH CENTER

WHEREAS, the Borough of Mantoloking is in receipt of a proposal from Dr. Stewart Farrell of the Stockton University Coastal Research Center for the continuance of work for the Borough monitoring the shoreline and for the appointment of Dr. Farrell as the municipal dune consultant; and

WHEREAS, under the terms of the proposal AND AT THE DIRECTION OF MAYOR OR DESIGNEE, the Center will attend either on-site or remotely, meetings regarding any aspect of coastal work, dune development and utilization of the shorefront; provide the services of the Dune Consultant; and conduct a survey of the 5 profile location sites to provide the Borough a comparison of the completed beach fill project with historical beach conditions; and

WHEREAS, the Borough hereby accepts the proposal of the Stockton University Coastal Research Center, attached hereto as Schedule A, and authorizes the execution of an Agreement with the Stockton University Coastal Research Center, subject to the approval of the Borough Attorney, in accordance therewith.

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 proposal of the Stockton University Coastal Research Center, attached hereto as Schedule A, is hereby accepted.
2. That the Mayor is hereby authorized to execute, and the Borough Clerk to attest to an Agreement with the Stockton University Coastal Research Center in accordance with its proposal.

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

SECTION 6. 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 7. This ordinance shall take effect after second reading and publication as required by law.