

REGULAR MEETING – JANUARY 12, 2009 – 7:30 P.M.

Pledge of Allegiance.

Roll Call: Commissioner McGovern, Mayor Mahon.

Absent: Commissioner Gorman

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 December 8, 2008 be approved as written.

The Vote:

Aye: All

No: None

RESOLUTION offered by Mahon seconded by McGovern that,

ORDINANCE NO. 1-2009 entitled:

**AN ORDINANCE AMENDING AND SUPPLEMENTING
THE CODE OF THE BOROUGH OF AVON-BY-THE-SEA,
CHAPTER 29, ENTITLED “OFFICERS AND EMPLOYEES”.**

be introduced on first reading.

The Vote:

Aye: All

No: None

Motion by Mahon seconded by McGovern that the above Ordinance No. 1-2009 be taken up on second reading with a hearing on January 26, 2009 at 7:30 p.m. in the Municipal Building.

The Vote:

Aye: All

No: None

RESOLUTION offered by McGovern seconded by Mahon that,

WHEREAS, R.S. 40A:4-19 of the Local Budget Law provides that while any contracts, commitments or payments are to be made prior to the adoption of the 2009 budget, temporary appropriations should be made for the purpose and amounts required in the manner and time therein provided, and

WHEREAS, 26.25% of the total appropriations in the year 2008 budget, exclusive of any appropriation in the 2008 capital improvements and debt service, is \$292,402.69 in the Beach Utility Budget, \$286,956.60 in the Water Utility Budget and \$931,779.00 in the Current Budget for a total of \$1,511,138.29.

NOW, THEREFORE, BE IT RESOLVED that the temporary appropriations are made and that a certified copy of this resolution be transmitted to the Chief Financial Officer.

The Vote:

Aye: All

No: None

RESOLUTION offered by Mahon seconded by McGovern that,

BE IT RESOLVED by the Board of Commissioners that the Official Depositories for the Borough of Avon-By-The-Sea bank accounts for 2009 will be Chase Bank, PNC Bank, Central Jersey Bank and Ocean First Bank as well as any other bank that offers a higher percentage rate on investments that the Chief Financial Officer may obtain.

The Vote:

Aye: All

No: None

RESOLUTION offered by McGovern seconded by Mahon that,

BE IT RESOLVED by the Board of Commissioners that the official newspapers used by the Borough of Avon-By-The-Sea for the year 2009 will be the Asbury Park Press, The Coast Star, and The Coaster.

The Vote:

Aye: All

No: None

RESOLUTION offered by McGovern seconded by Mahon that,

WHEREAS, the Open Public Meetings Act (CH 231, P.L. 1975) became effective on January 19, 1976, and

WHEREAS, in accordance with said act, it is necessary for the Borough of Avon-By-The-Sea, as a public body, to post and maintain a schedule of the regular meetings of the public body to be held during the succeeding year.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners that the Municipal Clerk is hereby authorized to do the following:

- 1. Post the schedule of meetings on the bulletin board in Borough Hall, which sets the time, date and location of all regular and workshop meetings. The public as always will be allowed to participate in the regular meetings and a portion of the workshop meetings will be set aside for public comment. Action will only be taken at the regular meetings unless otherwise advertised in advanced.**

2. Mail a copy of this resolution and schedule to the official Borough newspapers.

The Vote:

Aye: All

No: None

RESOLUTION offered by McGovern seconded by Mahon that,

WHEREAS, properties reflect 2008 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 2008 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,

BE IT RESOLVED that upon the recommendation of the Borough of Avon-By-The-Sea Tax Collector:

1. There shall be a ten (10) day grace period on the quarterly taxes, after which unpaid taxes will be charged interest back to the due date. Interest shall be charged and calculated at the rate of eight (8)% per annum on the first \$1,500.00 of the delinquency, and eighteen (18)% per annum on any amount in excess of \$1,500.00 calculated from the date the tax was payable until the actual payment is received until all of the delinquencies on a property are brought to a current status.
2. There shall be a six (6)% penalty for a delinquency over \$10,000.00 if not paid prior to the end of the calendar year. Delinquency is defined to mean the sum of all taxes and municipal charges due on a given parcel of property covering any number of quarters.
3. Redemption fees for Tax Sale Certificates are as follows:
 - Two (2)% on certificates \$200.00 to \$4,999.99
 - Four (4)% on certificates \$5,000.00 to \$9,999.99
 - Six (6)% on certificates over \$10,000.00
5. A service charge of \$20.00 will be charged for each returned check, used to make any payment to the Borough of Avon-By-The-Sea, for any reason specified by a financial institution.
6. A fee of \$5.00 will be charged for the first duplicate copy of the tax bill requested by a mortgage servicing organization and a fee of \$25.00 will be charged to each subsequent duplicate copy of the same bill in the same tax year.

7. All tax sale certificate redemption amounts shall be obtained from the Tax Collector. In addition, a \$25.00 fee will be charged for each additional request for a redemption.
8. There shall be a fee of \$100.00 for the issuance of a duplicate tax sale certificate.

The Vote:

Aye: All

No: None

RESOLUTION offered by McGovern seconded by Mahon that the Board of Commissioners hereby authorize, upon the recommendation of the Tax Collector, that the Borough participate in the electronic file sharing with search companies and the Borough will charge an electronic schedule fee of \$10.00 for every file transfer. Based upon one file transfer per week, a single up front payment of \$520.00 will be accepted and for two transfers per week, a single up front payment of \$1,040.00 will be accepted for one year's worth of electronic data, beginning January 1, 2009 through December 31, 2009. This fee will be increased if additional weekly files are requested.

The Vote:

Aye: All

No: None

RESOLUTION offered by McGovern seconded by Mahon that the Board of Commissioners hereby authorizes the cancellation of 2008 water/sewer charges for the following account:

Block 28 Lot 9 Sub 2 300 Main Street Erroneous Charge \$437.50

The Vote:

Aye: All

No: None

RESOLUTION offered by McGovern seconded by Mahon that the Board of Commissioners hereby authorize the refund of a 2008 duplicate tax payment to the following:

Block 51 Lot 5.01 Washington Mutual 138 Washington Ave. \$3,323.08

The Vote:

Aye: All

No: None

RESOLUTION offered by McGovern seconded by Mahon that the Board of Commissioners hereby authorize the refund of a 2008 tax overbill amount to the following:

Block 41 Lot 15.01 Herbert 501 Washington Ave. \$65.45

The Vote:

Aye: All

No: None

RESOLUTION offered by Mahon seconded by McGovern that Timothy Gallagher is appointed as the Monmouth County Joint Insurance Fund Commissioner. Kerry McGrath is appointed as the Alternate Fund Commissioner.

The Vote:

Aye: All

No: None

RESOLUTION offered by McGovern seconded by Mahon that the following appointments be made:

Michele Darling	Deputy Borough Clerk	1 year term	End 12/31/09
Jeff Bramhall	Recycling Coordinator	1 year term	End 12/31/09
Douglas Carter	Recreation Director	1 year term	End 12/31/09

The Vote:

Aye: ____

No: ____

RESOLUTION offered by McGovern seconded by Mahon that the Board of Commissioners hereby make the following appointments for the year 2009:

**Michael Speck, Public Defender
Benjamin Choi, Prosecutor**

These appointments are being made without competitive bidding as these appointments involve members of recognized professions, licensed and regulated by law, and are, therefore, exempt under N.J.S.A. 40A:11-5.

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 Municipal Engineer 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 will 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, Charles J. Rooney has submitted and/or will submit a proposal indicating he will provide engineering services for no more than \$130.00 per hour; and

WHEREAS, Charles J. Rooney has completed and submitted a Business Entity Disclosure Certification which certifies that Charles J. Rooney 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 Charles J. Rooney from making any reportable contributions through the term of the contract, and

WHEREAS, funds will be provided for in the 2009 Municipal Budget,

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 Charles J. Rooney 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

RESOLUTION offered by McGovern seconded by Mahon that,

WHEREAS, the Borough of Avon-By-The-Sea has a need to acquire a Municipal Attorney 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, Barry A. Cooke has submitted and/or will submit a proposal indicating he will provide legal services for \$130.00 per hour; and

WHEREAS, Barry A. Cooke has completed and submitted a Business Entity Disclosure Certification which certifies that Barry A. Cooke 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 Barry A. Cooke from making any reportable contributions through the term of the contract, and

WHEREAS, funds will be provided for in the 2009 Municipal Budget,

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 Barry A. Cooke 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

RESOLUTION offered by McGovern seconded by Mahon that,

WHEREAS, the Borough of Avon-By-The-Sea has a need to acquire a Municipal Auditor 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 will 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, Robert A. Hulsart has submitted and/or will submit a proposal indicating they will provide the municipal auditing for \$26,000.00; and

WHEREAS, Robert A. Hulsart has completed and submitted a Business Entity Disclosure Certification which certifies that Robert A. Hulsart 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 the Robert A. Hulsart from making any reportable contributions through the term of the contract, and

WHEREAS, funds will be provided for in the 2009 Municipal Budget,

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 Robert A. Hulsart 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

RESOLUTION offered by McGovern seconded by Mahon that,

WHEREAS, the Planning Board of the Borough of Avon-by-the-Sea, County of Monmouth, State of New Jersey, adopted the “Housing Plan Element and Fair Share Plan” of the Master Plan (hereinafter “Housing Element”) on January 8, 2009; and

WHEREAS, a true copy of the resolution of the Planning Board adopting the Housing Element is attached pursuant to N.J.A.C. 5:96-2.2(a)2; and

WHEREAS, the Borough of Avon-by-the-Sea wishes to endorse the Housing Element; authorize the Borough’s professionals to file the Housing Element and COAH and to thereafter seek approval of the Housing Element from the Court pursuant to N.J.S.A. 52:27D-313.

NOW THEREFORE BE IT RESOLVED, by the Board of Commissioners of the Borough of Avon-By-The-Sea:

- 1. That it hereby endorses the Housing Element as adopted by the Borough of Avon-by-the-Sea Planning Board; and**
- 2. That, pursuant to provisions of N.J.S.A. 52.27D-313 et seq., it authorizes and directs the Borough (i) to file a declaratory relief action with the Superior Court of New Jersey seeking approval of said Housing Element by the Court and (ii) to seek temporary immunity so that the Court can review the plan and so that the Borough and its Planning Board can respond to any concerns of the Court or its master plan free from unnecessary lawsuits brought on the basis of the Mount Laurel doctrine; and**
- 3. That notice of the application for approval of the Borough’s plan shall be published in a newspaper of regional circulation and the Borough shall otherwise provide all the notice the Court deems appropriate of the date the Court sets a hearing on whether the Housing Element satisfies the Borough’s affordable housing responsibilities under applicable laws. Said notice shall give the public sufficient time to review the Borough’s Housing Element and offer any comments that individual or entity may deem appropriate.**

The Vote:

Aye: All

No: None

Motion by McGovern seconded by Mahon that the bills in the amount of \$461,864.96 be approved for payment.

The Vote:

Aye: All (Mayor abstains from Pol. Dept. Bills)

No: None

Mayor announces that we will hear from Department heads:

Barry Cooke, Borough Attorney – nothing to report in the legal department.

Chief Terry Mahon – everything quiet. Reminded everyone about alternate side parking during snow.

Sheila Watson, Librarian – anyone with books to donate please drop off in library or at storage shed, do not put in book drop.

Charlie Rooney, Engineer – still working with contractor for library wall. They submitted an insurance certificate that was defective. They've been asked to correct deficiencies. Probably will start in March depending on the weather. Work at the water plant continues – refurbishing of the filters and reconfiguring of the settling tank. Those items are underway – will be done prior to April when water treatment plant becomes active and we start using town well water. Norwood Ave. DOT project from Main St. to 3rd Ave. – curbing, drainage, paving – hopefully will start in spring.

Jeff Bramhall, DPW Supt. – Sylvania Ave. is also included in alternate side parking during snow.

Tim Gallagher, Clerk/Adm. – we got a grant for the Norwood Ave. project - \$185,000. Received a grant to redo the bathrooms at the beachfront – floors and partitions. We were awarded an open space grant of \$250,000 for the purchase of the marina. This is one of 3 grants we've applied for. Read a letter from the Finn Family thanking the Boro and DPW for the help with their father's repast.

Jeff answered a question about recycling and there was a little more discussion about the Norwood Ave. project.

Mayor asks if anyone would like to be heard? No one.

Motion by McGovern seconded by Mahon that being there is no further business, the meeting is adjourned.

The Vote:

Aye: All

No: None

Robert Mahon, Mayor

Robert P. McGovern, Commissioner

**Timothy M. Gallagher, RMC
Borough Clerk**