

REGULAR MEETING – April 12, 2021

Pledge of Allegiance.

Roll Call: Mayor Bonanno, Commissioner Mahon, Commissioner Magrini

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. This meeting is being held at 301 Main Street by means of electronic communication equipment only. The public is directed to the Borough website at avonbytheseanj.com for information regarding computer and telephone access to the meeting. The public will be automatically muted upon entry to the meeting and will be able to unmute their phone by pressing *6 or by clicking on unmute if you are using the Zoom website for the public portion of the meeting.

Workshop

**COVID update
March 28 straight line wind response
New Police Chief
U-Turns & Crosswalks**

Regular Meeting

Approval of minutes from the March 22, 2021 Meeting

_____ made a motion to approve the minutes, seconded by

Aye: _____

Nay: _____

Mayor Bonanno announced that this is the time advertised for second reading and hearing on Ordinance No. 07-2021 entitled:

ORDINANCE NO. 07-2021

**AN ORDINANCE OF THE BOROUGH OF AVON BY THE SEA, COUNTY OF
MONMOUTH, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING
THE CODE OF THE BOROUGH OF AVON-BY-THE-SEA,
CHAPTER §32-5 et seq. “POLICE DEPARTMENT – COMPOSITION”**

Mayor Bonanno asked if anyone from the public would like to be heard on the ordinance.

Motion by _____, seconded by _____ that the above Ordinance No. 07-2021 be approved on second reading and its passage published in a newspaper as required by law.

Aye: _____

Nay: _____

Mayor Bonanno announced that this is the time advertised for second reading and hearing on Ordinance No. 08-2021 entitled:

ORDINANCE NO. 08-2021

AN ORDINANCE OF THE BOROUGH OF AVON BY THE SEA, COUNTY OF MONMOUTH, STATE OF NEW JERSEY AN ORDINANCE FORMING THE SYLVAN LAKE COMMISSION, A JOINT ADVISORY COMMITTEE BETWEEN THE BOROUGH OF AVON-BY-THE-SEA AND THE BOROUGH OF BRADLEY BEACH

Mayor Bonanno asked if anyone from the public would like to be heard on the ordinance.

Motion by _____, seconded by _____ that the above Ordinance No. 08-2021 be approved on second reading and its passage published in a newspaper as required by law.

Aye: _____

Nay: _____

Mayor Bonanno announced that this is the time advertised for second reading and hearing on Ordinance No. 09-2021 entitled:

ORDINANCE NO. 09-2021

AN ORDINANCE OF THE BOROUGH OF AVON BY THE SEA, COUNTY OF MONMOUTH, STATE OF NEW JERSEY REFUNDING BOND ORDINANCE AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$1,500,000 AGGREGATE PRINCIPAL AMOUNT OF REFUNDING BONDS AND/OR REFUNDING NOTES BY THE BOROUGH OF AVON-BY-THE-SEA, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY FOR THE PURPOSE OF REPAYING A FEDERAL EMERGENCY MANAGEMENT AGENCY COMMUNITY DISASTER LOAN AND APPROPRIATING THE PROCEEDS OF SUCH REFUNDING OBLIGATIONS TO SUCH PURPOSE

Mayor Bonanno asked if anyone from the public would like to be heard on the ordinance.

Motion by _____, seconded by _____ that the above Ordinance No. 09-2021 be approved on second reading and its passage published in a newspaper as required by law.

ORDINANCE NO. 10-2021

AN ORDINANCE OF THE BOROUGH OF AVON BY THE SEA, COUNTY OF MONMOUTH, STATE OF NEW JERSEY TO AMEND AND SUPPLEMENT THE SALARIES OF THE OFFICERS AND EMPLOYEES OF THE BOROUGH OF AVON-BY-THE-SEA

_____ made a motion that Ordinance 10-2021 be introduced on first reading, seconded by _____

Aye: _____

Nay: _____

Motion by _____, seconded by _____ that the above Ordinance No. 10-2021 be taken up on second reading with a hearing on April 26, 2021 at 7:00 p.m.

Aye: _____

Nay: _____

ORDINANCE NO. 11-2021

**AN ORDINANCE OF THE BOROUGH OF AVON BY THE SEA,
COUNTY OF MONMOUTH, STATE OF NEWJERSEY AMENDING
AND SUPPLEMENTING THE CODE OF THE BOROUGH OF
AVON-BY-THE-SEA, AMENDMENT TO BOROUGH CODE
CHAPTER §113-22 et seq. "Performance Standards for All Uses"**

_____ made a motion that Ordinance 11-2021 be introduced on first reading, seconded
by _____

Aye: _____
Nay: _____

Motion by _____, seconded by _____ that the above Ordinance No. 11-2021 be taken
up on second reading with a hearing on May 24, 2021 at 7:00 p.m. due to the Planning Board
needing to review the ordinance at their May 13, 2021 meeting.

Aye: _____
Nay: _____

ORDINANCE NO. 12-2021

**AN ORDINANCE OF THE BOROUGH OF AVON BY THE SEA,
COUNTY OF MONMOUTH, STATE OF NEW JERSEY AMENDING
AND SUPPLEMENTING THE CODE OF THE BOROUGH OF
AVON-BY-THE-SEA, AMENDMENT TO BOROUGH CODE
CHAPTER §133 "Recreation Fees and Facilities", Article IV "Municipal Swimming Pool"
SECTION §133-17 et seq. "Charges for Badges"**

_____ made a motion that Ordinance 12-2021 be introduced on first reading, seconded
by _____

Aye: _____
Nay: _____

Motion by _____, seconded by _____ that the above Ordinance No. 11-2021 be taken
up on second reading with a hearing on April 26, 2021 at 7:00 p.m.

Aye: _____
Nay: _____

Mayor Bonanno asks if anyone from the public has questions about agenda items only.

Resolution 40 – Introducing the 2021 Budget

BE IT RESOLVED by the Board of Commissioners of the Borough of Avon-By-The-Sea
that it hereby introduces the 2021 Municipal Budget in the amount of \$5,743,971.85, and

BE IT FURTHER RESOLVED that the said budget requires \$3,619,464.93 to be raised in
property taxes, including \$400,793.00 in Library taxes, and

BE IT FURTHER RESOLVED that a summary of said will be published in the April 22,
2021 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 10, 2021 at 7:00 p.m.

_____ made a motion to approve the resolution, seconded by _____

Aye: _____
Nay: _____

Resolution 41 – Repeal of Senate Bill No. 3454

WHEREAS, on November 3, 2020, the voters of New Jersey approved an amendment to the New Jersey Constitution to legalize the use of marijuana by adults at least 21 years of age; and

WHEREAS, on February 22, 2021, Governor Phil Murphy approved three bills addressing the regulation of the sale of marijuana, legalizing the use of marijuana and addressing underage use and possession of marijuana and alcohol, A-21, A-1897 and A-3454; and

WHEREAS, in A-21, the Legislature in its Findings stated: “It is the intent of the people of New Jersey that the provisions of this act will prevent the sale or distribution of cannabis to persons under 21 years of age; and

WHEREAS, A-21, which sets forth the statutory framework for regulating the growth, distribution, and sale of cannabis, also states that the odor of marijuana or marijuana or hashish shall not constitute reasonable articulable suspicion to initiate a search of a person for a cannabis offense; and

WHEREAS, A-1837, which decriminalizes marijuana and hashish use and possession for adults 21 years of age and older, also provides that the odor of cannabis shall not constitute reasonable articulable suspicion to initiate a search of a person for a cannabis offense; and

WHEREAS, S-3454, which addresses marijuana and cannabis use and possession by individuals younger than 21 years old:

Prohibits law enforcement officers from notifying the parent, guardian, or legal custodian of a minor that they have issued their child a warning for a first offense of possessing or consuming cannabis or alcohol; and

Establishes third and fourth degree crimes for law enforcement officers for any law enforcement officer who in attempting to enforce the law, knowingly violates any of the law’s new requirements governing interactions with underage persons. Under N.J.S.A. 2C:43-6, the sentence for a third degree crime is between 3 to 5 years. For a fourth degree crime, the sentence is 18 months; and

Provides that the odor of marijuana, hashish or alcohol no longer constitutes reasonable, articulable suspicion to initiate a stop of an individual under the age of 21, nor does it provide probable cause to search a person’s personal property or vehicle to determine a violation of N.J.S.A. 2c:33-15(a)(1) (underage possession/consumption); and

WHEREAS, these provisions of A-1897, S-3454, and A-21 undermine law enforcement officer’s ability to protect the public, particularly our children and go far beyond what the voters envisioned when they voted to legalize marijuana use for adults.

WHEREAS, on March 26, 2021, Governor Murphy signed into law A- 5472, which repeals S-3454’s prohibition on law enforcement informing a parent or guardian they have issued their child a warning for a first offense of possessing or consuming cannabis or alcohol, the violation of which could have resulted in the prosecution of a law enforcement officer for a third or fourth degree crimes, and which now requires law enforcement to provide such notification; and

WHEREAS, the law enforcement crime provisions of S-3454 that are still in effect. This provision will undermine the ability of law enforcement to control the underage consumption of marijuana, hashish, and alcohol, and essentially make underage consumption and possession permissible, which was clearly not the goal of New Jersey voters; and

WHEREAS, S-3454’s prohibition on law enforcement’s use of the odor of marijuana and hashish as a basis for reasonable, articulable suspicion to even initiate a stop of an individual under the age of 21 is still in effect. This prohibition may prevent law enforcement officers from being able to enforce the law in public places such as parks and beaches and even in schoolyards, as they will be required to actually witness the individual smoking the substance creating the odor before they can even stop and question them, with a failure to do so for someone underage possibly resulting in the prosecution of the law enforcement officer; and

WHEREAS, law enforcement officer’s ability to control the use of marijuana and hashish by adults in areas such as parks, beaches, and playgrounds will be severely limited by the

provisions of A-21 and A-1897 that state that for adults 21 years of age and older, the odor of cannabis shall not constitute reasonable articulable suspicion to initiate a search of a person for a cannabis offense; and

WHEREAS, on March 15, 2021, Assemblyman Sean Kean introduced A-5535, which in addition to addressing S-3454’s parental notification ban which was cured by A-5474, also provides for the repeal of the provisions of S-3454 which impose criminal liability on law enforcement officers who violate any provisions of S-3454 that restrict police encounters with underage individuals whom they suspect may be unlawfully consuming or possessing marijuana, hashish or alcohol; and

NOW, THEREFORE, BE IT RESOLVED, that the Commissioners of the Borough of Avon by the Sea support A-5535 and urge the Legislature to pass this bill so that law enforcement officers can protect our communities from underage use of alcohol, marijuana, and hashish; and

BE IT FURTHER RESOLVED, the Commissioners of the Borough of Avon by the Sea also urge the Legislature to repeal the provisions of A-21 and A-1897 which provide that the odor of cannabis shall not constitute reasonable articulable suspicion to initiate a search of a person for a cannabis offense and the provisions of S-3454 which provide that the odor of marijuana, hashish no longer constitutes reasonable, articulable suspicion to even initiate a stop of an individual whom the officers suspects to be under 21 years of age.

_____ made a motion to approve the resolution, seconded by _____

Aye: _____

Nay: _____

Resolution No. 42 – Sylvan Lake Commission Appointments to be made effective January 1, 2021:

Meghan Page	Regular	End 12/31/21
Mary Lou Farmer	Regular	End 12/31/21
Joseph Apicelli	Regular	End 12/31/21
Jeffrey Casner	Alternate #1	End 12/31/21
Alex DeVoy	Alternate #2	End 12/31/21

_____ made a motion to approve the resolution, seconded by _____

Aye: _____

Nay: _____

Resolution No. 43 – Renewal Agreement with Horizon Blue Cross/Blue Shield

The Board of Commissioners authorize the administrator to sign the renewal agreement with Horizon Blue Cross/Blue Shield

_____ made a motion to approve the resolution, seconded by _____

Aye: _____

Nay: _____

Resolution No. 44 – Equal Employment Opportunity

WHEREAS, N.J.S.A. 40a:4-5 as amended by P.L. 2017, c. 183 requires the governing body of each municipality and county to certify that their local unit’s hiring practices comply with the United States Equal Employment Opportunity Commission’s “Enforcement Guidance on the Consideration of 1964,” as amended, 42 U.S.C. 2000e et seq., (April 25, 2012) before submitting its approved annual budget to the Division of Local Government Services in the New Jersey Department of Community Affairs; and

WHEREAS, the members of the governing body have familiarized themselves with the contents of the above-referenced enforcement guidance and with their local unit’s hiring practices as they pertain to the consideration of an individual’s criminal history as evidenced by the group affidavit form of the governing body attached hereto.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the Borough of Avon-By-The-Sea, hereby states that it has complied with N.J.S.A. 40a:4-5, as amended by P.L. 2017, C. 183, by certifying that the local unit's hiring practices comply with the above-referenced enforcement guidance and hereby directs the Clerk to cause to be maintained and available for inspection a certified copy of this resolution and the required affidavit to show evidence of said compliance.

_____ made a motion to approve the resolution, seconded by _____

Aye: _____

Nay: _____

Resolution No. 45 – Appointing Three Class 1 Police Officers

WHEREAS, the Commissioners of the Borough of Avon-By-The-Sea recognize the need to hire additional Class 1 Police Officers; and

WHEREAS, the appropriate funding has been budgeted for such an expense; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Governing Body of the Borough of Avon-By-The-Sea, that the following are hereby appointed as Class 1 Officers:

Jade Braycewski
Steven DeBenedetto
Andrew White

BE IT FURTHER RESOLVED that the Mayor and Municipal Clerk be and same are hereby authorized to execute said resolution in accordance with the provisions of law; and

_____ made a motion to approve the resolution, seconded by _____

Aye: _____

Nay: _____

Resolution No. 46 – Resolution Rejecting All Bids for NJDOT FY2020 Municipal Aid Improvements to First and Second Avenues

WHEREAS, the Borough of Avon-By-The-Sea authorized the receipt of bids for NJDOT FY2020 Municipal Aid Improvements to First and Second Avenues; and

WHEREAS, bids were received on April 8, 2021 were over the cost estimate of the Borough; and

WHEREAS, it is the desire of the Borough to reject all bids received on April 8, 2021 for exceeding the cost estimate and authorize the revision of the specifications for rebid; and

NOW, THEREFORE, BE IT RESOLVED by the Commissioners of the Borough of Avon-By-The-Sea in the County of Monmouth, State of New Jersey that:

1. It hereby rejects all bids received for NJDOT FY2020 Municipal Aid Improvements to First and Second Avenues for the reasons set forth in the Resolution.
2. It hereby authorizes the revision of the specifications for NJDOT FY2020 Municipal Aid Improvements to First and Second Avenues and authorizes the Borough Engineer to determine the time, date, and place for the receipt of bids.
3. It requires certified copies of this Resolution be provided by the Borough Clerk to each of the following:
 - A. Purchasing Agent
 - B. All rejected bidders as follows:
 1. Black Rock Enterprises, 1316 Englishtown Rd., Old Bridge, NJ 08857
 2. Earl Asphalt, PO Drawer 556, Farmingdale, NJ 07727

3. Fiore Paving, 4 Fiore Court, Oceanport, NJ 07757
4. Lima Charlie Construction, 2 Hance Ave., Tinton Falls, NJ 07724
5. Seacoast Construction, 15 Addington Court, East Brunswick, NJ 08816
6. Shore Top Construction, 23 Yellowbrook Rd., Freehold, NJ 07728

_____ made a motion to approve the resolution, seconded by _____

Aye: _____

Nay: _____

Resolution 47-2021 – Authorizing the Board of Commissioners to sign the Police Chief Contract

The Board of Commissioners are hereby authorized to sign contracts between the Borough of Avon by the Sea and the Chief of Police. Said contract effective April 1, 2021 through December 31, 2022.

_____ made a motion to approve the resolution, seconded by _____

Aye: _____

Nay: _____

Resolution 48-2021 – Authorizing the Board of Commissioners to sign the Teamsters Local Union No. 701

The Board of Commissioners are hereby authorized to sign the contract between the Borough of Avon-By-The-Sea and Teamsters local union No. 701. Said contract effective January 1, 2021 through December 31, 2025.

_____ made a motion to approve the resolution, seconded by _____

Aye: _____

Nay: _____

Motion by _____ seconded by _____ that the bills in the amount of \$619,121.03 be approved for payment.

Aye: _____

Nay: _____

Department Heads

Mayor Bonanno asks if anyone would like to be heard.

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