

February 14, 2024

A Meeting of the Borough Council of the Borough of Avalon was held on Wednesday, February 14, 2024, at 4:00 p.m. in the Meeting Room, 3100 Dune Drive, Avalon, New Jersey.

In-Person Attendance: Public -----	2	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
James V. Craft, Chief Financial Officer
Charles McDonnell, Recreation Director
Scott Taylor, Taylor Design Group
Donna Rothman, Chair, Environmental Commission
Douglas Rohmeyer, CME Associates
Amanda Seltzer, Zoning Official

Council President McDermott read the Open Public Meetings Act Announcement.

Notice of this Council Meeting was included 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.”

Presentation of request to vacate a portion of Barry Road.

Councilman Johnson recused himself from this discussion, while announcing a conflict of interest in this matter.

James Waldron explained this presentation is regarding a private property owner’s request for the vacation of a balance of Barry Road. This presentation will be for informational purposes only, with no formal action scheduled.

Lyndsy Newcomb introduced herself as an attorney from the firm of Monzo, Catanese, DeLollis speaking on behalf of the Gallagher Family Trust, the owner of the property located at 647 Barry Road. Documents provided to Borough Council in advance of this meeting include a survey of the property depicting the current existing conditions, as well as an aerial view of this unique property. This property is untraditional by way of both access and size, and is currently an undersized lot. There is a history of street vacation of Barry Road on this block, which happened in 1996. The portion of Barry Road referenced today was supposed to be vacated as a part of that street vacation; however, the previous owner declined to be included, and a handicapped parking spot was designated directly in front of the property as opposed to the vacation of the street. The current owners are now requesting the portion of Barry Road be vacated. If the vacation is granted, there will not be any public impact. Furthermore, no parking is currently permitted in the areas in question. Because of the unique configuration of the street

February 14, 2024

Lyndsy Newcomb (continued) and the property, the applicant of this request is the only property within the Borough with a street address of Barry Road. By vacating the road, the property will become fully conforming and meet all current frontage and side requirements set forth in the Zoning Ordinance. In the future, the existing homeowners would like to update the dwelling located at this property; however, plans for the updates have not yet been developed.

Councilman Wierman made note of a driveway on Barry Road that provides access to the property south of the proposed street vacation, and inquired as to how the driveway would be affected.

Lyndsy Newcomb responded the access would still exist if the vacation is granted, as the access point would become a private driveway.

Council agreed to take this application into consideration.

Presentation of Avalon Environmental Commission 2023 Annual Report.

Donna Rothman gave an overview of the report, including DVMP projects, maintenance projects, the tree dedication program, educational sessions and programs, dune grass plantings, the seedlings program, CAFRA Permit reviews, Tree Committee accomplishments and reports, conferences attended, Pollinator Garden milestones, Community Connections, Armacost Park, sustainable landscaping plant booklet, the newly redrafted acceptable plant list, the development of an environmental survey, and community outreach.

Council thanked Donna Rothman for her presentation and commended all those involved in the Environmental Commission.

Discussion regarding bids received for Borough Contract 24-01, Maintenance of Borough Owned Grounds and Garden Plots.

Scott Taylor stated the Borough has worked to bid the contract associated with the landscaping of all public spaces throughout Avalon since 2007. For the most recent iteration of this contract, three bids were recently received, with the lowest bidder being Guzzo Landscaping. Any contract award granted would be for one year, with the option to renew for two additional one-year terms. A contract escalation is included for the additional terms, which is based on the Consumer Price Index. The submitted specifications were reviewed by all appropriate Borough officials, with the recommendation unanimously being to award the contract to Guzzo Landscaping.

Council agreed to proceed with a Resolution to be prepared for the February 28, 2024 Council Meeting.

Discussion regarding Resolution authorizing grant application to the Cops in Shops Program.

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

Discussion regarding the Safety Incentive Program in accordance with the Atlantic County Municipal Joint Insurance Fund.

Scott Wahl indicated this is an annual item to approve and recognize the Safety Incentive Program, which requires certain benchmarks for the Borough to perform, including regular Safety Committee meetings, Job Safety Observations, and safety instructions to employees. No substantive changes to this program are proposed.

Council agreed to proceed with a Resolution to be prepared for the February 28, 2024 Council Meeting.

Discussion regarding Resolution establishing Change Funds for various summer functions.

After brief discussion, Council agreed to proceed with a Resolution to be prepared for the February 28, 2024 Council Meeting.

Discussion regarding Resolution authorizing Performance Guaranty Release in connection with 883, 885, 887, 889, 891, 893, 895 & 897 21st Street.

Scott Wahl reported the Planning/Zoning Board Engineer Joseph Maffei has recommended the release of the remainder of the Performance Guaranty associated with this property, as all items by the developer have been completed. A Maintenance Guaranty was required, which has been submitted and will remain in effect until September 29, 2024.

Council agreed to proceed with a Resolution to be prepared for the February 28, 2024 Council Meeting.

Discussion regarding Resolution authorizing grant application to the New Jersey Recreation Grant Improvement Program.

Scott Wahl announced the grant application deadline for this program is February 27, 2024. With Council's verbal approval today, the application can be submitted with the draft Resolution to be considered for formal action at the February 28, 2024 Council Meeting.

Douglas Rohmeyer explained the Borough has identified the desire to request funding through this grant program for the 39th Street Sports Complex. On the eastern portion of complex, the tennis courts are in need of repair and improvement. Work to be undertaken for this project includes the tasks to mill and overlay the courts, crack repair as needed to the underlying base courses, replacement of posts and nets, replacement of fencing on the south, east, and north sides of the courts, and the repair of the service walk accessing Dune Drive. The bocce area is also being evaluated for drainage improvements and upgrades. It is recommended to request the full grant amount of \$100,000, as preliminary draft costs exceed that amount. The grant application will include a conceptual cost estimate to show expected costs in excess of the maximum grant amount. There is no match requirement included with this grant.

Scott Wahl added this work is included in the 2024 budget, and any grant funding received would offset the cost incurred directly by the Borough.

Councilwoman Coskey suggested the new fencing around the tennis courts include an additional gate.

Councilman Wierman spoke to the disrepair of the courts and supported work needed.

Chuck McDonnell noted when projects such as this are undertaken, there is a typical useful life of 15 to 20 years.

Council agreed to proceed with a Resolution to be prepared for the February 28, 2024 Council Meeting.

Discussion regarding Resolution establishing beach tag fees for the 2024 season.

James Craft requested Council consider a modest increase to the beach tag fees, which would be two dollars (\$2) to pre-season beach tag fees and five dollars (\$5) to season beach tag fees. These increased fees will bring in approximately \$100,000 in additional revenue and will match Stone Harbor's pricing.

Council agreed to proceed with a Resolution to be prepared for the February 28, 2024 Council Meeting.

Discussion regarding Resolution authorizing budgetary amendment for construction phase engineering services in connection with the project known as Water Meter Replacement Project.

Thomas Thornton explained a budgetary amendment is being requested to include an increase to the inspection services conducted during the course of this project, which were specifically to cover two unforeseen activities. The first was due to some damage the contractor reported to the 38th Street antenna, which was indicated as the reason for failure of the meters communicating with the antenna. The contractor confirmed damage; however, it was determined to be something they were responsible to repair. As a result, the issue with failed readings was resolved. Multiple meetings and conference calls were held to resolve the issue. The second issue was the contractor's failure toward the end of the project to provide, as required, the web portal and software services as to the functionality for the customers to access this information, as was spelled out in the specifications.

Council agreed to proceed with a Resolution to be prepared for the February 28, 2024 Council Meeting.

February 14, 2024

Discussion regarding Resolution authorizing professional engineering services in connection with Outfall No. 73 Repairs.

Thomas Thornton reported Outfall No. 73 is a corrugated metal stormwater outfall pipe that extends out of Fourth Avenue south of 42nd Street into an inlet that runs on the easterly side of Fourth Avenue, which extends into the wetlands area into the waterway. For a few years, the timber support structure holding the pipe, known as the cribbing, has collapsed at the end. Additionally, the two sets of cribbing on the landward side also need to be replaced due to the deterioration of the piles and timber supporting the pipe. Permits are needed to complete the work. The proposal submitted by Mott MacDonald for this project includes permitting services for the Department of Environmental Protection (DEP) Waterfront Development Permit, the US Army Corps of Engineers Nationwide Permit, as well as resolve any Tidelands issues, if any. If there are no Tidelands issues, there will be a deduction from the total being charged to the Borough. Surveying services are also included, as well as plan preparation, design of support structures, and assistance of request for quotes. There are hopes to expedite the project as much as possible. While the project may not be completed in advance of Memorial Day, all work will be done in the waterways, which will be a minimal disruption.

Council agreed to proceed with a Resolution to be prepared for the February 28, 2024 Council Meeting.

Discussion regarding Change Order No. 1 in connection with Contract No. M-135, 2023 Reconstruction of Various Bulkheads.

Scott Wahl noted a recently identified problem that has gotten progressively worse in recent months at Bay Park Marina. There is currently a sinkhole posing a safety hazard, which is currently blocked off from public access. It was determined that the sinkhole is being caused by a failing bulkhead nearby. The bulkhead will be replaced during Bay Park Marina project. All permits are in place, with bids expected to be solicited in the fall. In the interim, repair is necessary at this time. The contractor for the ongoing bulkhead project throughout the Borough has agreed to perform repairs as a Change Order to the existing reconstruction of various bulkheads project.

Thomas Thornton added the price quoted by the contractor is very advantageous to the Borough, as there are minimal mobilization costs needed.

Councilman Johnson inquired if the repair will be in the water.

Thomas Thornton responded no, the repair will be on the landward side, and will be a temporary fix in advance of the project expected to begin in the fall.

Council agreed to proceed with a Resolution to be prepared for the February 28, 2024 Council Meeting.

Discussion regarding Resolution approving additional expenditure to CME Associates for General Engineering Consulting in an amount not to exceed \$6,000.

Scott Wahl explained this additional allotment will help evaluate various recreational facilities when inspections are needed, and will help determine if any funding needs to be added to the capital budget for repair or other services, and will only be used on an as-needed basis.

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

Discussion regarding Resolution approving the extension of an existing minor encroachment license for 2418 Dune Drive to encompass the adjoining property known as 2408 Dune Drive.

James Waldron indicated in 2020, as a result of site plan approval granted by the Avalon Planning/Zoning Board, a restaurant was approved at 2418 Dune Drive. Part of the approved exterior façade involved an awning, the supports of which encroach slightly into the right of way. At that time, Council authorized a Resolution permitting that encroachment to take place for the period of five years, subject to renewal. Subsequently, the existing restaurant has expanded and has acquired the property located at 2408 Dune Drive. There is a request to extend the exterior awning to include the additional parcel. Any approvals granted would be identical to the awning approved in 2020. In order for uniformity in terms and conditions of license, it is recommended that a license be issued for a new five-year term, starting May 1, 2024 and extending five years hence. The new license would remove the necessity for two separate licenses expiring at different times. The awning extension would be 92 feet, 11 inches; however, the encroachment into the right of way remains minimal, and is the same as what was approved in 2020. The original license would be negated. The new license is subject to the same terms and conditions, and will be extended now to the entire façade.

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

Further discussion regarding Ordinance pertaining to outdoor dining.

James Waldron noted this is a result of earlier conversations and a closed session that involved some enforcement issues discussed with the Chief of Police. This proposed amendment allows the Temporary Emergency Response Plan (TERP) to be extended until November 30, 2024 to coincide with expiration of ABC Special Ruling 20-10, which permits outdoor dining in conjunction with the consumption and sale of alcoholic beverages not previously encompassed in the licensed area. That Special Ruling ends on November 30, 2024. This proposed Ordinance as previously reviewed has been amended to provide that it will be effective December 1, 2024 with no lapse in coverage and no losses of time for outdoor dining. The December 1 outdoor dining will not allow patron tables and chairs within eight feet of the curbline.

Council agreed to proceed with an Ordinance to be prepared for the February 28, 2024 Council Meeting.

Discussion regarding Resolution authorizing Change Order No. 1 in connection with Contract No. 22-01 R-1, Custodial and Cleaning Services of Borough Facilities.

Scott Wahl read the following report:

Summary: The discussion will involve an amendment to the services currently provided under a contract with Professional Cleaning Services of Mantua, New Jersey. The amendment will add more services provided to the Borough, including the daily cleaning of both Borough Hall and the Department of Public Works. Those specific services are now available with the pending retirement of an Avalon employee who has performed those services for many years. A certification of funds exists for this amendment, which has been reviewed by Public Works Director Bill McCormick, Borough Administration, and Purchasing Agent Joseph Clark. The mayor supports this amendment. Employees of the vendor are screened and vetted for security purposes. The vendor currently performs these services as recreational facilities, Borough restrooms, and at the public safety complex.

Additional Services Requested: The changes to the existing contract are as follows:

- On 11 Thursday evenings at Avalon’s Surfside Park, an additional cleaning will be conducted at 10:00pm. The current contract ends the cleaning at 8:00pm, which is not sufficient as the Thursday evening concerts end at 9:00pm, with general crowd dispersal at 10:00pm.
- Daily cleaning of the bathrooms at Surfside Park during the offseason. Administration and Recreation have received requests to have the bathrooms open for the boardwalk walkers and other individuals who enjoy the boardwalk and park throughout the year. The bathrooms have not been part of the contract during the offseason, but this addition would enhance the customer experience at the public facility.
- Cleaning the new portion of the firehouse (expansion). The contractor currently cleans the “old” part of the firehouse, five days a week. The expansion will now be cleaned. However, after speaking with leadership at the firehouse, there is agreement that five day per week cleaning of the firehouse is excessive, and two day a week cleaning will suffice.
- Cleaning of the facilities at Avalon Borough Hall and the Avalon Department of Public Works triggered by the pending retirement.

Contract Change: Courtesy of the efforts of the Director of Public Works and the Purchasing Agent, the additional cleanings of bathrooms at Surfside Park on Thursday nights in the summer will be a no charge to the Borough. The addition of the space at the firehouse with a reduction in days performed is no change in price to the contract. The 10-month additional cost of the other two changes results in a \$33,033.33 increase to the contract (will not include January and February, 2024) with the annual increase of a 12-month period (2025) at \$39,640. The additional services will be acquired by the Borough at approximately 50% of the cost of the full-time employee when salary and benefits are factored as a total value.

Deficiencies in Performance: The Department of Public Works is responsible for the satisfactory executive of private contracts including trash/recycling collection, landscaping, and custodial services. Any deficiencies in work will be reported to and investigated by the Department and, if affirmed, reported to the contractor. Penalty provisions exist in the current contract.

Council agreed to proceed with a Resolution to be prepared for the February 28, 2024 Council Meeting.

February 14, 2024

Discussion regarding Resolution authorizing a certain yard sale sponsored by the Avalon Garden Club to be held May 11, 2024.

Scott Wahl explained this is an annual event, the fee of which would increase to \$20 per yard sale, in accordance with the recently adopted Ordinance.

Council agreed to proceed with a Resolution to be prepared for the February 28, 2024 Council Meeting.

Discussion regarding Resolution authorizing a refund in the amount of \$11,400.00 for a water and sewer application in connection with 2178 Ocean Drive, Block 22.10, Lot 80.2178.

Scott Wahl reported shortly after this application was made, it was determined that a new water/sewer service is not required; therefore, it is appropriate to grant a full refund.

Council agreed to proceed with a Resolution to be prepared for the February 28, 2024 Council Meeting.

Minutes:

Council Meeting – January 24, 2024

Motion made by Councilman Wierman, seconded by Councilwoman Juzaitis that the minutes be approved as submitted.

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

Public comments regarding Resolutions:

None.

Council President McDermott asked if any Councilmember wished to have any Resolution acted upon independently of the consent agenda.

There were no requests from any member of Borough Council to act upon any Resolutions independently.

<u>Resolution No. 38-2024:</u>	A RESOLUTION GRANTING A 2024 AMUSEMENT GAMES LICENSE TO TWO BITS AMUSEMENTS, INC.FOR PREMISES LOCATED AT 2805-07-09 BOARDWALK, AVALON, NEW JERSEY
<u>Resolution No. 39-2024:</u>	A RESOLUTION AUTHORIZING CONTRACTS WITH CERTAIN APPROVED STATE CONTRACT VENDORS FROM JANUARY 1, 2024 THROUGH DECEMBER 31, 2024
<u>Resolution No. 40-2024:</u>	A RESOLUTION AUTHORIZING THE FILING OF A GRANT APPLICATION TO THE NEW JERSEY DEPARTMENT OF LAW AND PUBLIC SAFETY, DIVISION OF ALCOHOLIC BEVERAGE CONTROL FOR COPS IN SHOPS SUMMER SHORE INITIATIVE 2024 GRANT
<u>Resolution No. 41-2024:</u>	A RESOLUTION AUTHORIZING CME ASSOCIATES, CONSULTING & MUNICIPAL ENGINEERS TO PERFORM CERTAIN CONSULTING AND ADVISORY SERVICES AT A COST NOT TO EXCEED SIX THOUSAND DOLLARS (\$6,000.00)
<u>Resolution No. 42-2024:</u>	A RESOLUTION AUTHORIZING CME ASSOCIATES, CONSULTING & MUNICIPAL ENGINEERS TO PERFORM CERTAIN CONSULTING AND ADVISORY SERVICES AT A COST NOT TO EXCEED SIX THOUSAND DOLLARS (\$6,000.00)

Resolution No. 43-2024: A RESOLUTION AUTHORIZING PAYMENT OF BILLS

Motion made by Council President McDermott, seconded by Councilwoman Coskey that Resolution 38-2024 through 43-2024 as listed on the consent agenda be adopted.

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

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

Scott Wahl read the following report:

Sport Fishing Center: Thanks to the efforts of multiple parties including our Purchasing Agent, Municipal Engineer, Department of Public Works, and CFO, Avalon will move forward with necessary pilings replacements at the Sport Fishing Center as mentioned at a prior meeting. We are replacing 18 pilings and received two quotes, the lowest being \$30,000 which is an excellent price for purchase and installation. The piling replacements are necessary for the safety of the slip holders and the boating public. The work will be performed this spring. Under a prior resolution approved by Council, the Purchasing Agent can award quotes up to \$44,000 to get projects started on a timely basis. This is an example of how this benefits the Borough as the contractor has been given permission to order the materials.

NJ TransAction Program: Avalon has been asked to deliver a presentation at a major statewide meeting of transportation organizations and entities, organized by the New Jersey Department of Transportation. The event lasts for three days and is called NJ TransAction. On May 1st I will be joined by Wildwood Crest officials to discuss the value of partnerships and resiliency regarding municipal dredging projects. During a major dredging project ten years ago, Avalon enlisted partnerships with several agencies to dredge marine channels; since then, Avalon has conducted maintenance dredging nearly annually to maintain safe boating.

22nd Street Water Main: Last week, a contractor working in behalf of the Borough conducted the final tie ins to the new 22nd Street Water Main. This required temporary, overnight shutoffs of water service to certain sections of the community near the water main. The program worked with no safety or work issues. I want to publicly thank Perna Finnegan, the Borough’s contractor, Shawn Carr from Mott MacDonald, Ken Koches from Middlesex Water, and the Department of Public Works for playing important roles in this program. Water was provided to property owners by the Borough in advance of the shutoffs, and we received no complaints and only compliments on the work performed.

Tennis Courts: Work has begun on the installation of three new tennis courts at the 8th Street Recreation Complex. The ground has been prepared by the contractor for the installation of the surface which will likely occur in March as plants begin making asphalt after the coldest part of winter. Once the surface sets for 30 days, all that is required is a final painting and any site punch list items.

Pending Business:

None.

New Business:

None.

Public Comments:

Martha Wright, 632 7th Street, made reference to correspondence she recently sent regarding the production of an annual report of the Avalon Planning/Zoning Board, which is required by the Municipal Land Use Law. At the recent Avalon Planning/Zoning Board meeting, it was agreed to make an accommodation and create these reports starting in 2024. She requested that the Borough follow the Municipal Land Use Law, as it is required to do, and formally requested that the report generation to begin with the filing of a report of the 2023 actions taken by the Board. She also sought an update as to any actions being considered by the Borough in relation to the desecration of the dunes at 5609 Dune Drive, while citing the violations allowable under the Borough’s Dune Vegetation Management Plan.

February 14, 2024

James Waldron explained Avalon’s Code Enforcement Officer has filed a complaint, which is pending in municipal court against both property owners, which is a daily complaint relating back to when the first violation occurred. The violation requests daily penalties up to \$2,000 per day through to the adjudication of this matter. The DEP has asserted jurisdiction and has demanded a corrective action plan. The property owners have requested an extension from the DEP, which was granted. Avalon’s violation notice is tracking the DEP as the lead agency. Further comment with respect to pending lawsuit is inappropriate.

Motion made by Councilman Johnson, seconded by Councilwoman Juzaitis to adjourn the Council Meeting.

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

Council Meeting adjourned at 5:04 p.m.

Respectfully submitted,

C. Danielle Nollett
C. Danielle Nollett, Borough Clerk

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