

**MANSFIELD TOWNSHIP  
BURLINGTON COUNTY**

**RESOLUTION 2011-4-4**

**A RESOLUTION URGING THE SWIFT PASSAGE OF A-3430, A3431,  
AND A-3432**

**WHEREAS**, injuries that occur on sidewalks that abut commercial property are the responsibility of the commercial property owner; and

**WHEREAS**, courts have ruled that injuries that occur on sidewalks that abut residential property are not the responsibility of the homeowner even when the homeowner is responsible for the maintenance and repair of the sidewalk by municipal ordinance; and

**WHEREAS**, courts have ruled that the municipality, not the homeowner, is liable for accidents on defective sidewalks notwithstanding the municipal ordinance; and

**WHEREAS**, under the provisions of Title 59, public entities are immune from injury "caused solely by weather" on streets and sidewalks; and

**WHEREAS**, despite this language, in many cases municipalities and other public entities still have been forced to pay large amounts of money in damages when courts ruled that because other factors contributed to the accident, the Title 59 immunity didn't apply because the accident was not "solely" caused by weather;

**WHEREAS**, municipalities and other public entities have also been forced to pay large amounts of money in damages for accidents occurring on other public property that were substantially caused by weather; and

**WHEREAS**, also under the provisions of Title 59, public entities are immune from injury "caused by a condition of any unimproved public property, including but not limited to any natural condition of any beach;" and

**WHEREAS**, despite this language, in many cases municipalities still have been forced to pay large amounts of money in damages for claims by swimmers injured in the ocean; and

**WHEREAS**, public entities have also incurred large costs in defending lawsuits by persons injured while walking on municipal boardwalks; and

**WHEREAS**, a public entity should be immune from such a suit if it can demonstrate that it was operating under an ongoing maintenance plan calling for periodically reviewing and repairing the boardwalk; and

**WHEREAS**, Assemblyman Burzichelli has introduced a package of legislation, A-3430, A-3431, and A-3432 to strengthen immunity from tort claims involving weather, sidewalks, beaches, boardwalks and similar public properties;

**NOW, THEREFORE BE IT RESOLVED**, by the governing body of Mansfield Township, that the Legislature is urged to pass A-3430, A-3431, and A-3432 to strengthen municipality's immunity from tort claims.

**BE IT FURTHER RESOLVED**, that a copy of this Resolution be forwarded to the members of the New Jersey General Assembly, the New Jersey State Senate, the Governor of the State of New Jersey and the New Jersey League of Municipalities.

**MOTION: HIGGINS**

**SECOND: CLARK**

**ROLL CALL VOTE:**

**AYES: HIGGINS, CLARK, GABLE, DiGIUSEPPE, PUGLIA**

**NAYS: NONE ABSTAIN: NONE ABSENT: NONE**

**CERTIFICATION**

I, **LINDA SEMUS**, Municipal Clerk of the Township of Mansfield, County of Burlington, State of New Jersey, do hereby certify this to be a true and accurate copy of the Resolution adopted by the Mansfield Township Committee at their Regular Meeting held on April 13, 2011 at 7:30 p.m. at the Municipal Complex.

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**Linda Semus, RMC**  
**Municipal Clerk**