

ORDINANCE # 2008-01

BOND ORDINANCE AMENDING IN PART BOND ORDINANCE NO. 2007-03 ADOPTED ON February 27, 2007, PROVIDING FOR BEACH CLUB IMPROVEMENTS, IN ORDER TO INCREASE THE APPROPRIATION THEREFOR BY \$125,000 FOR A TOTAL APPROPRIATION OF \$300,000, TO INCREASE THE AUTHORIZED BONDS AND NOTES TO BE ISSUED TO FINANCE A PORTION OF THE COSTS THEREOF BY \$118,750 FOR A TOTAL DEBT AUTHORIZATION OF \$285,000, AND TO INCREASE THE ALLOCATION OF THE APPROPRIATION TO COSTS PERMITTED UNDER N.J.S.A. 40A:2-20, AUTHORIZED IN AND BY THE BOROUGH OF ALLENHURST, IN THE COUNTY OF MONMOUTH, NEW JERSEY

WHEREAS, the Borough of Allenhurst, in the County of Monmouth, New Jersey (the “Borough”) finally adopted Bond Ordinance No. 2007-03 on February 27, 2007 (the “Prior Ordinance”), providing for Beach Club improvements; and

WHEREAS , the Borough has determined that the costs associated with said improvements are higher than anticipated and has determined to supplement the appropriation and bonds and notes authorized therefore; and

WHEREAS , the Borough has determined that the \$20,000 authorized by the Prior Ordinance for purposes permitted under N.J.S.A. 40A:2-20 is insufficient and desires to increase such allocation by \$15,000 to an aggregate amount of \$35,000.

NOW, THEREFORE, BE IT ORDAINED by the BOROUGH COUNCIL OF THE BOROUGH OF ALLENHURST, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring),

AS FOLLOWS:

Section 1. The improvements described in Section 3 of this bond ordinance are hereby authorized as general improvements to be undertaken in and by the Borough of Allenhurst, in the County of Monmouth, New Jersey (the “Borough”) and were previously authorized by the Borough by the Prior Ordinance. For the improvements or purposes described in Section 3, there is hereby appropriated the sum of \$125,000 in addition to the \$175,000 appropriated by the Prior Ordinance, said sums being inclusive of all appropriations made hereof and including the sum of \$15,000 as down payment, \$8,750 of such down payment was previously appropriated by the Prior Ordinance, and an additional down payment of \$6,250 is authorized hereby and is now available by virtue of provision for down payment or for capital improvement purposes in the Capital Improvement Fund of one or more previously adopted budgets.

Section 2. In order to finance the costs of said improvements or purposes, \$118,750 negotiable bonds are hereby authorized to be issued in addition to the \$166,250 previously authorized by the Prior Ordinance for a total principal amount not to exceed \$285,000 pursuant to the Local Bond Law. In anticipation of the

issuance of said bonds and to temporarily finance said improvements or purposes, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvements hereby authorized and the purposes for which the obligations are to be issued consist of Beach Club improvements, including extension of well points, bathroom improvements, garbage area improvements, and acquisition of a new sliding board, together with all purposes necessary, incidental or appurtenant thereto, all as shown on and in accordance with contracts, plans, specifications or requisitions therefor on file with or through the Borough Clerk, as finally approved by the governing body of Borough.

(b) The estimated maximum amount of bonds or notes to be issued for the improvements or purposes described in Section 3(a) hereof is \$285,000, including the \$118,750 authorized herein, as stated in Section 2 hereof.

(c) The estimated cost of the improvements or purposes described in Section 3(a) hereof is \$300,000, which is equal to the amount of the \$125,000 supplemental appropriation herein made therefor and the \$175,000 appropriation made by the Prior Ordinance.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer of the Borough, provided that no note shall mature later than one (1) year from its date. All notes issued hereunder may be renewed from time to time subject to the provisions of N.J.S.A. 40A:2-8. The notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer, who shall determine all matters in connection with notes issued pursuant to this ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. The chief financial officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of such notes occurs, such report shall include the amount, the description, the interest rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section 5. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvements or purposes described in Section 3 of this bond ordinance are not a current expense and are improvements or purposes that the Borough may lawfully undertake as a general improvement and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The average period of usefulness of the improvements or purposes, within the limitations of the Local Bond Law and taking into consideration the amount of the obligations authorized for said purposes,

according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is fifteen (15) years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Borough Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such Statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$118,750 and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$35,000, including \$15,000 authorized hereby and \$20,000 authorized by the Prior Ordinance, for interest on said obligations, costs of issuing said obligations, engineering costs, legal fees and other items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included as part of the cost of said improvements and is included in the estimated cost indicated herein for said improvements. (e) To the extent that moneys of the Borough are used to finance, on an interim basis, costs of said improvements or purposes, the Borough reasonably expects such costs to be paid or reimbursed with the proceeds of obligations issued pursuant hereto. This ordinance shall constitute a declaration of official intent for the purposes and within the meaning of Section 1.150-2(e) of the United States Treasury Regulations.

Section 6. The capital budget of the Borough is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director of the Division of Local Government Services is on file with the Municipal Clerk and is available there for public inspection.

Section 7. Any grant or similar moneys from time to time received by the Borough for the improvements or purposes described in Section 3 hereof, shall be applied either to direct payment of the cost of the improvements or to payment of the obligations issued pursuant to this ordinance.

The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are received and so used.

Section 8. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Borough, and, unless paid from other sources, the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable property within the Borough for the payment of the obligations and the interest thereon without limitation as to rate or amount.

Section 9. All Ordinances or parts of ordinances in conflict or inconsistent with any of the terms of this

ordinance are hereby repealed to the extent that they are in such conflict or are inconsistent. In the event that any section, part or provision of this ordinance shall be held to be unconstitutional or invalid by any court, such holding shall not affect the validity of this ordinance as a whole, or any part hereof other than the part so held unconstitutional or invalid.

Section 10. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by the Local Bond Law.

APPROVED: February 12, 2008

ADOPTED: February 26, 2008