

March 25, 2015

A Work Session of the Borough Council of the Borough of Avalon was held on Wednesday, March 25, 2015 at 7:25 p.m. in the Meeting Room, 3100 Dune Drive, Avalon, New Jersey.

Attendance: Public ----15

Reporters ----3

The Meeting was called to order by Council President Covington.

Pledge of allegiance.

<u>Roll call:</u> Council President Covington	Present
Council Vice President Dean	Present
Councilman Ellenberg	Absent
Councilwoman Hudanich	Present
Councilman McCorristin	Present

Also present:

Scott Wahl, Business Administrator
 James Waldron, Assistant Business Administrator
 Stephen D. Barse, Esquire, Borough Solicitor
 Paul Short, Code Enforcement Official
 James V. Craft, Chief Financial Officer
 William Macomber, Director of Public Works/Utilities
 William McCormick, Chief of Police
 Michael Garcia, Auditor, Ford Scott & Associates
 Thomas R. Thornton, P.E., Borough Engineer, Hatch Mott Macdonald, LLC

Council President Covington addressed issues with the recording system and stated that a backup recording system was being used as well as the Clerk taking minutes as the Court recording system wasn't functioning properly.

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.

Council President Covington announced that Councilman Ellenberg was away and Stephen Barse, Esquire was not present due to another engagement and Mr. Fabietti is here in his place.

Discussion regarding Resolution authorizing the Mayor to submit an application for Municipal Recycling Grant.

Council briefly discussed this annual item and agreed to proceed with a Resolution to be prepared for the April 8, 2015 Regular Meeting.

Discussion regarding Resolution authorizing the sale of abandoned and unclaimed property

Council President Covington noted there were some unusual items this year.

Council briefly discussed this matter and agreed to proceed with a Resolution to be prepared for the April 8, 2015 Regular Meeting.

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Public Comments:

Jim Monks – 4551 Ocean Drive said he had an issue with having his dog on the beach yesterday. He said he researched the law regarding the doctrine of public trust and challenged the Borough's authority to close the beaches March 1st. He said the law provides for reasonable statutes necessary to protect the beach, public and the resources. He contended piping plovers would not rise to the standard to close the entire beach on March 1st. He said motor vehicles are allowed until March 31st.

Council President Covington asked Mr. Monks what he was quoting from and if he could have a copy and asked what transpired.

Mr. Monks said the police came out and asked him to leave the beach. He was told dogs are not allowed after March 1st.

Council President Covington said the issue is after March 1st the Borough doesn't allow dogs on the beach. He said this is the first time that someone has thought the ordinance was unconstitutional, and said he will have the Borough attorney look into it.

James Waldron, Assistant Business Administrator explained when the event occurred, a representative from Fish and Game was on the beach with Mr. Macomber and Mr. Lomax. He said they were discussing the storm fence replacement and the FEMA regulations for the fence as well as what arrangements should be made for the piping plovers. He detailed that Mr. Macomber summoned the police, the police asked Mr. Monks to leave the beach with his dog. He stated there are three ordinances that have been in place over 20 years that prohibit dogs from the dunes. He said there is another ordinance that prohibits dogs on the beach from March 1st forward. He said all those timelines have been incorporated into our Beach Management Plan and approved by the Federal Government as a condition for CAFRA Permits. He said the Public Trust Doctrine is silent on the issue of dogs on the beach and the Borough has an obligation to ban animals predatory to endangered species.

Council President Covington said he wanted to research the issue thoroughly before having an official opinion.

Steven Fabietti, Esquire, Gruccio, Pepper, DeSanto and Ruth stated the Borough is within its power to police and regulate beach activities.

Martha Wright, 632 7th Street, said in 2011 Windward Consulting at a cost of over \$110,000 created a natural resource and enhancement project plan with nine goals. She wanted to address goals number 2 and 3 from the report which were the focus of Management Sanctuary for Birds and Creating a Butterfly Habitat. She protested the planting of trees and thinks no further work should be done and continues to request planting in the fall instead of the spring. She pointed out Joe Lomax has billed the Borough through 2014 \$14,500 for Armacost Park. She said that birds nest in spring and the birds won't nest during planting. She believes this will cause a decrease in birds. She said Mr. Lomax reported that saplings would require maintenance or vine removal over the winter.

Scott Wahl, Business Administrator said he researched the pros and cons of spring planting vs the fall. He read a report which is attached to the minutes.

Councilwoman Hudanich, corrected a statement made at a previous Council meeting concerning a reference to Garden Club planting and said she is not an expert and planting depends on the criteria and parameters. She noted Cape May Point had bulldozers in the park while taking down vines that shows how important it is to cut down invasive vines.

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Scott Wahl said there were some differences between their situation and the Boroughs, but the fundamental issue is to cut the vines to release the trees. He noted that Cape May Point falls under the NJ Audubon Society in cooperation with a federal entity with multiple agencies.

Councilwoman Hudanich said every situation is unique and there is no cookie cutter model that works because of the sensitivity of the environment. She said the Borough is using the conversation with the experts to make decisions.

Brief discussion followed.

Robert Pelini – 6426 Greenan Drive, said he agrees with Ms. Wright and wants to stop spending money at Armacost Park and to leave the park alone

Steve Malyszak, 7218 Ocean Drive, disagrees with Ms. Wright. He commended Borough Council for their efforts. He noted an article he wrote to the editor of the Herald and commented there will also be a letter published tomorrow in the Press. He feels it is an important project and urged the Council to stay on course.

Frank McLaughlin, 261 47th Street and 7278 Ocean Drive, read from an editorial published in the press of Atlantic City. He said he has pleaded with the Borough for several years to leave the park alone and continues to feel the same.

Elaine Scattergood, 75 30th Street, agrees with Ms. Wright to leave the park alone.

Councilman McCorristin, understands the position of the public on the subject. He said this is a test project of a small area in Armacost Park and appreciates the effort.

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

<u>ROLL CALL VOTE:</u>	Council Vice President Dean	Aye
	Councilwoman Hudanich	Aye
	Councilman McCorristin	Aye
	Councilman Ellenberg	Absent
	Council President Covington	Aye

Work Session adjourned at 7:25 p.m.

Respectfully submitted,

Marie J. Hood, Borough Clerk

Charles P. Covington, Council President

REPORT ON UPDATE ON ARMACOST PARK—March 25 2015

Following a question presented at the March 11th Council meeting regarding the spring plantings at Armacost Park, I investigated the issue regarding spring vs. fall plantings and conducted some outreach.

I received a report from Joe Lomax dated March 19th regarding his thoughts. He spelled out three specific reasons why the spring plantings shall proceed as planned:

- 1) The plants that we intend to use come from the New Jersey Forest Nursery that are New Jersey native genotypes and they are only available in the spring. Mr. Lomax believes that if we attempted to over summer them it would be very difficult since facilities are not readily available, the loss of plants would be much greater, and costs would be higher. He also strongly recommends against obtaining out of state species since they may not be as well adapted to New Jersey's coastal conditions.
- 2) Joe notes that both spring and fall planting success is dependent upon soil moisture from precipitation. We know we have had a very wet winter and early spring season and soil conditions are suitable for a spring planting. He also notes that in the fall, the soil moisture and water table are both low enough to stress plants that are approaching dormancy.
- 3) Mr. Lomax notes that biological studies at Armacost Park have revealed the greatest diversity of birds occurs during the fall migrating season. He reports that an early April spring planting in this limited area of Armacost Park would create the least amount of disturbance to migrating bird populations.

Secondly, I had a conversation with Dr. David La Puma, the Director of the Cape May Bird Observatory, regarding the science behind a spring versus a fall planting. In an email dated March 17th following our conversation, Dr. La Puma referenced a conversation he had with his Stewardship Department. During that conversation, Dr. La Puma determined that a spring and fall planting both could be acceptable but qualified that by saying, quote, "spring may be preferable by allowing the tree time to establish before a potentially harsh winter" endquote. He also notes, quote, "if the work is done before May, you will be outside of the nesting season and will minimize any impact to breeding wading birds"

And speaking about the overall project at the park, Dr. La Puma wrote, quote, "the non native vines and even some native vines that are out of control have a major negative impact on the native vegetation. I think our work on Seagrove Avenue in Cape May is a great example of what can be accomplished with some dedication" end quote.

Finally, on Wednesday, March 17th I had a conversation with Paul Schroeck from Windward Consulting. He was in the middle of a forest doing some field work and promised to do his best to get a document to us by this evening's meeting with his opinion. I expressed to Mr. Schroeck the suggestion to plant in the fall instead of in the spring and he replied that he strongly supports a spring planting due to the minimal amount of disturbance to migrating birds and the wet weather conditions in our region over the past few months.