

DRAFT NO. 1 –11/15/2017

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

**MINUTES - AGENDA SETTING PRE-COUNCIL MEETING**

**November 14, 2017**  
**Mantoloking Yacht Club**  
**1224 Bay Avenue**  
**Mantoloking, New Jersey**

The Agenda Setting Pre-Council Meeting of the Mayor and Council was held this day in the Mantoloking Yacht Club, Mantoloking, New Jersey.

1. **CALL TO ORDER:** Mayor George C. Nebel called the meeting to order at 5:30 p.m.
2. **OPEN PUBLIC MEETING STATEMENT:** Mayor George C. Nebel 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:**

<b><u>COUNCIL</u></b>	<b><u>PRESENT</u></b>	<b><u>ABSENT</u></b>	<b><u>LATE</u></b>	<b><u>DIAL -IN</u></b>
Council President White	X			
Councilman Gillingham	X			
Councilman Laymon	X			
Councilman Nelson	X			
Councilwoman O'Mealia	X			
Councilman Rzemieniewski	X			
Mayor George C. Nebel	X			
<b><u>ALSO PRESENT</u></b>				
Beverley A. Konopada, Borough Clerk	X			
Edwin J. O'Malley, Jr. Borough Attorney	X			
Lynne Hazelet, Deputy Clerk	X			
April Yezzi, CFO, CTC, QPA		X		
Chief Stacy Ferris	X			

4. **PLEDGE OF ALLEGIANCE:** Mayor George C. Nebel led the assembly in the Pledge of Allegiance.

5. **RESOLUTION: MINUTES OF PREVIOUS MEETINGS**

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

Agenda Setting Pre-Council Meeting- October 10, 2017

Regular Council Business Meeting- October 17, 2017

6. **PRIVILEGE OF THE FLOOR:** Mayor George C. Nebel will open the meeting for public comment and questions about the agenda.

7. **MUNICIPAL SERVICES COMMITTEE**, Council President White will present the monthly reports from the Public Works Superintendent, Construction Official, Land Use Officer and Building Committee and moves the following resolutions:

A. **RESOLUTION: APPROVAL OF SETTLEMENTS OF PROPERTY CLAIMS-BAY AVENUE PROJECT**

B. **RESOLUTION: INTRODUCTION TO ORDINANCE 674 AMENDING CONSTRUCTION FEE SCHEDULE**

8. **FINANCE COMMITTEE**, Councilman Gillingham will present the monthly finance report and moves the following resolutions:

A. **RESOLUTION: ACCEPT THE REPORT OF THE MUNICIPAL FINANCE OFFICER**

**WHEREAS**, the Chief Finance Officer has presented a report on the status of the 2017 temporary Municipal budget as of \_\_\_\_\_, 2017; and

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

<u>ACCOUNT</u>	<u>ORIGINAL BUDGET</u>	<u>2017 TEMPORARY BUDGET</u>	<u>EXPENDED</u>	<u>ENCUMBERED</u>	<u>BALANCE</u>
2017 Adopted Budget					
2016 Appropriation Reserve					
2012 Emergency Appropriations					
Sandy Emergency #1					
Sandy Emergency #2					
Sandy Emergency #3					

Subtotal Sandy Emergency					
Capital					

**B. RESOLUTION: PAYMENT OF BILLS**

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

- A list of bills in the amount of \$ \_\_\_\_\_ with the recommendation they be paid, and
- A list of bills in the amount of \$ \_\_\_\_\_ 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.

**C. RESOLUTION: APPROVAL FOR MEMBER PARTICIPATION IN A COOPERATIVE PRICING SYSTEM AUTHORIZING THE BOROUGH OF MANTOLOKING TO ENTER INTO A COOPERATIVE PRICING AGREEMENT**

**WHEREAS**, N.J.S.A. 40A:11-11(5) authorizes contracting units to establish a Cooperative Pricing System and to enter into Cooperative Pricing Agreements for its administration; and

**WHEREAS**, the Educational Services Commission of New Jersey, hereinafter referred to as the "Lead Agency " has offered voluntary participation in a Cooperative Pricing System for the purchase of goods and services;

**WHEREAS**, on November 21, 2017 the governing body of the Borough of Mantoloking, County of Ocean, State of New Jersey duly considered participation in a Cooperative Pricing System for the provision and performance of goods and services;

**NOW, THEREFORE BE IT RESOLVED** as follows:

**TITLE**

This RESOLUTION shall be known and may be cited as the Cooperative Pricing Resolution of the Borough of Mantoloking

**AUTHORITY**

Pursuant to the provisions of *N.J.S.A. 40A:11-11(5)*, the Mayor is hereby authorized to enter into a Cooperative Pricing Agreement with the Lead Agency.

**CONTRACTING UNIT**

The Lead Agency shall be responsible for complying with the provisions of the *Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.)* and all other provisions of the revised statutes of the State of New Jersey.

**EFFECTIVE DATE**



This resolution shall take effect immediately upon passage.

**D. RESOLUTION: TRANSFERRING CURRENT YEAR APPROPRIATIONS #1-2017**

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

**A. RESOLUTION: NO PARKING CERTAIN HOURS ALONG ROUTE NJ 35 (OCEAN AVENUE) NJ DOT**

Language to be included in the resolution

**NO PARKING CERTAIN HOURS**

In the Borough of Mantoloking:

Along Route NJ 35 (Ocean Avenue):

- (1) No stopping or standing between 8:30 PM and 5:30 AM **from May 1 to September 30 annually** along the northbound (easterly) side:
  - (A) Between Herbert Street (County Route 528) and Lyman Street (approximate mileposts 9.94 to 10.70)
- (2) No stopping or standing between 8:00 PM and 6:30 AM **from October 1 to April 30 annually** along the northbound (easterly) side:
  - (A) Between Herbert Street (County Route 528) and Lyman Avenue (approximate mileposts 9.94 to 10.70)

**Repealer Clause:**

The Borough of Mantoloking concurs that any approved traffic regulations in conflict with or inconsistent with the provisions of this Resolution be rescinded upon approval of the Traffic Regulation Order.

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

**WHEREAS**, Scott Bland has applied for membership in the Mantoloking Fire Company No. 1; and  
**WHEREAS**, the fire company has approved the application; 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 21<sup>st</sup> day of November 2017, **RESOLVED** by the Mayor and Council of the Borough of Mantoloking, Ocean County, New Jersey, that the application of Scott Bland is hereby approved, subject to receipt of satisfactory physical examination report.

**C. RESOLUTION: APPOINTMENT OF JACK NEARY AS POLICE OFFICER**

10. **ENVIRONMENTAL COMMITTEE** Councilwoman O'Mealia will present the report of the Environmental Committee.

Councilwoman O'Mealia advised the public that she will present two reports at the next meeting.

1. Report from the Environmental Commission
2. Report on the recent ballot open space initiative

11. **MUNICIPAL RELATIONS COMMITTEE** Councilman Rzemieniewski will present the report of the Mantoloking Relations Committee.

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

Councilman Nelson will be giving an update on the current status of the beach project at the meeting next week. He also announced that Option 9 was approved by the state today.

Suggested changes to the Dune and Beach Ordinance are being looked at to see if they can be incorporated, and any other changes can be done at a later date.

**PUBLIC HEARING**: Mayor George C. Nebel will open the meeting to the public on Ordinance No. 663

**A. RESOLUTION: ADOPTION OF DUNE AND BEACH ORDINANCE NO. 663**

**Sponsored by:** Councilman Chris Nelson  
**Date Re-Introduced:** October 17, 2017  
**Public Hearing & Adoption**  
**Consideration:** November 21, 2017

**Synopsis:** As the Borough's dune and beach system will be significantly altered by the upcoming USACE beach replenishment program, it was determined the Ordinance needed to be modified to include more dune preservation language rather than exclusively controlling the existing dune building concept; with various sections requiring modification to address the USACE project revised dune profile and address other USACE project requirements; and to address other regulatory issues that require update to accommodate revised NJDEP standards and easement conditions

**ORDINANCE NO. 663**

**AN ORDINANCE OF THE BOROUGH OF MANTOLOKING,  
OCEAN COUNTY, NEW JERSEY, PROVIDING FOR AMENDMENT OF  
CHAPTER XI (PROTECTION OF BEACHES AND DUNES) OF THE REVISED GENERAL  
ORDINANCES OF THE BOROUGH OF MANTOLOKING, 2007**

**BE IT ORDAINED** by the Mayor and Council of the Borough of Mantoloking, as follows:

1. Chapter XI of the Revised General Ordinances of the Borough of Mantoloking, 2007, is deleted.
2. Proposed revision of Chapter XI, 21 pages attached, is hereby introduced.
3. This Ordinance shall be effective upon final adoption according to law.

**ADDENDUM TO PROPOSED ORDINANCE 663  
CHAPTER XI – PROTECTION OF BEACHES AND DUNES**

The following provisions shall be included as substantive components of the proposed Ordinance #663.

1. Article 11-2, Definitions, sub-article 11-2.2, add:

Appeal – the process available to property owner to seek relief from an Order and/or directive of the Dune Inspector.

2. Article 11-4 – **Enforcement and Penalties:** Add:

Article 11-4.1a **Appeal:**

It is recognized that maintenance of an appropriate dune system is essential to the well-being of the Borough at large and the oceanfront property owners. It is also recognized that the owners of oceanfront property by virtue of their ownership are inextricably involved in the on-going, community wide protective scenario of which dune maintenance is a fundamental component.

Although the Dune Ordinance is an exercise of the police power it is expected that the availability of an appeal process will dramatically reduce the need for strict, judicially supervised enforcement of the ordinance.

The owner of an oceanfront lot which has been the subject of a determination or directive issued by the Dune Inspector may, within ten days of his or her receipt of a written (or email) determination or directive concerning compliance with the Dune Ordinance or incorporated regulations, appeal such determination and directive to the Dune Appeal Committee for review.



The Dune Appeal Committee shall consist of three (3) Members: two (2) shall be oceanfront property owners and one (1) shall own other non-oceanfront property in the Borough. The Committee shall be appointed by the Mayor, subject to confirmation by Council, and shall serve at the pleasure of the Mayor.

The appeal shall be submitted in writing (or email) and shall set forth the owners contentions, factual and technical, relied upon in support of the appeal together with such alternatives, if any, as would reasonably address the issues raised by the Dune Inspector's determination or directive and which, if implemented would be acceptable to the property owner. The Appeal Committee shall issue its determination, in writing, to the appellant and Dune Inspector within 21 days from receipt of appeal.

Upon receipt of the recommendations of the Appeal Committee, the Dune Inspector shall, with due regard for and in consideration of the appellant's contentions and in the sole exercise of his or her discretion, modify, amend, rescind or confirm the appealed determinations or directives. The Dune Inspector shall advise the owner in writing (or email) of the decision within 10 days of the receipt of the recommendations from the Dune Appeal Committee

Except in instances of emergent circumstances which pose imminent peril to property or persons the Dune Inspector shall not commence formal legal action (file a complaint) to enforce the Dune Ordinance until the expiration of not less than 10 days from the issuance of a determination or directive or until completion of the appeal process, if utilized. The determination of the Dune Inspector concerning disposition of any appeal shall be made solely in the reasonable exercise of his or her discretion, final and not subject to judicial review for any purpose.

**ROLL CALL VOTE:**

**13. MAYOR AND COUNCIL COMMENTS**

Councilwoman O'Mealia had some concerns on the Dune and Beach Ordinance and the Appeals Process and Language.

Councilman Rzemieniewski stated he received a robo call from the IRS.

Councilwoman O'Mealia wanted to know if a discussion to recommend quarterly finance reports was on the Agenda. She requested that additional, information regarding the town's finances be supplied on a financial dashboard.

Councilman Gillingham said we will wait for the CFO, April Yezzi to be here to discuss this.

**14. PUBLIC COMMENTS PERIOD**

Concerns and questions on the Dune and Beach Ordinance and Appeals issue

**15. NEXT MEETING:**

Regular Business Council Meeting, Tuesday, November 21, 2017 at 5:30 p.m. at the Mantoloking Yacht Club, 1224 Bay Avenue, Mantoloking, NJ

**16. ADJOURNMENT**

There being no further business for this meeting, it was motioned by Councilman Laymon to adjourn. The motion was seconded by Councilman White and approved by unanimous voice vote.

Respectfully submitted,

Lynne A. Hazelet  
Deputy Clerk