

REGULAR MEETING – APRIL 27, 2009 – 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 Mahon that the minutes of the meeting of April 13, 2009 be approved as written.

The Vote:

Aye: All

No: None

Mayor announces that this is the time advertised for second reading and hearing on Ordinance No. 7-2009 entitled:

“ AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 133, ARTICLE IV, ENTITLED “MUNICIPAL SWIMMING POOL” OF THE CODE OF THE BOROUGH OF AVON-BY-THE-SEA, MONMOUTH COUNTY, NEW JERSEY. ”

133-17. Charges for Badges.

The following rates shall be charged for the identification badges issued, which badges shall not be transferable and without which no person may use the said facility.

- A. Season adult badges (ages 15 through 59): eighty dollars (\$80.00).**
- B. Season child badges (ages 3 through 14): sixty dollars (\$60.00).**
- C. Daily guest badge, available to season badge holder only: six dollars (\$6.00).**
- D. Senior Citizen badges (age 60 through 69): sixty dollars (\$60.00).**
- E. Super Senior Citizen badges (age 70 and over): fifty five dollars (\$55.00).**

All other terms and conditions of this ordinance shall remain in effect.

Would anyone like to be heard on the above ordinance? There was discussion on fees, cost of running the pool and work to be done there.

Motion by McGovern seconded by Mahon that the above Ordinance No. 7-2009 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 Mahon that the Mayor is hereby authorized to sign a Real Estate Purchase Agreement between the Estate of James Fowler and Avon Marina, LLC and the Borough of Avon-By-The-Sea for the real property commonly known as Block 43.02, Lot 1 and additional Lot 1.01 in the Borough of Avon-By-The-Sea for a purchase price of \$800,000.00.

The Vote:

Aye: All

No: None

RESOLUTION offered by Mahon seconded by McGovern that the bid for Norwood Avenue Improvements – Phase I be awarded to Lucas Construction Group, Inc., Morganville, NJ with a bid amount of \$348,593.58. The award of this bid is subject to New Jersey Department of Transportation approval.

The Vote:

Aye: All

No: None

RESOLUTION offered by McGovern seconded by Mahon that,

WHEREAS, the Borough of Avon-By-The-Sea has a need to acquire a Special Affordable Housing Counsel and does so pursuant to the provisions of N.J.S.A. 19:44A-20.4 or 20.5; and

WHEREAS, the Borough Administrator has determined and certified in writing that the value of the acquisition may exceed \$17,500; and

WHEREAS, the anticipated term of this contract is one (1) year and may be extended three (3) times as approved by the Board of Commissioners, and

WHEREAS, Brian M. Nelson has submitted and/or will submit a proposal indicating he will provide legal services for \$150.00 per hour; and

WHEREAS, Brian M. Nelson has completed and submitted a Business Entity Disclosure Certification which certifies that Brian M. Nelson has not made any reportable contributions to a political or candidate committee in the Borough of Avon-By-The-Sea in the previous one year, and that the contract will prohibit Brian M. Nelson from making any reportable contributions through the term of the contract, and

WHEREAS, funds are provided for in the affordable housing trust account,

WHEREAS, this appointment is being made without competitive bidding as this appointment involves a member of a recognized profession, licensed and regulated by law, and are, therefore, exempt under N.J.S.A. 40A:11-5.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the Borough of Avon-By-The-Sea authorizes the Mayor to enter into a contract with Brian M. Nelson as described herein;

BE IT FURTHER RESOLVED that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution.

BE IT FURTHER RESOLVED that a copy of the resolution and contracts will be on file and available for public inspection in the office of the Borough Clerk.

The Vote:

Aye: All

No: None

Why are we doing this now? Mr. Gallagher said we have to file a COAH plan. We are hiring someone that is versed in COAH.

RESOLUTION offered by Gorman seconded by McGovern that,

WHEREAS, the Mandatory Source Separation and Recycling Act, P.L. 1987, c.102, 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, it is the intent and spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue and expand existing programs; and

WHEREAS, the New Jersey Department of Environmental Protections promulgating recycling regulations to implement the Mandatory Source Separation and Recycling Act; and

WHEREAS, the recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including, but not limited to, making and keeping accurate, verifiable records of materials collected and claimed by the municipality; and

WHEREAS, a resolution authorizing this municipality to apply for such tonnage grants for the calendar year 2008 will memorialize commitment of this municipality to recycling and indicate assent of the Board of Commissioners to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations; and

WHEREAS, such a resolution should designate the individual authorized to ensure that the application is properly completed and timely filed.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Borough of Avon-By-The-Sea hereby endorses the submission of a Municipal Recycling Tonnage Grant Application to the New Jersey Department of Environmental Protection, Office of Recycling and designates Jeff Bramhall to ensure that the said application is properly filed.

BE IT FURTHER RESOLVED that the monies received from the recycling tonnage grant be deposited in a dedicated recycling trust fund to be used solely for the purposes of recycling.

The Vote:

Aye: All

No: None

Motion by McGovern seconded by Gorman that the bills in the amount of \$737,320.98 be approved for payment.

The Vote:

Aye: All

No: None

RESOLUTION offered by McGovern seconded by Mahon that,

WHEREAS, the Board of Commissioners has received a letter requesting that a portion of Marine Place from Sylvania Lane to Sylvania Avenue be blocked off for the purpose of holding an “anniversary celebration”, and

WHEREAS, it is the judgment of the Board of Commissioners that such events promote the general welfare and “spirit” of the community, and

WHEREAS, it is recognized that such social events must be carefully planned and conducted so as to avoid injury, inconvenience or other types of harm, and

WHEREAS, granting such a request is within the authority of the Board of Commissioners,

NOW, THEREFORE, BE IT RESOLVED as follows:

- 1. That a portion of Marine Place from Sylvania Lane to Sylvania Avenue may be blocked for the purpose of conducting an “anniversary celebration” on May 9th and August 15th & 16th, 2009 between the hours of 7:00 a.m. and 6:00 p.m. The blocking of the street may not exceed these hours.**
- 2. The blocking shall be accomplished by the use of “street horses” or such other method in the discretion of the Chief of Police, which are clearly visible in the prevailing lighting conditions and which provide acceptable protection to avoid entry into the street by any motor vehicles.**

3. **The organizers of said event must contact each and every property owner, and/or tenant with property touching on said portion of the street and secure said owner or tenant's permission to close the street.**
4. **Should any owner or tenant object, then the street may not be closed and this resolution is declared null and void.**
5. **The organizers shall file with the Municipal Clerk, not later than the close of business on May 8, 2009 an affidavit (i.e. sworn statement) attesting to the fact that they have contacted all owners and tenants and that none have objected. Should said affidavit not be timely filed, or should any owner or tenant object, than this resolution shall be considered null and void.**
6. **In the conducting of said event, all statutes, ordinances and applicable regulations and laws must be complied with. This includes, but is not limited to those statutes, ordinances, regulations and laws pertaining to the sale and consumption of alcoholic beverages and the control of noise.**
7. **This resolution is subject to the approval of the Avon Fire Department, Police Department and First Aid Squad.**
8. **This resolution is specifically contingent upon the Borough confirming that said event and closing of said street shall not in any way adversely affect the Borough's insurance coverage. Should there be an adverse effect then this resolution shall be declared null and void.**
9. **Any promotional "circular/leaflet" regarding said party must be distributed in strict compliance with Borough Ordinances.**
10. **The organizers are responsible to insure that the street is clean and free of debris following the event.**

The Vote:

Aye: All

No: None

Mayor asks if anyone would like to be heard?

A question about Sylvan Lake? – discussion took place on Bradley Beach lowering the lake.

Marie Kenny – we talked in the past about putting recycling bins on the boardwalk when there is a walk-a-thon or other activity. This Sunday the boardwalk and area was a mess and there were no recycling bins around. Commissioner McGovern we can consider doing something for future activities.

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**