**7301**

May 27, 2015

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

Wednesday, May 27 at 7:05 p.m. in the Meeting Room, 3100 Dune Drive, Avalon, New Jersey.

Attendance: Public -------------------- 6 Reporters ----------------------- 3

The Meeting was called to order by Council President Covington.

Pledge of allegiance.

Roll call: Council President Covington Present

Council Vice President Dean Present

Councilman Ellenberg Present

Councilwoman Hudanich Present

Councilman McCorristin Present

Council President Covington announced that Dr. Hudanich is expected to arrive shortly.

Also present:

James Waldron, Assistant Business Administrator

Stephen D. Barse, Esquire, Borough Solicitor

Paul Short, Code Enforcement Official

William Macomber, Director of Public Works/Utilities

William McCormick, Chief of Police

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

Joseph L. Lomax, Executive Vice President, Lomax Consulting Group of CMCH

Dr. Brian Reynolds, Chairman Avalon Environmental Commission

James DeMarco, President Insurance Solutions, Inc.

Notice of this Work Session was included in the Annual Schedule of Meetings dated June 25, 2014. It was given to the news media and posted on the Official Bulletin Board as required by law.

Council President Covington read the Open Public Meetings Act Announcement.

Discussion regarding resolution authorizing renewal of dental plan by Delta Dental.

James De Marco, President Insurance Solutions, Inc. reported there was a modest 2.5% increase in claims from the previous year totaling $70,000.00. He said Prudential agreed to keep the claims administrative rate the same over the next two years given the claims experience and ongoing relationship between the Borough and Delta Dental. He said the utilization increased 2.5 %, but was 2.5% less than the national average. He reported it was a good year.

Council President Covington asked about the contract renewal date.

Mr. DeMarco said the renewal date is June 1st and recommended staying with Delta Dental because they have the broadest network and most significant discounts for the employees in the area.

Council President Covington said Council would pass the Resolution at this evening’s Regular Meeting.

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Discussion regarding Beach Management Plan.

James Waldron, Assistant Business Administrator explained the Beach Management Plan (BMP) Mr. Lomax will be presenting to Council has been re-written and was unanimously approved by the Environmental Commission. He said the plan was a more comprehensive document with innovative approaches for beach areas designated for habitat and public use.

Joseph L. Lomax, Executive Vice President, Lomax Consulting Group of CMCH, explained the background of the 2009 BMP. He said the plan was the first in the State and one that other communities modeled. He said the plan did not define the responsibilities and authority of the Borough of Avalon, the updated plan recognizes the responsibility the Borough has to protect its beaches, dunes, and economy. He outlined a major change is, if the birds are present, they will receive the highest level of protection, but if the birds are not present, there should not be arbitrary restrictions that continue through the entire period of time. He explained a second change was for the performance. He said the innovative part of the plan is to produce a restricted area that is smaller in size but much more intensely managed for the species of birds themselves. He pointed out that doing a beach management plan is a requirement of CAFRA approval. He said the next step, if approved, administration would start the review process with the agencies prior to the CAFRA permit renew in August.

Council President Covington asked Mr. Lomax to outline the specific changes as they were difficult to discern from the plan. He asked for more detail on what it means to the Borough as to whether the birds are present or not.

Mr. Lomax pointed out that piping plover have not used the restricted area in the Northern beaches for years. He explained if the birds are not using certain areas, they should be open for beach management by the Department of Public Works and for emergency access. He also said moving beach management equipment from the north to the south has been challenging. He asserted the equipment could be moved safely without adversely impacting the birds with care below the mean high water line at low tide with an escort to make sure no animals are impacted.

Council President Covington clarified if there hasn’t been nesting in a certain timeframe, then the Borough can question why the area needs to continue to be maintained.

Mr. Lomax validated that is correct and conversely, if birds are utilizing an area the highest level of protection is to be given to them.

A discussion ensued about the fenced areas for the birds, the most common species of plants and birds, the extension of the protected time and restriction of beach management.

Councilman McCorristin asked if the restricted area grows, shifts or moves.

Mr. Lomax explained there are three species of birds being dealt with, the oyster thatcher, the piping plover and the least terns and suggested a cobble shell area in the back beach would be created to encourage nesting. He also recommended the US Fish and Wildlife Service be involved in predator control as they are the reason the species are declining. He said the State and Federal Agencies would assume responsibility for the operation and costs of those improvements.

Councilman Ellenberg asked if protected area restriction is ever removed if the wildlife moves or is it protected for an eternity.

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Mr. Lomax said that was what was unfortunate about the 2009 plan and the subsequent actions of the DEP. He said they expanded without approval from the Borough and the agency has to go back and recognize the area is zoned and has authority and responsibility of that area by the Borough itself and there needs to be a higher level of communication and cooperation with the agencies.

Council President Covington asked Mr. Lomax for a document highlighting the significant changes to the plan. He said the document was difficult to read and discern the changes.

Mr. Lomax said it would take time, but that it could be done.

Mr. Waldron said they would have a document ready with the highlighted changes and guiding principles.

Council agreed to put the discussion back on the June 10th Work Session.

Further Discussion regarding NJDEP requirement to provide full-time monitoring of beachfill project for Munitions and Explosives of Concern.

Thomas R. Thornton, P.E., Borough Engineer, Hatch Mott Macdonald, LLC explained to Council the proposal for the beach fill project being presented requires the Borough to receive written authorization of the protocol for the monitoring of munitions and explosives of concern (MEC) from the Bureau of Coastal Engineering and needs approval from the DEP. He further explained there are two tasks required of the Borough during the construction process. He said the Borough is required to have oversight of the contractor 24/7 so Hatch Mott has assembled a team of 6 monitors, four who will have 12 hour shifts Monday through Friday and two other monitors working 12 hour shifts Saturday and Sunday. He said they also have two monitors as backup if someone gets sick. He said they will all be trained and reviewed the scope of work they will be responsible for. He said the training will be video training as well as a half-day hands on training with the NJ DEP. He explained the second task is the sweeping of the entire beach fill area with a magnetometer to detect any object that may have made it through the first and second screenings. He said if something is found, the experts can determine on the spot if something is a munition or an unexploded munition of concern and if it is of concern, the Avalon Police are contacted who then contact the Atlantic City Bomb Squad. He said the second task only required 20% coverage of the beach which allowed them to get a competitive price from the sub-contractor. He stated again that Hatch Mott will perform the first task and the sub-contractor will perform the second task.

Councilman Ellenberg asked if the dredge that broke down in Strathmere is the dredge we are getting and do we know when we will start in Avalon?

Mr. Thornton said it was and there is a meeting tomorrow with Great Lakes and they will know more then.

Councilman Ellenberg asked if the dredge breaks down during the work what happens to the workers.

Mr. Thornton said that it would have to be managed closely so as not to cause downtime by not having workers right there.

Council agreed to proceed with a Resolution to be prepared for the June 10, 2015 Regular Meeting subject to availability of funds.

**7304**

May 27, 2015

Further discussion regarding bids received for Reconstruction of 28th Street parking lot.

Thomas R. Thornton, P.E., Borough Engineer, Hatch Mott Macdonald, LLC gave an overview of the project stating the project went out to bid in February, 2015 and bids were received March 17, 2015. He said the bid was very competitive and the low bidder is Jerry & Son Excavating, Inc. He explained the job originally was to be completed by summer, but it was recommended to postpone until immediately after the Avalon Chamber Seafood Festival October 10-11, 2015. He said a notice will be provided to proceed in advance of that date so the contractor can be ready. He said there could be a risk with weather and will manage that if needed.

Council agreed to proceed with a Resolution on tonight’s Regular Meeting.

Mr. Thornton noted Hatch Mott’s proposal to provide construction engineering services and also recommended the Borough reserve $5,000.00 for the asphalt core testing. He noted it is more efficient for the Borough to get quotes directly from the lab.

A Resolution for Hatch Mott’s services will be prepared for the June 10, 2015 Regular Meeting.

Discussion regarding Resolution authorizing Professional Services Contract with Sal DeSimone for Flood Plain Management Services.

James Waldron, Assistant Business Administrator explained Mr. DeSimone has requested the Borough consider entering into a contract with him as his own LLC Management Company. He said the only change will be who is billing for the services as Mr. DeSimone will still be providing the same services as an independent contractor. He also said James Craft reviewed the propriety and believes it makes sense in economic terms and has recommended that the Borough give favorable consideration to the proposal. He explained that Mr. DeSimone would no longer be an employee of the Borough and would like the contract to be effective July 1, 2015. He said the Borough would be dealing with Mr. DeSimone’s company as a professional management consultant and his company would propose to voucher the Borough for $10,000.00 a year and that would be paid on a quarterly basis.

Council President Covington asked, operating as an independent contractor with a professional services contract, does Mr. DeSimone have to submit certain forms?

Mr. Waldron described the requirements that Mr. DeSimone would be held to as they match the standards all professional contractors follow.

Council agreed to proceed with a Resolution to be prepared for the June 10, 2015 Regular Meeting.

Discussion regarding Resolution requesting approval for Revenue & Appropriations for 2015 Clean Communities Grant in the amount of $26,353.87.

Council briefly discussed that matter and agreed to proceed with a Resolution to be prepared for the June 10, 2015 Regular Meeting.

Public Comments:

Note: Councilwoman Hudanich arrived at 8:03 p.m.

Martha Wright – 632 7th Street – said she was not happy with the continued encroachment on habitat and wildlife on the island in this community and would like to see the draft of the Beach Management Plan so there is enough time to comment on it before it goes before council. She asked if it could be put on the website to see any ongoing changes.

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Elaine Scattergood 75 30th Street – commented on behalf of Ruth Fisher on the possibility of beach paths being closed during the nesting season.

Travis Marshall – Owner, Avalon Anchorage Marina – said he attended an informal Planning Board on February 10, 2015 with a completely new plan for the development of the Marina as the previously approved plan is outdated. He said he was told by Neil Hensel, President of the Planning Board that before Planning Board could consider the project he would need approval by Borough Council. He said his attorney Cory Gilman contacted Dean Marcolongo and Steve Barse as to why he would have to come before Borough Council. He said it has been 97 days and he is frustrated with getting no response of why he needs to appear before Borough Council for a Planning Board matter and asked for direction.

Stephen D. Barse, Esquire, Borough Solicitor, responded he has spoken with Mr. Gilman the attorney for Mr. Marshall. He hesitated to have direct conversations with Mr. Marshall since he is represented by Counsel. He indicated he spoke with Mr. Gilman in March and he was told it would have to be discussed with Borough Council and there have been 2 meetings in which it was discussed. He said there are issues about how there was a street vacation based on a prior plan that is now apparently going to be abandoned and something else developed. He said that vacation was based on the public benefit of having a dock, boat ramps and fuel. He said he will contact Mr. Gilman in the morning to discuss these issues and added Borough Council is adopting a Resolution tonight to proceed with litigation to reverse the street vacation because that was given for the limited public purpose of knowing that the Borough would still have the fuel dock to serve residents of the Borough and there would be a public boat ramp/lift. He said those representations were made with the Council when asked for the street vacation as well as to the Planning Board and CAFRA permit which was a condition of granting the street vacation because that permit included fuel docks and the boat ramp.

Motion made by Councilman Ellenberg, seconded by Councilman McCorristin to adjourn the Work Session.

ROLL CALL VOTE: Council Vice President Dean Aye

Councilwoman Hudanich Aye

Councilman McCorristin Aye Councilman Ellenberg Aye

Council President Covington Aye

Work Session adjourned at 8:16 p.m.

Respectfully submitted,

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Marie J. Hood, Borough Clerk

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Charles P. Covington, Council President