

REGULAR MEETING – MAY 9, 2011 – 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 directions 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 April 11, 2011 be approved as written.

The Vote:

Aye: All

No: None

Motion by McGovern seconded by Gorman that the minutes of the meeting of April 25, 2011 be approved as written.

The Vote:

Aye: All

No: None

Mayor announces that this is the time advertised for second reading and hearing of Ordinance No. 6-2011 entitled:

**“ AN ORDINANCE TO AMEND AND SUPPLEMENT
CHAPTER 113, LAND DEVELOPMENT, OF THE
CODE OF THE BOROUGH OF AVON-BY-THE-SEA.”**

1. Third Floor

Page 12, Definitions – Add the following:

Story – That portion of a building included between the surface of any floor and the surface of the next floor above it or, if there is no floor above it, then the space between the floor and the ceiling next above it. For the purpose of this chapter, the interior of the roof shall be considered a ceiling.

Story, Half - The area under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two (2) feet above the surface of the floor of such a story and any dormers are sized so that at least 40% of the total floor area of the half story contains a ceiling height 5 feet or less. Floor plans submitted for living space in attic areas shall be provided with a line delineating the extents of the floor area with a height equal to or greater than 5 feet. Further, the plans shall include the ratio of

attic floor space containing a ceiling height equal to or greater than 5 feet divided by the full floor space of the story below.

2. Wall

Add definitions:

Wall, Free-Standing – A structure constructed of masonry, concrete, brick, stone, wood or similar material that acts like a fence; the portion of a retaining wall that extends above grade. A free-standing wall shall be governed by the same regulations as a fence. A free-standing wall shall be included in Lot Coverage, Impervious if the wall structure contains a width exceeding 6 inches. A free-standing wall that is part of a landscaped garden and does not exceed 12 inches in height from original grade shall not be governed by the same regulations as a fence; this shall include garden walls that retain an artificial change in grade for the purpose of a landscaped garden.

Wall, Retaining – A structure constructed of masonry, concrete, brick, stone, wood or similar material provided to retain a natural vertical change in grade. If any portion of the wall extends more than 6 inches above the higher grade, this portion of the wall shall be considered a “free-standing wall.” A retaining wall shall not be considered a fence. Retaining walls shall be permitted in all zones to a maximum height of 3’-6”.

3. Trellis

Add definitions:

Trellis – A structure consisting of pillars that support cross beams and open lattice that forms an open, horizontal or pitched roof structure for the purpose of supporting vegetation or providing shade. A trellis, pergola or similar style structure shall be considered a solid roofed structure for the purpose of this chapter, and shall be included in Lot Coverage, Building. A trellis shall not be permitted in a front yard.

Pergola – see Trellis

Page 21, Section 113-11, B – Add the following:

(8) No more than one (1) trellis not to exceed one hundred (100) square feet in floor area.

4. Porches – 2nd, 3rd Floor!

Page 5, Definitions – Remove Definition of “Deck” and then add the following:

Deck, Pervious – *A pervious, unroofed platform either freestanding or attached to a building that is supported by wood framing, pillars, posts or sleepers at grade. Pervious decks shall not be included in the calculation of impervious or lot coverage.*

Deck, Impervious – An impervious platform that is attached to or part of the principal structure. Impervious decks shall be considered part of the Lot Coverage, Building.

Page 23 & 38:

Delete: (9) Decks, entire section.

Add:

(9A) Decks, Pervious. Pervious Decks shall not be permitted in the front yard. Pervious Decks shall be limited to the ground level. Pervious Decks shall meet the setback requirements of the principal structure. The total area of all pervious decks on any lot, including stairs accessing any deck, shall be limited to 5% of the total area of the lot.

- (9B) Decks, Impervious.** Impervious decks shall be permitted as follows:
- (a) First floor impervious deck:** No ground level decks in the front yard. Side and rear yard ground level decks may be covered with a roof structure (aka "Porch"). Size shall be governed by Lot Coverage, Building.
 - (b) Second floor impervious deck:** Permitted above any approved porch or portion of the principal building that is located behind the required yard setback. Only the portion of deck located behind wall of principal building may be covered with a roof structure. Size shall be governed by area of approved porch below, plus up to 125 square feet of deck area behind walls of principal structure below.
 - (c) Third floor impervious deck:** Permitted provided that deck does not extend beyond the wall of the principal building. Deck may be covered with a roof structure. Size shall be limited to 80 square feet of deck area.
 - (d) No decks shall be permitted above the highest floor level of the structure.**

5. Attached Garages

Page 23: Add: (7) Attached Residential Garages. No attached residential garage shall be intended for the storage of more than 2 vehicles. Attached garages shall not be permitted if the property contains access to a lane. Where attached garages are permitted, the maximum height of that portion of the principal structure shall be limited to 18 feet.

6. Building Coverage with/ without Garage

Page 22: (3) Maximum Coverage

Delete: Lot Coverage, Building: thirty-five percent (35%)

Add: Lot Coverage, Building:

**For Lots over 5,000 sf: thirty-two percent (32%) if detached garage provided
twenty-seven percent (27%) if no detached garage provided**

Note: A three (3%) increase in Lot Coverage, Building is allowed if a covered front porch is provided. However, the house and garage portion of the Lot Coverage may not exceed the coverage percent allowed above without a porch.

For Lots 5,000 sf and less: thirty-five percent (35%)

7. Front Yard Setback

Page 22: (2) Minimum Setback Requirements, Note (a):

Insert: "facing the same street as the subject property" after "*within the block*" and before "*(or adjacent...*"

8. Hedge Height

Page 52: B. Additional Requirements for hedges...

Edit #1 to read: 1. All hedges, trees or shrubs shall be properly cut, trimmed and maintained by the owner of the property on which the base of the plant is located.

Edit #6 to change allowed height from 10' to 6' in two locations.

Add to #5 and #6: For the purpose of this section "row or cluster" shall describe an arrangement *forming a fence-like barrier*.

9. Grading Change

Page 58, Section 113-22, add the following;

J. Grade Change. Existing, natural grading on a lot may not be significantly changed (more than 1 - foot) for the purpose of increasing allowed building structure.

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

Motion by McGovern seconded by Gorman that the above Ordinance No. 6-2011 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 McGovern 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 2010 in the amount of \$4,847.50. 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 McGovern seconded by Gorman 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 \$5,284.88 from the State of New Jersey and wishes to amend its 2011 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 2011 in the sum of \$5,284.88 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:
Clean Communities Grant pursuant to provisions of Statute, and

BE IT FURTHER RESOLVED that a like sum of \$ 5,284.88 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:
Clean Communities 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 McGovern seconded by Gorman that,

WHEREAS, the Board of Commissioners of the Borough of Avon-by-the-Sea, having heard the presentation of the Borough Administrator, Timothy Gallagher, to submit an application to the County of Monmouth, Community Development Block Grant program for the project titled **BOROUGH OF AVON-BY-THE-SEA RIVERFRONT PARK BUILDING HANDICAP ACCESS**, do hereby authorize submission of this application for the grant.

The Vote:

Aye: All

No: None

RESOLUTION offered by Gorman seconded by McGovern that the Board of Commissioners hereby authorize the Mayor to sign a change order for the contract with Montauk Services, Water Main Cleaning project for a reduction in the amount of \$49,812.50 and an additional amount of \$47,674.94 for a reduction of \$2,137.56.

The Vote:

Aye: All

No: None

RESOLUTION offered by Gorman seconded by McGovern that the Board of Commissioners hereby appoint the following new Class I Special Police Officers for the 2011 summer season, effective May 16, 2011.

**Jared Flynn
John Anderson**

**Kevin Stroebel
Marisa Ridsen**

The Vote:

Aye: All

No: None

RESOLUTION offered by McGovern seconded by Gorman that Patrick McMahon is reappointed as Zoning Official for a one (1) year term, effective April 13, 2011.

The Vote:

Aye: All

No: None

Motion by McGovern seconded by Gorman that the bills in the amount of \$1,304,155.56 be approved for payment.

The Vote:

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

No: None

Mayor introduces Freeholder Tom Arnone and Sheriff Sean Golden who will discuss shared dispatch services with Monmouth County.

Comments from Dept. Heads:

Sheila Watson, Librarian – summer hours start June 13th; book fair scheduled for July 9th & 10th – always need help for set up on July 8th; now you can download books onto you Kindle.

Charlie Rooney, Engineer – Norwood Ave. contractors back in town to complete punch list; Water Tank project – some structural repairs to be done. Also, developing plans and specs for painting the exterior of the tank; DOT scheduled to repave Route 71 from Sea Girt to Eatontown – hope to start in the fall.

Karl Klug, Water Supt. – will be flushing hydrants next week.

Jeff Bramhall, DPW Supt. – getting the town ready for summer.

Chief Mahon – portable stop signs will be going out soon. Hired 4 new Class I specials, 7 returning from last year.

Mayor asks if anyone would like to be heard?

Harry Cuttrell, 206 So. Station Ave. – commended the Police Dept. for handling a large scale funeral with efficiency and professionalism.

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**