

**REGULAR MEETING – NOVEMBER 24, 2014 – 7:30 P.M.**

**Pledge of Allegiance.**

**Roll Call: Commissioner McGovern, Mayor Mahon**

**Absent: Commissioner Gorman**

**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 November 10, 2014 be approved as written.**

**The Vote:**

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

**No: None**

**RESOLUTION offered by McGovern seconded by Mahon that the Board of Commissioners hereby authorize the refund of a 2014 fourth quarter property tax overpayment to the following:**

**Block 37 Lot 8.203 Messina 15 Garfield Ave., Unit 203 \$22.00**

**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 Albert Marine Construction, Riverfront Park & Marina project for a reduction in the amount of \$17,140.00, addition in the amount of \$9,601.20 for a total change of -\$7,538.80 and a revised contract amount of \$372,151.20.**

**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 J. Fletcher Creamer & Son, 2014 Water Main Cleaning & Lining project for a reduction in the amount of \$54,699.75, addition in the amount of \$41,133.50 for a total change of -\$13,566.25 and a revised contract amount of \$521,183.75.**

**The Vote:**

**Aye: All**

**No: None**

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

**WHEREAS, the Borough of Avon-By-The-Sea (the "Borough"), in the County of Monmouth, State of New Jersey, has determined that there exists a need within the Borough to finance the costs of various capital improvements throughout the Borough (the "General Improvements Project"); and**

**WHEREAS, the Borough Committee has duly adopted various bond ordinances (the "Ordinances") to appropriate moneys and authorize the issuance of bonds or bond anticipation notes to undertake the General Improvements Project; and**

**WHEREAS, the Borough has determined to finance the General Improvements Project with the proceeds of a loan (the "Loan") to be made to the Borough by the Monmouth County Improvement Authority (the "MCIA") in connection with the 2014 Pooled Governmental Loan Program, currently scheduled to close on December 24, 2014 (the "2014 MCIA Bond Program"); and**

**WHEREAS, in order for the Borough to receive the Loan from the MCIA, it is necessary to combine the bonds authorized under said Ordinances into one consolidated issue of general obligation bonds in the aggregate principal amount of \$3,161,750 (to be issued in one series or more separate series aggregating said amount and to memorialize the applicable obligations of the general or utility funds of the Borough, as and if applicable), pursuant to the provisions of the Local Bond Law, N.J.S.A. 40A:2-1 et seq., as amended and supplemented (the "Local Bond Law"); and**

**WHEREAS, to evidence the Loan, the MCIA also requires the Borough to authorize, execute, attest and deliver the Borough's \$3,161,750 General Obligation Bonds, Series 2014 (to be issued in one or more separate series aggregating said amount and to memorialize the applicable obligations of the general or utility funds of the Borough, as and if applicable) (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, section 27(a)(2) of the Local Bond Law allows 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 to be dated as of the date of the sale of such Bonds; and**

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

**Section 1. Pursuant to the provisions of N.J.S.A. 40A:2-26(f), the bonds of the Borough, authorized pursuant to the bond ordinances of the Borough heretofore adopted and described in Section 2 hereof, shall be combined into a single issue of General Obligation Bonds, Series 2014 in the aggregate principal amount of not exceeding \$3,161,750 to be issued in one or more separate series**

aggregating said amount and to memorialize the applicable obligations of the general or utility funds of the Borough.

**Section 2.** The principal amount of bonds authorized by each ordinance to be combined into a single issue as above provided, the bond ordinances authorizing the Bonds described by reference to the ordinance number, description and date of final adoption, amount of issue and average period of usefulness determined in each of the bond ordinances are respectively as set forth in Exhibit B hereto:

**Section 3.** The following matters are hereby determined with respect to the combined issue of Bonds:

(a) The average period of usefulness, computed on the basis of the respective amounts of Bonds presently authorized to be issued pursuant to each of the bond ordinances and the respective periods or average periods of usefulness therein determined, is not more than 22.4 years.

(b) The Bonds of the combined issue shall be designated “General Obligation Bonds, Series 2014” (or such other designation if such Bonds are issued in two separate series to memorialize the applicable obligations of the general or utility funds of the Borough) and shall mature within the average period of usefulness hereinabove determined.

(c) The Bonds of the combined issue shall be sold and issued in accordance with the provisions of the Local Bond Law that are applicable to the sale and issuance of bonds authorized by a single bond ordinance and accordingly may be sold with other issues of bonds.

**Section 4.** The following additional matters are hereby determined, declared, recited and stated:

(a) None of the Bonds described in Section 2 hereof have been sold or issued heretofore, and the several bond ordinances described in Section 2 have not been rescinded heretofore and now remain in full force and effect as authorizations for the respective amounts of bonds set opposite the descriptions of the bond ordinances set forth in Section 2 hereof.

(b) The several purposes or improvements authorized by the respective bond ordinances described in Section 2 hereof are purposes for which bonds may be issued lawfully pursuant to the Local Bond Law and some of such improvements or purposes, if applicable and permitted by law, a deduction may be taken in any annual or supplemental debt statement.

**Section 5.** In accordance with the provisions of N.J.S.A. 40A:2-27(a)(2), the Borough hereby sells and awards the Borough’s \$3,161,750 General Obligation Bonds, Series 2014 (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 Mayor of the Borough (the “Mayor”) and Chief Financial Officer of the Borough (the “Chief Financial Officer”) are each hereby authorized and directed on behalf of the Borough, in consultation with Bond Counsel (as hereinafter defined), to negotiate the terms of such

**Bond Purchase Agreement, to be dated the date of sale of the Bonds, to approve the terms of aforesaid Bond Purchase Agreement and to execute and deliver said Bond Purchase Agreement to the MCIA. The Bonds have been referred to and described in the Ordinances being finally adopted at duly called and held meetings of the Borough Committee and published as required by law and which Ordinances were combined for purposes of sale pursuant to this resolution, all pursuant to terms of the Local Bond Law and other applicable law.**

**Section 6. 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 \$3,161,750 (which may be issued in one series or two separate series aggregating said amount and to memorialize the applicable obligations of the general or utility funds of the Borough);**
- (b) The maturity and principal installments of the Bonds, which maturity shall not exceed 22.4 years;**
- (c) The date of the Bonds;**
- (d) The interest rates of the Bonds;**
- (e) The purchase price of the Bonds; and**
- (f) The terms and conditions under which the Bonds shall be subject to redemption prior to their stated maturities.**

**Section 7. 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 8(c) hereof.**

**Section 8. The Borough Committee hereby determines that certain terms of the Bonds shall be as follows:**

- (a) The Bonds shall be issued in a single denomination and shall be numbered GO-1 (or such other designation if such Bonds are issued in two separate series to memorialize the applicable obligations of the general or utility funds of the Borough);**
- (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 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 9.** The Bonds shall be 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 2014 MCIA Bond Program, upon the advice of Bond Counsel.

**Section 10.** The law firm of Wilentz, Goldman & Spitzer, P.A., Woodbridge, New Jersey, Bond Counsel to the Borough (“Bond Counsel”), the Borough Engineer, 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 General Improvements Project 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 General Improvements Project, preparing all necessary financial information, all engineering and design work, preparation of plans and specifications and conducting all necessary studies, searches and analysis in connection with the issuance of the Bonds and the undertaking of the General Improvements Project. The Mayor, the Chief Financial Officer, the Borough Clerk, the Borough Attorney and any other Borough representative (including Bond Counsel or the Borough Auditor) are each hereby authorized and directed to execute and deliver any certificates necessary or desirable in connection with the financial and other information.

**Section 11.** The Mayor, the Chief Financial Officer, the Borough Clerk and any other Borough representative, 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 General Improvements Project, and each are hereby further authorized and directed to deliver same to the County and/or MCIA, as applicable, upon delivery of the Bonds and the applicable receipts of payment therefore, or in accordance with the 2014 MCIA Bond Program and (ii) perform such other actions as they deem necessary, desirable or convenient, in consultation with Bond Counsel, in relation to the execution and delivery thereof.

**Section 12.** 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) Anthony J. Pannella, Esq., of Wilentz, Goldman & Spitzer, P.A., Woodbridge, New Jersey, Bond Counsel to the Borough, at facsimile number 732-726-6528; 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) Anthony J. Pannella, 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 13.** This resolution shall take effect immediately

**The Vote:**

**Aye: All**

**No: None**

**RESOLUTION offered by McGovern seconded by Mahon that a contract be awarded to Burke Contracting, LLC for Curb & Pavement of Parking Lot, Storm Drainage, Concrete Apron & Grading at the Avon Marina for a price of \$35,625.00.**

**The Vote:**

**Aye: All**

**No: None**

**RESOLUTION offered by Mahon seconded by McGovern that Timothy M. Gallagher is hereby appointed as the Community Development Representative for 2015. Barbara Suchecki is appointed as the Alternate.**

**The Vote:**

**Aye: All**

**No: None**

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

**WHEREAS, the County of Monmouth has prepared a draft Multi-Jurisdictional Natural Hazard Mitigation Plan, and**

**WHEREAS, said draft plan is under a public review and comment period which extends through November 18, 2014, and**

**WHEREAS, as a Community Rating System municipality, the Borough of Avon-By-The-Sea desires to indicate its approval of said draft plan with the understanding the adoption of the final version of the plan will be required after approval by the appropriate State and Federal agencies,**

**NOW, THEREFORE, BE IT RESOLVED, that the Board of Commissioners of the Borough of Avon-By-The-Sea hereby approves the draft Monmouth County Multi-Jurisdictional Natural Hazard Mitigation Plan as promulgated by the Monmouth County Office of Emergency Management, and**

**BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Business Administrator and Emergency Management Coordinator.**

**The Vote:**

**Aye: All**

**No: None**

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

**WHEREAS, there are unexpended balances of appropriations which are not needed, and other appropriations which will be deficient,**

**NOW, THEREFORE, BE IT RESOLVED that the following 2014 appropriation transfers be authorized:**

<b>FROM: Neptune Sewer Authority</b>	<b>\$17,500.00</b>
<b>TO: Manasquan Water Purchase</b>	<b>17,500.00</b>

<b>FROM: Insurance O.E.</b>	<b>7,000.00</b>
<b>TO: Landfill</b>	<b>7,000.00</b>
<b>FROM: Beach Legal</b>	<b>2,000.00</b>
<b>TO: Beach Gasoline</b>	<b>2,000.00</b>

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

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

**WHEREAS, The State of New Jersey Department of Environmental Protection has announced the Flood Hazard Risk Reduction and Resiliency Grant Program; and,**

**WHEREAS, the purpose of this competitive grant program is to fund projects that will reduce storm surge and flood hazard risks and enhance resiliency in the areas impacted by Superstorm Sandy; and,**

**WHEREAS, said grant has eligible funding for projects limited to Coastal Lake Surge Reduction and Increased Discharge Capacity, Flood Risk Reduction Infrastructure, Stormwater Management, and Beneficial Reuse of Dredge Material; and,**

**WHEREAS, said grant application must be signed by a person(s) authorized by written resolution or ordinance of the local government unit to file an application for a grant, to represent the local government unit in all matter relating to the application process, and to obligate the local government unit to the terms and conditions of a grant agreement,**

**THEREFORE, BE IT RESOLVED, that the Commissioners of Avon-by-the-Sea, County of Monmouth, State of New Jersey, do hereby authorize the Borough Administrator to sign and file an application for the aforementioned grant; and,**

**BE IT FURTHER RESOLVED, that a copy of this resolution will be included as part of the grant application to the State of New Jersey Department of Environmental Protection.**

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

**Motion by McGovern seconded by Mahon that the bills in the amount of \$675,037.77 be approved for payment.**

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

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

**Questions on lake, assessments (unable to hear questions/comments as people don't speak into the microphone).**

**Motion by McGovern seconded by Mahon 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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**Timothy M. Gallagher, RMC  
Borough Clerk**