

**REGULAR MEETING – NOVEMBER 25, 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 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 October 15, 2013 be approved as written.**

**The Vote:**

**Aye: All**

**No: None**

**Motion by Mahon seconded by Gorman that the minutes of the meeting of October 28, 2013 be approved as written.**

**The Vote:**

**Aye: All**

**No: None**

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

**WHEREAS, on December 10, 2012, the Governing Body of the Borough of Avon-By-The-Sea in Monmouth County, New Jersey (the “Borough”) determined it was necessary to make a special emergency appropriation, in accordance with the requirements of the Local Budget Law (N.J.S.A 40A:4-1 et seq.), to meet certain expenses incurred or to be incurred as a result of the extraordinary damage to the streets, roads and other public property within the Borough caused by Hurricane Sandy (the “Sandy Repairs Project”), requiring the appropriation of Borough funds in the amount of \$6,000,000 from the various funds and accounts of the Borough to be allocated and determined at a later date once the Sandy Repairs Project was undertaken; and**

**WHEREAS, Section 4-54 of the Local Budget Law provides that it shall be lawful to make such appropriation, which appropriation and special emergency notes issued to finance such appropriation shall be provided for in succeeding annual budgets by the inclusion of an appropriation of at least one-fifth of the amount authorized pursuant to the applicable provisions of the Local Budget Law; and**

**WHEREAS, the Borough, in efforts to finance the Sandy Repairs Project, on December 28, 2012 issued \$6,000,000 principal amount of Special Emergency Renewal Notes, maturing on September 27, 2013 (the “Initial SEN”); and**

**WHEREAS, the Borough anticipated at the time of issuance of the Initial SEN that such Initial SEN and related renewals of portions thereof, or bonds issued in replacement thereof, would ultimately be repaid over a period of years via a combination of Borough budgeted funds (in future Borough budgets) and**

**Federal Emergency Management Agency (“FEMA”) funds awarded to the Borough for the Sandy Repairs Project; and**

**WHEREAS, in efforts to provide economically efficient, financing assistance to the various Monmouth County (the “County”) municipalities affected by Hurricane Sandy, the Monmouth County Improvement Authority (the “MCIA”) is currently offering a County Guaranteed, 2013 Pooled Special Emergency Note Program, which is scheduled to close on or about December 5, 2013 (the “2013 MCIA SEN Program”); and**

**WHEREAS, the Borough, after review of the projected financial efficiencies of the 2013 MCIA SEN Program, has determined to issue its initial one-year renewal of the Initial SEN, in an aggregate principal amount not exceeding \$4,532,000 (the “Renewal SEN”), through the 2013 MCIA SEN Program (with the reduction between the principal amount of the \$6,000,000 Initial SEN and the \$4,532,000 Renewal SEN representing Borough budgeted funds and funds received so far from FEMA); and**

**WHEREAS, given that the Initial SEN matured on September 27, 2013, which was prior to the scheduled December 5, 2013 closing of the 2013 MCIA SEN Program, the County agreed to purchase a short-term Renewal SEN from the Borough, in a principal amount of \$4,532,000, which was issued on September 27, 2013 and matures on January 7, 2014, at a coupon interest rate of .9%, thereby enabling the Borough to participate in the 2013 MCIA SEN Program;**

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

**Section 1. The Borough is hereby authorized to issue the Borough’s \$4,532,000 Renewal SEN to be dated on or about December 5, 2013 and to mature on or about December 4, 2014, at a coupon interest rate not to exceed 1.5%, at private sale to the MCIA. The Renewal SEN shall mature on such exact date and shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer of the Borough. The Chief Financial Officer is hereby delegated the authority to determine all matters in connection with the Renewal SEN issued, and the signature of the Chief Financial Officer upon the Renewal SEN shall be conclusive evidence as to all such determinations.**

**Section 2. The Mayor, the Chief Financial Officer, the Borough Clerk and any other Borough representative, are each hereby authorized and directed to (a) execute any certificates or documents necessary or desirable in connection with the issuance of the Renewal SEN, and each are hereby further authorized and directed to deliver same to the County and/or MCIA, as applicable, upon delivery of the Renewal SEN and the receipt of payment therefore, or in accordance with the 2013 MCIA SEN Program and (b) perform such other actions as they deem necessary, desirable or convenient, in consultation with Borough Bond Counsel, in relation to the execution and delivery thereof.**

**Section 3. 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 Renewal SEN pursuant to this resolution is made. Such report must include the purchase price, principal amount, description, interest rate, and maturity schedule of the Renewal SEN so issued.**

**Section 4. The Borough covenants to maintain the exclusion from gross income under section 103(a) of the Code, of the interest on the Renewal SEN issued under this resolution, if applicable. The Borough reasonably expects to reimburse the expenditures toward the costs of the Sandy Repairs Project incurred and paid for by the Borough prior to the issuance of the Renewal SEN authorized by this resolution with the proceeds of such Renewal SEN. No funds from sources other than the Renewal SEN have been or are reasonably expected to be reserved or allocated on a long-term basis or otherwise set aside by the Borough, or any member of the same “controlled group” as the Borough, within the meaning of Treasury Regulation Section 1.150-1(e), pursuant to its budget or financial policies with respect to expenditures of the Borough to be reimbursed. This Section 4 is intended to be and hereby is a declaration of the Borough’s official intent to reimburse the expenditures toward the costs of the Sandy Repairs Project incurred and paid for prior to the issuance of the Renewal SEN with the proceeds of such issuance of the Renewal SEN by the Borough, in accordance with Treasury Regulation Section 1.150-2(e)(1), and no action (or inaction) will be an artifice or device in accordance with Treasury Regulation Section 1.148-10 to avoid, in whole or in part, arbitrage yield restrictions or arbitrage rebate requirements or to avoid restrictions under Sections 142 through 147 of the Code. The proceeds of the Renewal SEN used by the Borough to reimburse itself for expenditures towards the Recovery described in this resolution incurred and paid for, will not be used directly or indirectly (i) to “refund” an issue of governmental obligations within the meaning of Section 148 of the Code, (ii) to create or increase the balance of a “sinking fund” within the meaning of Treasury Regulation Section 1.148-1(c)(2) with respect to any obligation of the Borough, or to replace funds that have been, are being or will be used for sinking fund purposes, (iii) to create or increase the balance in a “reserve or replacement fund” within the meaning of Section 148(d) of the Code and Treasury Regulation Section 1.148-2(f) with respect to any obligation of the Borough or to replace funds that have been, are being or will be so used for reserve or replacement fund purposes, or (iv) to reimburse the Borough for any expenditure or payment that was originally paid with the proceeds of any obligation of the Borough (other than borrowing by the Borough from one of its own funds or the funds of a member of the same “controlled group” within the meaning of Treasury Regulation Section 1.150-1(e)). The Renewal SEN to be issued by the Borough to finance those expenditures towards the Sandy Repairs Project to be reimbursed will be issued in an amount not to exceed \$4,532,000, which moneys shall be expended from a fund of the Borough, entitled “Current Fund,” which fund contains moneys which can be expended for any lawful project of the Borough. That the expenditures incurred and paid towards the Sandy Repairs Project to be reimbursed with the proceeds of the Renewal SEN will be “capital expenditures” in accordance with the meaning of Treasury Regulation Section 1.150-2(d)(3).**

**Section 5. 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 6. This resolution shall take effect immediately.**

**The Vote:**

**Aye: All**

**No: None**

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

**WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget, and**

**WHEREAS, said Director may also approve the insertion of an item of appropriation for an equal amount, and**

**WHEREAS, the Borough of Avon-By-The-Sea has received a grant of \$21,784.31 from the State of New Jersey and wishes to amend its 2013 Budget to include this amount as a revenue.**

**NOW, THEREFORE, BE IT RESOLVED that the Commissioners of the Borough of Avon-By-The-Sea hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2013 in the sum of \$21,784.31 which is now available as a revenue from:**

**MISCELLANEOUS REVENUES**

**Special Items of General Revenue Anticipated with Prior Written Consent of the Director of Local Government Services: State and Federal Revenues Off-Set with Appropriations: National Emergency Grant pursuant to provisions of Statute, and**

**BE IT FURTHER RESOLVED that a like sum of . . . . . \$21,784.31 be and the same is hereby appropriated under the caption of:**

**GENERAL APPROPRIATIONS**

- (a) Operations Excluded from 5% CAPS**
- State and Federal Programs Off-Set by Revenues:**
- National Emergency Grant Other Expenses**

**BE IT FURTHER RESOLVED that the Borough Clerk forward two copies of this Resolution to the Director of Local Government Services.**

**The Vote:**

**Aye: All**

**No: None**

**RESOLUTION offered by Mahon seconded by McGovern 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 2013 appropriation transfers be authorized:**

<b>FROM: Elections O.E.</b>	<b>1,200.00</b>
<b>Workmens Comp. Ins.</b>	<b>4,000.00</b>
<b>TO: Gasoline</b>	<b>5,200.00</b>

**FROM: Insurance O.E. 3,800.00**  
**TO: Diesel Fuel 3,800.00**

**FROM: Goose Control 1,800.00**  
**TO: Public Bldgs. O.E. 1,800.00**

**The Vote:**

**Aye: All**

**No: None**

**RESOLUTION offered by McGovern seconded by Mahon that the Board of Commissioners hereby authorize the refund of a 2013 fourth quarter property tax overpayment to the following:**

**Block 23, Lot 14.16 BAC Tax Services 521 Ocean Ave., Unit 16 \$184.91**

**The Vote:**

**Aye: All**

**No: None**

**RESOLUTION offered by McGovern seconded by Gorman that the Mayor is hereby authorized to sign a contract between the Borough of Avon-By-The-Sea and the Associated Humane Societies for animal control services for the year 2014.**

**The Vote:**

**Aye: All**

**No: None**

**Motion by McGovern seconded by Gorman that the bills in the amount of \$1,237,805.81 be approved for payment.**

**The Vote:**

**Aye: All**

**No: None**

**Dept. Heads:**

**Jeff Bramhall, DPW Supt. – leaf pick-up on schedule, will be in lanes soon; single stream recycling going well; trucks ready for snow removal.**

**Sheila Watson, Librarian – reminded everyone about book fair taking place on Sat., from 10am-4pm in fire house.**

**Charlie Rooney, Engineer – road project coming along, paving soon if weather holds.**

**Lt. Mike Haar, Police Dept. – let police dept. know if you are going away; reminded everyone to sign up for reverse 911; parking now parallel.**

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

**Marie Kenny, representing the Garden Club, presented the Mayor with a “Random Acts of Beauty” plaque representing everyone in town that has helped with the restoration of the town after the storm.**

**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**