

December 13, 2023

A Meeting of the Borough Council of the Borough of Avalon was held on Wednesday, December 13, 2023, at 4:00 p.m. in the Meeting Room, 3100 Dune Drive, Avalon, New Jersey.

In-Person Attendance: Public ----- 6 Reporters ----- 0

Remote Attendance: Public - - - - - 6 Reporters - - - - - 1

The Meeting was called to order by Council President McDermott.

<u>Roll call:</u>	Council President McDermott	Present
	Councilwoman Coskey	Present
	Councilman Johnson	Present
	Councilwoman Juzaitis	Present
	Councilman Wierman	Present

Also present:

Scott Wahl, Business Administrator
James Waldron, Assistant Business Administrator
Nicole Curio, Esquire, Borough Solicitor
William McCormick, Director of Public Works/Utilities
Jeffrey Christopher, Police Chief
Thomas R. Thornton, P.E., Borough Engineer, Mott MacDonald
Paul Short, Code Enforcement Official

Council President McDermott read the Open Public Meetings Act Announcement.

Notice of this Council Meeting was included in the annual Schedule of Meetings dated July 12, 2023. It was given to the news media and posted on the Official Bulletin Board as required by law.

Council President McDermott read the following statement:

“For the convenience of the public, the Borough is offering the option of public comment via remote access as described herein. Public who participates remotely will be muted during the Council Meeting except at the public comment portion of the meeting. Any person attempting to disrupt the remote broadcast of a meeting may be denied access at the discretion of the person administering the meeting. Public is reminded of a five-minute limit per comment. In the event remote access is unavailable due to a technology malfunction, or other reason beyond the Borough’s control, the Borough will not pause or stop the live meeting. Borough Council Meetings are held in person with no capacity limits on attendance at a meeting. The best way to ensure an individual’s ability to publicly comment is to attend in person so that comments may be made in the event of a technology malfunction. The Borough reserves the right to discontinue offering public comment via remote access at its discretion for any future meeting.”

Swearing in by Mayor McCorristin of Councilman Gregory Johnson.

Recognition by Mayor McCorristin of first responders to a recent house fire.

Discussion regarding Resolution authorizing budget transfer.

Scott Wahl explained this would be a transfer of \$25,000 to the Fire Department stipend program cover expenses incurred with regards to shift coverage through the end of 2023.

Council agreed to proceed with a Resolution to be considered at today's Council Meeting.

Discussion regarding Resolution appointing Class II Special Officer.

Scott Wahl noted this Resolution would appoint Isla Meyer as a Class II Special Officer, and would further approve her attendance at the Police Academy, which began December 2, 2023.

Council agreed to proceed with a Resolution to be considered at today's Council Meeting.

Discussion regarding Resolutions authorizing Professional Services for 2024.

Non-fair and open (contracts anticipated to exceed \$17,500.00):

- Michael S. Garcia, Auditing Services
- Thomas R. Thornton, P.E., Borough Engineer
- CME Engineering, Special Engineering Services
- Thomas G. Smith, Esquire, Tax Appeal Counsel
- Howard Marlowe, Government Affairs Consultant and Lobbyist
- Scott D. Taylor, Professional Planner and Landscape Architect
- Joseph H. Maffei, Engineer Planning/Zoning Board
- Paul J. Baldini, Esquire, Solicitor Planning/Zoning Board
- V-COMM, LLC, Telecommunications Technical Consulting Services
- Lomax Consulting Group for Environmental Consulting Services
- Neil Yoskin, Esquire, Special Litigation & Environmental Counsel
- Nicole Curio, Borough Solicitor
- Archer & Greiner, Bond Counsel
- Marsh & McLennan Agency Associates, Healthcare Consultant
- Blaney, Donohue & Weinberg, P.C., Special Counsel
- Alan I. Gould, Esquire, Special Conflict Counsel/Administrative Hearing Officer

Under the non-fair and open threshold (contract anticipated to fall below \$17,500.00):

- Animal Control Services
- Marsh & McLennan Agency Associates, LLC, Risk Management Consultant
- Just Right TV, LLC, Livestreaming Services

Over \$17,500.00 but exempt from the pay-to-play non-fair and open requirement:

- Coastal Research Center, The Richard Stockton College of NJ, Beach Monitoring Services
- The Wetlands Institute, Environmental Consulting Services

Scott Wahl stated no new professionals have been added to this annual consideration. While some percentage of professionals sought increases within the cost of living increase, many requested no rate change.

Council agreed to proceed with Resolutions to be prepared for the January 10, 2024 Council Meeting.

Discussion regarding the following annual Resolutions:

- Designate Borough Clerk/Deputy Borough Clerk to issue Municipal Improvement Certificates
- Scott Wahl as Public Agency Compliance Officer
- Scott Wahl as Fund Commissioner/Jim Waldron as Alternate Fund Commissioner for Atlantic County Municipal Joint Insurance Fund
- Cash Management Plan
- Michael Sorensen, Esquire, Municipal Public Defender
- Kyle Weinberg, Municipal Prosecutor
- Tax Assessor to file appeals and/or municipal appeals
- Waiver of Claimant's Certification for purchases less than \$500.00
- Council's appointment of a Class III Member to the Avalon Planning/Zoning Board
- Participation in the Defense Logistics Agency, Law Enforcement Support Office 1033 Program to enable the Borough of Avalon Police Department to request and acquire Department of Defense Equipment

Council agreed to proceed with Resolutions to be prepared for the January 10, 2024 Council Meeting.

Further discussion regarding Resolution amending Resolution 1-2011 concerning the operation and management of Avalon Bay Park Marina.

James Waldron explained since Council last discussed this item, some changes have been made, the most significant of which pertaining to the transfer of boat slips in the event of the death of a slip holder. It is now being recommended that transfers be prohibited, except in two instances. If the slip is held by a joint ownership, the joint owner will be permitted to renew slip individually and would assume priority as a returning slip holder. In the case of an individual slip holder, the heirs would be permitted to maintain the slip for the balance of the boating season. At the end of that season, the right would end, and the slip would be filled from the waiting list. This change would apply to both marina facilities owned and operated by the Borough. With respect to Bay Park Marina, a new recommendation is to limit the waiting list to a maximum of 25 names. Other recommended changes address provisions that parallel the Avalon Sport Fishing Center, which will be discussed in the next agenda item.

Council agreed to proceed with a Resolution to be considered at today's Council Meeting.

Further discussion regarding Resolution amending Resolution 2-2011 concerning the operation and management of Avalon Sport Fishing Center.

Scott Wahl read the following statement:

Council, at the request of the Council Public Works Committee comprised of Council President Jamie McDermott and Councilman Chet Johnson, I have been asked to read into the record certain facts regarding the Avalon Sport Fishing Center. This is a prelude to your consideration and discussion of future operations at the public facility.

The Avalon Sport Fishing Center was created in 1992 to maintain access to the open waters and to provide recreational opportunities for residents and visitors to enjoy this waterfront access. The assignment of management of the Center was moved to administration, largely handled by the Assistant Business Administrator. This management includes keeping records on slip holders, maintaining the wait list, responding to federal and state agencies for issues or concerns, and ensuring the services provided at this public use facility are meeting or exceeding expectations.

This public use facility was never intended to compete or conflict with the residential character of the neighborhood. There is a high level of consideration and respect provided to the neighborhood where the facility is expected to compliment, and not compete with, the residential character.

It is important to note that this public use facility has a necessary commercial component. It is also important to note that this public use facility has never been intended to have a primary function as a commercial profit center. If a commercial element did not enhance the public's needs and experience to waterfront access and fishing opportunities, the recommendation to Council would be it should not exist.

There have been suggestions at these meetings that a waterfront restaurant should replace the existing benefit currently provided at the center. Again, the Sport Fishing Center is a public use facility with a commercial element. This idea does not align with over three decades of performance at the Sport Fishing Center. In fact, the challenges would be extraordinary and likely impossible to overcome. The current building at the Center exists in an AE9 flood zone, meaning any improvements to the current building would require the foundation to be 12 feet, NAVD 88, reasonably believed to be unwelcome to the neighborhood. If the building were to be replaced, it could not be located over water, as confirmed by our municipal engineers. It would be in the parking lot aggravating the parking situation in the neighborhood. Any plans to move the building upland would cost the Borough well in excess of \$100,000 due to CAFRA permitting, engineering expenses, and design. That cost does not include new building construction.

Due to these facts presented, a change of use to a restaurant with boat slips instead of a Sport Fishing Center with a commercial element to serve the needs of boaters and their guests is not consistent with Borough policy or practice.

There have been suggestions about realigning the configuration of the boat slips to accommodate larger boats. While that is possible, it comes at a high price to the taxpayer. A conversion of two slips into one larger slip would conservatively cost the Borough \$15,000-\$20,000, a price the larger boat slip rental income would not cover. And, to convert it back from one large slips into two smaller slips, the price would be \$15,000-\$20,000, in today's dollars. Costs incurred include but are not limited to permit modifications from the state and federal agencies, engineering fees, and the removal and installation of pilings.

It is our opinion for Council's consideration that for the benefit of the public, the slip holders, the customers, and the neighborhood surrounding the Sport Fishing Center that a mission statement for the facility be considered by Council to memorialize past practices and future uses of the public use facility to compliment and not compete with the residential neighborhood. A suggested mission statement for your consideration is as follows:

The Avalon Sport Fishing Center is established to create affordable dockage and access for charter and recreational boats to the open waters adjacent to our community. The purpose of the Avalon Sport Fishing Center is to provide enjoyment for residents and visitors and to make available facilities, gear, and light fare with dockmaster services to assist boaters and their guests. The Avalon Sport Fishing Center shall perform its functions while preserving the residential character of the community.

Council has tasked Administration with a thorough review of the resolution and rules governing the Avalon Sport Fishing Center; to review the lease held by the current proprietor; evaluate the capital improvements necessary at the Center; update and pursue all licenses, agreements, and regulations directed by the State of New Jersey; and evaluate the rate charged to slip holders at the Center. All of that has been accomplished and ready for discussion.

With that, I'll turn it over to Mr. Waldron to discuss suggestions for Council for moving forward.

James Waldron noted his intention to identify each proposed amendment and offer explanation of each to Borough Council at this time. Currently, Bay Park Marina accommodates a maximum length of 21 feet, while the Sport Fishing Center's required minimum is a length of 23 feet. It is recommended to reduce the minimum length at the Sport Fishing Center to 22 feet, as Bay Park Marina is not capable of accommodating boats greater than 21 feet in length. Beyond the amendment to the minimum length requirement, all other requirements for boats at the Sport Fishing Center remain unchanged. All stored vessels must be equipped and rigged for sport fishing, with holding tanks per manufacturer regulations. The Department of Environmental Protection (DEP) recommends the Borough provide a portable pump-out caddy; therefore, one will be added to the Sport Fishing Center, and placed in the custody of Mr. Moran to be made available to boats utilizing the facility, should a need occur. Most boats continue to use pump-out facilities where they fuel up. That is expected to continue at this time; however, it is a permit requirement by the DEP and Army Corp of Engineers, as well as Federal Marine Fisheries. Approval from the Army Corp of Engineers and Federal Marine Fisheries will not be obtained until a full evaluation is completed by Federal Marine Fisheries. One requirement will be the removal of a dock installed to accommodate kayaks. As a result, starting in 2024, the kayak rental service is to be discontinued. Per the current Resolution, the established boating season ranges from March 15 until December 15. That timeline will be continued; however, Council is being asked to grant consideration to allow the extension of the season beyond December 15 when necessary, dependent upon fish species being harvested. In recent years, some charter boats and private boats have been fishing later than December 15 due to state license requirements and availability of certain species. The slip rate for 2023 was \$100 per foot. It is recommended to increase the fee to \$125 per foot, with the rate in subsequent years being set by Resolution to be adopted annually. If no Resolution is adopted in any given calendar year, the last adopted rate prevails. The current Resolution grants the Borough the right to reject any application. That provision is universally included in all Borough contracts and licenses. This Resolution suggests specific grounds for denial of permit: failure to abide by rules and regulations of the facility; if it is confirmed that an applicant has been denied privileges at another marina or private dock facility; when the good order and efficiency of the organization would be disrupted; or a misstatement of facts is found in the application. The Resolution goes on to recommend that any administrative decision to deny anyone the right to renew an application would have the right to appeal. Insurance limitation requirements remain unchanged; however, there is an addition of a new requirement of environmental coverage, per policy limits. Most policies currently have environmental limit of over \$1 million. The Borough's risk manager agrees that no increase in environmental coverage limitations is necessary. Certificate of insurance requirements remain the same, requiring the Borough be named as additional insured in addition to being the certificate holder. The current Resolution allows that slip holders may substitute boats in their held slip, and this Resolution clarifies that allowance. When last discussed by Council, it was suggested there should be temporary suspension of charter boat preference. The committee evaluated and reviewed this suggestion, and made the decision that it is not in best interest of the community. The new recommendation is to maintain that preference until charter boats occupy more than 50 percent of available slips. Until such time as the charter boats and head boats collectively occupy 9 of the 17 slips, preference remains in effect. Once the number of charter slips reaches 9, and concerns about accommodations of the facility arise, the right remains to temporarily suspend the charter boat preference at that time. If that were to be suspended, any subsequent slip vacancies created by charter boats must be filled by a charter boat on the waiting list. The waiting list preferences remain the same at this time, with priority given to Avalon taxpayers who are returning slip holders.

James Waldron (continued) Next would be Avalon tax payers and residents not having a boat in the facility in prior years, then non-residents or taxpayers. This Resolution also reinforces prior requirements that prior to being placed on the waiting list, ownership of the vessel must be proven. A new provision was also added to both marinas, granting the Borough the right to remove any boat posing a threat to public property or the public in general at the owner's cost. The new provision further requires all boat owners to indemnify the Borough from any environmental damage, mishap, or property damage to public property or other vessels.

Councilman Johnson added there is also a provision in the Resolution which states that if an individual were to refuse an offered slip, they will remain on the waiting list, but will lose their seniority on the waiting list and be placed at the end of the list.

James Waldron agreed.

Council agreed to proceed with a Resolution to be considered at today's Council Meeting.

Discussion regarding Ordinance amending Chapter 26 of the Avalon Borough Code concerning outdoor dining.

James Waldron indicated the current site plan Ordinance permits outdoor dining for restaurants in the B-1 zoning district. During the COVID-19 pandemic, restaurants were allowed to reopen to a degree in the summer of 2020 with severe limitations on capacity, distancing, and hours of operation. As a result, the Borough adopted, by Mayoral Executive Order, a document called the TERP (Temporary Emergency Response Program) which allowed the Borough to license all restaurants for outdoor dining, and to the extent necessary, to use the right of way, with the idea to accommodate businesses and provide service to the public. The New Jersey Division of Alcoholic Beverage Control (ABC) followed suit with a Special Ruling allowing the extension of a licensee's licensed premises into any area approved by the municipality, notwithstanding the fact that it is outdoors, and the licensed area falls within the municipality's right of way or outside of the originally licensed area. That Special Ruling is scheduled to sunset in November of 2024. A committee was formed to draft an Ordinance to allow outdoor dining past this time period, while ensuring any proposed regulations are in compliance with Zoning and ABC regulations. At the last meeting of the committee, questions arose about ABC requirements for Place-to-Place transfers. An investigation was done, and based on the applications on file as well as the future intentions of the restaurants, no need for Place-to-Place transfers.

Chief Christopher added the establishments with liquor licenses have been notified that if their plans change, a Place-to-Place transfer would be necessary.

James Waldron noted a suggestion was made to licensees to apply for a Place-to-Place transfer concurrently with their 2024-2025 license renewal. In summary, it is recommended that outdoor dining be permitted for all restaurants in all zoning districts without necessity of a formal site plan application, review, and approval. The permit would be obtained from Zoning Officer with a five-year validity period from the date of issuance. An amended or revised application would be required in the event of a change of ownership or plan of outdoor dining. The proposal would require that outdoor dining be restricted to deeded property only, with no permission granted to dining in the Borough's right of way, as the Joint Insurance Fund (JIF) is no longer willing to grant concession to municipalities to allow use of the right of way. This Ordinance establishes a procedure for obtaining the outdoor dining permit and sets forth requirements of issuance. Applicants will be required to present scale drawings detailing what will be encompassed within the outdoor dining area. The Ordinance also establishes regulations for outdoor structures, such as tents. The Ordinance does include one exception in connection with the Fishing Pier Grill, which was previously licensed for outdoor dining along with permission to use a portion of the boardwalk for said purpose. That outdoor dining has been wildly favorable with residents and visitors; therefore, it is proposed to offer an outdoor dining permit for that establishment for one-year periods to maintain an annual monitoring for any changes, if necessary.

Council agreed to proceed with an Ordinance to be prepared for the January 10, 2024 Council Meeting.

Discussion regarding Resolution supporting continuation of Corporate Business Tax at 2023 rate to fund critical open space, farmland, historic preservation, and hazardous site cleanup funding.

Scott Wahl indicated the Avalon Environmental Commission was approached by ANJEC (Association of NJ Environmental Commissions) recommending the adoption of this resolution, which would support the continuation of a New Jersey corporate business tax provision to allow funding for the acquisition of open space. Avalon has never and does not intend to participate in this program to acquire open space; however, the commitment to maintaining open space remains.

Council agreed to proceed with a Resolution to be prepared for the January 10, 2024 Council Meeting.

Discussion regarding Resolution re-appointing a trustee of the Free Public Library of the Borough of Avalon.

Council agreed to proceed with a Resolution to be considered at today's Council Meeting.

Discussion regarding Resolution authorizing Joseph Clark to advertise for bids for Contract 24-01, Maintenance of Borough Owned Grounds & Garden Plots.

Scott Wahl noted Borough Council has previously discussed the bidding process for this contract. This Resolution would allow placement of the Notice to Bidders in the official newspaper.

Council agreed to proceed with a Resolution to be considered at today's Council Meeting.

Discussion regarding bids received for the project known as 8th Street Sports Complex.

Douglas Rohmeyer reported bids were opened on November 28, 2023 for this project, which consists of the addition of two tennis courts in the southeast area of the 8th Street Sports Complex near the basketball courts. Five bids were received, with the lowest bidder being Shore Top Construction at approximately four percent below the Engineer's estimate. The bid package has been reviewed and found to be compliant with all provisions of the Local Public Contracts Law. CME has worked with this contractor previously, with no history of issues. The contractor is comfortable with the prices bid and the proposed construction schedule, and has expressed willingness to move forward.

Scott Wahl added the Borough was able to secure \$77,000 in grant funding for this project, which amounts to approximately 25 percent of the total project cost.

Council agreed to proceed with a Resolution to be considered at today's Council Meeting.

Discussion regarding bids received for the project known as 2023 Reconstruction of Various Bulkheads.

Thomas Thornton indicated seven competitive bids were received for this project on November 29, 2023. Upon review of the bid packages, the lowest bidder was found to have a fatal flaw within their bid, which precludes the Borough from awarding the contract to that contractor. Fortunately, the next lowest bidder submitted a competitive price, and is a contractor the Borough has worked with frequently in the past. He recommended Council consider awarding the contract to RA Walters and Son in the amount of \$469,500.00. Mott MacDonald has also submitted their proposal for construction engineering services in connection with this project.

Council agreed to proceed with a Resolution to be considered at today's Council Meeting.

Discussion regarding Resolution authorizing Change Order No. 1 for Contract M-123, Water Meter Replacement Program.

Thomas Thornton explained this is the first and final Change Order for this project, which reconciles all final quantities used during the course of the contract. With respect to the \$2.3 million project cost, this Change Order is minimal in its scope, which is primarily attributed to a difference in size of water meters installed, as well as some that were installed prior to the onset of the project.

Council agreed to proceed with a Resolution to be prepared for the January 10, 2024 Council Meeting.

Discussion regarding Resolution approving raffle licenses on behalf of the Garden Club.

After brief discussion, Council agreed to proceed with a Resolution to be considered at today's Council Meeting.

Minutes:

Council Meeting, Closed Sessions – November 13, 2023

Motion made by Council President McDermott, seconded by Councilwoman Coskey that the minutes be approved as submitted.

<u>ROLL CALL VOTE:</u>	Councilwoman Coskey	Aye
	Councilman Johnson	Aye
	Councilwoman Juzaitis	Aye
	Councilman Wierman	Aye
	Council President McDermott	Aye

Public comments regarding Resolutions:

Jim Lutz, 2539 Ocean Drive, spoke about the Resolution amending the rules and regulations concerning the Avalon Sport Fishing Center and expressed concern about the 25 percent increase in slip rental fees, and suggested an allowance of paying the fees in quarterly installments, similar to taxes. He supported the extension of the fishing season, however noted the potential implications of ensuring those using the facility are abiding by the insurance requirements, as many insurance policies run from January 1 through December 31. He made note of the various improvements needed at the Sport Fishing Center, and further expressed concern about the prohibition relating to the transfer of slips. He mentioned that charter boats that sell their businesses would be unable to sell the slips along with the transfer of the business, which impacts the sale value. He mentioned the proposed changes do not address those charter boats that stop at the Sport Fishing Center on their journeys to afford their patrons the opportunity to buy lunch at Moran's Dockside.

John Kauterman, 2809 Dune Drive, referenced the Resolution amending the rules and regulations concerning the Avalon Sport Fishing Center, and asked the Borough to reevaluate many of the sections within the Resolution including the fees charged and the assignment of multiple slips per owner. He expressed his understanding of the original rules, which limited slips held to one per person. He referenced the enforcement of the requirement of filing valid applications, and questioned the reasoning behind this change.

James Waldron responded the regulations have always required valid and truthful applications. The proposed Resolution simply clarifies the existing regulation.

John Kauterman mentioned when receiving documents via OPRA Request, he has noticed incorrect or missing information on applications submitted for slips at Avalon Sport Fishing Center. He expressed the opinion that the Avalon Sport Fishing Center is poorly run.

Kevin Dougherty, 792 21st Street, made reference to the Resolution amending the rules and regulations concerning the Avalon Sport Fishing Center and inquired about the definition of a charter boat, and what will be done to confirm and verify charter boat operations are being conducted by those classified as such.

James Waldron explained a charter boat application is required to verify that the applicant is a bonafide charter boat; however, the operation of their business and the days they offer such services will not be overseen by the Borough.

Kevin Dougherty voiced the opinion that if the Borough will not be overseeing the schedule of the charter boats, the Borough is not exercising due diligence in verifying the existence of charter boats within the slips. He asked the Borough to reconsider this rule and implement a supervision requirement to continually verify charter operations. He noted concerns and questions he has brought to the Borough in the past have not yet been answered. He mentioned the estimated costs that will be incurred by the Borough with regards to the Sport Fishing Center. He requested a breakdown of all costs and inquired if those costs include any fines.

James Waldron replied there are no fines that have been assessed to the Borough. Costs associated with

the Sport Fishing Center include those in connection with the Tidelands License renewal including, but not limited to, engineering, site plan, documentations, permit applications, professional fees, and consulting fees. A consideration was made to reconfigure the slips from 17 to a lesser number of slips which would allow the accommodation of larger vessels. During the exploration in connection with that consideration, a quote of \$15,000 to \$25,000 would be incurred by the Borough to apply for a permit modification. Those fees would be independent of the capital improvements necessary as they pertain to the pilings. The Borough has encountered expenses of approximately \$40,000 in fees in connection with the renewal of the license. The reconfiguration of slips would incur the additional fees as previously stated. Any reconfiguration of slips would require a permit modification.

Kevin Dougherty inquired if the mission statements mentioned are new statements.

Scott Wahl replied the mission statements are new statements.

Council President McDermott indicated the consideration of the reconfiguration of slips was triggered by Mr. Dougherty's application, which would require such a reconfiguration; however, Mr. Dougherty rejected the offer of a modified boat slip at the Sport Fishing Center.

Kevin Dougherty noted the price of the boat slip offered was higher than what was expected for a slip, which would negatively impact his business.

James Waldron explained there are 17 slips at the Sport Fishing Center. Currently, there are no slips at the Sport Fishing Center available which would accommodate Mr. Dougherty's vessel. To accommodate Mr. Dougherty, a reconfiguration would be required, which would consolidate two slips, as well as eliminate a smaller vessel. When that reconfiguration was considered, Mr. Dougherty was offered the modified slip at the price of two boat slips. That offer was made via email, which was further rejected via email by Mr. Dougherty.

<u>Resolution No. 210-2023:</u>	A RESOLUTION ADOPTING THE EMERGENCY OPERATING PLAN IN THE BOROUGH OF AVALON, COUNTY OF CAPE MAY IN THE STATE OF NEW JERSEY, AS APPROVED BY THE STATE OF NEW JERSEY, DEPARTMENT OF LAW & PUBLIC SAFETY, DIVISION OF STATE POLICE
<u>Resolution No. 211-2023:</u>	A RESOLUTION PERTAINING TO THE MANAGEMENT AND OPERATION OF THE AVALON BAY PARK MARINA AT 54 TH STREET & THE BAY AND ESTABLISHING PROCEDURES AND FEES PERTAINING THERETO
<u>Resolution No. 212-2023:</u>	A RESOLUTION PERTAINING TO THE MANAGEMENT AND OPERATION OF THE AVALON SPORT FISHING CENTER AT 14 TH STREET & THE BAY AND ESTABLISHING PROCEDURES AND FEES PERTAINING THERETO
<u>Resolution No. 213-2023:</u>	A RESOLUTION APPROVING A MEMORANDUM OF AGREEMENT AND AUTHORIZING THE EXECUTION OF AN AGREEMENT BETWEEN THE BOROUGH OF AVALON AND EMERGENCY MEDICAL TECHNICIANS OF THE AVALON RESCUE SQUAD FOR THE PERIOD JANUARY 1, 2023 THROUGH DECEMBER 31, 2026 AND AUTHORIZING THE EXECUTION OF A NEW AGREEMENT CONSISTENT WITH SAME
<u>Resolution No. 214-2023:</u>	A RESOLUTION AUTHORIZING THE TRANSFER OF FUNDS
<u>Resolution No. 215-2023:</u>	A RESOLUTION APPOINTING CLASS II SPECIAL OFFICER FOR THE BOROUGH OF AVALON
<u>Resolution No. 216-2023:</u>	A RESOLUTION APPROVING RE-APPOINTMENT BY THE MAYOR WITH ADVICE AND CONSENT OF BOROUGH COUNCIL OF A TRUSTEE OF THE FREE PUBLIC LIBRARY OF THE BOROUGH OF AVALON
<u>Resolution No. 217-2023:</u>	A RESOLUTION AUTHORIZING JOSEPH S. CLARK, QUALIFIED PURCHASING AGENT FOR THE BOROUGH OF AVALON, TO PREPARE SPECIFICATIONS AND ADVERTISE FOR BIDS FOR BOROUGH CONTRACT 24-01, MAINTENANCE OF BOROUGH OWNED GROUNDS & GARDEN PLOTS

- Resolution No. 218-2023:

A RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH SHORE TOP CONSTRUCTION OF FREEHOLD, NJ FOR CONTRACT NO. MAV00200.01, 8TH STREET SPORTS COMPLEX
- Resolution No. 219-2023:

A RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH R.A. WALTERS AND SON, INC. OF CAPE MAY COURT HOUSE, NJ FOR CONTRACT NO. M-135, 2023 RECONSTRUCTION OF VARIOUS BULKHEADS IN THE AMOUNT OF FOUR HUNDRED SIXTY-NINE THOUSAND FIVE HUNDRED DOLLARS (\$469,500.00)
- Resolution No. 220-2023:

A RESOLUTION APPROVING APPLICATIONS FOR RAFFLE LICENSES SUBMITTED BY AVALON GARDEN CLUB, INC. OF AVALON, NJ TO BE HELD ON VARIOUS DATES AT AVALON COMMUNITY HALL, 3001 AVALON AVENUE, AVALON, NJ
- Resolution No. 221-2023:

A RESOLUTION AUTHORIZING PAYMENT OF BILLS

Motion made by Council President McDermott, seconded by Councilwoman Coskey that Resolutions 210-2023 through 221-2023 as listed on the consent agenda be adopted.

<u>ROLL CALL VOTE:</u>	Councilwoman Coskey	Aye
	Councilman Johnson	Aye
	Councilwoman Juzaitis	Aye
	Councilman Wierman	Aye
	Council President McDermott	Aye

Introduction and first reading by title only of Ordinance No. 870-2024:

Motion made by Councilwoman Juzaitis, seconded by Councilman Wierman that Ordinance No. 870-2024 be brought on for first reading by title only.

<u>ROLL CALL VOTE:</u>	Councilwoman Coskey	Aye
	Councilman Johnson	Aye
	Councilwoman Juzaitis	Aye
	Councilman Wierman	Aye
	Council President McDermott	Aye

Borough Clerk read aloud Ordinance No. 870-2024:

Ordinance No. 870-2024:

AN ORDINANCE AMENDING CHAPTER 10 (LICENSES AND PERMITS) OF THE CODE OF THE BOROUGH OF AVALON CONCERNING FEES CHARGED FOR YARD SALE PERMITS

Motion made by Councilwoman Juzaitis, seconded by Councilman Wierman that Ordinance No. 870-2024 be passed on first reading and advertised according to law.

<u>ROLL CALL VOTE:</u>	Councilwoman Coskey	Aye
	Councilman Johnson	Aye
	Councilwoman Juzaitis	Aye
	Councilman Wierman	Aye
	Council President McDermott	Aye

Reports and Recommendations by Mayor and Officials:
Reports of Officials:

None.

Monthly Reports:

Month of November 2023 – submitted by respective Department/Division Heads

- Borough Clerk and Registrar’s Report
- Bureau of Fire Prevention, Bureau of Licensing, Miscellaneous Construction Collection, Construction Water and Sewer, Uniform Construction Code & Taxicab Reports Code Enforcement Report
- Municipal Court Report
- Municipal Engineering Report
- Police Department Report
- Public Works Department Report
- Recreation Revenue Report
- Tax Collector & Water Sewer Control Account Reports
- Zoning Report

Motion made by Councilman Johnson, seconded by Councilwoman Juzaitis that the reports be approved.

<u>ROLL CALL VOTE:</u>	Councilwoman Coskey	Aye
	Councilman Johnson	Aye
	Councilwoman Juzaitis	Aye
	Councilman Wierman	Aye
	Council President McDermott	Aye

Pending Business:

None.

New Business:

None.

Public Comments:

Thomas McCullough, 2659 First Avenue, spoke as the Commander of American Legion Post 331 and thanked the Borough of Avalon and all representatives, elected and appointed, for their support throughout the year.

Martha Wright, 632 7th Street, thanked Commander McCullough for his service, and thanked the Borough for their support of the veterans through the American Legion. She referenced the discussion at today’s meeting regarding the Professional Services Contracts, and mentioned during the budget hearing earlier this year, many members of the public requested Council consider hiring a firm other than the Lomax Consulting Group as the Borough’s environmental consultant, and expressed disappointment that the Borough intends to enter into a contract with the Lomax Consulting Group for 2024 only. She referenced the discussion at today’s meeting regarding the appointment of a Class III member to the Avalon Planning/Zoning Board and a trustee of the Free Public Library, and requested the Borough disclose those being appointed during the discussion. She further referenced the discussion at today’s meeting regarding the contract for Maintenance of Borough Owned Grounds and Garden Plots and asked that the Borough consider incorporating more native vegetation into public property and public garden plots. She also referenced the regulations governing the Avalon Sport Fishing Center, and expressed the opinion that the comments made by members of the public should have been considered prior to adopting the Resolution regarding same. She requested the Borough consider replacing lighting at the Avalon Sport Fishing Center to reduce light pollution in consideration of the neighbors.

John Kauterman, 2809 Dune Drive, inquired if any elected official owns a rental property near the recently demolished school building on 26th Street, and expressed disappointment in the recently adopted Resolutions concerning the Borough owned marina facilities.

Kevin Dougherty, 792 21st Street, noted there was a statement made by Business Administrator Scott Wahl, which indicated discussion concerning the leased structure at the Avalon Sport Fishing center is the subject of a closed session. He requested an explanation as to why this item would be considered a closed session item.

Nicole Curio responded under the Open Public Meetings Act, there are exceptions for closed session items, one of which is contract negotiations.

Kevin Dougherty mentioned in the past, there was a public solicitation of proposals for that building, and inquired if that practice will resume.

Nicole Curio explained those terms would be discussed by Borough Council as part of contract negotiations. Council is not permitted to take any action during a closed session meeting. In the event official action is expected to be taken upon the conclusion of a closed session, that would be disclosed to the public in advance of the closed session. There is no official action scheduled after today's closed session concerning this matter. Anything discussed during the closed session will remain confidential, per the law, until such time as it can be discussed publicly.

Kevin Dougherty stressed the importance of public input with regards to this contract and the operations undertaken in that building. He further took issue with automatic renewals of the existing lease, and advocated for a RFP process for those services.

Resolution No. 222-2023: A RESOLUTION TO CONDUCT A CLOSED SESSION PURSUANT TO N.J.S.A. 10:4-12.b OF THE OPEN PUBLIC MEETINGS ACT PERTAINING TO CONTRACT NEGOTIATIONS CONCERNING NON-LABOR MATTERS

Motion made by Councilman Johnson, seconded by Councilman Wierman that the resolution be adopted.

<u>ROLL CALL VOTE:</u>	Councilwoman Coskey	Aye
	Councilman Johnson	Aye
	Councilwoman Juzaitis	Aye
	Councilman Wierman	Aye
	Council President McDermott	Aye

Motion made by Councilwoman Juzaitis, seconded by Councilman Wierman to recess the public portion of the meeting, and go into Closed Session.

<u>ROLL CALL VOTE:</u>	Councilwoman Coskey	Aye
	Councilman Johnson	Aye
	Councilwoman Juzaitis	Aye
	Councilman Wierman	Aye
	Council President McDermott	Aye

Council President McDermott announced official action will not be taken after the Closed Session.

Public portion of Council Meeting recessed at 5:36 pm.

Public portion of Council Meeting reconvened at 6:05 pm.

Present:
Council President McDermott
Councilwoman Coskey
Councilman Johnson
Councilwoman Juzaitis
Councilman Wierman
Scott Wahl, Business Administrator
James A. Waldron, Assistant Business Administrator
Nicole Curio, Esquire, Borough Solicitor

Resolution No. 223-2023: A RESOLUTION TO CONDUCT A CLOSED SESSION PURSUANT TO N.J.S.A. 10:4-12.b OF THE OPEN PUBLIC MEETINGS ACT PERTAINING TO ATTORNEY-CLIENT PRIVILEGE CONCERNING PROCEDURAL ORDINANCE AMENDMENTS

Motion made by Councilwoman Juzaitis, seconded by Councilman Wierman that the resolution be adopted.

<u>ROLL CALL VOTE:</u>	Councilwoman Coskey	Aye
	Councilman Johnson	Aye
	Councilwoman Juzaitis	Aye
	Councilman Wierman	Aye
	Council President McDermott	Aye

Motion made by Councilman Johnson, seconded by Councilwoman Juzaitis to recess the public portion of the meeting, and go into Closed Session.

<u>ROLL CALL VOTE:</u>	Councilwoman Coskey	Aye
	Councilman Johnson	Aye
	Councilwoman Juzaitis	Aye
	Councilman Wierman	Aye
	Council President McDermott	Aye

Council President McDermott announced official action will not be taken after the Closed Session.

Public portion of Council Meeting recessed at 6:05 pm.

Public portion of Council Meeting reconvened at 6:14 pm.

- Present:
- Council President McDermott
 - Councilwoman Coskey
 - Councilman Johnson
 - Councilwoman Juzaitis
 - Councilman Wierman
 - Scott Wahl, Business Administrator
 - James A. Waldron, Assistant Business Administrator
 - Nicole Curio, Esquire, Borough Solicitor

Motion made by Councilwoman Coskey, seconded by Councilman Wierman to adjourn the Council Meeting.

<u>ROLL CALL VOTE:</u>	Councilwoman Coskey	Aye
	Councilman Johnson	Aye
	Councilwoman Juzaitis	Aye
	Councilman Wierman	Aye
	Council President McDermott	Aye

Council Meeting adjourned at 6:14 p.m.

Respectfully submitted,

C. Danielle Nollett
C. Danielle Nollett, Borough Clerk

James T. McDermott Jr.
James T. McDermott Jr., Council President