A Work Session of the Borough Council of the Borough of Avalon was held on

Wednesday, October 26, 2016 at 7:04 p.m. in the Meeting Room, 3100 Dune Drive, Avalon, New Jersey.

Attendance: Public -------------------- 3 Reporters ----------------------- 2

The Meeting was called to order by Council President Hudanich.

Pledge of allegiance.

Roll call: Council President Hudanich Present

Councilman Burns Present

Councilman Covington Present

Councilman Dean Present

Council Vice President McCorristin Present

Also present:

Scott Wahl, Business Administrator

James Waldron, Assistant Business Administrator

Stephen D. Barse, Esquire, Borough Solicitor

William Macomber, Director of Public Works/Utilities

Jeffrey Christopher, Captain of Police

Thomas R. Thornton, P.E., Borough Engineer, Hatch Mott Macdonald, LLC

Ronnie Town, Sr. Public Affairs Manager, Atlantic City Electric

Dennis Smith, Retiree Contractor, Atlantic City Electric

Greg Domsic, Supervisor of Designers, Atlantic City Electric

Peter Rhodes, Esq., Cahill, Wilinski, Rhodes & Joyce, P.C.

Council President Hudanich read the Open Public Meetings Act Announcement.

Notice of this Work Session was included in the Annual Schedule of Meetings dated June 22, 2016. It was given to the news media and posted on the Official Bulletin Board as required by law.

Discussion regarding Resolution approving a Place-to-Place Transfer for AVE, Inc. t/a Mirage Restaurant & Lounge.

Council President Hudanich noted it is uncommon that an applicant requests to have a licensed premises reduced and questioned why this reduction is being requested.

Peter Rhodes explained this type of reduction of premises is typically done when a hotel is interested in seeking out a third party enterprise to take over the restaurant space, and in order to do that the third party would have to take control of the license. By reducing the licensed premises, it limits the possible liability and increases the marketability of that space. Any lease of the space would be limited to the restaurant itself, not the pool or common areas, which would not be under the control of the third party. At this time, there are no clear plans for the hotel, and all possible scenarios are being explored, and by reducing the licensed premises and the liability, the deal would be more appealing to interested third parties.

Councilman Burns questioned if the leased area would be different from the licensed area and asked if the restrooms will be available to restaurant patrons.

Peter Rhodes responded yes, the leased area would differ from the licensed area and he confirmed that the lease agreement would state that all patrons of the restaurant would be free to use the restrooms within the hotel. He added the owners of the property are also considering trying to raise money through selling off fractional interests in the ownership. If that is the case, it is in the best interest of the property owner to reduce the licensed premises to keep from intimidating potential investors with high liability.

Council Vice President McCorristin inquired if the pool area will be licensed or if any alcoholic beverages will be permitted in that area.

Peter Rhodes explained the licensed premises will not include the pool area, therefore it would not be permitted to purchase alcohol from the restaurant and take that beverage to the pool area.

Council agreed to proceed with a Resolution to be prepared for the November 9, 2016 Regular Meeting.

Presentation by Atlantic City Electric regarding next phase of Peermont Project.

Scott Wahl read the following report to update Council and the public on the project:

Earlier this year Atlantic City Electric completed two extraordinary tasks to improve the energy delivery and reliability in our community. First, the Peermont Substation was completed before the summer and second, the transmission utility pole replacement project along Ocean Drive and Avalon Boulevard were both completed; only minor punch list items remain from those projects. The second and final part of this project is to create two new distribution feeders in the Borough. These feeders will provide more benefits to the Borough including but not limited to lessen the overall impacts on our community shall outages occur; shorten the feeder lengths; provide more switching options in our community; and eliminate the requirement for a feed coming from Middle Township. This project will be much less intrusive on the community than the Substation/Transmission project.

ACE will conduct this project in two phases, from January 2017 and concluding before the summer; and from January, 2018 and concluding before the summer. The two additional feeders will result in new wooden poles, new equipment, and new street lighting.

The Borough has held two meetings regarding the project. On September 30th, our team gathered with Atlantic City Electric to learn about the two new feeders. After that meeting, we created a new link on our municipal website as an educational component. And on Friday, October 21st we held a second meeting with Councilman Burns and Councilman Covington with ACE and with Gary Finger, Ombudsman for the New Jersey Board of Public Utilities. Gary spoke to our group about the possibility of using LED street lighting instead of the traditional sodium lamps in an attempt to save energy, go green, and take advantage of some funding available through the State. We do have our choice as to what lighting we desire for this project. Bill Edwards from ACE is preparing a spreadsheet for the Borough that will delineate the expense vs. the savings of going to LED, which will soon be the standard for street lighting.

We will have additional conversations about this project at the Saturday, November 12th AHLOA meeting at Avalon Community Hall where we will update the community on two topics: The status of our beach fill project and this important energy project for the Borough of Avalon.

Ronnie Town thanked the Borough for its support, assistance, and patience during the Peermont Project. She also thanked Scott Wahl, Jim Waldron, and Bill Macomber for their assistance and commended them for their professionalism. She introduced Greg Domsic, who will be giving a presentation on the project to Council.

Greg Domsic gave a slide presentation to Council which is attached to the minutes.

Councilman Burns referenced the second circuit to be included on the poles and asked the purpose of the circuit

Greg Domsic explained the second circuit at the top of the new poles is the new Ocean Feeder which comes out of the substation and does not pick up any customers until it reaches 35th Street. The lower circuit will carry the load as it exists up to 35th Street and from 35th Street the load transfers to the second circuit.

Councilman Burns asked if the second circuit will be feeding the north end of the island to the east of Dune Drive.

Greg Domsic responded yes.

Council Vice President McCorristin questioned what the height difference is between two circuit poles and the poles that are in place now.

Greg Domsic explained the new poles are approximately ten feet higher. He added that with this extension, everything in Avalon will be fed out of the Peermont Substation.

Councilman Burns asked where the power for the substation comes from.

Greg Domsic reported two transmission lines from Middle Township feed into the Peermont Substation and noted both power stations in Middle Township would have to lose power in order for the Peermont Substation to power down.

Council Vice President McCorristin questioned who will be installing the new poles.

Greg Domsic responded the job will be subject to bid to an outside contractor.

Council Vice President McCorristin stressed the importance of proper communication and guidance with the contractor to ensure there is no oversight in completing the project.

Ronnie Town acknowledged Council Vice President McCorristin’s concerns and the Project Manager for this project will ensure those concerns are addressed.

Scott Wahl inquired when the project will be completed for Avalon.

Greg Domsic reported the intent is to complete all work in Avalon before the summer of 2017.

Councilman Covington asked if the new poles will be placed in the same place as the old poles or if they will be offset and if the poles will need to be braced.

Greg Domsic explained the new poles will be set as close to the locations of the old poles as possible. Any existing bracing would remain, and there are no plans for additional bracing.

Councilman Burns questioned if customer lines need to be extended due to the poles moving locations, if it will be the financial responsibility of the homeowner to connect the lines.

Greg Domsic responded it will be the responsibility of Atlantic City Electric to ensure all lines are properly connected, and if a line needs to be extended, there would be no cost to the customer.

Discussion regarding Resolution approving a handicapped parking space at 118 21st Street.

Captain Christopher reported all paperwork regarding the application for this handicapped parking space is in order and recommended Council approve this request.

Council agreed to proceed with a Resolution to be prepared for the November 9, 2016 Regular Meeting.

Discussion regarding Resolution authorizing participation in the CMC Cooperative for Furnishing and Delivery of Rock Salt.

Bill Macomber explained the prices within the CMC Cooperative are lower than the State program and noted there is a backup plan in place in the event the primary supplier of the contract were to run out of salt due to higher than anticipated usage. He recommended Council approve participation in the program.

Council agreed to proceed with a Resolution to be prepared for the November 9, 2016 Regular Meeting.

Discussion regarding Ordinance amending Chapter 19 (Flood Damage Prevention) regarding flood elevation of accessory structures.

Jim Waldron reported there has been an ongoing issue relative to the elevation of which certain pertinent structures have to be built and where the attendant utilities and equipment associated with those structures have to be placed at what elevation. In effort to address this, the flood recertification committee formed a working group that consisted of Construction Official John Tracy, Fire Official Ed Dean, Zoning Officer Jeff Hesley and Scott Wahl. During those meetings, some Ordinance amendments have been proposed and preliminarily approved by Frank Bruton and submitted to FEMA. Approval has not yet been obtained from FEMA, however it is anticipated that FEMA will approve the proposed amendments in the near future. The proposed amendments were guided by a source document produced by the American Society of Civil Engineers as incorporated into the FEMA Regulations, International Residential Code, and the International Building Code. The definition of accessory building has been changed, as the previous definition was creating issues with respect to flood insurance. The amended definition is recommended by the American Society of Civil Engineers and would be sufficient to address every non-residential, non-commercial structure that is not intended for living or sleeping purposes. As a result, those structures can now be classified as a flood classification 1, and are permitted to be built at or below base flood elevation, as long as they are at or above grade. The effect of this is to remove the accessory structures from the primary residential structure on the lot. It then does not affect the flood insurance. These amendments can be made while still maintaining the Borough’s favorable flood insurance discount without in any way impairing the Borough’s classification as a Class 5 community under the Federal Flood Insurance Program.

Councilman Burns inquired if an accessory building is permitted to have electricity and plumbing.

Jim Waldron responded the amended Ordinance would allow for both electricity and a sink within the accessory building. He added non-detached garages on properties are permitted to have electrical and mechanical equipment in the garage provided it is constructed with anti-flood mechanisms.

Councilman Burns asked if a toilet would be permitted in an accessory building.

Jim Waldron explained under the base flood classification 1, the definition is that items within the structure should have a low or minimal risk of causing damage to an individual or a community should it break loose in a flood.

Councilman Burns emphasized the importance of all Borough officials being well versed in the intent of the Ordinance to allow for uniform enforcement of the Ordinance upon adoption.

Jim Waldron assured Councilman Burns that a working group comprised of Jeff Hesley, John Tracy and Ed Dean met regularly during the drafting process and all are on board with this interpretation of the enforcement of the Ordinance.

Councilman Burns and Council Vice President McCorristin raised concerns regarding flood elevations for residential dwellings and requested discussions be held in the future to clear up any confusion.

Jim Waldron invited Councilman Burns and Council Vice President McCorristin to attend the next working group meeting to address their concerns.

After further discussion, Council agreed to proceed with further discussion as well as an Ordinance to be prepared for the November 9, 2016 Regular Meeting.

Discussion regarding bids received for the project known as “Fifth Avenue and 60th Street Water and Sewer System Improvements/Repaving of 60th Street”.

Tom Thornton reported bids were received October 21, 2016 for this project which includes replacing the water main on Fifth Avenue south of 42nd Street, replacing the water and sewer main on 60th Street where Atlantic City Electric constructed the substation, and the

Tom Thornton (continued) reconstruction of 60th Street, which Atlantic City Electric will be paying for. The bids were clearly broken down into the paving items so that the costs associated with the reconstruction of 60th Street would be easily quantifiable for Atlantic City Electric. The Engineer’s Estimate for this project was $1,020,000.00. Six bids were received, the lowest of which was received from Perna Finnigan in the amount of $635,000.00. The remaining five bids were $912,000.00, $964,000.00, $974,000.00, and $1,200,000.00. Conversations have taken place with Perna Finnigan, who is reviewing the bid submitted to verify a typographical error was not made. If a mistake was made, the contractor can ask to withdraw their bid and the award for the project would go to the next lowest bidder. The contractor is expected to complete the review of their bid by next week at which point a recommendation to award will be made.

Council agreed to proceed with further discussion as well as a Resolution to be prepared for the November 9, 2016 Regular Meeting.

Update regarding the following:

1. Beachfill Project

Scott Wahl made the following statement regarding the project:

The Borough has taken great lengths to ensure that a hydraulic beach fill project as promised by the United States Army Corps of Engineers and the New Jersey Department of Environmental Protection occurs before next summer. This is still a moving target and we have not yet reached a finish line.

For the benefit of the public, the proposed beach fill project will benefit both Avalon and Stone Harbor and involve two mobilizations, one to Townsend’s Inlet to nourish beaches in Avalon and one to Hereford Inlet to nourish the beaches in Stone Harbor. Both borrow areas have been used countless times previously to conduct these beach fills.

This time, the United States Fish and Wildlife service is attempting to use the Coastal Barrier Resources Act as a measure to prevent Stone Harbor from receiving sand hydraulically pumped from Hereford Inlet. Sand has been used from Hereford Inlet before. There has been no reason given by Fish and Wildlife for their application of CBRA. What CBRA attempts to do is to prevent the wasteful use of federal funding to restore natural systems. Ironically, if the State of New Jersey, the Borough of Stone Harbor, or another entity provided the funding for the project, the sand could be removed from Hereford Inlet, estimated by Dr. Farrell to be well in excess of 13 million cubic yards of sand. To be clear, federal funding has been used to remove sand from this borrow area on prior occasions.

The efforts to convince the Service to allow the removal of the sand from Hereford Inlet have included the offices of Congressman LoBiondo and Senator Booker; Dr. Farrell; the NJDEP; Mott MacDonald, our beach consultant Howard Marlowe, NJDEP Commissioner Bob Martin, and others.

We did receive good news today that the winning bidder on the project, Great Lakes, has consented to another 15 day extension of the bid which allows us to continue efforts to work on this issue. That extension takes us through November 15th. Shall an amical and reasonable resolution of this matter not be in our future, we are prepared to come before Council for approval for potential injunctive relief in the courts for this arbitrary and capricious application of CBRA.

Council President Hudanich noted that if Stone Harbor is unable to complete their project, the Borough of Avalon is also unable to complete their project. She stressed the importance of open communication and a solidified front when contacting other agencies referencing these requests.

Scott Wahl assured Council that both the Mayor and Administrator of Stone Harbor are keeping the lines of communication open with Avalon to ensure everyone is on the same page.

Councilman Burns asked for the status of the permit application to backpass.

Scott Wahl indicated discussions have taken place with Tom Thornton, Bill Macomber and Stewart Farrell about extending the permit for backpassing as well as the possibility of examining areas where sand can be stockpiled in the event of a strong unplanned storm event.

Tom Thornton explained the Department of Environmental Protection would need to grant a modification to the current permit and a permit from the Army Corps of Engineers would also Tom Thornton (continued) need to be obtained. Both borrow areas south of 32nd Street have been surveyed to determine the volume of material that could be used in each of those areas. A permit application would need to be submitted as soon as possible to continue any backpassing project.

Councilman Burns asked if another permit is needed in order to complete a backpassing project before next summer.

Tom Thornton explained a permit modification would be necessary.

Councilman Burns questioned how long that process would take.

Tom Thornton responded the process could take multiple months, and recommended authorizing the application of the permit modification as soon as possible. So far, the preliminary work to survey the borrow areas to determine the volume in each borrow area has been completed. Once those results are ready, a proposal can be prepared to secure those permit modifications. The Department of Environmental Protection has informed the Borough that it would be possible to use a permit again as a maintenance provision, however much of the same work has to be completed. The only difference would be that the Borough would not be responsible for paying an additional permit fee to use the same permit.

1. Back Bay Maintenance Dredging Project

Scott Wahl announced the Governor has lifted the Executive Order that previously prohibited the Borough proceed with the dredging project due to it involving state funding. The funding is again in place to allow the project to be completed.

Tom Thornton added correspondence was received from the Department of Transportation confirming the Executive Order has been lifted and all contracts affected could resume. Shortly following the correspondence, a phone call was received from the Department of Transportation Office of Maritime Resources confirming the information in the letter and added that the Borough is obligated to provide to the contractor an extension on their expected completion period in the same amount of time as the Executive Order prohibited work to allow for the same time frame for the work to be completed. The contractor involved in this project has been informed. The work is estimated to begin again in three to four weeks after the subcontractor completes some modification to the CDF to temporarily raise the perimeter berms.

Public Comments:

Martha Wright, 632 7th Street, asked for a follow up regarding her suggestion made at the last meeting to possibly live-stream Council meetings. She provided Council with the names and pricing information for contractors that could provide live-streaming service to Avalon.

Council President Hudanich thanked Ms. Wright for her comments and noted all information will be forwarded to the Borough Clerk’s Office.

Motion made by Council Vice President McCorristin, seconded by Councilman Burns to adjourn the Work Session.

ROLL CALL VOTE: Councilman Burns Aye

Councilman Covington Aye

Councilman Dean Aye Council Vice President McCorristin Aye

Council President Hudanich Aye

Work Session adjourned at 8:20 p.m.

Respectfully submitted,

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Marie J. Hood, Borough Clerk

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John M. McCorristin, Council Vice President