

REGULAR MEETING – APRIL 26, 2010 – 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 12, 2010 be approved as written.

The Vote:

Aye: All

No: None

RESOLUTION offered by McGovern seconded by Mahon that,

ORDINANCE NO. 3-2010 entitled:

**“ ORDINANCE AMENDING AND SUPPLEMENTING
CHAPTER 64, BEACHES, OF THE CODE OF THE
BOROUGH OF AVON-BY-THE-SEA, MONMOUTH
COUNTY, NEW JERSEY. ”**

be introduced on first reading.

The Vote:

Aye: All

No: None

Motion by McGovern seconded by Gorman that the above Ordinance No. 3-2010 be taken up on second reading with a hearing on May 10, 2010 at 7:30 p.m. in the Municipal Building.

The Vote:

Aye: All

No: None

RESOLUTION offered by McGovern seconded by Mahon that,

ORDINANCE NO. 4-2010 entitled:

**“ ORDINANCE AMENDING AND SUPPLEMENTING
CHAPTER 133, RECREATION FEES AND FACILITIES,
OF THE CODE OF THE BOROUGH OF AVON-BY-THE-
SEA, MONMOUTH COUNTY, NEW JERSEY. ”**

be introduced on first reading.

The Vote:

Aye: All

No: None

Motion by Gorman seconded by McGovern that the above Ordinance No. 4-2010 be taken up on second reading with a hearing on May 10, 2010 at 7:30 p.m. in the Municipal Building.

The Vote:

Aye: All

No: None

RESOLUTION offered by Mahon seconded by McGovern that,

WHEREAS, the Local Government Cap Law, N.J.S.A. 40A:4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 0% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and

WHEREAS, N.J.S.A. 40A:4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and

WHEREAS, the Borough Commissioners of the Borough of Avon-By-The-Sea in the County of Monmouth finds it advisable and necessary to increase its CY 2010 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and

WHEREAS, the Board of Commissioners hereby determines that a 3.5% increase in the budget for said year, amounting to \$113,889.90 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary.

WHEREAS, the Borough Commissioners hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Borough of Avon-By-The-Sea in the County of Monmouth, a majority of the full authorized membership of this governing body affirmatively concurring, the, in the CY 2010 budget year, the final appropriations of the Borough of Avon-By-The-Sea shall, in accordance with this ordinance and N.J.S.A. 40A:4-45.14 be increased by 3.5% amounting to \$113,889.90, and that the 2010 municipal budget for the Borough of Avon-By-The-Sea be approved and adopted in accordance with this ordinance; and

BE IT FURTHER RESOLVED, that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and

BE IT FURTHER RESOLVED, that a certified copy of this ordinance as introduced by filed with the Director of the Division of Local Government Services within 5 days of introduction; and

BE IT FURTHER RESOLVED that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

The Vote:

Aye: All

No: None

RESOLUTION offered by Mahon seconded by McGovern that,

WHEREAS, N.J.S.A. 40A:4-78b has authorized the Local Finance Board to adopt rules that permit municipalities in sound fiscal condition to assume the responsibility, normally granted to the Director of the Division of Local Government Services, of conducting the annual budget examination, and

WHEREAS, N.J.A.C. 5:30-7 was adopted by the Local Finance Board on February 11, 1997, and

WHEREAS, pursuant to N.J.A.C. 5:30-7.2 thru 7.5 the Borough of Avon-By-The-Sea has been declared eligible to participate in the program by the Division of Local Government Services, and the Chief Financial Officer has determined that the Borough of Avon-By-The-Sea meets the necessary conditions to participate in the program for the 2010 budget year,

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the Borough of Avon-By-The-Sea that in accordance with N.J.A.C. 5:30-7.6a & b and based upon the Chief Financial Officer's certification, the governing body has bound the budget has met the following requirements:

1. That with reference to the following items, the amounts have been calculated pursuant to law and appropriated as such in the budget:
 - a. Payment of interest and debt redemption charges
 - b. Deferred charges and statutory expenditures
 - c. Cash deficit of preceding year
 - d. Reserve for uncollected taxes
 - e. Other reserves and non-disbursement items
 - f. Any inclusions of amounts required for school purposes
2. That the provisions relating to limitation on increases of appropriations pursuant to N.J.S.A. 40A:4-45.2 and appropriations for exceptions to limits on appropriations found at 40A:4-45.3 et seq. Are fully met (complies with the "CAP" law.)
3. That the budget is in such form, arrangement, and content as required by the Local Budget Law and N.J.A.C. 5:30-4 and 5:30-5.
4. That pursuant to the Local Budget Law:
 - a. all estimates of revenue are reasonable, accurate, and correctly stated
 - b. Items of appropriation are properly set forth
 - c. In itemization, form arrangement, and content the budget will permit the exercise of the comptroller function with the municipality.

5. **The budget and associated amendments have been introduced, publicly advertised, and in accordance with the relevant provisions of the Local Budget Law, except that failure to meet the deadlines of N.J.S.A. 40A:4-5 shall not prevent such certification.**
6. **That all other applicable statutory requirements have been fulfilled.**

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to the Director of the Division of Local Government Service.

The Vote:

Aye: All

No: None

RESOLUTION offered by Mahon seconded by McGovern that,

BE IT RESOLVED by the Board of Commissioners of the Borough of Avon-By-The-Sea that it hereby introduces the 2010 Municipal Budget in the amount of \$5,587,945.55, and

BE IT FURTHER RESOLVED that the said budget requires \$3,539,078.00 to be raised in property taxes, and

BE IT FURTHER RESOLVED that a summary of said will be published in the April 29, 2010 edition of the Coast Star, and

BE IT FURTHER RESOLVED that full copies of said budget are available in the office of the Borough Clerk, and

BE IT FURTHER RESOLVED that a public hearing of said budget will be conducted on May 24, 2010 at 7:30 p.m.

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 2009 in the amount of \$4,864.69. 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

Motion by McGovern seconded by Gorman that the bills in the amount of \$568,776.41 approved for payment.

The Vote:

Aye: All (Mayor abstained from approving P.D. bills)

No: None

Mayor asks if anyone would like to be heard?

Dave Larkin asked about the status of the bonfire request. Commissioners are in favor of it. Barry Cooke is looking into it. The amendment to the ordinance will really restrain the period of time the activities can occur. It's not going to be something that's available year round, so it's not disruptive to use of the beach during summer.

Someone asked about the large pit between the boardwalk and wall between Sylvania & Woodland. Commissioners will check it out.

It was asked about the skateboard/bicycle (no helmets) warnings. 1st time is a verbal warning, 2nd time is written warning and 3rd time bike/skateboard can be confiscated and parents have to come in.

Lengthy conversation took place regarding new house at 441 Jefferson and size, percentage of coverage, inspections, etc.

It was asked about schedule for school budget. Mr. Gallagher said there is a meeting set up for May 5th at 3:00 p.m.

Some discussion took place on how to improve recycling on the beach.

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**