

September 8, 2021

A Work Session of the Borough Council of the Borough of Avalon was held on Wednesday, September 8, 2021 at 4:00 p.m. in the Meeting Room, 3100 Dune Drive, Avalon, New Jersey.

Attendance: Public ----- 2

Reporters ----- 1

The Meeting was called to order by Council President Juzaitis.

Pledge of allegiance.

<u>Roll call:</u>	Council President Juzaitis	Present
	Councilwoman Coskey	Present
	Councilman McCorristin	Present
	Councilman McDermott	Present
	Councilman Wierman	Present

Also present:

Scott Wahl, Business Administrator  
James Waldron, Assistant Business Administrator  
Nicole Curio, Esquire, Borough Solicitor  
James Craft, Chief Financial Officer  
William McCormick, Director of Public Works/Utilities  
Jeffrey R. Christopher, Police Chief  
Thomas R. Thornton, P.E., Borough Engineer, Mott MacDonald  
Michael Garcia, Auditor, Ford, Scott & Associates,

Council President Juzaitis read the Open Public Meetings Act Announcement.

Notice of this Regular Meeting was included the annual Schedule of Meetings dated June 23, 2021. It was given to the news media and posted on the Official Bulletin Board as required by law.

**Discussion regarding Resolution appointing Deputy Municipal Clerk.**

Scott Wahl provided an overview of the hiring process undertaken during the search for the next Deputy Municipal Clerk, which included two rounds of interviews involving the Municipal Clerk, Council President Juzaitis, and Council Vice President Wierman. At the conclusion of the interview process, all interviewers unanimously named Melissa Bakley as the top choice for the position. He briefly overviewed Melissa's qualifications and experience, noting Melissa has accepted the employment offer to fulfill the position of Deputy Municipal Clerk and currently has a projected start date of September 20, 2021, provided Council agrees with the appointment.

Melissa Bakley introduced herself to Council and expressed excitement at the prospect of working for the Borough of Avalon.

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

**Discussion regarding Resolution concerning the 2020 Audit.**

Michael Garcia overviewed the procedures undertaken when performing the annual audit, which is done in two phases. One of the phases is reviewing the financial statement numbers and determining accuracy, as well as reviewing the procedures and practices the Borough has in place. There are many state and federal rules on how New Jersey municipalities are required to maintain their records. If, during the audit, an area or error or exception is identified, it must be written into a finding and recommendation report and provided to the governing body with a recommendation for corrective action. He happily reported no findings or recommendations in this audit, and commended Chief Financial Officer James Craft and his staff for working hard to produce a clean audit every year. Each year, the audit is started by reading through the minutes of all governing body meetings to determine the authorizations given for transactions. The budget is reviewed to ensure the Chief Financial Officer implements the budget into the accounting system in the exact amounts as adopted and approved by the governing body. The auditors review and determine that the Finance Office maintains all cash in the correct amounts and that it's accounted for and reconciled to the penny each and every month. Much of the audit field work is spent ensuring the property taxes are properly billed, collected, and posted to the

Michael Garcia (continued) correct taxpayer accounts. Other revenue streams reviewed include beach tags, the Municipal Court, Construction Code, and other miscellaneous revenues to determine they are being properly charged, collected, and recorded in the accounting system. To audit expenditures, much of the audit time is spent reviewing when bills are paid, and the expenditure was for a properly authorized purchase with proper invoices matching the amount paid. If the purchase exceeds the bid threshold, auditors determine bids were properly solicited when required. Additionally, the Borough maintains various equipment, for which there is a certain level of recordkeeping required to track all of that equipment. On a sample basis, auditors review the recordkeeping to ensure all equipment is properly accounted for and in place for use. To audit the payroll expenditures, auditors sample employees to determine their salaries are paid properly, the proper withholdings are made from their salaries for taxes, insurances, and other withholdings, and that those withholdings are properly remitted to the appropriate agencies. Additionally, Borough of Avalon employees are required to contribute a portion of the expense of their health benefits. Auditors review and determine those calculations are properly made and those withholdings are transferred to the Borough's current fund. The revenues and expenditures are also reviewed in a similar manner for the water and sewer fund. During the budget presentation earlier this year, a primary topic of conversation was the financial status of the Borough. As a reminder, the Borough currently has strong surplus condition. Surplus was increased to end the year with \$8,127,000.00 in surplus. The ability to maintain that surplus condition is attributed predominately to strong tax collection. The Borough historically collects over 99 percent of current taxes, which is the primary contributing factor to the high surplus condition. The general debt of the Borough decreased by approximately \$3 million last year. As Council is aware, the annual budget makes a concerted effort to pay down debt in each and every year's municipal budget. All of this was done while maintaining no increase in the local purpose tax rate. In sum, the Borough has decreased debt, slightly increased surplus without increasing the local purpose tax rate, and there are no findings and recommendations in this audit.

After brief discussion, Council agreed to proceed with a Resolution to be prepared for the September 22, 2021 Regular Meeting.

**Discussion regarding Resolution authorizing release of deed restrictions previously imposed upon the property known as Block 34.04, Lot 49.221, 221 35<sup>th</sup> Street.**

James Waldron explained the deed restrictions imposed upon this property 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 President Juzaitis indicated this process will be ongoing as properties with these deed restrictions are identified.

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

**Discussion regarding enclosed attached garages and the method of calculation of Floor Area Ratio (FAR) pertaining thereto.**

James Waldron explained the Borough has encountered an ongoing problem throughout with respect to garages, whether or not they are enclosed and whether or not they are built below the design flood elevation standard. This issue has been involved in some litigation, as well as some prosecutions in the Municipal Court. Those prosecutions have, for the moment, been placed on hold pending a determination of whether Council and the Planning Board are desirous to revisit this calculation and evaluate if there is a legislative solution to the problem. Currently, if a garage is not enclosed, it does not count toward the FAR, whereas if the garage is enclosed, it counts toward the FAR. A working group was formed consisting of Ed Dean, Amanda Seltzer, the Solicitor and Engineer for the Avalon Planning/Zoning Board, Scott Wahl and Councilman McCorristin to evaluate potential solutions to this problem. After a great deal of deliberation, the committee is recommending to you that the garages be removed from the FAR calculation. This would permit all garages to be enclosed with the proviso that they can only be used for parking and storage, and they must not be converted to livable space. If they are below flood elevation, they must remain unfinished. The only exception would be for a FEMA regulation, which permits the entryway, up to a maximum of 20 lineal feet, to be finished. There are approximately 20 properties that may convert to an enclosed garage that were unable to be enclosed under the current Ordinance. If those garages are to be enclosed, or if they are below flood, there are two requirements for the property owner. At the time of applying for a building permit to enclose the garage, a deed restriction must be executed. The deed restriction would be recorded and subject to review and approval of the Borough Solicitor. In addition, a non-conversion agreement would be

James Waldron (continued) required, which has been tailored to serve the specific needs of Avalon. Currently, all zoning permits are subject to post-construction inspections. Unfortunately, there are far too many circumstances where individuals obtain a Certificate of Occupancy and then make illegal modifications to the property. To preclude that from taking place, it is proposed that any time the property is inspected, whether it be for sale, transfer, or annual rental inspection, the inspector for that property would be provided with documentation detailing all livable specifications of the dwelling. If, in fact, it is discovered on those inspections illegal modifications have been made, sales and transfers would be prevented until the violation is corrected. Upon correction, the dwelling would be reinspected and the new owner would be required to maintain the correction, and sign a new deed restriction and non-conversion agreement. The non-conversion agreement would have built-in significant penalties, almost to the nature of liquidated damages in the event a property owner would be in willful violation. If Council is interested in amending the Ordinance with these provisions, the non-conversion document will then be presented to Council for approval of the document itself and all provisions therein. The proposed Ordinance amendment has been provided to Council for review in advance of this discussion. The Ordinance amends Chapters 26 and 27 as it pertains to the FAR. In Chapter 27, the definition of FAR is expanded to provide specifically what is included and what is excluded. It is recommended to add a new section to both chapters which would indicate that existing garages could be enclosed, and those garages previously excluded from that allowance must remain unfinished with very limited exception for the entryway of up to 20 lineal feet and also conditionally upon the execution of a deed restriction and non-conversion agreement. In the proposed Ordinance amendment, all new construction with proposed enclosed garages will be provided with appropriate documentation and regulations concerning those enclosed garages at the time an application for a building permit is filed. The non-conversion agreement and deed restriction will be provided during the processing stage if the proposed garages are to remain enclosed. The remaining proposed amendments address violations, as well as the property owner's responsibilities for correcting any detected violations. A limited time to correct the violation will be given. If that timeline is not followed, penalties will be assessed first on a weekly basis and potentially graduating to a daily basis.

Councilman Wierman expressed his full support for this Ordinance amendment, while stressing how seriously FEMA takes these requirements. He indicated the Borough could be disqualified from the flood program if these requirements are not properly enforced; therefore, property owners shunning construction and zoning regulations are putting the town and other homeowners at risk, as flood insurance premium discounts would no longer be available.

James Waldron added the Borough of Avalon is currently a Class 3 community under the Community Rating System, with the goal to become a class 2 community. Part of the process to assign classes to municipalities entails FEMA evaluating the enforcement and penalties with respect to properties in violation, and how efficient those processes are. If an affirmative program to identify and address violations is in place, those procedures will be looked upon favorably by FEMA in the Borough's effort to become a class 2 community. Additionally, the properties with converted garage spaces in violation of FEMA requirements can jeopardize the current class 3 rating, which has a Borough-wide effect. If the rating is lost, flood insurance premiums would increase for all property owners.

Council President Juzaitis voiced her support of this initiative and thanked all for their due diligence in compiling these amendments. She added these amendments address a public safety issue and could potentially prevent future catastrophes.

Councilman McCorristin also noted these proposed amendments will improve the aesthetic of the town, as well as the safety for all residents, while speaking in support of these amendments.

Councilman Wierman mentioned better documentation will also provide a clearer picture of when changes to a property are made.

Councilwoman Coskey requested clarification as to the definition of unfinished garage spaces, noting many property owners have bars or play areas within their unfinished garages.

James Waldron indicated FEMA prohibits any use of enclosed garages below flood elevation beyond storage or parking, and requires that the garages, save for the entryway exemption previously discussed, remain unfinished.

Nicole Curio further clarified the statutes use the term "occupancy"; therefore, any space that could be occupied would be prohibited in these garages.

Councilman McCorristin noted these proposed amendments will not affect the construction codes, flood vent requirements, and electrical requirements for garages.

After a brief discussion, Council agreed to proceed with an Ordinance to be prepared for the September 22, 2021 Regular Meeting.

**Discussion regarding Mott MacDonald's proposal in connection with Fire House Addition Construction Phase Engineering Services.**

Thomas Thornton noted as Council is aware, the award of the construction contract to Arthur J. Ogren, Inc. for the abovementioned project has been scheduled for Council's consideration at today's Regular Meeting. Garrison Architects has scheduled the first construction meeting for September 21, 2021. Mott MacDonald has submitted the proposal to provide construction phase engineering services throughout the project. Mott MacDonald is responsible for the site design and the utilities, including water main relocation, sanitary sewer, gravity main relocation, and casing underneath the new addition, the rerouting of the sanitary sewer force main, stormwater improvements, landscaping, and other similar tasks. In addition, Mott MacDonald's geotechnical group was responsible for preparing the specifications and details for the helical piles the Borough elected to require for use in this project. The use of helical piles would reduce the vibration, which would potentially impact the existing structure and reduce the noise and impact for the community. The proposal has been divided into two categories. The first category, construction administration, covers project management, which is responsible for coordinating the review of shop drawings, clarification and responses to the contractor, payment applications, and meeting attendance in addition to the geotechnical work related to the helical piles. The second category would be for the physical presence of an inspector on the job. One inspector would be allocated for the site and utility improvements, and another inspector would inspect the helical pile installation. Both of those inspectors would be a full-time presence on the job to ensure everything is done properly. The fees associated with the second category were based on an estimated total number of hours for the inspectors.

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

**Discussion regarding Mott MacDonald's proposal in connection with Back Bay Hydrographic Survey, Mapping, Analysis, and NJDEP Joint Permit Processing Meeting.**

Thomas Thornton reported this proposal was submitted as a follow-up to the discussion of Council at the August 25, 2021 concerning a potential Borough-wide dredging permit, which would include the innovation of bringing the private boat slips throughout the Borough into the Borough's permit to allow private slip owners to utilize the Borough's permit, regardless if there is an ongoing dredging project nearby their slips, as has been done in the past. This proposal contains three tasks. The first task is the performance of a hydrographic survey for the navigable back bay channels in Avalon, similar to what was done in 2014. The second task would take the survey data and prepare the documents necessary to potentially calculate the volumes in each channel, as well as superimposing that data into two formats; one large format, one sheet view, which would provide an overview of the Borough as a whole, and approximately 16 sheets of each of the individual reaches to provide a closer level view to determine problem areas. Also included in that task would be the calculation of volumes to determine what volumes would be eligible to be dredged from each of the reaches. The third task is to prepare for and attend a joint permit processing meeting with the various agencies, including the Department of Environmental Protection (DEP), the US Army Corp of Engineers, Fish and Wildlife, and National Marine Fisheries. That meeting would allow Mott MacDonald to present the Borough's objectives, get feedback, and ask questions concerning this initiative to begin the permitting process and move into the next phase of the program.

Council President Juzaitis inquired if this will be an ongoing process that may continue to change.

Thomas Thornton responded yes and explained it is expected that some immediate or upcoming problems may be identified within the reaches. Once the feedback from the agencies is received, a timeline can be established as to when to move on to the next phase, proceed with sampling, and the area the Borough wishes to sample.

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



**Discussion regarding Resolution approving flood insurance promotion activity with the Atlantic-Cape Multi-Jurisdictional Program for Public Information.**

Scott Wahl explained the Borough of Avalon is one of the initial members of the New Jersey Coastal Coalition. This public information program is a mechanism for all members of the Coalition to exchange ideas on flood resiliency, how to communicate with the public and other related initiatives. Through this program, Avalon has shared its ideas with neighboring communities, including the recent August 21, 2021 meeting with the public concerning flood insurance and the Flood Risk Map. There are ideas that have been accepted and used during discussions about the Flood Mitigation Program as well. One idea is to create benchmark signs showing the water levels during significant storm and flooding events to provide residents and visitors with a visual aid to promote awareness of flood advisories. Through the sharing of information, the entire Southern Jersey Shore region becomes more resilient. A formal Resolution of the governing body is required to participate in this program each year.

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

**Discussion regarding bids received for the project known as Contract No. 58, Ocean Drive Water and Sewer System Improvements, 62<sup>nd</sup> Street to 80<sup>th</sup> Street.**

Thomas Thornton reported on August 27, 2021, five bids were received for the aforementioned project to replace water and sewer mains along Ocean Drive in advance of the County's paving project in the same area. The bids received were very competitive, with the low bid being submitted by Lafayette Utility Construction Company, who has completed work for Avalon in the past. This bid was approximately six percent above the engineer's estimate of approximately \$3 million. It is recommended to award this contract to Lafayette Utility Construction Company, who has indicated their willingness to start working on this project as soon as possible. The report on bids provided to Borough Council also includes Mott MacDonald's proposal to provide construction engineering services for this project, which is expected to conclude in May of 2022.

Scott Wahl added this contractor is very familiar with Avalon's water and sewer system, and recommended Council consider making the award for this contract today to stay ahead of the County's repaving and drainage improvement project on Ocean Drive.

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

**Public Comments**

None.

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

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

Motion made by Councilman McDermott, seconded by Councilwoman Coskey to adjourn the Work Session.

**ROLL CALL VOTE:**

Councilwoman Coskey	Aye
Councilman McCorristin	Aye
Councilman McDermott	Aye
Councilman Wierman	Aye
Council President Juzaitis	Aye

Work Session adjourned at 4:39 p.m.

Respectfully submitted,

  
C. Danielle Nollett, Borough Clerk

  
Barbara L. Juzaitis, Council President