

REGULAR MEETING – MARCH 23, 2015 – 7:30 P.M.

Pledge of Allegiance.

Roll Call: Commissioner McGovern, Commissioner Gorman, Mayor Mahon

Borough Clerk reads the following statement:

This is a regular meeting of the Board of Commissioners of the Borough of Avon-By-The-Sea and notice of time, date and place has been transmitted to the area newspapers, Avon Board of Education, Avon Public Library and the Avon Post Office in compliance with the rules and regulations of the Open Public Meetings Law.

Fire Exits are located in the direction I am indicating. In case of fire, you will be notified by an alarm bell. If so notified, please move in a calm, orderly manner to the nearest smoke free exit. Thank you.

Motion by Gorman seconded by Mahon that the minutes of the meeting of March 9, 2015 be approved as written.

The Vote:

Aye: All (Commissioner McGovern absent)

No: None

Mayor announces that this is the time advertised for second reading and hearing on Ordinance No. 5-2015 entitled:

**“AN ORDINANCE TO EXCEED THE
MUNICIPAL BUDGET APPROPRIATION
LIMITS AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40A: 4-45.14)”**

WHEREAS, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 1.5% unless authorized by ordinance to increase it to 3.5% over the previous year’s final appropriations, subject to certain exceptions; and

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and

WHEREAS, the Borough Commissioners of the Borough of Avon-By-The-Sea in the County of Monmouth finds it advisable and necessary to increase its CY 2015 budget by up to 3.5% over the previous year’s final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and

WHEREAS, the Borough Commissioners hereby determines that a 2% increase in the budget for said year, amounting to \$ 66,021.36 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and

WHEREAS, the Borough Commissioners hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Commissioners of the Borough of Avon-By-The-Sea, in the County of Monmouth, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2015 budget year, the final appropriations of the Borough of Avon-By-The-Sea shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5%, amounting to \$115,537.38, and that the CY 2015 municipal budget for the Borough of Avon-By-The-Sea be approved and adopted in accordance with this ordinance; and

BE IT FURTHER ORDAINED, that any that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and

**BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.
be introduced on first reading.**

Would anyone like to be heard on the above ordinance? No one.

Motion by Gorman seconded by Mahon that the above Ordinance No. 5-2015 be approved on second reading and its passage published in a newspaper as required by law.

The Vote:

Aye: All

No: None

Mayor announces that this is the time advertised for second reading and hearing on Bond Ordinance No. 6-2015 entitled:

“ BOND ORDINANCE PROVIDING FOR VARIOUS CAPITAL IMPROVEMENTS AND ACQUISITIONS OF THE BOROUGH OF AVON-BY-THE-SEA, MONMOUTH, NEW JERSEY, APPROPRIATING THE AGGREGATE AMOUNT OF \$500,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$475,000 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF.”

BE IT ORDAINED by the Board of Commissioners of the Borough of Avon-By-The-Sea, in the County of Monmouth, New Jersey (not less than two-thirds of all members thereof affirmatively concurring) as follows:

Section 1. The several improvements described in Section 3 of this bond ordinance are hereby authorized to be undertaken by the Borough of Avon-By-The-Sea, New Jersey as general improvements. For the several improvements or purposes described in Section 3, there are hereby appropriated the respective sums of money therein stated as the appropriation made for each improvement or purpose, such sums amounting in the aggregate to \$500,000, and further including the aggregate sum of \$25,000 as the several down payments for the improvements or purposes required by the Local Bond Law. The down payments have been made available by the virtue of provision for down payment or for capital improvement purposes in one or more previously adopted budgets.

Section 2. In order to finance the cost of the several improvements or purposes not covered by application of the several down payments, negotiable bonds are hereby authorized to be issued in the principal amount of \$475,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. The several improvements hereby authorized and the several purposes for which the bonds are to be issued, the estimated cost of each improvement and the appropriation therefore the estimated maximum amount of bonds or notes to be issued for each improvement and the period of usefulness of each improvement are as follows:

<u>Purpose</u>	<u>Appropriation And Estimated Cost</u>	<u>Estimated Maximum Amount of Bonds or Notes</u>	<u>Period of Usefulness</u>
a) DPW Building	\$300,000	\$285,000	10 years
b) Assembly Pavilion	200,000	190,000	10 years
Totals:	\$500,000	\$475,000	

The excess of the appropriation made for each of the improvements or purposes aforesaid over the estimated maximum amount of bonds or notes to be issued therefore, as above stated, is the amount of the down payment for each purpose, and/or grant monies already approved and receivable.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer; provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer shall determine all matters in connection with notes issued pursuant to the ordinance, and the

Chief Financial Officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of N.J.S.A.40A:2-8.1(3)(a). The Chief Financial Officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section 5. The capital budget of the Borough of Avon-By-The-Sea is hereby amended to conform with the provisions of this 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 Clerk and is available there for public inspection.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

- (a) The improvement or purpose described in section 3 of this bond ordinance are not current expenses. They are all improvements or purposes that the Borough may lawfully undertake as general improvements, and no part of the costs thereof has been or shall be specially assessed on property specially benefited hereby.**
- (b) The average period of usefulness, computed on the basis of the respective amounts of obligations authorized for each purpose and the reasonable life thereof within the limitations of the Local Bond Law, is 10 years.**
- (c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such Statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$475,000, and the obligations authorized herein will be within all debt limitations prescribed by that law.**
- (d) An aggregate amount not exceeding \$15,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated costs indicated herein for the purposes or improvements.**

Section 7. Any grant monies received for the purpose described in Section 3 hereof shall be applied either to direct payment of the cost of the improvements, or if other than the grants referred to in Section 1 hereof, to payment of the obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 8. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy ad valorem taxes upon all the taxable real property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 9. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

Would anyone like to be heard on the above ordinance? No one.

Motion by Gorman seconded by McGovern that the above Ordinance No. 6-2015 be approved on second reading and its passage published in a newspaper as required by law.

The Vote:

Aye: All

No: None

Mayor announces that this is the time advertised for second reading and hearing on Ordinance No. 7-2015 entitled:

**“ AN ORDINANCE AMENDING CHAPTER 168,
ENTITLED “WATER”, OF THE CODE OF THE
BOROUGH OF AVON-BY-THE-SEA, IN THE
COUNTY OF MONMOUTH, NEW JERSEY.”**

BE IT ORDAINED that Chapter 168 is amended as follows:

168-20. Annual Minimum Charge.

- A. An annual minimum charge of three hundred fifty dollars (\$350.00) shall be made for each unit, which minimum charge shall pay for the first fifteen thousand (15,000) gallons or less of water consumed per billing period (semi-annually) and the annual service charge for a three-fourths (3/4) inch meter. If application for the installation of a meter is made subsequent to the first semi-annual billing period, the annual minimum charge of three hundred fifty dollars (\$350.00) shall be paid upon application for the meter and before the installation thereof. “Unit” as used herein shall include any dwelling, store, residential or commercial use, apartment, dwelling unit or as determined by the Water Department. For the purpose of this chapter, “dwelling unit” shall mean any room or group of rooms, or any part thereof, located within a building and forming a single habitable unit with facilities which are used, or designed to be used, for living, sleeping, cooking and eating.**

All other terms and conditions of this ordinance will remain in effect.

Would anyone like to be heard on the above ordinance? It was asked why the increase? Mayor explained that with the funding we receive through water billing, it is inadequate in terms of overseeing the cost of the program. Our

auditor, over the last couple of years, has recommended that our rates are too low. At this point, we've utilized most of the excess funding we had available. We feel it is prudent to increase the rates. This explanation will hold true for the sewer increase as well. Our last increase was in 2012.

Motion by McGovern seconded by Gorman that the above Ordinance No. 7-2015 be approved on second reading and its passage published in a newspaper as required by law.

The Vote:

Aye: All

No: None

Mayor announces that this is the time advertised for second reading and hearing on Ordinance No. 8-2015 entitled:

**“ AN ORDINANCE AMENDING CHAPTER 136,
ENTITLED “SEWERS”, OF THE CODE OF THE
BOROUGH OF AVON-BY-THE-SEA, IN THE
COUNTY OF MONMOUTH, NEW JERSEY.”**

136.27. Annual Sewer Rental.

There is hereby imposed an annual sewer rental charge for use, occupation, maintenance and construction of the sewers and sewerage system and disposal facilities in the Borough of Avon-By-The-Sea, upon the owners of the properties served thereby at the rates hereinafter set forth. An annual minimum charge of three hundred fifty dollars (\$350.00) shall be made for each unit. An additional charge of two dollars and ninety five cents (\$2.95) for each one thousand (1,000) gallons of water consumption shall be charged to each unit in addition to the basic minimum sewerage charge.

All other terms and conditions of this ordinance shall remain in effect.

Would anyone like to be heard on the above ordinance? As above.

Motion by McGovern seconded by Gorman that the above Ordinance No. 8-2015 be approved on second reading and its passage published in a newspaper as required by law.

The Vote:

Aye: All

No: None

RESOLUTION offered by McGovern seconded by Mahon that,

WHEREAS, the Mandatory Source Separation and Recycling Act, P.L. 1987, c.102, has established a recycling fund from which tonnage grants may be made to municipalities in order to encourage local source separation and recycling programs; and

WHEREAS, it is the intent and spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue and expand existing programs; and

WHEREAS, the New Jersey Department of Environmental Protections promulgating recycling regulations to implement the Mandatory Source Separation and Recycling Act; and

WHEREAS, the recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including, but not limited to, making and keeping accurate, verifiable records of materials collected and claimed by the municipality; and

WHEREAS, a resolution authorizing this municipality to apply for such tonnage grants for the calendar year 2014 will memorialize commitment of this municipality to recycling and indicate assent of the Board of Commissioners to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations; and

WHEREAS, such a resolution should designate the individual authorized to ensure that the application is properly completed and timely filed.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Borough of Avon-By-The-Sea hereby endorses the submission of a Municipal Recycling Tonnage Grant Application to the New Jersey Department of Environmental Protection, Office of Recycling and designates Jeff Bramhall, CRP, to ensure that the said application is properly filed.

BE IT FURTHER RESOLVED that the monies received from the recycling tonnage grant be deposited in a dedicated recycling trust fund to be used solely for the purposes of recycling.

The Vote:

Aye: All

No: None

RESOLUTION offered by Mahon seconded by McGovern that,

WHEREAS, the Recycling Enhancement Act, P.L. 2007, Chapter 311, has established a recycling fund from which tonnage grants may be made to municipalities in order to encourage local source separation and recycling programs; and

WHEREAS, there is levied upon the owner or operator of every solid waste facility (with certain exceptions) a recycling tax of \$3.00 per ton on all solid waste accepted for disposal or transfer at the solid waste facility; and

WHEREAS, whenever a municipality operates a municipal service system for solid waste collection, or provides for regular solid waste collection service under a contract awarded pursuant to the "Local Public Contracts Law", the amount of grant monies received by the municipality shall not be less than the annual amount of recycling tax paid by the municipality except that all grant monies received by the municipality shall be expended only for its recycling program.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners that the Borough of Avon-By-The-Sea hereby certifies a submission of expenditure for taxes paid pursuant to P.L. 2007, Chapter 311, in 2014 in the amount of \$8,292.03. Documentation supporting this submission is available at 301 Main Street and shall be maintained for no less than five years from this date.

The Vote:

Aye: All

No: None

RESOLUTION offered by Mahon seconded by McGovern that the Board of Commissioners hereby approve the following due dates of the cycle one (whole town) accounts for the first half 2015 water/sewer billing:

First Quarter 2015 due May 1, 2015

Second Quarter 2015 due June 1, 2015

The Vote:

Aye: All

No: None

RESOLUTION offered by Gorman seconded by Mahon that,

WHEREAS, permission is required of the Director of the Division of Local Government Services for approval as a dedication by rider of revenues received by a municipality when the revenue is not subject to reasonably accurate estimates in advance; and

WHEREAS, the governing body of the Borough of Avon-By-The-Sea provides for receipt of Marina Building Rental by the municipality to provide for the operating costs to administer this act; and

WHEREAS, N.J.S.A. 40A:12A-3 et seq. provides the dedicated revenues anticipated from Marina Building Rental are hereby anticipated as revenue and are hereby appropriated for the purpose to which said revenue is dedicated by statute or other legal requirement:

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the Borough of Avon-By-The-Sea, County of Monmouth, New Jersey as follows:

- 1. The Governing Body does hereby request permission of the Director of the Division of Local Government Services to pay expenditures related to Marina Building Rental in the Borough of Avon-By-The-Sea.**
- 2. The Clerk of the Borough of Avon-By-The-Sea, County of Monmouth is hereby directed to forward two certified copies of this Resolution to the Director of Local Government Services.**

The Vote:

Aye: All

No: None

RESOLUTION offered by McGovern seconded by Gorman that the Board of Commissioners hereby appoint Kerry McGuigan as the Local Public Assistance Director for the Borough of Avon.

The Vote:

Aye: All

No: None

RESOLUTION offered by Gorman seconded by Mahon that the Board of Commissioners hereby approve a change order for the contract with Earle Asphalt Co., 2013 Road Improvement Program and Reconstruction of Lanes project for a reduction in the amount of \$37,191.53, an addition in the amount of \$34,705.09 for a total change of -\$2,486.44 and a revised contract amount of \$428,026.70.

The Vote:

Aye: All

No: None

Motion by McGovern seconded by Gorman that the bills in the amount of \$562,607.20 be approved for payment.

The Vote:

Aye: All

No: None

Mayor asks if anyone would like to be heard?

Roger Domal, Woodland Ave. – said DPW did a great job all winter with snow plowing and snow removal. Saw them help a lady in the lane with her car. Thanked them.

Dave Piazza, Third Ave. – complained about being plowed in by DPW and lack of snow removal.

Marie Kenny, Norwood Ave. – said that it was a good job on plans for the pavilion.

Chris Romney, Garfield Ave. – asked about the Amato/State property at the river. Mayor said the state is replacing the bulkhead from 1st Ave. to the bridge. They own 45 ft. of that property. The rest is privately owned. As far as creating permanent access to the private property, that is not going to happen. Further discussion took place.

Comm. Gorman introduced Professor John Comisky (? spelling). He is the Chairman of the Homeland Security Dept. at Monmouth University. He is going to do a study on homeland security in a small town and has chosen Avon. He has met with the Coast Guard and will be meeting with officials & dept. heads. The study is expected to take about 9 months.

Comm. Gorman announced that Avon will again participate in Paint It Pink for breast cancer awareness next May.

Comm. Gorman – the stop sign on Sylvania Ave. is being looked at by the Monmouth County traffic dept.

Comm. Gorman announces the annual 5K run sponsored by the Avon 1st Aid Squad will be May 30th. The Fire Dept.'s Family Fun Day will be the afternoon of May 30th.

Comm. Gorman read letter from Bart Barry, the President of the 1st Aid Squad commending Police Officers Tony Pecelli, Chris Garrity & Greg Torchia for their action in saving a person who had gone into cardiac arrest at a restaurant. They performed CPR and used the portable defibrillator. The patient was stabilized by the time he got to the hospital and is now recuperating.

Before adjourning meeting, there was discussion regarding the plans for the pavilion and approval by the Commissioners. Comm. Gorman feels it's not appropriate to move forward without getting the opinion of more residents at a future meeting.

Motion by Mahon seconded by McGovern that the Board of Commissioners approve the renderings for the Assembly Pavilion at the boardwalk as provided by Mary Hearn, Architect, and that the Borough shall move forward with the construction.

The Vote:

Aye: Commissioner McGovern, Mayor Mahon

No: Commissioner Gorman

Motion by Gorman seconded by Mahon that the Board of Commissioners go into Executive Session to discuss a negotiation matter.

The Vote:

Aye: All

No: None

Commissioners return from executive session.

Motion by McGovern seconded by Gorman that being there is no further business, the meeting is adjourned.

The Vote:

Aye: All

No: None

Robert Mahon, Mayor

Robert P. McGovern, Commissioner

Francis E. Gorman, Commissioner

**Timothy M. Gallagher, RMC
Borough Clerk**