

February 13, 2019

A Regular Meeting of the Borough Council of the Borough of Avalon was held on Wednesday, February 13, 2019 at 5:56 p.m. in the Meeting Room, 3100 Dune Drive, Avalon, New Jersey.

Attendance: Public - - - - - 10

Reporters - - - - - 1

The meeting was called to order by Council Vice President Covington.

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

Also present:

Scott Wahl, Business Administrator

James Waldron, Assistant Business Administrator

Nicole Curio, Esquire, Borough Solicitor

Paul E. Short, Sr., Code Enforcement Officer

William Macomber, Director of Public Works/Utilities

Council Vice President Covington read the Open Public Meetings Act Announcement.

Notice of this Regular Meeting was included in the Annual Schedule of Meetings dated June 27, 2018. It was given to the news media and posted on the Official Bulletin Board as required by law.

Public comments regarding Resolutions:

None.

<u>Resolution No.</u>	<u>30-2019:</u>	A RESOLUTION AUTHORIZING CONTRACTS WITH CERTAIN APPROVED STATE CONTRACT VENDORS FROM JANUARY 1, 2019 THROUGH DECEMBER 31, 2019
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Motion made by Councilwoman Hudanich, seconded by Council Vice President Covington that the resolution be adopted.

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

<u>Resolution No.</u>	<u>31-2019:</u>	A RESOLUTION AUTHORIZING CHANGE ORDER NO. 1 FOR SURFSIDE PARK SITE IMPROVEMENTS, CONTRACT M-109
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Motion made by Councilman McCorristin, seconded by Councilwoman Juzaitis that the resolution be adopted.

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

Resolution No. 32-2019: A RESOLUTION DESIGNATING THE PROTECTED BATHING BEACHES FOR 2019 DESIGNATING BEACHES FOR THE USE OF RAFTS, SURFING BEACHES, PADDLEBOARD BEACH AND AREAS WHERE VOLLEYBALL WILL BE PERMITTED; AND DETERMINING THE DATES DURING WHICH LIFEGUARDS WILL BE ON DUTY

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

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

Resolution No. 33-2019: A RESOLUTION EXPRESSING SUPPORT OF THE WETLANDS INSTITUTE 7 MILE BACK BAYS LIVING LABORATORY INITIATIVE

Motion made by Council Vice President Covington, seconded by Councilman McCorristin that the resolution be adopted.

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

Resolution No. 34-2019: A RESOLUTION AUTHORIZING A MAINTENANCE SERVICES AGREEMENT WITH CM3 BUILDING SOLUTIONS FOR HEATING AND AIR CONDITIONING ANNUAL MAINTENANCE AND INSPECTION OF BOROUGH BUILDINGS FOR A ONE YEAR TERM COMMENCING JANUARY 1, 2019

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

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

Resolution No. 35-2019: A RESOLUTION ACCEPTING GRANTS FROM THE NEW JERSEY DEPARTMENT OF LAW AND PUBLIC SAFETY, DIVISION OF ALCOHOLIC BEVERAGE CONTROL FOR COPS IN SHOPS COLLEGE FALL INITIATIVE 2018-2019 IN THE AMOUNT OF TWO THOUSAND SIX HUNDRED FORTY (\$2,640.00) DOLLARS AND SUMMER SHORE INITIATIVE 2019 IN THE AMOUNT OF THREE THOUSAND FIVE HUNDRED TWENTY (\$3,520.000) DOLLARS

Motion made by Councilman McCorristin, seconded by Council Vice President Covington that the resolution be adopted.

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

Resolution No. 36-2019: A RESOLUTION DETERMINING THAT A CERTAIN YARD SALE SCHEDULED TO BE CONDUCTED UNDER THE SPONSORSHIP OF THE AVALON GARDEN CLUB ON SATURDAY, MAY 11, 2019, IS EXEMPT FROM THE PROVISIONS OF CHAPTER 10 OF THE CODE OF THE BOROUGH OF AVALON, 2013

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

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

Resolution No. 37-2019: A RESOLUTION DESIGNATING THE BOROUGH TAX COLLECTOR AS THE BOROUGH OFFICIAL TO MAKE EXAMINATIONS AS TO UNPAID MUNICIPAL LIENS IN ACCORDANCE WITH N.J.S.A. 54:5-11 AND TO CERTIFY THE RESULTS THEREOF EFFECTIVE IMMEDIATELY AND UNTIL RESCINDED OR OTHERWISE MODIFIED

Motion made by Council Vice President Covington, seconded by Councilman McCorristin that the resolution be adopted.

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

Resolution No. 38-2019: A RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES CONTRACT, NON-FAIR AND OPEN, WITH WILLIAM G. BLANEY, ESQUIRE AND MARCUS H. KARAVAN, ESQUIRE OF BLANEY & KARAVAN, P.C., ATTORNEYS AT LAW OF NEW JERSEY AS SPECIAL LITIGATION COUNSEL, SPECIAL COUNSEL FOR LABOR MATTERS AND SPECIAL CONFLICTS COUNSEL FOR A TERM OF ONE (1) YEAR COMMENCING JANUARY 1, 2019 THROUGH DECEMBER 31, 2019

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

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

Resolution No. 39-2019: A RESOLUTION AUTHORIZING THE TRANSFER OF 2018 APPROPRIATIONS

Motion made by Councilman McCorristin, seconded by Council Vice President Covington that the resolution be adopted.

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

Resolution No. 40-2019: A RESOLUTION AUTHORIZING THE BOROUGH OF AVALON TO EXECUTE A QUIT CLAIM DEED RELEASING A REVERSIONARY INTEREST WITH RESPECT TO BLOCK 16.05, LOT 16.02 (1668 OCEAN DRIVE)

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

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

Resolution No. 41-2019: A RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH TRIDENT MARINE OF LONGPORT, NJ FOR PENNSYLVANIA HARBOR DREDGING PROJECT CONTRACT NO. M-113 IN THE AMOUNT OF ONE HUNDRED SIXTY-EIGHT THOUSAND DOLLARS (\$168,000.00)

Motion made by Council Vice President Covington, seconded by Councilman McCorristin that the resolution be adopted.

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

Resolution No. 42-2019: A RESOLUTION AUTHORIZING PAYMENT OF BILLS

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

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

Ordinance:

Second reading and public hearing on Ordinance No. 781-2018:

Motion made by Councilwoman Hudanich, seconded by Council Vice President Covington that Ordinance No. 781-2018 be brought on for second reading and public hearing.

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

Ordinance No. 781-2018:

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 27
ENTITLED ZONING OF THE AVALON BOROUGH CODE TO CLARIFY
AND REAFFIRM THAT THE SALE OF MARIJUANA IS A PROHIBITED USE
WITHIN ALL ZONING DISTRICTS IN THE BOROUGH OF AVALON

James Waldron explained to Council there was a procedural matter with regards to the Ordinance. During the recess, he had an opportunity to consult with the Nicole Curio, Borough Solicitor. There is a problem with the notice with respect to the Ordinance. The Open Public Meetings Act requires two notices, the Annual Notice and the 48 Hour Notice. The 48 Hour Notice requires to the extent that it is reasonably known the Agenda must contain those items to be considered. It has been brought to the Borough's attention that the Public Notice does not reference this Ordinance. It will be necessary to re-advertise this and reschedule this hearing. Nevertheless, the thought is that since there are interested parties here tonight rather than inconvenience them, that Council could proceed with the hearing, but defer final action with the understanding that the Ordinance will be re-advertised. It will be placed on the Agenda for the February 27, 2019 Council Meeting. There will be a second Public Hearing at that time following which Council would then take formal action to either approve or disapprove the Ordinance. At this point, our recommendation is there can be no formal, final action taken on this tonight because the 48 Hour Notice has inadvertently not been complied with.

Council Vice President Covington asked how Council will benefit by continuing with the public hearing tonight.

James Waldron explained there are some individuals who traveled quite a distance to be at the meeting. They are welcome to come back to the February 27, 2019 Council Meeting. If they cannot attend the February 27, 2019 Council Meeting, but they wish to express their opinion tonight, Council will have the benefit of hearing from those individuals. It is also purely within Council's prerogative because of the violation of the 48 Hour Notice, to defer this matter entirely until February 27, 2019.

Councilwoman Hudanich thanked James Waldron for explaining the legal ramifications. The members of the public who are present would still have an opportunity to speak under public comments. Councilwoman Hudanich suggests Council hears what those individuals have to say, but it would not be in the slot of the Second Reading public input. Any of the public comment, would be their right to comment. Secondly, for clarification, Councilwoman Hudanich asked James Waldron to read an excerpt of our Ordinance even though we are not on for Second Reading.

Council Vice President Covington stated if he understands what Councilwoman Hudanich said, Council will proceed with the Second Reading and will continue to the public hearing. Council will not vote.

James Waldron explained Council will open public hearing tonight and will continue that hearing to the February 27, 2019 Council Meeting at which point it will resume and Council would be able to take final action on the Ordinance. In the interim, the Agenda will include the Ordinance and there will be a republication of a Notice of Adoption. For Council's benefit and the public (section two, subsection 27-7.1, just below caption that reads "add new section as follows") The new section is number seven, which is the prohibition in the various zoning districts, followed by an exception. It is the exception in this Ordinance and it reads as follows "this Ordinance is not intended to prohibit or otherwise restrict the dispensing of any pharmaceutical medication or other legal substance by a pharmacy or drug store under the supervision of a licensed pharmacist which medication or substance is lawful to dispense under the laws of this state or the United States when the medication or substance being dispensed has been prescribed by a licensed physician or other duly and authorized medical provider or health care practitioner further provided that any such pharmacy or drug store is a permitted use in that zone."

Council Vice President Covington opened the meeting for public hearing on Ordinance No. 781-2018 and asked if there were any questions or comments.

Mike Vintzileos, 367 Church Road in Brick, NJ spoke in opposition of the Marijuana Ordinance preventing sale use. He advocated for individuals who use marijuana to treat various medical conditions.

Jeffrey Oakes, 60 Pemberton Ave in Oceanport, NJ spoke as an advocate of marijuana use for medical reasons, he expressed his frustrations and spoke in opposition of the Ordinance.

Nicole Curio stated Council's actions in delaying the vote on this Ordinance until the February 27, 2019 meeting actually shows Council is not rushing through and they are taking the proper steps to make sure this is done properly and giving two opportunities for a public hearing.

Lefty Grimes, East Hanover, NJ spoke in opposition of the Ordinance. He expressed his frustrations with the prevention of sale to individuals seeking marijuana for medical treatment.

John Edmunds, 25 Spruce Drive of Little Egg Harbor, NJ addressed the exceptions concerning the Marijuana Ordinance. The Ordinance says marijuana may be dispensed by a state licensed pharmacy, but if you are familiar with the law of governing marijuana, they must be distinct, individual, stand-alone stores that dispense medical marijuana. They cannot be dispensed in a commercial pharmacy setting as the Ordinance states. The Borough has built in an exception that marijuana can be dispensed within Avalon, but there is a stipulation that it must be a licensed pharmacy and a licensed pharmacy by law cannot dispense medical marijuana. This is how the laws are written in almost every state in the country that have legalized marijuana. Thanked Council for their time.

Motion made by Councilwoman Hudanich, seconded by Council Vice President Covington that the public hearing be recessed until a later date.

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

Reports of Officials:

None.

Public Comments:

Mike Vintzileos, 367 Church Road in Brick, NJ continued to speak in opposition of the Ordinance preventing marijuana sale and use. Mike stated he and Jeff Oakes travel around the state of New Jersey to try and create awareness. He expressed his frustration and continued to advocate for individuals who need it for medical reasons.

Lefty Grimes, East Hanover, NJ spoke in opposition of the Marijuana Ordinance and he continued to advocate for patient rights. Lefty supports the medical marijuana business and believes it will help to create jobs and stimulate the economy.

Jeffrey Oakes, 60 Pemberton Ave in Oceanport, NJ spoke as an advocate of Marijuana use for medical reasons, he expressed his frustrations and spoke in opposition of the Ordinance.


John Edmunds, 25 Spruce Drive of Little Egg Harbor, NJ spoke in opposition of the Ordinance prohibiting marijuana sale and use and supports the use of medical marijuana as alternative therapy.

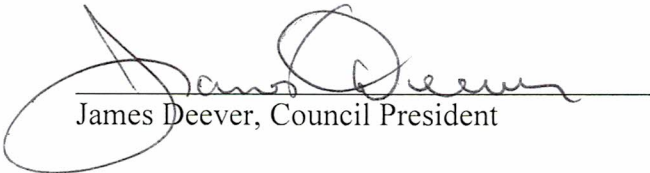
Motion made by Councilman McCorristin, seconded by Council Vice President Covington to adjourn the Regular Meeting.

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

Regular Meeting adjourned at 6:36 p.m.

Respectfully submitted,


C. Danielle Nollett, Borough Clerk


James Deever, Council President