

REGULAR MEETING – DECEMBER 10, 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 Gorman that the minutes of the meeting of October 22, 2012 be approved.

The Vote:

Aye: All

No: None

Motion by McGovern seconded by Gorman that the minutes of the meeting of November 13, 2012 be approved.

The Vote:

Aye: All

No: None

RESOLUTION offered by McGovern seconded by Gorman that the Borough of Avon-By-The-Sea, in the County of Monmouth, State of New Jersey authorizes a \$6,000,000 Special Emergency Appropriation pursuant to N.J.S.A. 40A:4-54 to provide funds for response to the extraordinary expenses resulting from damage caused by Hurricane Sandy and further authorizing the issuance of special emergency notes to fund such special emergency appropriation that,

WHEREAS, it has been found necessary to make a special emergency appropriation to meet certain expenses incurred or to be incurred as a result of the extraordinary damage to the streets, roads and other public property caused by Hurricane Sandy (the “Recovery”) requiring the appropriation of funds of the Borough of Avon-By-The-Sea, in the County of Monmouth, State of New Jersey (the “Borough”), 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 Recovery has been undertaken; and

WHEREAS, N.J.S.A 40A:4-54 provides that it shall be lawful to make such appropriation, which appropriation and special emergency notes issued to finance the same 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 this act:

NOW, THEREFORE BE IT RESOLVED (by not less than two-thirds of the full membership of the governing body affirmatively concurring) as follows:

- 1. Pursuant to N.J.S.A. 40A:4-54, a special emergency appropriation is hereby made in the amount of \$6,000,000 for the Recovery from Hurricane Sandy. The \$6,000,000 appropriated herein is sufficient to fund the special emergency. Such appropriation is being made from the various funds and accounts of the Borough to be allocated and determined at a later date once the Recovery has been undertaken and finalized.**
- 2. The special emergency appropriation set forth in Section 1 hereof shall be provided for in the budgets of the succeeding years by the inclusion of not less than \$1,200,000 annually in each of the next five years' succeeding budgets. Such appropriation is being made from the various funds and accounts of the Borough and the budgets among which said appropriation shall be provided in shall be allocated and determined at a later date once the Recovery has been undertaken and finalized.**
- 3. Special Emergency Notes not in excess of \$6,000,000 are hereby authorized to be issued by the Borough.**
- 4. Such Notes shall be executed by the Mayor and the Chief Financial Officer of the Borough and the official seal shall be thereunto affixed and attested to by the Clerk of the Borough.**
- 5. All Notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer of the Borough. The Notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. It is hereby delegated to the Chief Financial Officer of the Borough the authority to determine all matters in connection with the Notes issued, and the signature of the Chief Financial Officer upon the Notes shall be conclusive evidence as to all such determinations. The Chief Financial Officer is also hereby authorized to sell part or all of the Notes from time to time at a public or private sale and to deliver them to the purchaser thereof upon receipt of payment of the purchase price and accrued interest thereon from their dates to the date of delivery thereof. 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 Notes pursuant to this resolution is made. Such report must include the principal amount, the description, the interest rate, the maturity schedule of the Notes so sold, the price obtained and the name of the purchaser.**
- 6. The Borough covenants to maintain the exclusion from gross income under section 103(a) of the Code, of the interest on the Notes issued under this resolution, if applicable.**
- 7. The Borough reasonably expects to reimburse the expenditures toward the costs of the Recovery described in this resolution incurred and paid for by the Borough prior to the issuance of the Notes authorized by this resolution with the proceeds of such Notes. No funds from sources other than the Notes 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 paragraph 7 is intended to be and hereby is a declaration of the Borough's official intent to reimburse the expenditures toward the costs of the Recovery described in this resolution incurred and paid for prior to the issuance of the Notes with the proceeds of such issuance of the Notes 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 Notes 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 Notes to be issued by the Borough to finance those expenditures towards the Recovery described in this resolution to be reimbursed will be issued in an amount not to exceed \$6,000,000, 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 Recover described in this resolution to be reimbursed with the proceeds of the Notes will be “capital expenditures” in accordance with the meaning of Treasury Regulation Section 1.150-2(d)(3).

8. The Borough’s Administrator and Chief Financial Officer are each hereby authorized and directed to determine all matters in connection with the Recovery not determined by this or a subsequent resolution, all in consultation with the Borough Attorney or Bond Counsel, and the manual or facsimile signature of the Borough’s Administrator and Chief Financial Officer upon any documents shall be conclusive as to all such determinations. The Mayor, Administrator, Chief Financial Officer, Clerk and any other Borough Representative, including but not limited to, Bond Counsel, the Engineer, the Borough Attorney and the Borough Auditor, are each hereby authorized and directed to take such actions or refrain from such actions as are necessary to undertake the Recovery, including but not limited to, the negotiation of any and all contracts, agreements and documents for the Recovery, and any all such actions or inactions taken by the aforesaid Borough Representatives heretofore are hereby ratified and confirmed, *nunc pro tunc*.

9. Two certified copies of this resolution shall be filed with the Director of the Division of Local Government Services.

10. This resolution shall take effect immediately.

The Vote:

Aye: All

No: None

RESOLUTION offered by Gorman seconded by McGovern that,

WHEREAS, properties reflect 2012 tax and water/sewer balances and credit balances of less than \$10.00, and

WHEREAS, it is deemed unfeasible to incur the cost of collecting or refunding balances of less than \$10.00,

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the Borough of Avon-By-The-Sea that the Tax Collector, pursuant to R.S. 54:4-91 and R.S. 54:4-91.2 is authorized and directed to cancel the 2012 tax and water/sewer balances less than \$10.00 and credit balances of less than \$10.00 for each of the properties.

The Vote:

Aye: All

No: None

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

Block 19 Lot 2 A/C #340-0 231 Woodland Ave. Demo \$300.00

The Vote:

Aye: All

No: None

RESOLUTION offered by McGovern seconded by Mahon that the Board of Commissioners hereby authorize the refund of 2012 property tax overpayments/duplicate payments to the following:

Block 10 Lot 1.01 BAC Tax Services 623 Main Street \$1,388.81
Block 39 Lot 6.015 Bramhall 205 Marine Place \$1,068.49

The Vote:

Aye: ____

No: ____

RESOLUTION offered by McGovern seconded by Mahon that the Board of Commissioners hereby authorize the transfer of overpaid 2012 property taxes from Block 51 Lot 1.01, in the amount of \$4,061.34, to the fourth quarter property tax of Block 36 Lot 13.03 per Mrs. Loures.

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 2012 appropriation transfers be authorized:

FROM: Elections O.E.	1,200.00
Reg. of Bonds O.E.	500.00
Hospitalization	2,300.00
TO: Gasoline	4,000.00
FROM: Beach Landfill	4,000.00
Beach Legal O.E.	1,000.00
Beach Hospitalization	2,000.00
TO: Diesel Fuel	7,000.00

The Vote:

Aye: All

No: None

RESOLUTION offered by McGovern seconded by Mahon that Timothy M. Gallagher, Borough Administrator, is hereby authorized to sign a one year lease agreement between C&L Avon Realty and the Borough of Avon-By-The-Sea for the amount of \$2,500.00 per month for temporary housing of the Public Works Department.

The Vote:

Aye: All

No: None

RESOLUTION offered by McGovern seconded by Mahon that Timothy M. Gallagher is hereby appointed as the Community Development Representative for 2013. Barbara Suchecki is appointed as the Alternate.

The Vote:

Aye: All

No: None

Motion by McGovern seconded by Mahon that a license for a 50/50 Raffle to be held on April 26, 2013 at 9:00 p.m. at The Columns, 601 Ocean Ave., Avon, be approved for the Belmar Elementary School PTO.

The Vote:

Aye: All

No: None

RESOLUTION offered by McGovern seconded by Mahon 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 2013.

The Vote:

Aye: All

No: None

Motion by Gorman seconded by McGovern that the bills in the amount of \$778,926.54 be approved for payment.

The Vote:

Aye: All (Mahon abstains from P.D. bills)

No: None

Mayor announces that the Board of Commissioner's meeting scheduled for Dec. 24th will be cancelled. Next meeting will be Jan. 14, 2013.

Department Heads:

Karl Klug, Water Dept. Supt. – have been working on the water problem in the south end of town. Have been talking to NJ American Water Co. and NJ DEP. Flushing hydrants every day and some 24/7 as per their advice. Seems to be working for the most part. Lengthy discussion took place on the water problems in town.

Mike Haar, Police Lt. – Ocean Ave. is and will remain closed while heavy equipment is still there. Ocean Ave. bridge still closed for minor repairs and scheduled maintenance. The Main St. bridge is scheduled to open on Dec. 21st. Reminded people about opposite side parking during snow storms. Has info. available for people to sign up for the reverse 911 calls. Avon PD sponsoring 4 people to go to police academy for Class II certification.

Mayor asks if anyone would like to be heard?

John Mesko – lengthy discussion on the marina.

Motion by Gorman seconded by McGovern 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**