

A Work Session of the Borough Council of the Borough of Avalon was held on Wednesday, April 28, 2021 at 4:00 p.m. in the Meeting Room, 3100 Dune Drive, Avalon, New Jersey.

Attendance: Public ----- 4

Reporters ----- 1

The meeting was called to order by Council President McCorristin.

<u>Roll call:</u>	Council President McCorristin	Present
	Councilman Deeever	Present
	Councilwoman Hudanich	Present
	Councilwoman Juzaitis	Present
	Councilman Wierman	Present

Also present:

Scott Wahl, Business Administrator
James Waldron, Assistant Business Administrator
Nicole Curio, Esquire, Borough Solicitor, Gruccio, Pepper, De Santo & Ruth P.A.
William McCormick, Director of Public Works/Utilities
Jeffrey R. Christopher, Chief of Police
Thomas R. Thornton, P.E., Borough Engineer, Mott MacDonald
Paul Short, Code Enforcement Officer
Patrick Madden, Esquire, Madden & Madden Law Firm

Council President McCorristin read the Open Public Meetings Act Announcement.

Notice of this Regular Meeting was included the annual Schedule of Meetings dated June 24, 2020. It was given to the news media and posted on the Official Bulletin Board as required by law.

Discussion regarding Resolution for Indemnification Agreement in connection with 2021 Beach Backpassing

Scott Wahl read the following report:

Summary: Council is asked to formally approve an indemnification agreement for the County of Cape May relating to various issues involving a little-known County permit for oversized/overweight equipment crossing County bridges. This agreement would follow the insurance provided by the carriers of the equipment relating to the back passing equipment. Due to the emergent condition on the beach and valuable time needed to repair it, the Mayor authorized this agreement on April 21, 2021 and we are asking Council to approve this during the regular meeting that follows the work session.

Brief History: Recognizing that the County was nearing the end of major repairs to the Ingram's Thorofare Bridge, the Borough Administrator and Public Works Director had two separate discussions with the County Engineer regarding the transport of this equipment as a courtesy to the County. The engineer noted that the third week of April was a good time to schedule the arrival of the equipment from our two vendors, who use separate and multiple transport companies. The Borough was asked to just provide the County notice and the contractor would move the orange barrels.

Development: On Thursday, April 15th, during a courtesy call to the engineer regarding the transport of the equipment, the Borough was first made aware of a County Permit that is needed to bring oversized/overweight loads into the Borough. A county resolution adopted in 2018 requires a \$3 million insurance policy, and an engineer's certification of all loads. This was the first time the Borough was ever made aware of this permit requirement; in fact, the Borough has previously brought heavy loads into town similar or greater than these with no need for a permit, including a backpassing project two years ago. The Borough Administrator contacted other administrators in the County; no one was aware of this permit requirement. One carrier told the Borough that a \$3 million policy is only needed to transport nuclear equipment; we are unaware if that's factual. The Borough contacted our special counsel who agrees with the Assistant Business Administrator that the permit or resolution have any legal justification.

Result: Through repeated phone calls, the Borough was able to work with the Atlantic County Municipal Joint Insurance Fund for the JIF to provide the extra coverage above and beyond the \$1 million or \$2 million coverage already secured by the carriers. In the event of some catastrophic incident, the Borough's additional coverage would only be effective after the contractor's coverage has been exhausted. And, the Borough was able to convince the County that the engineer's certification will be made as soon as, and as practical, as possible. Verbal authorization to bring the equipment into Avalon was offered the day the County received the signed indemnification.

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

Discussion regarding Resolution appointing Class II Special Officer

Chief Christopher reported the Avalon Police Department has completed the necessary employment procedures for an additional Class I and Class II Special Officer. It is being requested that these Officers be added to the Resolution appointing Special Officers scheduled for consideration today.

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

Discussion regarding Morey v. Borough of Avalon

Scott Wahl introduced Patrick Madden to Council and the public. Mr. Madden is representing the Borough of Avalon in litigation filed by a Public Works employee, Nathan Morey, as appointed by the Borough's insurance carrier.

Patrick Madden made the following statement:

The statement being issued is for Council's proposed approval of the settlement agreement, which brings an end to the litigation filed by the Department of Public Works employee Nathan Morey. The settlement was agreed to following a mediation conducted by retired Superior Court Judge Michael Donio. The proposed settlement does not include any admission of liability and is being paid solely by the Borough of Avalon's insurance carrier. Public money is not being used to fund the settlement in any way. The Borough maintained throughout that it maintains strong and effective anti-harassment policies and mechanisms including a policy for the submission of employee complaints and the investigation complaints. The Borough is also confident that the successful reorganization of the Department of Public Works by the Mayor as affirmed by Council will ensure that the Borough continues to maintain its vigorous policies prohibiting unlawful discrimination and harassment in any form. The Borough commends Mr. Morey for bringing his complaints to the attention of the Administration and is also pleased this Resolution provides for Mr. Morey's continued employment with the Borough. Given any further discussion this matter could implicate personnel matters, this will be the Borough's only statement on the conclusion of this Resolution.

Scott Wahl gave the following report:

In addition to those comments, I wish to note the following: The Borough appreciates Mr. Morey bringing this matter to the Borough's attention. As you know, the Borough has less than zero tolerance for any form of improper workplace behavior that violates anyone's rights and expectations to a professional working environment. As Personnel Officer and Business Administrator, I have vigorously enforced the policies enacted by Mayor and Council in numerous ways including training, seminars, and actions to acquaint our employees as to what is expected and required in the Borough's workplace. Discipline has been imposed and will continue to be imposed whenever appropriate. In doing so, I have continued a longstanding policy practiced on a daily basis that was set by the Mayor and this governing body. The Mediator this case, retired Superior Court Judge Michael Donio, stated throughout the mandated mediation that the Borough's investigation into this complaint was extremely thorough, timely, and well done. Despite repetitive training, instruction, and guidance, and a personnel policy manual for which every employee is provided and obligated to read, at times some choose to bring personal differences into the workplace leaving us to sort it all out. The Borough had investigated the actions of the offending party, punished the offending party, and had its determination of a major discipline against the offending party upheld by an independent hearing officer before the complaint by Mr. Morey was even filed with the Borough. And when there is proven betrayal or ignorance of the policies for which an employee is not asked, but obligated to follow, exhaustive corrective action is taken -as it was in this case. Mr. Morey is still an employee of the Borough. The offending party has been terminated by the Borough.

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

Discussion regarding Resolutions authorizing removal of certain deed restrictions, including two-story height restrictions, previously imposed upon the following properties:

- 75 E 10th Street, Block 9.01, Lot 15
- 99 East 27th Street, Block 26.01, Lots 13.01-13.03 & 15.01-15.03

James Waldron explained these properties are covered under the procedures set forth by Ordinance No. 809-2020. It is recommended Council consider adopting this Resolution at today's Regular Meeting.

Council agreed to proceed with respective Resolutions to be considered at today's Regular Meeting.

Discussion regarding Mott MacDonald's proposal for professional engineering services in connection with Reconstruction of Various Streets

Thomas Thornton stated this project consists of reconstructing the entire length of 50th Street, 53rd Street, and 54th Street between Dune Drive and Ocean Drive. Due to high groundwater conditions within the project limits of these streets, underdrain systems will be installed to mitigate standing water on the streets. Gutters will also be installed along this stretch of roadway at proposed grades to ensure a slope adequate to convey the runoff along the gutter line. Utility work on these roadways will be conducted in September of 2021. Roadway reconstruction will occur during the Spring of 2022 and will be completed in advance of Memorial Day weekend 2022.

Council agreed to proceed with a Resolution to be prepared for the May 12, 2021 Regular Meeting.

Discussion regarding Mott MacDonald's proposal for additional engineering services in connection with Fire Station Additions and Renovations Project.

Thomas Thornton explained a second proposal has been provided to Borough Council concerning this project. Council's original authorization to Mott MacDonald concerning this project authorized some engineering and utility services associated with the addition at the firehouse being overseen by Garrison Architects. Recently, other needs have arisen in connection with the development of the project, which are detailed in the recent proposal, and split among four tasks. Task 1 is for some additional geotechnical engineering services requested by Garrison concerning the foundation of the elevator pit. Due to certain conditions, there would be an inability to drive timber piles, as originally planned. Mott MacDonald was asked to evaluate the feasibility of helical piles at that location and later to provide analysis of the helical piles system to be used as an alternative bid item for the project. Task 2 covers additional site engineering services including the landscape design for some beds that require bed design, plant identification and irrigation system design. Additionally, Mott MacDonald will be preparing exhibits of the site plan and presenting those documents at an upcoming Planning/Zoning Board Meeting for a courtesy review of the project. Garrison has also requested weekly coordination meetings, which was not originally included in this project scope; however, those meetings have proved helpful in facilitating the work associated with this project. This task further includes the development of a probable cost and bond of completion of design, which is needed by the architect. The final item under Task 2 is adapting the technical specifications to the format requested by the architect to provide consistency and uniformity in construction documents. Task 3 provides a Soil Erosion and Sediment Control Plan Certification, which is required due to the disturbance exceeding 5,000 square feet. Task 4 covers bid phase support services. The architect, Garrison, is putting this out to bid; however, considering Mott MacDonald is preparing a portion of the work-related site plan, the bid phase support services would include addressing requests for clarification, attending a pre-bid meeting, and providing necessary addendums or clarifications during that period.

Council President McCorristin asked if the "as-built" survey will be provided upon completion of the project.

Thomas Thornton replied yes. It will be a standard rule, which will be required in the specifications.

Councilwoman Hudanich asked if there is a specific timeline that Garrison Architects is required to deliver the warranties and certifications of the boilers, HVAC systems, and other related items.

Thomas Thornton responded yes, and noted he will confirm Garrison Architects is aware of the timeline and fully complies.

Councilwoman Hudanich advocated the completion dates need to coincide with the warranties.

Council agreed to proceed with a Resolution to be prepared for the May 12, 2021 Regular Meeting.

Discussion regarding award of contract for Princeton Harbor Emergency Dredging Project, Contract No. M-122.

Scott Wahl reported Council has received a bid tabulation sheet, a report from Mott MacDonald, a Certification of Funds from CFO James Craft, and a legal opinion from Alan Gould regarding bids received for Princeton Harbor Emergency Dredging. The low bid for this Emergency Contract was 27% below the Engineer's estimate. The low bidder, Scarborough Marine Group, has done work in the Borough, but has not been hired by the Borough of Avalon in the past. A few years ago, this contractor employed some interesting and innovative methods in order to clean out dredged material and to move the material to a proper location in a nearby municipality. An overview of that operation found the operation to be efficient, with the contractor's attention to detail apparent.

Thomas Thornton agreed Scarborough's work is impressive. Scarborough is prepared to begin immediately and will make every effort expedite this project. If Council approves this award of contract today, the project will be completed in May of 2021.

Scott Wahl thanked Councilman Deever for bringing the shoaling issue in Princeton Harbor to the Borough's attention.

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

Discussion regarding Resolution approving a membership in the New Jersey State Firemen's Relief Association on behalf of Joseph Ferguson.

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

Public Comments:

Martha Wright, 632 7th Street, asked Council President McCorristin to provide an update on virtual access to Council meetings.

Council President McCorristin explained a report and quote concerning a livestreaming service was provided to Council April 27, 2021. The Chief Financial Officer must review the proposal and determine if funds are available for this service. There are intentions for Council to discuss this matter further and potentially vote on an award of contract in the near future.

John Kauterman, 2809 Dune Drive, spoke about issues with the Avalon Sport Fishing Center and asked for the original rules imposed by Council to be reenacted. He asked Council to investigate the owner of the boat located in Slip 2, and accused the Borough of Avalon of not enforcing the Sport Fishing Center rules and regulations in regards to Slip 6. He informed Council that the individual leasing Slip 6 has purchased a new boat, which is not the boat approved by the Borough to inhabit the slip. He expressed the opinion that slips are not assigned according to the rules, and that all boat slips at the Sport Fishing Center should be available to those who provide a service to the community, such as fisherman. He also voiced concerns about the hiring of the Avalon Beach Patrol Captain, noting he has submitted OPRA Requests, for which the Borough provided response; however, he accused a lack of transparency and inquired as to where and how the Borough of Avalon posted the job opening to the public.

James Waldron stated no boat slips at the Sport Fishing Center are given away and explained there are two slips at the Sport Fishing Center which are included with the lease of the on-site restaurant, Slip 2 being one of them; therefore, the Borough has no control over the use of Slip 2. In the case of Slip 6, this is a case where Mr. Miller, his wife and children were participants in the use of the slip and the boat. Upon Mr. Miller's death, Mrs. Miller took over the slip. The non-assignment clause was interpreted not to include these particular circumstances. If the Council feels this interpretation is incorrect, that is something Council is welcome to re-visit.

John Kauterman, 2809 Dune Drive, stressed the importance of the Borough abiding by all rules and regulations imposed by Council.

Council President McCorristin responded Council now has the opportunity to request further information and will take this issue under advisement.

John Kauterman, 2809 Dune Drive, asked if Jim Moran has two slips at the Avalon Sports Fishing Center.

James Waldron noted this topic has been the subject of multiple OPRA Requests to which all documents have been supplied. He informed Council there is an outstanding letter to a colleague of Mr. Kauterman's from Archer & Greiner, and advised that it may not be prudent to discuss this matter further.

Council President McCorristin thanked John Kauterman for his time.

Council to check over the agenda for the Regular Meeting.

Council proceeded to check over the agenda for the Regular Meeting.

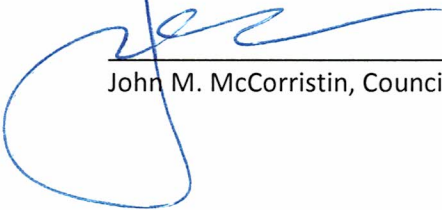
Motion made by Councilwoman Juzaitis, seconded by Councilman Wierman to adjourn the Work Session.

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

Work Session adjourned at 4:34 p.m.

Respectfully submitted,


C. Danielle Nollett, Borough Clerk


John M. McCorristin, Council President