

**BOROUGH OF WEST CAPE MAY
COUNTY OF CAPE MAY
STATE OF NEW JERSEY**

ORDINANCE NO. 511-16

REFUNDING BOND ORDINANCE PROVIDING FOR THE FUNDING OF AN EMERGENCY APPROPRIATION TO PROVIDE FOR THE FUNDING OF A LITIGATION SETTLEMENT OF THE BOROUGH OF WEST CAPE MAY, IN THE COUNTY OF CAPE MAY, NEW JERSEY, APPROPRIATING \$300,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$300,000 REFUNDING BONDS OR NOTES OF THE BOROUGH FOR FINANCING THE COST THEREOF.

BE IT ORDAINED BY THE BOROUGH OF BOARD OF COMMISSIONERS OF THE BOROUGH OF WEST CAPE MAY, IN THE COUNTY OF CAPE MAY, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section 1. The purpose authorized herein by the Borough of West Cape May, in the County of Cape May, New Jersey (the "Borough") is to fund an emergency appropriation in the amount of \$300,000 authorized by a resolution adopted May 25, 2016 not otherwise provided for in the Borough's budget to provide for the funding of a settlement and mutual release of liability between the Borough and Barbara Bray Wilde.

Section 2. An aggregate amount not exceeding \$30,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-51(b) has been included in the aggregate principal amount of refunding bonds authorized herein.

Section 3. In order to finance the cost of the project described in Section 1 hereof, negotiable refunding bonds are hereby authorized to be issued in the principal amount of \$300,000 pursuant to the Local Bond Law.

Section 4. In anticipation of the issuance of the refunding bonds, negotiable refunding bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law. All refunding bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer, provided that no refunding bond anticipation note shall mature later than one year from its date. The refunding bond anticipation notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with refunding bond anticipation notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the refunding bond anticipation notes shall be conclusive evidence as to all such determinations.

All refunding bond anticipation notes issued hereunder may be renewed from time to time, but all such refunding bond anticipation notes including renewals shall mature and be paid no later than the anniversary of the date of the original refunding bond anticipation notes, as determined by the Local Finance Board; provided, however, that no refunding bond anticipation notes shall be renewed beyond the first or any succeeding anniversary date of the original refunding bond anticipation notes unless an amount of such refunding bond anticipation notes, at least equal to the first legally payable installment of the refunding bonds in anticipation of which the refunding bond anticipation notes are issued, determined in accordance with the maturity schedule for the refunding bonds approved by the Local Finance Board, is paid and retired on or before such anniversary date; and provided, further, that the period during which the refunding bond anticipation notes and any renewals thereof and any permanent refunding bonds are outstanding, shall not exceed the period set for the maturity of the refunding bonds by the Local Finance Board.

The chief financial officer is hereby authorized to sell part or all of the refunding bond anticipation 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 the refunding bond anticipation notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the refunding bond anticipation notes sold, the price obtained and the name of the purchaser.

Section 5. The chief financial officer of the Borough is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 6. The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the 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 refunding bonds and refunding bond anticipation notes provided in this bond ordinance by \$300,000, but that the net debt of the Borough determined as provided in the Local Bond Law is not increased by this bond ordinance. The obligations authorized herein will be within all debt limitations prescribed by that Law.

Section 7. The Borough hereby declares the intent of the Borough to issue the refunding bonds or refunding bond anticipation notes in the amount authorized in Section 3 of this bond ordinance and to use proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 1 of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of Treasury Regulations §1.150-2 or any successor provisions of federal income tax law.

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 general obligations of the Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 9. A certified copy of this refunding bond ordinance as adopted on first reading has been filed with the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey prior to final adoption, together with a complete statement in the form prescribed by the Director and signed by the chief financial officer of the Borough as to the indebtedness to be financed by the issuance of the refunding bonds authorized herein.

Section 10. This refunding bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law, provided that the consent of the Local Finance Board has been endorsed upon a certified copy of this bond ordinance as finally adopted.

Pamela M. Kaithern, Mayor

Peter. C. Burke, Deputy Mayor

Carol E. Sabo, Commissioner

Elaine L. Wallace, RMC
Municipal Clerk

Introduced: May 25, 2016

Adopted:

NOTICE OF PENDING ORDINANCE

The foregoing Ordinance was introduced at a Regular Meeting of the Board of Commissioners of the Borough of West Cape May held on May 25, 2016 when it was read for the first time and then ordered to be published according to law. This Ordinance will be further considered for final passage by the Board of Commissioners of the Borough of West Cape May at a meeting to be held at Borough Hall, 732 Broadway, West Cape May, New Jersey on June 22, 2016 at 7:00 p.m. or as soon thereafter as possible, at which time and place, all persons interested will be given an opportunity to be heard concerning such ordinance.

Elaine L. Wallace, RMC
Municipal Clerk