

DRAFT NO. 1–2/20/2019    **THE BOROUGH OF MANTOLOKING**  
**MAYOR AND COUNCIL**

**MINUTES - AGENDA OF THE REGULAR BUSINESS MEETING**  
**February 19, 2019**  
**Mantoloking Firehouse**  
**202 Downer Avenue**  
**Mantoloking, New Jersey**

The Regular Business 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 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 Amarante, Councilman Batcha, Councilman Ness

**Dialed In:** Councilman Nelson, Councilman Rzemieniewski

**Absent:** None

**Also Present:** Beverley A. Konopada, Borough Clerk, Robin LaBue, Borough Attorney  
Lynne Hazelet, Deputy Clerk, April Yezzi, CFO, CTC, QPA, Chief Stacy Ferris

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

Mayor White said a few words about Former Councilman Alan Laymon. He served on Council for 10 years and several committees. He was a renaissance man and had a wry sense of humor. He asked the public and his council to join him in a moment of silence to honor Councilman Laymon.

5. **RESOLUTION 2019-40: MINUTES OF PREVIOUS MEETINGS**

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

Council Agenda Setting Meeting- December 11, 2018

Executive Session- December 11, 2018

Council Regular Business Meeting- December 18, 2018

Reorganization Meeting- January 3, 2019

**ROLL CALL VOTE**

Approved by roll call vote, Councilman Ness abstained from voting on each set of minutes.  
Councilman Batcha abstained from December 11<sup>th</sup> and 18<sup>th</sup> meeting minutes.

Council Agenda Setting Meeting- January 8, 2019  
 Council Regular Business Meeting- January 15, 2019

**ROLL CALL VOTE**

Approved by roll call vote, Councilman Ness abstained from the January 8<sup>th</sup> meeting minutes.

**6. PRIVILEGE OF THE FLOOR:** Mayor White opened the meeting for public comment and questions about the agenda.

Bill Wolf, 1424 Ocean Ave., requested that lifeguards remain at the Albertson Street access point. Mayor White responded that lifeguards will be at Albertson on the weekends.  
 Peter Flihan, 1105 Barnegat Lane, asked if every access point will have lifeguards, Mayor White responded no due to the beach budget.  
 Jim Brown, 985 Barnegat Lane, agreed with Peter Flihan and felt maybe the borough should charge a different price for unguarded beaches.  
 Chief Ferris explained that the beaches are governed by certain regulations.  
 Peter Flihan wanted to know if a daily badge could be purchased the day before, Chief Ferris responded no.  
 Councilman Amarante explained that a lot of time was put into the beach operation. We will relook at this again next year. The Committee is open to looking at different ideas.

**7. FINANCE COMMITTEE,** Councilman Amarante presented the monthly finance report.

**RESOLUTION NO. 2019 -41**  
**RESOLUTION THE REPORT OF THE MUNICIPAL FINANCE OFFICER**

Financial Report for the Month of December 31, 2018					
<u>Status of the Budget on December 31, 2018</u>					
FUND	APPROPRIATION	CURRENT BALANCE	EXPENDED DURING MONTH	ENCUMBERED DURING MONTH	APPROPRIATION BALANCE
2019 TEMPORARY BUDGET	\$1,217,137	\$1,217,137	\$214,208	\$245,627	\$757,301
2018 ADOPTED BUDGET- CURRENT	\$6,324,802	\$1,054,195	\$598,475	\$199,900	\$255,821
2018 CAPITAL FUND	\$4,563,899	\$1,494,915	\$126,195	\$0	\$1,368,720
2017 Appropriation Reserves	\$525,079	\$294,069	\$5,000	\$2,648	\$286,421
SANDY EMERGENCY FUNDS	\$198,091	\$146,568	\$0	\$0	\$146,568 (a)
<b>(Subcategory of Capital Fund)</b>					
Construction-Municipal Building	\$5,072,712	\$124,287	\$0	(\$16,743)	\$141,030 (b)
<b>TOTAL</b>	<b>\$16,684,582</b>	<b>\$3,114,034</b>	<b>\$729,670</b>	<b>\$185,804</b>	<b>\$2,198,560</b>
<u>Receipts, Disbursements and Changes in Cash Balance During the Month of December 31, 2018</u>					
FUND	CASH BALANCE JANUARY 1, 2018	CASH BALANCE BEGINNING OF MONTH	CASH RECEIVED	CASH DISBURSED	CASH BALANCE END OF MONTH
2018 CURRENT FUND	\$6,057,796	\$2,787,827	\$238,048	(\$438,955)	\$2,586,920
CAPITAL FUND	\$4,862,225	\$3,468,931	\$0	(\$147,049)	\$3,321,882
ANIMAL CONTROL FUND	\$139	\$185	\$0	(\$1)	\$183
OTHER TRUST FUNDS	\$501,673	\$511,101	\$32	\$0	\$511,133
PAYROLL ACCOUNT	\$14,240	\$33,576	\$178,414	(\$172,343)	\$39,647
UNEMPLOYMENT ACCOUNT	\$29,756	\$25,528	\$5	\$0	\$25,533
LAW ENFORCEMENT TRUST	\$2,837	\$2,840	\$1	\$0	\$2,841
<b>TOTAL</b>	<b>\$11,468,666</b>	<b>\$6,829,987</b>	<b>\$416,500</b>	<b>(\$758,349)</b>	<b>\$6,488,139</b>
(a) Balances encumbered were cancelled thereby increasing the available balance.					
(b) This information is specific to Ordinance #656 Construction of Municipal Building. The encumbrance amount <u>is not paid</u> but reserved for future payment based on contractual obligations. Please note the balance available increased from \$124,287 to \$141,030 due to adjustments within expenses and encumbrances.					

**RESOLUTION NO. 2019 –42**  
**RESOLUTION: PAYMENT OF BILLS**

**WHEREAS**, the municipal finance officer has presented

- A list of bills in the amount of \$262,234.68 with the recommendation they be paid, and
- A list of bills in the amount of \$1,666,413.60.16 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 – 43**  
**RESOLUTION: TO ADOPT APPROPRIATION RESERVE TRANSFER #2**

**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>
Engineering	OE	\$ 7,500.00	
Group Health Insurance	OE		\$14,250.00
Road Repairs	OE		5,000.00
Beach Maintenance	OE	5,000.00	
Electricity	OE	750.00	
Natural Gas	OE	500.00	
Ocean County Utilities Authority	OE	5,500.00	
<b>Total</b>		<b>\$ 19,250.00</b>	<b>\$19,250.00</b>

**RESOLUTION NO. 2019 -44**

**RESOLUTION: TO ADOPT TEMPORARY EMERGENCY APPROPRIATION # 1**

**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 \$1,673,577.00

**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&amp;W</u>	<u>OE</u>
Municipal Clerk	\$20,000.00	\$ 22,690.00
Finance	\$10,000.00	\$ 15,500.00
Tax Assessor	\$ 2,000.00	
Engineering		\$ 25,000.00
Planning	\$ 3,000.00	\$ 7,000.00
Construction	\$10,000.00	\$ 3,000.00
Insurance-Group Health		\$ 30,000.00
Police	\$90,000.00	\$ 10,000.00
Municipal Prosecutor		\$ 2,500.00
Road Repair	\$35,000.00	\$ 12,500.00
Garbage		\$ 25,000.00
Buildings & Grounds		\$ 10,000.00
Sewer Systems		\$ 10,000.00
Dog		\$ 500.00
Beach Access		\$ 7,000.00
Beach Maintenance		\$ 20,000.00
Electricity		\$ 2,000.00
Fire Hydrant		\$ 5,000.00
Gasoline		\$ 5,000.00
Ocean County Utilities Authority		\$ 30,000.00
Municipal Court	\$ 5,000.00	\$ 1,650.00
Capital Improvement		\$ 100.00
Social Security		\$ 20,000.00
Court	\$15,000.00	\$ 2,000.00
<b>TOTAL</b>	<b>\$ 190,000.00</b>	<b>\$266,440.00</b>
<b>GRAND TOTAL</b>	<b>\$ 456,440.00</b>	

**ROLL CALL VOTE**

Councilman Amarante moved the resolutions.

The motion was seconded by Councilman Batcha and approved by unanimous roll call vote.

8. **PUBLIC SAFETY COMMITTEE**, Councilman Gillingham presented the monthly reports of the Police Department, Municipal Court, Fire Company, and Emergency Management.  
**RESOLUTION NO. 2019-45**

**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. 2019-46**

**RESOLUTION: IN SUPPORT OF THE 13<sup>TH</sup> 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 13<sup>th</sup> 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 13<sup>th</sup> 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. 2019-47**

**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 19<sup>th</sup> 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.

**ROLL CALL VOTE**

Councilman Gillingham moved the resolutions. The motion was seconded by Councilman Amarante and Approved by unanimous roll call vote.

9. **DUNE & BEACH COMMITTEE**: Councilman Nelson presented the reports of the Dune & Beach Committee and Ocean County Block Grant Program.

**RESOLUTION NO. 2019-48**

**RESOLUTION: OF THE BOROUGH OF MANTOLOKING, COUNTY OF OCEAN, STATE OF NEW JERSEY, ACCEPTING THE PROPOSAL OF AND AUTHORIZING THE EXECUTIO OF 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 1<sup>st</sup> 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**

Councilman Nelson moved the resolutions. The motion was seconded by Councilman Amarante and approved by unanimous roll call vote.

Councilman Amarante advised that the badges would be sold until 6:00 p.m.

10. **MUNICIPAL SERVICES COMMITTEE**, Mayor White presented the monthly reports from the Public Works Superintendent, Construction Official, Land Use Officer and Building Committee.

Mayor White gave an update on the Borough Hall. We are hoping to get a Temporary Certificate of Occupancy on Thursday and move in On February 26<sup>th</sup>. Todd Morgano, Bob Sibilia, Scott Hulse and Scott Bland have been working for days.

He thanked Sandy Diehl for helping to get the elevators in order.

**RESOLUTION NO. 2019-49**

**RESOLUTION OF THE BOROUGH OF MANTOLOKING, COUNTY OF OCEAN, STATE OF NEW JERSEY, AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH OSTERGAARD ACOUSTICAL ASSOCIATES FOR POST CONSTRUCTION NOISE MEASUREMENTS**

**WHEREAS**, there exists a need for post-construction noise measurements for the New Mantoloking Borough Hall; and

**WHEREAS**, Ostergaard Acoustical Associates submitted a proposal indicating it will provide the Borough Acoustical Consulting Services needed, said proposal being \$2,850.00; and

**WHEREAS**, the Borough has determined that Ostergaard Acoustical Associates has the ability and expertise to perform the specialized acoustical services required by the Borough in connection with post-construction noise measurements for the New Mantoloking Borough Hall; and

**WHEREAS**, the Chief Financial Officer has certified that there are funds available for this contract, which certification is annexed hereto; and

**WHEREAS**, it is the desire of the governing body to authorize a contract with Ostergaard Acoustical Associates for post-construction noise measurements for the New Mantoloking Borough Hall.

**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. That the governing body does hereby award a contract for post-construction noise measurements for the New Mantoloking Borough Hall for a term of one year to Ostergaard Acoustical Associates, at a cost of \$2,850.00.

2. That the Mayor and Municipal Clerk are hereby authorized to execute a contract, in a form acceptable to the Borough Attorney, with Ostergaard Acoustical Associates, in accordance with the proposal submitted by Ostergaard Acoustical Associates.

4. That a certificate of availability of funds executed by the Chief Financial Officer is annexed hereto. The following are the line item appropriations or ordinances which constitute the availability of funds for this contract: Ordinance # 656 Construction of Municipal Building.

C-04-55-939-001-801.

5. That a certified copy of this resolution, together with a copy of the contract between the parties, shall be provided by the Municipal Clerk to the Chief Financial Officer, Bob Sibilina and Ostergaard Acoustical Associates.

**CERTIFICATE OF AVAILABILITY OF FUNDS**

**I, APRIL J. YEZZI**, Chief Financial Officer for the Borough of Mantoloking, do hereby certify that adequate funds are available for a contract with Ostergaard Acoustical Associates for post-construction noise measurements for the New Mantoloking Borough Hall in the amount not to exceed \$2,850.00.

The funds which are available for this contract are found in the following line item appropriations or ordinances: Ordinance #656 Construction of Municipal Building

C-04-55-939-001-801

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**APRIL J. YEZZI**, Chief Financial Officer

**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**

Council President Gillingham moved the following resolutions. The motion was seconded by Councilman Amarante and was approved by roll call vote. Councilman Gillingham abstained from voting on Ordinance 682.

11. **MUNICIPAL RELATIONS COMMITTEE** Councilman Rzemieniewski stated no report of the Mantoloking Relations Committee.
12. **STRATEGIC PLANNING COMMITTEE** Councilman Nelson stated no report of the Strategic Planning Committee.
13. **ENVIRONMENTAL COMMITTEE** Councilman Batcha presented the report of the Environmental Committee

Councilman Batcha advised the public that that the Environmental Committee visited the recycling facility and toured the facility. It is a single stream plant. He wants to focus on educating the residents so another load of recyclables does not get rejected. They also applied for a grant. The Environmental Committee will be updating the garbage and recycling flyers on the website and there will be a town wide mailing in May.

He also said the Seaweeders are involved in plantings and they are thrilled about the no smoking ban on the beach.

Grant for 1,000 seedlings

Councilman Batched reiterated that garbage pickup is back door and he asked residents to abide.

Councilman Batcha said if you have problems with garbage not being picked up, please call Beverley Konopada at the borough hall.

14. **MAYOR AND COUNCIL COMMENTS**

Mayor White mentioned that the Ostergaard resolution is for the upstairs generator. They measure the decibel

levels. We passed with flying colors.

Councilman Rzemieniewski wanted to know if there was any response from Jean Cipriani regarding partial assessments during construction.

Borough Attorney, Robin LaBue was familiar with this issue in other towns. The Assessor inspects and has a list.

**15. PUBLIC COMMENTS PERIOD**

Jim Brown, 985 Barnegat Lane, wanted the lettering on the new generator to be painted.

There is an issue with parking and people living in homes with no TCO or CO.

Chief Ferris said she is working on the Barnegat Lane parking situation.

Chief Ferris asked that if you see a problem to call the Police. Kelly Burdge is in the office from 9-4. After that the calls will go to the County and they dispatch a police officer.

Bill Wolf, 1424 Ocean Ave., said the sidewalk in front of his home dropped. It is a tripping hazard and the wanted to contact someone in the DOT to have them come back and fix it.

Mayor White said there have been 6 car break-ins in Brick. Please lock your cars and remove the fob from inside the car.

Check your cameras and security devices.

**16. NEXT MEETING:**

Regular Business Council Meeting , Tuesday March 19, 2019 at 5:30 p.m. at the Mantoloking Borough Hall, 202 Downer Avenue, Mantoloking, NJ, 08738

**17. ADJOURNMENT**

There being no further business for the meeting, Councilman Rzemieniewski motioned to adjourn . The motion was seconded by Councilman Gillingham and approved by unanimous voice vote at 6:23 p.m.

Respectfully submitted,

Beverley A. Konopada,  
Borough Clerk