

REGULAR MEETING – APRIL 24, 2012 – 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 McGovern seconded by Mahon that the minutes of the meeting of March 12, 2012 be approved as written.

The Vote:

Aye: All (Comm. Gorman absent)

No: None

Motion by Gorman seconded by Mahon that the minutes of the meeting of March 26, 2012 be approved as written.

The Vote:

Aye: All (Comm. McGovern absent)

No: None

Motion by McGovern seconded by Gorman that the minutes of the meeting of April 9, 2012 be approved as written.

The Vote:

Aye: All (Mayor Mahon absent)

No: None

RESOLUTION offered by McGovern seconded by Gorman that the Board of Commissioners hereby authorizes the cancellation of 2012 water/sewer charges for the following account:

Block 36 Lot 4.01 A/C #674-0 119 Garfield Ave. Demo \$175.00

The Vote:

Aye: All

No: None

RESOLUTION offered by Gorman seconded by McGovern that the following be appointed as Class I Police Officers:

**Kristina Santella Darell Harris
Michael Ferguson Devon Gannon**

The Vote:

Aye: All

No: None

RESOLUTION offered by McGovern seconded by Mahon that,

WHEREAS, pursuant to the Local Bond Law, N.J.S.A. 40A:2-1 et seq., as amended and supplemented (the “Local Bond Law”), the Borough of Avon-By-The-Sea, in the County of Monmouth, State of New Jersey (the “Borough”), had

previously issued General Obligation Bonds, Series 1998, (the "1998 Bonds") to the Monmouth County Improvement Authority (the "MCIA") in connection with the Borough's participation in the 1998 Pooled Governmental Loan Program (the "1998 MCIA Loan Program"), which 1998 Bonds were issued to (i) memorialize the Borough's applicable loan through the 1998 MCIA Loan Program, and (ii) permanently finance the costs of various Borough projects; and

WHEREAS, the Borough has been informed by the MCIA that all or a portion of the outstanding 1998 Bonds are eligible for refunding through the MCIA and that such a refunding will achieve debt service savings for the Borough; and

WHEREAS, (i) \$790,000 aggregate principal amount of such 1998 Bonds are currently outstanding and can be defeased or are subject to redemption prior to their stated maturity (the "Refunded Bonds"); and

WHEREAS, the MCIA and the Borough have determined that refunding bonds can be issued to refund such Refunded Bonds, which, under current market conditions, can generate a debt service savings to the Borough due to the low long-term interest rate environment; and

WHEREAS, the Borough has determined that it is in the best interests of the Borough to refund all of the Refunded Bonds; and

WHEREAS, the Borough has determined to provide for the refunding of the Refunded Bonds through its issuance of General Obligation Refunding Bonds in the aggregate principal amount of not to exceed \$1,150,000 to the MCIA (the "Refunding"), as provided in the refunding bond ordinances of the Borough entitled, "Refunding Bond Ordinance authorizing the issuance of not to exceed \$1,150,000 principal amount of general obligation refunding bonds by the Borough of Avon-By-The-Sea, in the County of Monmouth, State of New Jersey, to the Monmouth County Improvement Authority (the "MCIA") for the purpose of refunding certain bonds heretofore issued by the Borough to the MCIA", such refunding Bond Ordinance being finally adopted by the Borough Council on October 25, 2010 (the "Ordinance"); and

WHEREAS, to accomplish the Refunding, the MCIA requires the Borough to authorize, execute, attest and deliver the Borough's not to exceed \$1,150,000 General Obligation Refunding Bonds, Series 2012 (the "Bonds"), in accordance with the provisions hereof and pursuant to the terms of the Local Bond Law, N.J.S.A. 40A:2-1 et seq. (the "Local Bond Law") and other applicable law; and

WHEREAS, such Bonds shall be comprised of one or more series, and any portion of such Bonds attributable to the Borough's Beach Utility and Water Utility shall, in accordance with the Local Bond Law, be deductible from gross debt when such Beach Utility and Water Utility are self-liquidating; and

WHEREAS, section 27(a)(2) and section 59 of the Local Bond Law allow for the sale of the Bonds to the MCIA without any public offering, all under the terms and conditions set forth herein and in a Bond Purchase Agreement by and between the Borough and the MCIA and dated as of the date hereof.

NOW, THEREFORE, BE IT RESOLVED by a two-thirds vote of the full membership of the Borough Council of the Borough of Avon-By-The-Sea, in the County of Monmouth, State of New Jersey, as follows:

Section 1. The Borough Council hereby delegates to the Chief Financial Officer or Mayor of the Borough, in accordance with the provisions of N.J.S.A. 40A:2-27(a)(2) and N.J.S.A. 40A:2-59, the power to sell and award the Borough's not to exceed \$1,150,000 General Obligation Refunding Bonds, Series 2012 (collectively, the "Bonds") to the MCIA in accordance with the provisions hereof and in accordance with the terms of a Bond Purchase Agreement by and between the Borough and the MCIA (the "Bond Purchase Agreement"), the form of which Bond Purchase Agreement is attached hereto as Exhibit B and is hereby approved, along with such changes to any information set forth therein as Bond Counsel to the Borough (as defined herein) shall advise. The Bonds have been referred to and described in the Ordinance finally adopted at a duly called and held meeting of the Borough Council and published as required by law. The Bonds are being issued for the purpose of (i) refunding the principal amount of the Refunded Bonds, including the payment of interest accrued thereon to the date fixed for redemption or prepayment, if applicable, and the redemption or prepayment price thereof, if applicable, and (ii) paying the costs of issuance relating to the Bonds, including printing, advertising, accounting, financial and legal services, rating agency fees, underwriter's discount, and MCIA costs of issuance, which may include any of the foregoing.

Section 2. The Chief Financial Officer of the Borough (the "Chief Financial Officer") is hereby authorized and directed to determine, in accordance with the Local Bond Law and pursuant to the terms and conditions established by the MCIA and the terms and conditions hereof and set forth in the Bond Purchase Agreement, the following items with respect to the Bonds, except those terms and conditions which are set forth in the Bond Purchase Agreement:

- (a) The aggregate principal amount of the Bonds to be issued, provided that the total amount of Bonds issued shall not exceed the aggregate principal amount of \$1,150,000, consisting of beach utility bonds, water utility bonds and general improvement bonds;**
- (b) The name and designation of the Bonds;**
- (c) The maturity and principal installments of the Bonds;**
- (d) The date of the Bonds;**
- (e) The interest rates of the Bonds;**
- (f) The purchase price of the Bonds;**
- (g) The direction for the application and investment of the proceeds of the Bonds, if applicable; and**
- (h) The terms and conditions under which the Bonds shall be subject to redemption prior to their stated maturities.**

Section 3. Any determination made by the Chief Financial Officer pursuant to the terms hereof shall be conclusively evidenced by the execution and attestation of the Bonds by the parties authorized under Section 4(c) hereof.

Section 4. The Borough Council hereby determines that certain terms of the Bonds shall be as follows:

- (a) The Bonds shall be issued either in a single denomination and shall be numbered GOR-1 or in three (3) separate denominations and shall be number GOR-1, GOR-2 and GOR-3;
- (b) The Bonds shall be issued in fully registered form and shall be payable to the registered owners thereof as to both principal and interest in lawful money of the United States of America; and
- (c) The Bonds shall be executed by the manual or facsimile signatures of the Mayor of the Borough (the “Mayor”) and the Chief Financial Officer under official seal or facsimile thereof affixed, printed, engraved or reproduced thereon and attested by the manual signature of the Clerk of the Borough (the “Borough Clerk”).

Section 5. The Bonds shall be substantially in the form set forth in Exhibit A attached hereto with such additions, deletions and omissions as may be necessary for the Borough to comply with the requirements of the MCIA’s 2012 Governmental Loan Refunding Program (the “Program”), upon the advice of Bond Counsel to the Borough (as defined herein);

Section 6. The law firm of Wilentz, Goldman & Spitzer, P.A., Woodbridge, New Jersey, Bond Counsel to the Borough (“Bond Counsel”), the Borough Attorney and the Borough Auditor are each hereby authorized and directed to perform all actions necessary to consummate the issuance of the Bonds and the Refunding for which the Bonds are issued, including but not limited to, drafting and arranging for the printing and execution of the Bonds and all applicable documentation necessary to memorialize and consummate the issuance of the Bonds and the undertaking of the Refunding, preparing all necessary financial information and conducting all necessary studies, searches and analysis in connection with the issuance of the Bonds and the undertaking of the Refunding. The Mayor, the Chief Financial Officer and the Borough Clerk are each hereby authorized and directed to execute and deliver any certificates necessary or desirable in connection with the financial and other information.

Section 7. The Mayor, the Chief Financial Officer, the Borough Clerk and any other Borough representative or professional, including Bond Counsel, are each hereby authorized and directed to (i) execute any certificates or documents necessary or desirable in connection with the sale of the Bonds, including the Bond Purchase Agreement, or the undertaking of the Refunding and each is hereby further authorized and directed to deliver same to the MCIA upon delivery of the Bonds and the receipt of payment therefor or in accordance with the Program and (ii) perform such other actions as they deem necessary, desirable or convenient, in consultation with Bond Counsel to the Borough, in relation to the execution and delivery thereof.

Section 8. Upon the adoption hereof, the Borough Clerk shall forward certified copies of this resolution: (a) via facsimile, to (i) Marion Masnick of the MCIA at facsimile number 732-409-4821, and (ii) John M. Cantalupo, Esq., of Wilentz, Goldman & Spitzer, P.A., Woodbridge, New Jersey, Bond Counsel to the Borough, at facsimile number 732-726-6573; and (b) via certified first class mail, to (i) Marion Masnick of the MCIA at The Monmouth County Improvement Authority, Hall of Records, Main Street, Freehold, New Jersey 07728, and (ii) John M. Cantalupo, Esq., of Wilentz, Goldman & Spitzer, P.A.,

Woodbridge, New Jersey, Bond Counsel to the Borough at 90 Woodbridge Center Drive, Woodbridge, New Jersey 07095.

Section 9. This resolution shall take effect immediately.

The Vote:

Aye: All

No: None

Motion by McGovern seconded by Gorman that the Monmouth Medical Center Foundation be approved for a 50/50 Raffles License to be held on May 20, 2012 from 2:00-6:00 p.m. at the Norwood Inn, 618 Second Ave., Avon.

The Vote:

Aye: All

No: None

Motion by McGovern seconded by Mahon that the Board of Commissioners hereby approve two (2) taxicab licenses for Coastline Shuttles for a fee of \$170.00.

The Vote:

Aye: All

No: None

Motion by Gorman seconded by McGovern that the bills in the amount of \$518,773.87 be approved for payment.

The Vote:

Aye: All

No: None

Mayor asks if anyone would like to be heard?

Linda Henderson asked for an update on pending litigation pertaining to 105 Washington Ave. and Borough Attorney, Barry Cooke gave it.

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**