

**REGULAR MEETING – APRIL 9, 2018**

**Pledge of Allegiance.**

**Roll Call: Commissioner Gorman, Mayor Magrini**

**Absent: Commissioner 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 Magrini seconded by Gorman that the minutes of the meeting of March 26, 2018 be approved as written.**

**The Vote:**

**Aye: All**

**No: None**

**Mayor announces that this is the time advertised for second reading and hearing on Ordinance No. 3-2018 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 2.5% 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 2018 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 1.0% increase in the budget for said year, amounting to \$35,149.21 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 2018 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 \$123,022.24, and that the CY 2018 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.**

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

**Motion by Magrini seconded by Gorman that the above Ordinance No. 3-2018 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. 4-2018 entitled:**

**“AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 118 OF THE CODE OF THE BOROUGH OF AVON-BY-THE-SEA, ENTITLED “LICENSING OF NEWSPAPER DISTRIBUTION BOXES (NEWSPAPER DISPENSING MACHINES)”.**

**§118-7.1.**

- A. The vending of newspapers, periodicals and other publications is only permitted on the on the public sidewalk located in the front exterior of the Post Office building. No other newspaper and publication distribution boxes and/or other vending units shall be permitted to be placed anywhere in the Borough, except as provided in this chapter.**

- B. Newspapers and publications distributed for-sale shall utilize a coin-operated free-standing newspaper or publication vending box. All other newspapers and publications distributed for free shall be distributed in an MNBA unit provided by the Borough. No other manner of distribution shall be permitted.**
- C. The newspaper and publication vendor of for-sale publications shall provide at its own cost and expense the newspaper vending box. Vendors of free newspapers and publications sharing the MNBA unit shall reimburse the Borough for its out-of-pocket expense for such purchase of the MNBA unit, wherein each vendor shall pay its proportionate share of such out-of-pocket expenses.**
- D. Maintenance, repair and service of the MNBA unit shall be the obligation of the newspaper and publication vendors using the unit. In the event the Borough expends any moneys for such, the Borough shall be reimbursed its expenditures by the newspaper and publication vendors who are obligated to make such expenditures. Prior to the Borough performing any maintenance, repairs or service to the MNBA unit, the Borough will take reasonable steps and efforts to cause the responsible newspaper vendors to perform such maintenance, repair and/or service.**
- E. A newspaper and publication vendor of for-sale publications is permitted to have only one newspaper vending box. Vendors of free newspapers and publications are limited to one box in the MNBA unit whenever other newspaper and publication vendors wish to utilize a box in the unit.**
- F. Any other type of individual freestanding newspaper or publication vending boxes, news racks, etc., whether coin-operated or otherwise, is prohibited. Any such prohibited units existing after the adoption of this Chapter shall be removed by the particular owner of such unit no later than thirty (30) days after the effective date of this Chapter.**
- G. Nothing contained herein shall prohibit a property owner and/or business located on Main Street from installing on the exterior wall of the business a single wall-mounted information box for distribution of publications associated with the business.**

**§118-7.2. Definitions.**

**Modular News Rack Box Assembly (“MNBA”).** A unit that has assembled together two or more news rack boxes in a housing for distribution of free newspapers and publications. Newspapers and publications are distributed by placing such newspapers in the box by the vendor.

**Newspaper Vendor.** Any person or other legal entity distributing publications by the use of newspaper distribution box or MNBA who has registered with the Borough.

**Newspaper Vending Box.** A coin-operated unit made of galvanized steel with a windowed door on its front for the purpose of viewing inside and to gain access to the newspaper or publication. Each unit must have a coin recovery slot. The unit shall not exceed 20 inches wide x 50 inches high x 17 inches deep.

**Wall Mounted Information Box.** A unit enclosed with a windowed front and moisture proof lid mounted to the wall. The unit shall not exceed 12 inches wide x 15 inches high x 7 inches deep.

**§118-7.3. Registration required; term of registration.**

- A. The owner of each newspaper vending box and each MNBA box shall file a completed registration form for each such box with the Borough Clerk and pay the applicable inspection fee upon submission of the registration form.**
- B. Registration forms shall require the registrant to state the following:**
  - 1) The name and address of the owner of the newspaper vending box and/or vendor of the MNBA box.**
  - 2) The name, title and address and telephone number of an individual responsible for repair and maintenance of the newspaper vending box and/or MNBA box and to be served with any notice provided for under this Chapter.**
  - 3) The name, title and address of the individual completing the registration form, which individual shall be a duly authorized representative of the owner of the newspaper vending box and/or MNBA box. The named individual shall sign the registration form, which signature shall signify his or her belief that the information contained therein is accurate.**
- C. The registration for each newspaper vending box and MNBA unit shall be valid for one year from the date of registration. A new registration form shall be filed on or prior to the expiration of said one-year registration period.**
- D. At the time of filing any registration form and renewal, the registrant shall pay the fee of \$20.00 per box.**

**§118-7.4. Other requirements.**

- A. No newspaper vending box shall be used for advertising signs or publicity purposes other than that dealing with the display, sale or purchase of the newspaper or publication vended.**
- B. Each coin-operated newspaper vending box shall be equipped with a coin-return mechanism to permit a person using the machine to secure an immediate refund in the event he or she is unable to receive the newspaper or publication paid for. The coin-return mechanism shall be maintained in good working order.**

- C. Each newspaper vending box shall have affixed to it in a readily visible place a notice setting forth the name and address of the distributor and telephone number to call to report a malfunction or to secure a refund in the event of a malfunction of the coin-return mechanism.**
- D. Each newspaper vending box shall be maintained in a neat and clean condition and in good repair at all times. Specifically, but without limiting the generality of the foregoing, each newspaper vending box shall be serviced and maintained so that:**
- 1) It is reasonably free of dirt and grease.**
  - 2) It is reasonably free of chipped, faded, peeling and cracked paint in the visible painted areas thereof**
  - 3) It is reasonably free of rust and corrosion in the visible unpainted metal areas thereon.**
  - 4) The clear plastic or glass parts thereof, if any, through which the publications therein are viewed are unbroken and reasonably free of cracks, dents, blemishes and discoloration.**
  - 5) The paper or cardboard parts or inserts thereof are reasonably free of tears, peeling or fading.**
  - 6) The structural parts thereof are not broken or unduly misshapen.**

**§118-7.5. Notice of violation.**

- A. Any person who violates any of the provisions of this Chapter shall be subject to a fine not to exceed \$250.00. Each violation of a separate subsection of this Chapter and each violation by a different vending distribution box and/or MNBA unit shall constitute a separate offense.**

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

**Motion by Magrini seconded by Gorman that the above Ordinance No. 4-2018 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 Magrini seconded by Gorman that,**

**ORDINANCE NO. 5-2018 entitled:**

**“AN ORDINANCE TO AMEND AND SUPPLEMENT  
THE SALARIES OF THE OFFICERS AND EMPLOY-  
EES OF THE BOROUGH OF AVON-BY-THE-SEA.”**

**be introduced on first reading.**

**The Vote: Aye: All No: None**

**Motion by Magrini seconded by Gorman that the above Ordinance No. 5-2018 be taken up on second reading with a hearing on April 23, 2018 at 7:00 p.m.**

**The Vote:**

**Aye: All**

**No: None**

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

**BOND ORDINANCE NO. 6-2018 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 \$126,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$119,700 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF.”**

**be introduced on first reading.**

**The Vote:**

**Aye: All**

**No: None**

**Motion by Gorman seconded by Magrini that the above Bond Ordinance No. 6-2018 be taken up on second reading with a hearing on April 23, 2018 at 7:00 p.m.**

**The Vote:**

**Aye: All**

**No: None**

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

**BOND ORDINANCE NO. 7-2018 entitled:**

**“ BOND ORDINANCE PROVIDING FOR VARIOUS CAPITAL WATER IMPROVEMENTS OF THE BOROUGH OF AVON-BY-THE-SEA, MONMOUTH COUNTY, NEW JERSEY, APPROPRIATING THE AGGREGATE AMOUNT OF \$52,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$49,400 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF.”**

**be introduced on first reading.**

**The Vote:**

**Aye: All**

**No: None**

**Motion by Magrini seconded by Gorman that the above Bond Ordinance No. 7-2018 be taken up on second reading with a hearing on April 23, 2018 at 7:00 p.m.**

**The Vote:**

**Aye: All**

**No: None**

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

**BOND ORDINANCE NO. 8-2018 entitled:**

**“BOND ORDINANCE PROVIDING FOR VARIOUS CAPITAL BEACH IMPROVEMENTS OF THE BOROUGH OF AVON-BY-THE-SEA, IN THE COUNTY OF MONMOUTH, NEW JERSEY, APPROPRIATING THE AGGREGATE AMOUNT OF \$134,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$127,300 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF.”**

**be introduced on first reading.**

**The Vote:**

**Aye: All**

**No: None**

**Motion by Magrini seconded by Gorman that the above Bond Ordinance No. 8-2018 be taken up on second reading with a hearing on April 23, 2018 at 7:00 p.m.**

**The Vote:**

**Aye: All**

**No: None**

**RESOLUTION offered by Magrini 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 2017 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 Scott Hauselt 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 Magrini seconded by Gorman 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 2017 in the amount of \$4,158.56. 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 Magrini seconded by Gorman that,

**WHEREAS**, the Board of Commissioners has received a letter requesting that Sylvania Lane between Fourth and Fifth Avenues be blocked off for the purpose of holding a social gathering for the residents, and

**WHEREAS**, it is the judgment of the Board of Commissioners that such events promote the general welfare and spirit of the community, and

**WHEREAS**, granting such a request is within the authority of the Board of Commissioners,

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

- 1. That Sylvania Lane between Fourth and Fifth Avenues may be blocked for the purpose of holding a social gathering for the residents on May 5, 2018.**
- 2. The blocking shall be accomplished by the use of street horses or such other method in the discretion of the Chief of Police.**
- 3. The organizers of said event must contact each and every property owner, and/or tenant with property touching on said portion of the street.**
- 4. In the conducting of said event, all statutes, ordinances and applicable regulations and laws must be complied with. This includes, but is not limited to those statutes, ordinances, regulations and laws pertaining to the sale and consumption of alcoholic beverages and the control of noise.**
- 5. The organizers are responsible to insure that the street is clean and free of debris following the event.**

**The Vote:**

**Aye: All**

**No: None**

**RESOLUTION offered by Magrini seconded by Gorman 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 2017 for cancellation.**

**NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Commissioners of the Borough of Avon-by-the-Sea, County of Monmouth, State of New Jersey, hereby authorize and direct the cancellation of the following taxes for 2017: 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 Magrini seconded by Gorman that,**

**WHEREAS, applications have been received by the Borough, and**

**WHEREAS, said applications have been reviewed by the Borough Department staff, and**

**WHEREAS, the following events are recommended for approval with conditions if applicable:**

**1. Runapalooza, Jersey Shore Relay, Asbury Park Half Marathon, Jersey Shore Five, April 21, 2018, 8:00 a.m. to 12:30 p.m., Asbury through Avon.**

**2. Clean Ocean Action Beach Clean-up, April 21, 2018, 8:30 a.m. to 1:00 p.m. and October 20, 2018, 8:30 a.m. to 1:00 p.m.**

**NOW, THEREFORE, BE IT RESOLVED, that the Board of Commissioners hereby approve these special events.**

**The Vote:**

**Aye: All**

**No: None**

**Motion by Magrini seconded by Gorman that the bills in the amount of \$579,785.79 be approved for payment.**

**The Vote:**

**Aye: All**

**No: None**

**Department Heads' Reports.**

**Kerry McGuigan, Administrator - Following up with Congressman Smith on Post Office complaints. Also, there is a Bridge meeting on April 24 for all businesses on Main Street in Avon who would be affected by potential changes to the Main Street bridge.**

**Further Bridge discussion.**

**Charley Rooney, Engineer - Lucas finishing the 2017 Lane project punch list. The 2017 Road program work is beginning with L&L paving. Hoping for good weather to complete by Memorial Day.**

**Sheila Watson, Librarian - book fair and craft fair is approaching. Please donate books in boxes to keep them in good condition.**

**Scott Hauselt, DPW Supt. - Proud to begin the DEP sponsored Recycling Coach app on the Borough website and publicly available for the Borough residents. Hopes to get the town to the next level of recycling.**

**Mayor- asked Scott about the Beach Stewardship Project. Scott said it's a good program, just concerned with the where and how, but all for keeping the beach clean.**

**Karl Klug, Water Dept. Supt. - switching over to NJ American Water for the summer.**

**Barry Cooke, Boro Att. - nothing to add.**

**Mayor asks if anyone likes to be heard?**

**Wally French- asked about the bond ordinances? Kerry - Three separate bond ordinances for new speed limit signs, hoses for the Fire Department, replacing the antenna tower as various capital improvements. Several capital water**

**improvements including water meters and sanitary sewer repairs and lifeguard equipment and other capital beach improvements.**

**Mayor- Read letter from TFH regarding the foul smells which has generated some public concern. Further discussion on TFH.**

**Ms. Solomita - asked about salary ordinance for 2018. Kerry- will be published in full for the next meeting.**

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

**The Vote:**

**Aye: All**

**No: None**

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**John B. Magrini, Mayor**

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**Francis E. Gorman, Commissioner**

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**Marc Freda,  
Acting Borough Clerk**