

MAYOR AND COUNCIL

MINUTES OF THE AGENDA-SETTING MEETING

November 12, 2019

5:30 p.m.

MANTOLOKING BOROUGH HALL

202 DOWNER AVENUE

MANTOLOKING, NEW JERSEY

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

1. CALL TO ORDER Mayor E. Laurence 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, Councilman Amarante, Councilman Batcha, Councilman Gillingham, Councilman Ness, Councilman Rzemieniewski

Dialed In: None

Absent: Councilman Nelson

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.

No comments were made.

6. APPROVAL OF MEETING MINUTES

7. NEW BUSINESS: The Mayor and Council November 19, 2019 regular business meeting of the council, in the form attached hereto.

- | | |
|---|--------------------------|
| 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 Amarante reported that the Finance Committee had discussions regarding a new vehicle and are investigating which one will be purchased. Councilman Gillingham suggested that a thorough discussion with Fire Company should take place before a resolution is passed. Councilman Rzemieniewski agreed.

Councilman Gillingham has concerns regarding how long the fire company will be able to protect the municipality with its lack of membership.

Borough Attorney, Jean Cipriani , asked if a portion of the resolution discussing the sale is acceptable to remain on the agenda.

Mayor White discussed the life cycle of the Ladder truck and the mutual aid agreement with Bay Head, Brick, Point Pleasant and Point Pleasant Beach. A mini pumper will allow the fire company to react quickly and access all driveways.

Councilman Rzemieniowski recommended an ordinance be amended regarding accessing driveways and approval of the fire chief should be obtained.

Councilman Batcha requested that the resolution be modified to reflect the sale of the truck. Borough Attorney Cipriani advised the resolution authorizes the sale.

Mayor White wants to investigate which truck is best serves the needs of the Borough. Councilman Amarante reported there is a wide range of pricing on the 3 vehicles.

The Finance Committee requests that the fire company provide a list of the basic needs for the mini pumper and any add ons they are looking to receive. The current pumper truck will be kept and will be fully serviced and ready to go.

Councilman Ness asked about the status of the Cotter Proposal.

Mayor White responded that Chris Cotter sent Councilman Nelson an update on the report which has significant information. He will be here for the December meeting.

Councilman Rzemieniewski wanted to know if the elevator service contract will interfere with with any warrantees as well as the cost for 5 years.

9. PUBLIC COMMENT PERIOD

Jan O'Malley, 1231 Bay Avenue, had questions regarding the Ordinance for 5G networks and why we are allowing poles on opposite side of streets. She believes the boxes would be better on the ground as opposed to be up on a pole.

Tony Grella, 1431 Ocean Avenue, wanted to know if the 5G poles and equipment will be on anyones property. Mr. Grella also stated that residents should be able to decide and have a voice.

Borough Attorney Cipriani responded that poles will only be placed on the opposite side of the street if necessary and language can be clarified. Poles may be placed in the right of way, the land infront of your home on the west side of the sidewalks, not on private property.

Councilman Batcha explained that this is mandated by the FCC and we have no control over Route 35.

Borough Attorney Cipriani advised that this ordinance needs to be done. Pole mounts require a Planning Board application and Borough Engineer approval.

Mayor White- Tree Lighting Ceremony will be held on Sunday, December 8th at 5:30p.m., reception will be downswtairs in the fire house.

10. NEXT MEETING: Council Meeting, Tuesday, November 19, 2019 Mantoloking Borough Hall, 202 Downer Avenue, Mantoloking, NJ 08738

11. ADJOURNMENT:

There being no further business for this meeting, it was motioned by Councilman Rzemieniowski to adjourn, seconded by Councilman Gillingham and approved by unanimous voice vote at 6:19 p.m.

ANTICIPATED ACTION ITEMS FOR MEETING OF NOVEMBER 12, 2019:

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: ACCEPTING BEST PRACTICES 2019 CHECK LIST

WHEREAS, the Borough of Mantoloking is required by statute to complete the Best Practices Check List as instituted by the Division of Local Government Services, and

WHEREAS, the Best Practices Check List is a constructive way to encourage municipalities to consider and embrace a range of best practices that will help improve financial accountability and transparency, and.

WHEREAS the inventory results for 2019 are as follows: 43.00 yes, 0 no, 16 N/A, and 17 prospective with no State Aid to be withheld,

NOW THEREFORE BE IT RESOLVED, that the Mayor and Council of the Borough of Mantoloking hereby approves the Best Practices Check List as required by the State of New Jersey Department of Community Affairs for the 2019 Budget Year.

RESOLUTION NO. 2019 -

RESOLUTION : TRANSFERRING CURRENT YEAR APPROPRIATIONS – 2019

WHEREAS, N.J.S.A. 40A: 4-58 provides for transfers within certain appropriations within the Municipal Budget during the last two months of the fiscal year; and

WHEREAS, the Chief Financial Officer has advised the Mayor and Council of the Borough of Mantoloking that the need for certain transfers within the 2019 Appropriation exists; and
WHEREAS, it is recommended that these budget transfers be made in the 2019 Municipal Budget;
NOW, THEREFORE BE IT RESOLVED, that the following budget transfers be made in the 2019 Municipal Budget:

<u>DEPARTMENT</u>		<u>TO</u>	<u>FROM</u>
Tax Assessor	SW	\$ 50.00	
Planning	SW	\$ 4,700.00	
Uniform Fire Official	SW	\$ 400.00	
Municipal Prosecutor	OE	\$ 600.00	
Garbage	OE	\$ 800.00	
Utilities – Water	OE	\$ 2,500.00	
Utilities – Fire Hydrants	OE		\$ 7,000.00
Social Security	OE		\$ 2,050.00
Beach Guard	SW		\$50,000.00
Beach Guard	OE	\$50,000.00	
Total		\$ 59,050.00	\$ 59,050.00

RESOLUTION NO. 2019 –

RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF MANTOLOKING AUTHORIZING THE SALE OF FIRE TRUCK 3505 NO LONGER NEEDED FOR PUBLIC USE ON AN ONLINE AUCTION WEBSITE AND CONFIRMING INTENTION TO PURCHASE MINI-PUMPER

WHEREAS, the Borough of Mantoloking has determined that the property described on Schedule A attached hereto and incorporated herein is no longer needed for public use; and

WHEREAS, the Local Unit Technology Pilot Program and Study Act (P.L. 2001, c. 30) authorizes the sale of surplus personal property no longer needed for public use through the use of an online auction service; and

WHEREAS, the Borough of Mantoloking intends to utilize the online auction services of Municibid located at www.municibid.com; and

WHEREAS, the sale is being conducted pursuant to the Division of Local Government Services' Local Finance Notice 2008-9,

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 Borough of Mantoloking is hereby authorized to sell fire truck 3505 as indicated on Schedule A on an online auction website entitled www.municibid.com and that the Mayor and Borough Clerk are authorized to take all actions necessary to effectuate such sale.
2. The minimum bid price for the fire truck 3505 authorized by this Resolution shall be \$75,000.
3. That the terms and conditions of the agreement entered into between Municibid Online Government Auctions and the Borough of Mantoloking are available at www.municibid.com and in the Borough Clerk's office; and
4. That the governing body of the Borough of Mantoloking hereby confirms its intention to purchase a mini-pumper for the use of the Mantoloking Volunteer Fire Company through future action to be taken in compliance with the New Jersey Local Public Contracts Law.
5. The Borough Clerk shall cause to be published a legal newspaper advertisement in the Borough's official newspaper informing the public as to the nature of items being sold and how to obtain more information on the sale is required pursuant to N.J.S.A. 40A:11-36, which advertisement shall announce the auction and that the item(s) will be sold online, the internet address for the sale that is being advertised, the date and time of the auction, a general description of the surplus personal property intended to be sold, a statement that bidders must pre-register with the approved vendor and the internet address with registration information.
6. Pursuant to N.J.S.A. 40A:11-36, the auction shall be held not less than 7 or more than 14 days after the latest publication of the advertisement.
7. That a copy of this Resolution be forwarded by the Borough Clerk to the vendor Chief Financial Officer and the Mantoloking Volunteer Fire Company.

Schedule A

1999 Sutphen 70' Aierel Platform-
VIN
Miles: 803
Hours 9934

PUBLIC HEARING

ADOPTION OF BOND ORDINANCE NO. 698

BOND ORDINANCE REAPPROPRIATING \$128,000 IN EXCESS BOND PROCEEDS NOT NEEDED FOR THEIR ORIGINAL PURPOSES IN ORDER TO FINANCE THE COST OF THE PURCHASE SELF-CONTAINED BREATHING APPARATUS AIR PACKS, AND RADIOS AND A SPORTS UTILITY VEHICLE FOR THE POLICE DEPARTMENT, AND REPEALING BOND ORDINANCE NO. 693 ADOPTED ON AUGUST 20, 2019, AUTHORIZED IN AND BY THE BOROUGH OF MANTOLOKING, IN THE COUNTY OF OCEAN, NEW JERSEY

WHEREAS, the Borough Council of the Borough of Mantoloking, in the County of Ocean, New Jersey (the "Borough") finally adopted Bond Ordinance No. 581 on April 19, 2010, Bond Ordinance No. 566 on May 18, 2009, Bond Ordinance No. 585 on April 19, 2010, Bond Ordinance No. 600 on April 18, 2011, Bond Ordinance No. 597 on April 18, 2011, Bond Ordinance No. 586 on April 19, 2010, Bond Ordinance No. 598 on April 18, 2011, Bond Ordinance No. 599 on April 18, 2011, Bond Ordinance No.

608 on April 23, 2012, Bond Ordinance 609 adopted on April 23, 2012, Bond Ordinance No. 611 adopted on April 23, 2012, Bond Ordinance No. 644 on May 19, 2015, Bond Ordinance No. 658 on September 20, 2016, Bond Ordinance No. 656 adopted on May 17, 2016 (collectively, the "Ordinances"); and

WHEREAS, following the effective dates of the Ordinances, the Borough issued bonds to fully fund same and to finance the improvements or purposes authorized therein; and

WHEREAS, the Borough has determined that the improvements set forth in the Ordinances have either been completed in full or discontinued as a result of events occurring subsequent to the adoption of the Ordinances, as applicable; and

WHEREAS, there currently remains on deposit in the Borough capital accounts excess bond proceeds in the amount of \$128,000, which excess bond proceeds are allocable to such project improvements in the Ordinances (the "Excess Proceeds"), but are no longer necessary to complete such improvements or purposes authorized therein; and

WHEREAS, in accordance with its statutory powers set forth in section 39 of the Local Bond Law, N.J.S.A. 40A:2-1 et seq. (the "Local Bond Law"), the Borough Council has determined that it is in the best interest of the Borough to reappropriate the Excess Proceeds to finance the cost of the purchase of self-contained breathing apparatus air packs, and radios and a sports utility vehicle for the Police Department, for which improvements bonds may be issued, thereby, decreasing the amount of additional Borough debt to finance such current capital needs; and

WHEREAS, the Borough Council now desires to reappropriate the Excess Proceeds to finance the cost of the purchase of self-contained breathing apparatus air packs, and radios and a sports utility vehicle for the Police Department.

WHEREAS, the appropriation of Excess Proceeds herein renders Bond Ordinance No. 693 adopted on August 20, 2019 (the "Former Bond Ordinance") no longer necessary, the Borough Council now desires to repeal the Former Bond Ordinance.

NOW, THEREFORE, 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 members thereof affirmatively concurring), AS FOLLOWS:

Section 1. It is hereby determined that the aggregate amount of \$128,000 of the balance of the total appropriation for capital purposes originally made available pursuant to the following Ordinances of the Borough is no longer necessary for the purposes for which the obligations previously were authorized:

<u>Amount to be</u>	<u>Reappropriated Ordinance & Purpose</u>
\$ 29,556	No. 581 adopted April 19, 2010, providing for Bergen and Lagoon Lane road improvements.
\$ 16,883	No. 566 adopted on May 18, 2009, providing for the installation of solar panels at the Municipal Building.
\$ 11,000	No. 585 adopted on April 19, 2010, providing for the Flap Valve Program.
\$ 15,929	No. 600 adopted April 18, 2011, providing for the construction of an ADA walkway.

\$ 5,632	No. 597 adopted on April 18, 2011, providing for the replacement of the Firehouse apron.
\$ 309	No. 586 adopted on April 19, 2010, providing for Bergen and Channel Road Improvements.
\$ 504	No. 598 adopted on April 18, 2011, providing for improvements to Sanitary Sewer System Facilities.
\$ 936	No. 599 adopted on April 18, 2011, providing for the Flap Valve Program.
\$ 14,900	No. 608 adopted on April 23, 2012, providing for the replacement of Firehouse doors.
\$ 90	No. 609 adopted on April 23, 2012, providing for the purchase of police cameras.
\$ 726	No. 611 adopted on April 23, 2012, providing for improvements to ADA walkway #4.
\$ 942	No. 644 adopted on May 19, 2015, providing for various capital improvements.
\$ 6,796	No. 658 adopted on September 20, 2016, providing for various capital improvements.
\$ 23,797	No. 656 adopted on May 17, 2016, providing for the construction of a new Municipal Building.
<u>\$ 128,000</u>	Total to be reappropriated to other capital purposes

Section 2. The appropriations for the purposes in the amounts set forth in Section 1 hereof are hereby canceled and reappropriated pursuant to N.J.S.A. 40A:2-39 to other capital purposes as set forth in Section 3 hereof.

Section 3. The aggregate amount of \$128,000, representing the amount referred to in Section 1 hereof, is hereby appropriated to provide for the following capital improvement purposes, together with all purposes necessary, incidental or appurtenant thereto, all as shown on and in accordance with plans, specifications or requisitions therefor on file with or through the Borough Clerk, as finally approved by the governing body of the Borough, and the estimated cost the project is as follows:

<u>Amount to be Appropriated</u>	<u>Purpose</u>
\$ <u>128,000</u>	To finance the purchase of self-contained breathing apparatus air packs, and radios and a sports utility vehicle for the Police Department

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

(a) The purposes described in Section 3 of this bond ordinance are not current expenses and are property or improvements which the Borough may lawfully acquire or make as general improvements, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The average period of usefulness of said purposes within the limitations of the Local Bond Law and according to the reasonable life thereof computed from the date of said bonds authorized by this bond ordinance is five (5) years.

(c) An aggregate amount not exceeding \$25,000.00 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the improvement or purpose herein before described.

Section 6. Bond Ordinance No. 693 adopted on August 20, 2019 is repealed.

Section 7. The capital budget of the Borough is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director of the Division of Local Government Services is on file with the Borough Clerk and is available there for public inspection.

Section 8. The Borough covenants to maintain the exclusion from gross income under section 103(a) of the Code, of the interest on all bond proceeds reappropriated by this bond ordinance.

Section 9. This ordinance shall take effect twenty (20) days after the first publication thereof after final adoption.

REPORT OF THE PUBLIC SAFETY COMMITTEE

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

RESOLUTION NO 2019-

RESOLUTION OF THE BOROUGH OF MANTOLOKING, COUNTY OF OCEAN, STATE OF NEW JERSEY, ADOPTING THE 2019 MULTI-JURISDICTIONAL ALL HAZARD MITIGATION PLAN FOR OCEAN COUNTY

WHEREAS, the Borough of Mantoloking recognizes the threat that natural hazards posed to people and property within the Borough of Mantoloking; and

WHEREAS, the Borough of Mantoloking has prepared a multi-hazard mitigation plan, hereby known as the 2019 Multi-Jurisdictional All Hazard Mitigation Plan for Ocean County in accordance with the Disaster Mitigation Act of 2000; and

WHEREAS, the 2019 Multi-Jurisdictional All Hazard Plan for Ocean County identifies mitigation goal and actions to reduce or eliminate long-term risk to people and property in the Borough of Mantoloking from the impacts of future hazards and disasters; and

WHEREAS, adoption by the Borough of Mantoloking demonstrated their commitment to hazard mitigation and achieving the goals outlined in the 2019 Multi-Jurisdictional All Hazard Plan for Ocean County.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Mantoloking, County of Ocean, State of New Jersey adopts the 2019 Multi-Jurisdictional All Hazard Mitigation Plan for Ocean County.

BE IT FURTHER RESOLVED, that copies of this resolution shall be made available to the Ocean County Sheriff's Office.

REPORT OF THE DUNE AND BEACH COMMITTEE

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.

RESOLUTION NO. 2019-

RESOLUTION OF THE BOROUGH OF MANTOLOKING, COUNTY OF OCEAN, STATE OF NEW JERSEY, AWARDING A CONTRACT FOR ELEVATOR EQUIPMENT, SERVICE AND MAINTENANCE TO SCHINDLER ELEVATOR CORPORATION

WHEREAS, there exists a need for the provision of elevator equipment, service and maintenance for the recently constructed municipal building within the Borough of Mantoloking; and

WHEREAS, in September of 2019, the Borough solicited a quote for Elevator Equipment, Service and Maintenance; and

WHEREAS, Schindler Elevator Corporation has submitted an advantageous quotation in accordance with the Borough request; and

WHEREAS, the Borough Council desires to award a contract to Schindler Elevator Corporation for the provision of elevator equipment, service and maintenance as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, Schindler Elevator Corporation has completed and submitted a Business Entity Disclosure Certification which certifies that neither he nor his firm has made any reportable contributions to a political or candidate committee in the Borough of Mantoloking in the previous one year, and that the contract will prohibit Schindler Elevator Corporation from making any reportable contributions to a political or candidate committee in the Borough of Mantoloking through the term of the contract; and

WHEREAS, the Local Public Contracts Law, N.J.S.A. 40A:11-5(i) authorizes the award of contracts for equipment repair service.

WHEREAS, it is the desire of the governing body to award a contract for the provision of the provision of elevator equipment, service and maintenance for a term of five years to Schindler Elevator Corporation.

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 award a contract for Elevator Equipment, Service and Maintenance to Schindler Elevator Corporation, in accordance with the attached Schedule A and B, an advantageous quotation.

2. That the Mayor is hereby authorized to execute and the Borough Clerk to attest to, respectively, a contract with Schindler Maintenance Corporation in a form acceptable to the Borough Attorney.

3. This contract shall be an open-ended contract with funds being encumbered contingent upon the availability of funds in the budget year. No purchase(s) shall be made under this contract until the Chief Financial Officer has certified the availability of funds for such purchases.

4. A certified copy of this Resolution shall be provided to the attorney for the Chief Finance Officer and Schindler Elevator Corporation.

INTRODUCTION TO ORDINANCE NO. 700

ORDINANCE OF THE BOROUGH OF MANTOLOKING, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 17 OF THE BOROUGH CODE OF THE BOROUGH OF MANTOLOKING ENTITLED "STREETS AND SIDEWALKS" SO AS TO ADD SECTION 17-4 ENTITLED "RIGHTS OF WAYS"

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

SECTION 1. Chapter 17 of the Borough Code of the Borough of Mantoloking entitled "Streets and Sidewalks" is hereby amended and supplemented to establish new Section 17-4 to be entitled, "Rights of Way" which shall read in its entirety as follows:

17-4 RIGHTS-OF- WAY

§ 17-4.1. Rights of Way- Purpose.

A. Statement of purpose.

The Borough finds and declares that it is necessary to set forth clear standards in relation to the siting of poles, cabinets, and antennas for the benefit of its citizens and any utilities which use the Borough's Rights of Way. The purpose of this chapter is to protect the property of the Borough and its citizens by creating a permit system for all new poles, antennas, and cabinets which are proposed to be placed in the municipal Right-of-Way.

§ 17-4.2 Rights-of-Way Permits; Definitions

For purposes of this Chapter 17, the following definitions shall apply:

- a. "Anticipated Municipal Expenses" shall mean the cost of processing an application for a Right-of-Way permit including, but not limited to, all professional fees such as engineering, planning or attorney fees such as are normally charged for approval escrows.
- b. "Cabinet" shall mean a box-like or rectangular structure used to facilitate utility or wireless service from within the municipal Right-of-Way.
- c. "Electrical Distribution System" shall mean the part of the electrical system, after the transmission system, that is dedicated to delivering electric energy to an end user.
- d. "Existing Pole" shall mean a pole that is in lawful existence within the municipal Right-of-Way.
- e. "Ground Level Cabinets" shall mean a Cabinet that is not attached to an existing pole and is touching the ground.
- f. "Municipal Right-of-Way" shall mean the surface of, and the space above or below, any public street, road, place, public way or place, sidewalk, alley, boulevard, parkway, drive or the like, held by the Borough as an easement or in fee simple ownership. This term also includes Rights-of-Way held by the County of Ocean where the Borough's approval is required for the use of the same pursuant to *N.J.S.A. 27:16-6*.
- g. "Pole" shall mean a long, slender, rounded piece of wood, concrete, or metal.
- h. "Pole Mounted Antenna" shall mean a device that is attached to a Pole and used to transmit radio or microwave signals and shall include, but not be limited to, small cell equipment and transmission media such as femtocells, picocells, microcells and outside distributed antenna systems.
- i. "Pole Mounted Cabinet" shall mean a Cabinet that is proposed to be placed on an existing or proposed Pole.
- j. "Proposed Pole" shall mean a Pole that is proposed to be placed in the municipal Right-of-Way.
- k. "Public Grounds" shall mean any lands, areas, buildings or installations owned by the Borough of Mantoloking or any of its Departments, agencies or commissions, and shall include municipal Board of Education lands, areas, buildings or installations.
- l. "Right-of-Way Agreement" shall mean an agreement that sets forth the terms and conditions for use of the municipal Right-of-Way and includes, but is not limited to, municipal franchise agreements.
- m. "Right-of-Way Permit" shall mean an approval from the Borough, setting forth applicant's compliance with the requirements of this Chapter.
- n. "Site" shall mean the placement of one new pole, one replacement pole, one antenna along with one cabinet on an existing pole, or a combination of the placement of one new or replacement pole and one antenna and cabinet.
- o. "Surrounding Streetscape" shall mean existing Poles within the same Right-of-Way which are located within five hundred (500) feet of the proposed Pole.
- p. "Borough Council" shall mean the Borough Council of the Borough of Mantoloking.

- q. "Underground Cabinets" shall mean a Cabinet that is located beneath the surface of the ground.
- r. "Utilities Regulated by the Board of Public Utilities" shall mean companies subject to regulation by the New Jersey Board of Public Utilities under Chapter 48 of the Revised Statutes of the State of New Jersey.
- s. "Utility Service" shall mean electric, telephone or cable service.

§ 17-4.3 Application of this Chapter to Utilities Regulated By The Board Of Public Utilities; Other Entities

Notwithstanding any franchise or Right-of-Way agreement to the contrary, all facilities proposed to be placed within the municipal Right-of-Way by a utility regulated by the Board of Public Utilities and all other entities lawfully regulating any facility, equipment, antenna, cabinet or other installation within the municipal Right-of-Way shall be subject to the standards and procedures set forth within this Chapter and shall require Right-of-Way permits for the siting of poles, antennas, cabinets and related facilities, equipment or other installation within the municipal Right-of-Way.

§ 17-4.4 Pole Mounted Antennas, Access to Right-of-Way, Right-of-Way Agreements

- a. No person shall operate or place any type of pole mounted antenna within the municipal Right-of-Way without first entering in to a Right-of-Way agreement pursuant to the provisions of this Chapter.
- b. The terms of said Right-of-Way agreement shall include:
 - i. A term not to exceed ten (10) years;
 - ii. Insurance requirements as set forth in this Chapter of this Code pertaining to the Excavation of Streets;
 - iii. A fine for unauthorized installations;
 - iv. A reference to the siting standards set forth in this Chapter;
 - v. Requirements to remove and restore the area to its previous condition; and
 - vi. Any other items which may reasonably be required for the applicant's operation within the municipal Right-of-Way.

§ 17-4.5 Rights of Way Permits; Siting Standards for Poles, Antennas and Cabinets in the Right-of-Way.

- a. No pole, antenna or cabinet shall be installed in the municipal Right-of-Way without the issuance of a Right-of-Way Permit for that installation.
- b. Pole Siting Standards.
 - i. Height. No pole shall be taller than thirty five (35) feet above the grade at the base of the pole or one hundred and ten percent (110%) of the height of poles in the surrounding streetscape, whichever is higher.
 - ii. Distance from the curb line: No pole shall be farther than eighteen (18) inches from the curb line or roadway.
 - iii. Location, Safety and Aesthetics: No pole shall be erected in the municipal Right-of-Way unless it:
 - 1. Is replacing an existing pole; or,

2. Is approved pursuant to a land development application by the Borough's Land Use Board pursuant to a Land Use Application; or,
3. Is located on the opposite side of the street from a part of the electrical distribution system; and,
4. Is located in the municipal Right-of-Way; and
5. Is a minimum of two hundred (200) linear feet away from any other existing pole or proposed pole along the same side of the street; and,
6. Is not located in an area with Underground Utilities; and,
7. Does not inhibit any existing sight triangles; and,
8. Allows adequate room for the public to pass and repass along and across the public Right-of-Way; and,
9. Is finished and/or painted so as to blend in compatibly with its surrounding streetscape and so as to minimize its visual impact on surrounding properties.

iv. Poles are prohibited in the municipal Right-of-Way located in any public grounds.

c. Ground Level Cabinet Site Standards.

Ground level cabinets are prohibited in the municipal Right-of-Way.

d. Underground Cabinet Site Standards.

i. Underground Cabinets are the preferred method of cabinet siting within the Borough of Mantoloking and permitted in the municipal Right of Way in all Zones.

ii. Underground Cabinet Siting shall not disturb any underground utilities.

iii. The Borough shall require that an applicant provide a certification from a licensed engineer attesting to the structural integrity of any underground Cabinet.

e. Pole Mounted Antenna And Pole Mounted Cabinet Siting Standards.

i. Pole Mounted Antennas are permitted on existing poles, provided that each pole mounted antenna:

1. Does not exceed three (3) cubic feet in volume; and,
2. Is finished or painted and otherwise camouflaged so as to blend in compatibly with its background and so as to minimize its visual impact on surrounding properties; and,
3. Does not inhibit any existing sight triangles; and,
4. Allows adequate room for the public to pass and repass along and across the public Right-of-Way.

- ii. Pole Mounted Cabinets are permitted on existing poles, provided that each pole mounted antenna:
 - 1. Does not exceed sixteen (16) cubic feet in volume; and,
 - 2. Is finished or painted and otherwise camouflaged so as to blend in compatibly with its background and so as to minimize its visual impact on surrounding properties; and,
 - 3. Does not inhibit any existing sight triangles; and,
 - 4. Allows adequate room for the public to pass and repass along and across the public Right-of-Way.
- iii. The Borough shall require that an applicant provide a certification from a licensed engineer attesting to the structural integrity of any pole mounted antenna or pole mounted Cabinet.
- f. Pole Mounted Antenna And Underground Cabinet Siting Standards.
 - i. Pole Mounted Antennas are permitted on existing poles, provided that each pole mounted antenna:
 - 1. Does not exceed three (3) cubic feet in volume; and,
 - 2. Is finished or painted and otherwise camouflaged so as to blend in compatibly with its background and so as to minimize its visual impact on surrounding properties; and,
 - 3. Does not inhibit any existing sight triangles; and,
 - 4. Allows adequate room for the public to pass and repass along and across the public Right-of-Way.
 - ii. Underground Cabinets are permitted with existing poles, provided that each underground cabinet:
 - 1. Shall not disturb any underground utilities.
 - iii. The Borough shall require that an applicant provide a certification from a licensed engineer attesting to the structural integrity of any pole mounted antenna and underground Cabinet.

§ 17-4.6 Application Process

- a. Pre-Application Meeting. Prior to making a formal application with the Borough for use of the municipal Right-of-Way, all applicants are advised to meet with the Borough Engineer to review the scope of the applicant's proposal.
- b. The Borough Council shall, by resolution, approve or disapprove every Right-of-Way Permit application based upon the recommendations provided to it pursuant to subsections (e) and (f) below.
- c. All applications made under this Section and Chapter shall be expedited so as to comply with the shot clocks set forth in the Federal Communications Commission Order entitled "Accelerating

- d. Every application made under this Section and Chapter must include a stamped survey prepared by a New Jersey licensed land surveyor demonstrating that any proposed pole, cabinet or antenna is located within the municipal Right-of-Way. Any such application which does not include such survey shall immediately be deemed incomplete.
- e. New Poles. The Mantoloking Land Use Board shall, pursuant to *N.J.S.A. 40:55D-25(B)(3)*, review all applications for the placement of new poles and ground level cabinets proposed to be located in the municipal Right-of-Way and advise the Borough Council of its recommendations to approve, deny or approve with conditions such applications. If the Planning Board recommends a denial of such application it shall set forth the factual basis for such denial in writing.
- f. Pole Mounted Antenna and Pole Mounted Cabinets.
 - i. The Borough Engineer shall review all applications to place pole mounted antenna and pole mounted cabinets within the municipal Right-of-Way and advise the Borough Council of his or her recommendation to approve, deny or approve with conditions such applications.
- g. Pole Mounted Antenna and Underground Cabinets.
 - i. The Borough Engineer shall review all applications to place pole mounted antenna and underground cabinets within the municipal Right-of-Way and advise the Borough Council of his or her recommendation to approve, deny or approve with conditions such applications.
- h. If the Borough Council denies any application made under this Section and Chapter, it shall do so in writing and set forth the factual basis therefor.
- i. Waiver. The Borough Council may waive any siting standard set forth in this Chapter where the applicant demonstrates that strict enforcement of any siting standard will:
 - i. Prohibit or have the effect of prohibiting any interstate or intrastate telecommunications service pursuant to 47 *U.S.C.A.* § 253(a); or,
 - ii. Prohibit or have the effect of prohibiting personal wireless service pursuant to 47 *U.S.C.A.* § 332(c)(7)(B)(i)(II); or,
 - iii. Will violate any requirement set forth in the Federal Communications Commission Order entitled “Accelerating Wireless Broadband Deployment By The Removal Of Barriers To Infrastructure Investment,” WT Docket No. 17-79; WC Docket No. 17-84.

§ 17-4.7 Right-Of-Way Permit Fees And Deposit Toward Anticipated Municipal Expenses.

- a. Every Right-of-Way Permit application must include a Right-of-Way Permit fee in the following amounts:
 - i. One (1) to five (5) sites - \$500.00.
 - ii. Each additional site - \$100.00.
- b. Deposit toward anticipated municipal expenses.

- i. In addition to the Right-of-Way Permit application fee, the Borough Engineer shall require the posting of an escrow in the amount of two thousand dollars (\$2,000.00) toward anticipated municipal expenses including, but not limited to planner, engineer, legal or other municipal fees related to review of an application for a Right-of-Way Permit under this Chapter.
- ii. The applicant's deposit shall be deposited in an escrow account. If at any time such deposit contains insufficient funds to enable the Borough to conduct its review of the Right-of-Way Permit application, the Borough Engineer shall provide the applicant with notice of an insufficient balance. The applicant shall deposit within ten (10) days of such notice such additional deposit as shall be agreed upon by the applicant and the Borough Engineer to complete the Borough's review.
- iii. After a final decision has been made by the Borough Council in accordance with this Chapter regarding the applicant's Right-of-Way Permit application, any unused balance from the applicant's deposit toward anticipated municipal expenses shall be refunded.

§ 17-4.8 Miscellaneous Provisions.

- a. Any approval granted pursuant to this Chapter does not relieve the applicant from receiving consent of the owner of the land above which an applicant's facility may be located as required under New Jersey law.
- b. Applicant must, in addition to obtaining a Right-of-Way Permit pursuant to this Chapter, also receive any and all necessary road opening permits, construction permits and any other permits required under the Ordinances of the Borough of Lavallette including, but not limited to the Uniform Construction Code.
- c. Applications for Borough consent pursuant to *N.J.S.A. 27:16-6* requires adherence to the standards set forth in this Chapter. No such applicant shall be required to enter into a Right-of-Way Agreement with the Borough.

§ 17-4.9 Violations and penalties.

Any person violating or failing to comply with any other provision of this article shall, upon conviction thereof, be punishable by a fine of no less than \$100 and no more than \$1,000, by imprisonment not to exceed 90 days or by community service of not more than 90 days or any combination of fine, imprisonment and community service, as determined in the discretion of the Municipal Court Judge. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

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 thereof.

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

Committee Chairperson Councilman Batcha proposes the following for this month's regular business Meeting.

PUBLIC HEARING

ADOPTION OF ORDINANCE NO. 699

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 2 ENTITLED "BOARDS, COMMITTEES AND COMMISSIONS" IN ORDER TO ESTABLISH A GREEN TEAM ADVISORY COMMITTEE

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 2, entitled "Boards, Committees and Commissions," so as to add § 2-36, which shall be entitled "Green Team Advisory Committee" which shall read as follows:

§ 2-36.1 Established.

There is hereby established a Green Team Advisory Committee to the Mantoloking Borough Council.

§ 2-36.2 Purpose.

The general purpose for the Green Team Advisory Committee includes but is not limited to the following:

- A. Manage the Borough's participation in the Sustainable Jersey program;
- B. Encourage the pursuit of sustainable practices where possible within the Borough;
- C. Make Green Team information available to the public;
- D. At the recommendation of the Borough Council, work with existing groups within the Borough whose actions affect environmental issues;
- E. Provide suggestions for further research and action to the Borough Council;
- F. Solicit and evaluate environmental ideas and suggestions from the community; and
- G. Promote sustainability within the Borough.

§ 2-36.3 Membership; term.

- A. The Green Team shall consist of the members of the Mantoloking Environmental Commission.
- B. Membership on the Green Team shall be concurrent with membership on the Environmental Commission.

§ 2-36.4 Duties.

- A. The Green Team shall adopt schedule of regular meetings and submit same to the Borough Council.
- B. The Green Team shall select volunteers to work on Green Team projects.
- C. The Green Team shall periodically submit reports and minutes to the Borough Council.

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.

INTRODUCTION OF ORDINANCE NO. 701

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 19 ENTITLED "SOLID WASTE MANAGEMENT"

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 19 entitled "Solid Waste Management," so as to amend § 19-2.3 in its entirety so that it shall be entitled "Yard Waste Regulations" and shall read as follows:

19-2.3 Yard Waste Regulations.

- A. The owner or occupant of any property, or any employee or contractor of such owner or occupant engaged to provide lawn care or landscaping services, shall not sweep, rake, blow or otherwise place yard waste in the street, except as provided for herein.
- B. Each residential property is permitted three containers, bags or bundles of yard waste or garbage per designated pick up day.
- C. Leaves and other yard waste shall be separated from dirt and solid waste.
- D. Leaves and yard waste in excess of the three permitted containers must be placed at the curb, unless leaves are stored or recycled for composting or mulching by the resident or property owner. Yard waste may be in a container, bagged, or tied in bundles and may include clippings, grass, leaves, small branches and yard trash. Bundles must be less than 4 feet in length and weigh less than 40 pounds.
- E. Yard waste that is placed in the street and is not containerized or placed curbside as provided for herein must be removed by the party responsible for its placement or that party shall be deemed in violation of this section.

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.

RESOLUTION NO. 2019

RESOLUTION: OF THE BOROUGH OF MANTOLOKING, COUNTY OF OCEAN, STATE OF NEW JERSEY, URGING THE LEGISLATURE AND GOVERNOR TO ENACT A LAW BANNING SINGLE USE PLASTIC AND PAPER BAGS

WHEREAS, it is estimated that a person will use five hundred single use disposable bags per year; and

WHEREAS, over four billion single use bags are used annually in the State of New Jersey; and

WHEREAS, single use plastic bags pose an environmental hazard to the local, state, and global environment as they are often improperly discarded and end up in waterways or on land where they are mistaken as food by marine and land-based animals; and

WHEREAS, single use plastic bags have a low percentage rate of recycling; and

WHEREAS, single use paper bags also have a negative environmental impact and are a contributor to greenhouse gas emissions and climate change; and

WHEREAS, paper bag manufacturing is a resource-intensive process whose overall carbon footprint is comparable to, or more significant than, plastic bag manufacturing when one factors in water and air pollutants, energy use, deforestation, diesel emissions and solid waste disposal; and

WHEREAS, due to the weight and volume of single use paper bags, it requires seven times the resources to transport paper bags as compared to plastic bags; and

WHEREAS, paper bags do not decompose in landfills and it takes a significant amount of energy and chemicals to properly recycle paper bags; and

WHEREAS, some municipal governments across New Jersey are enacting competing ordinances to address consumer reliance on single use plastic and paper bags; and

WHEREAS, this municipal action has created a patchwork of regulations across the state which has made it difficult and confusing for consumers to shop and businesses to operate in multiple municipalities; and

WHEREAS, other states including California, New York, and Connecticut have adopted laws regarding the regulation of plastic and paper bags;

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 it does hereby support the enactment of state legislation to create a law across all municipalities that bans single use plastic and paper bags, with certain uniform exemptions, thereby encouraging consumers to utilize reusable bags.
2. That a copy of this resolution be sent to the Office of the Governor, the President of the New Jersey State Senate, the Speaker of the New Jersey General Assembly, and our State Legislators.