

**REGULAR MEETING – APRIL 8, 2013 – 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 directions 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 11, 2013 be approved as written.**

**The Vote:**

**Aye: All (Comm. McGovern absent)**

**No: None**

**Mayor introduces Toni Angelini, a representative from the Governor's office. She's here to honor 3 of our residents for their contributions to Avon after the hurricane – they are Joan O'Hear, Megan Page & Lynn Belletier. They are responsible for the Boards by the Sea program which raised money to assist the Borough in rebuilding the boardwalk. It was an extremely successful event raising over \$37,000.00.**

**Mayor reads a letter from the governor. Presentation made to the ladies. They made a presentation to the Mayor – a commemorative photo of the boardwalk to hang in the Municipal Building.**

**RESOLUTION offered by McGovern seconded by Gorman that,**

**WHEREAS, N.J.S.A. 40A:4-19 provides that every Municipality must make temporary appropriations during the period January 1st to adoption of the budget sufficient to cover commitments made during the period January 1<sup>st</sup> to the date of adoption of the 2013 budget, and**

**WHEREAS, the 2013 budget will not be adopted until after April 1<sup>st</sup> and commitments need to be covered until the date of adoption.**

**THEREFORE, the total emergency resolutions adopted in the year 2013 pursuant to the provisions of Chapter 96, P.L. 1951 (N.J.S.A.40A:4-20) including this resolution total of \$718,733.33.**

**NOW, THEREFORE, BE IT RESOLVED that the following list of appropriations shall constitute an amendment to the 2013 Temporary Budget of \$718,333.33 for the Borough of Avon-By-The-Sea, Monmouth County, NJ.**

**2013 Current Budget Amendment**

**\$538,333.33**

**2013 Beach Budget Amendment**

**\$80,000.00**

**2013 Water Budget Amendment**

**\$100,000.00**

**Totals \$718,333.33**

**The Vote:**

**Aye: All**

**No: None**

**2013 Current Temporary Budget**

**\$2,153,333.33**

**2013 Beach Temporary Budget**

**\$320,000.00**

**2013 Water Temporary Budget**

**\$400,000.00**

**Totals \$2,873,333.33**

**Mr. Gallagher explains the above resolution: we are still on a temporary budget. Have not sent our budget to the state yet, because we applied for a zero interest loan to cover our losses from taxes we are not going to get. State will not look at our budget until we get a yes or no on the loan application. I met with our C.F.O. & Auditor last week and submitted the application. Should hear in 2-3 weeks. As soon as we hear back, we can plug in the numbers from the loan or we will have to go back & re-do the budget. The above is our temp. budget to keep going.**

**RESOLUTION offered by McGovern seconded by Gorman that the Board of Commissioners hereby authorizes the cancellation of 2013 water/sewer charges for the following accounts:**

**Block 37 Lot 3 35 Garfield Ave. Overestimate \$41.30**

**The Vote:**

**Aye: All**

**No: None**

**RESOLUTION offered by McGovern seconded by Gorman that the Board of Commissioners hereby authorize the refund of a 2013 first quarter property tax overpayments payment to the following:**

**Block 23 Lot 14.14 BAC Tax for Bilotti 521Ocean, Unit 14 \$870.40**

**Block 23 Lot 14.16 BAC Tax for Bresin 521 Ocean, Unit 16 \$967.91**

**The Vote:**

**Aye: All**

**No: None**

**RESOLUTION offered by Mahon seconded by McGovern that,**

**WHEREAS, N.J.S.A. 54:4-91.1, and as amended by P.L. 1991 C. 75, requires the collector to submit to the governing body on or before May 1<sup>st</sup> annually, a list of uncollectible taxes for the year 2012 for cancellation.**

**NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Avon-by-the-Sea, County of Monmouth, State of New Jersey, hereby authorizes and directs the cancellation of the following taxes for 2012: None**

**BE IT FURTHER RESOLVED, that a certified copy of this Resolution be forwarded to the Tax Collector and Tax Assessor.**

**The Vote:**

**Aye: All**

**No: None**

**RESOLUTION offered by Mahon seconded by McGovern that the Board of Commissioners hereby authorize, upon the recommendation of the Tax Collector, that the Borough participate in the electronic file sharing with search companies. Based upon one file transfer per week, a single up front payment of \$300.00 will be accepted for one year's worth of electronic data, beginning April 1, 2013 through March 31, 2014. This fee will be increased if additional weekly files are requested.**

**The Vote:**

**Aye: All**

**No: None**

**RESOLUTION offered by Mahon seconded by McGovern authorizing a refund of overpaid taxes caused by tax court judgment docket no. 006619-2011 for the year 2011**

**WHEREAS, the owners of Block 23 Lot 16.01, 503 Ocean Avenue, and Block 23 Lot 16.02, 504 Patriot Lane, Avon-by-the-Sea, N.J. have been successful in their appeal to The Tax Court of New Jersey and having agreed upon a settlement adjusting their assessed value as follows:**

<b><u>2011 Assessment from Tax Duplicate</u></b>	<b><u>Tax Court Judgment</u></b>
2,134,700.00 Land	2,134,700.00 Land
1,090,000.00 Improvements	940,000.00 Improvements
<b><u>3,224,700.00 Total Assessment</u></b>	<b><u>3,074,700.00 Total Assessment</u></b>
\$32,472.73 taxes paid 2011	\$30,962.23 taxes due 2011

**WHEREAS, this has resulted in their overpaying the property tax for the year 2011 in the amount of \$1,510.50 and statutory interest has been waived pursuant to N.J.S.A. 54:3-27.2 and,**

**WHEREAS, the Stipulation reflects that the total aggregate assessment for Block 23, Lots 16.01 and 16.02 for 2012 shall not exceed \$4,293,000.00 and,**

**WHEREAS, they have been awarded this judgment and therefore are entitled to a refund and the 2012 assessment for Block 23 Lot 16.01 has been reduced to \$2,874,700.00 and Block 23 Lot 16.02 has stayed the same at \$1,418,300.00 for an aggregate assessment of \$4,293,000.00 per the stipulation of settlement,**

**NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Avon-by-the-Sea, that the Tax Collector be authorized to refund the overpayment of \$1,510.50 for the year 2011 to Archer & Greiner, P. as Trustee for Colantoni, 700 Alexander Park, Ste 102, Princeton, NJ 08540.**

**The Vote:**

**Aye: All**

**No: None**

**Mayor announces that an application has been received for the renewal of the Seasonal Retail Consumption License for the Avon Hotel Corp., 601 Ocean Avenue.**

**Are there any objections to this license renewal? No one.**

**RESOLUTION offered by Mahon seconded by McGovern that,**

**BE IT RESOLVED that the Board of Commissioners do hereby approve the renewal of the Seasonal Retail Consumption License No. 1305-34-004-003 for the Avon Hotel Corp., T/A the Columns at the fee of \$1,500.00 effective May 1, 2013 with the following conditions:**

- 1. No amplifiers inside or outside that disturb neighbors.**
- 2. No interior or exterior lighting be directed at neighbors.**
- 3. No loud music.**
- 4. No additional bars shall be constructed on premises.**
- 5. The following dress code shall be enforced: No bathing suits after 7:00 p.m.**
- 6. Any recommendations of the Fire Inspector and/or Hotel/Rooming House Inspector are complied with.**
- 7. The Board of Commissioners have the right to restrict the operation of the porch.**
- 8. Alcoholic beverages served with food service only on the porch. No new porch seating after 10:00 p.m. All porch service ceased by 11:00 p.m.**
- 9. Raw bar/grille room will provide food & bar service as per submitted plans to the Borough.**
- 10. Licensee must establish and maintain a smoking area outside their establishment on their own property. A map of said area must be submitted to the Borough office for approval.**

**The Vote:**

**Aye: All**

**No: None**

**Mayor announces that an application has been received for the renewal of the Seasonal Retail Consumption License for the Norwood Inn, 618 Second Avenue.**

**Are there any objections to this license renewal? No one.**

**RESOLUTION offered by Mahon seconded by McGovern that,**

**BE IT RESOLVED that the Board of Commissioners do hereby approve the renewal of the Seasonal Retail Consumption License No. 1305-34-001-004 for the Key East, Inc., T/A the Norwood Inn, at the fee of \$1,500.00 effective May 1, 2013 with the following conditions:**

- 1. No amplifiers inside or outside that disturb neighbors.**
- 2. No interior or exterior lighting be directed at neighbors.**
- 3. No loud music.**
- 4. No additional bars shall be constructed on premises.**
- 5. Patio bar hours restricted to 11:00 a.m. to 9:00 p.m.**
- 6. The Norwood Avenue door to be used as an Emergency Exit only.**
- 7. The following dress code shall be enforced: No bathing suits after 7:00 p.m.**

8. Any recommendations of the Fire Inspector and/or Hotel/Rooming House Inspector are complied with.
9. Licensee must establish and maintain a smoking area outside their establishment on their own property. A map of said area must be submitted to the Borough office for approval.

**The Vote:**

**Aye: All**

**No: None**

**Motion by McGovern seconded by Gorman that a license for a 50/50 Raffle to be held by the Avon Home & School Assn. on September 5, 2013 at 2:30 p.m. at the Avon Elementary School, 505 Lincoln Ave., Avon, be approved for the Avon Home & School Assoc.**

**The Vote:**

**Aye: All**

**No: None**

**RESOLUTION offered by McGovern seconded by Gorman 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 2012 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 2012 in the amount of \$4,644.70. 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 a change order for the contract with NT&P Construction, Inc., Boardwalk Reconstruction Project, for an addition in the amount of \$134,475.00 for a revised contract amount of \$1,628,894.00.

**The Vote:**

**Aye: All**

**No: None**

Mr. Gallagher explained that this is for additional pilings that were identified as having to be removed and replaced with new ones.

**RESOLUTION offered by McGovern seconded by Mahon that the bid for the Reconstruction of Lanes-Phase I be awarded to Meco, Inc., Clarksburg, NJ for the lowest responsible bid in the amount of \$201,404.15.**

**The Vote:**

**Aye: All**

**No: None**

**The lanes included in this contract are Norwood Lane-4<sup>th</sup> to 5<sup>th</sup> Aves.; Woodland Lane-3<sup>rd</sup> to 5<sup>th</sup> Aves.; Garfield Lane-Patriot Lane to 2<sup>nd</sup> Ave.; Lincoln Lane-Ocean Ave. to 1<sup>st</sup> Ave.**

**Mayor – Tim negotiates the following contracts, except his own. The Commissioners give direction to him, which was to stay with the language in the current contracts, and settlement should be 2% or less because we operate under 2% cap. These parameters were met in these negotiations. There are changes in health benefits which are dictated by the state. They have to do with the level of contributions employees must make – 1.5% or graduated percentage of cost of benefits over a period of years, which ever is greater.**

**RESOLUTION offered by McGovern seconded by Mahon that the Board of Commissioners are hereby authorized to sign a contract between the Borough of Avon-By-The-Sea and the Public Works Supervisor. Said contract effective January 1, 2013 through December 31, 2014.**

**The Vote:**

**Aye: All**

**No: None**

**RESOLUTION offered by Mahon seconded by McGovern that the Board of Commissioners are hereby authorized to sign a contract between the Borough of Avon-By-The-Sea and the Water Dept. Supervisor. Said contract effective January 1, 2013 through December 31, 2014.**

**The Vote:**

**Aye: McGovern, Mahon**

**No: None**

**Abstain: Gorman**

**RESOLUTION offered by Gorman seconded by McGovern that the Board of Commissioners are hereby authorized to sign a contract between the Borough of Avon-By-The-Sea and the Chief of Police. Said contract effective January 1, 2013 through December 31, 2014.**

**The Vote:**

**Aye: Gorman, McGovern**

**No: None**

**Abstain: Mahon**

**RESOLUTION offered by Mahon seconded by McGovern that the Board of Commissioners are hereby authorized to sign a contract between the Borough of Avon-By-The-Sea and the Borough Clerk. Said contract effective January 1, 2013 through December 31, 2014.**

**The Vote:**

**Aye: All**

**No: None**

**RESOLUTION offered by McGovern seconded by Mahon that the Board of Commissioners are hereby authorized to sign a contract between the Borough of Avon-By-The-Sea and the Deputy Borough Clerk, Tax Collector/Utilities Collector and Administrative Assistant. Said contract effective January 1, 2013 through December 31, 2014.**

**The Vote:**

**Aye: All**

**No: None**

**RESOLUTION offered by McGovern seconded by Gorman that the Board of Commissioners are hereby authorized to sign a contract between the Borough of Avon-By-The-Sea and the Department of Public Works. Said contract effective January 1, 2013 through December 31, 2016.**

**The Vote:**

**Aye: All**

**No: None**

**RESOLUTION offered by Gorman seconded by McGovern that the Board of Commissioners are hereby authorized to sign a contract between the Borough of Avon-By-The-Sea and the Police Department. Said contract effective January 1, 2013 through December 31, 2016.**

**The Vote:**

**Aye: All**

**No: None**

**Motion by McGovern seconded by Gorman that the bills in the amount of \$1,735,202.29 be approved for payment.**

**The Vote:**

**Aye: All**

**No: None**

**Department head reports:**

**Jeff Bramhall, DPW Supt. – beginning spring clean-up. Put brush in bags or cans. Contractors must haul their own brush. Will be out repairing pot holes. If anyone sees any holes that may be dangerous, let us know and we will get to those first.**

**Charlie Rooney, Engineer – update on boardwalk project-most piles and headers are in, decking started; phase II of boardwalk project will be bid tomorrow; pre-con mtg. for lane project scheduled-hope to be done by Memorial Day; pre-con mtg. for sanitary sewer project Thurs.; Ocean Ave. sidewalk & wall underway; Marina floating docks will be here soon.**

**Karl Klug, Water Dept. Supt. – still mtg. with NJ American on water issues.**

**Terry Mahon, Police Chief – house break-ins occurred in last few days. Arrested 2 people. Be vigilant for unusual activity.**

**Mayor asks if anyone would like to be heard?**

**Marie Kenny asked for an update on the Lake – Mayor said that the recommendation from the Sylvan Lake Commission is to drain and dredge.**

**There is no wildlife to affect since the storm. Mr. Gallagher said that we have received some money to remove debris and sand to restore the lake to pre-Sandy conditions. As far as dredging, we get into a problem of where to dispose of the dredge spoils. Right now we can clean up the lake and repair the flume.**

**Tom Hall, 118 Fourth Ave. – still have problem with water. Lengthy discussion took place regarding the water situation in town.**

**Tom Mahedy, rainforest advocate – spoke again on use of IPE wood for boardwalk. Further discussion took place.**

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

**The Vote:**

**Aye: All**

**No: None**

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**Robert Mahon, Mayor**

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**Robert P. McGovern, Commissioner**

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**Francis E. Gorman, Commissioner**

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