

A Work Session of the Borough Council of the Borough of Avalon was held on Wednesday, February 9, 2022 at 4:00 p.m. in the Meeting Room, 3100 Dune Drive, Avalon, New Jersey.

Attendance: Public ----- 3                      Reporters ----- 0

The meeting was called to order by Council President Juzaitis.

<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  
Jeffrey R. Christopher, Police Chief  
William McCormick, Director of Public Works/Utilities  
Thomas R. Thornton, P.E., Borough Engineer, Mott MacDonald  
Paul Short, Code Enforcement Officer  
Matt Wolf, Beach Patrol Chief

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.

Council President Juzaitis read the following statement:

“For the convenience of the public, the Borough is offering, on a trial period, the option of public comment via remote access as described herein. Public who participates remotely will be muted during the Council Meeting except at the public comment portion of the meeting. Any person attempting to disrupt the remote broadcast of a meeting may be denied access at the discretion of the person administering the meeting. Public is reminded of a five-minute limit per comment. In the event remote access is unavailable due to a technology malfunction, or other reason beyond the Borough’s control, the Borough will not pause or stop the live meeting. Borough Council Meetings are held in person with no capacity limits on attendance at a meeting. The best way to ensure an individual’s ability to publicly comment is to attend in person so that comments may be made in the event of a technology malfunction. The Borough reserves the right to discontinue offering public comment via remote access at its discretion for any future meeting.”

Council President Juzaitis read the following statement:

“Council appreciates all citizen comment on municipal matters. At the last Council meeting, while providing no specifics, two members of the public were interested to see if any conversation involving the Sport Fishing Center would be on today's agenda. It is not, as dictated by Borough Ordinance 9-5.11. That ordinance clearly puts the management of the Center in the purview of the Mayor, and not Borough Council. Council's only involvement is to approve the rules and regulations that govern the facility. The Mayor from time to time initiates regular reviews of Borough policies, practices, and facilities and previously required a review of our marina facilities. That has led to the upcoming major renovations at Bay Park Marina. The Sport Fishing Center is also being reviewed for compliance with state statutes, requirements of the Joint Insurance Fund, market competitiveness and other factors. Once that review is complete, it comes to Borough Council for a review and potential ordinance amendments. If anyone from the public has a suggestion, please offer it in writing and it will be considered during the review process. Thank you.”

**Discussion regarding Resolution establishing protected beaches for the 2022 season.**

Matt Wolf explained a few adjustments are being recommended to the schedule of protected beaches for the 2022 season, starting with the recommendation that all beaches where lifeguard stands will be manned during times of full staffing be included for better public information. A recommendation is also being made to expand the surfing beaches, which was done during the 2021 season with great success.

Councilman Wierman spoke in support of the changes, and advocated the importance of spreading out many of the surfing beaches for varied skill levels.

Matt Wolf noted easily accessible surfing lessons have attributed to the growing interest in the sport, while noting many members of the public have also requested additional beaches for stand-up paddle boards. Council is being asked to consider the addition of these beaches; however, paddleboarders will be required to stay within a designated area to be used under lifeguard protection.

Scott Wahl mentioned staffing increases will be necessary to realize these recommended changes. Budget meetings have revealed funding will be in place in the 2022 budget to allow for these staffing increases.

Councilman McCorristin thanked Chief Wolf for working to expand activities permitted on the beaches during the summer season.

Council President Juzaitis voiced her support for these updates to the protected beaches and thanked Chief Wolf for a job well done.

Council agreed to proceed with a Resolution to be prepared for the February 23, 2022 Regular Meeting.

**Discussion regarding Resolution for the annual Avalon Garden Club Yard Sale to be held on May 7, 2022.**

Council agreed to proceed with a Resolution to be prepared for the February 23, 2022 Regular Meeting.

**Discussion regarding Resolution authorizing issuance of an On Premise Merchandise Raffle License to the Avalon Garden Club on June 11, 2022.**

Scott Wahl reported the Garden Club is applying for these raffle licenses through a fundraising effort to continue contributing toward the beautification of Avalon.

Council agreed to proceed with a Resolution to be prepared for the February 23, 2022 Regular Meeting.

**Discussion regarding Resolution establishing Change Funds for Various Summer Functions.**

Scott Wahl indicated all is in order for this annual action in advance of the summer season.

Councilwoman Coskey inquired about electronic payments for beach tags.

Scott Wahl explained beach tags can be purchased through the Viply app, which allows electronic payments, as well as ordering beach tags online through the Jersey Cape Diagnostic Training Center to have beach tags shipped directly to the purchaser.

After a brief discussion, Council agreed to proceed with a Resolution to be prepared for the February 23, 2022 Regular Meeting.

**Discussion regarding Resolution authorizing the purchase of a Vacuum Sewer Cleaner through Sourcewell Contract.**

William McCormick reported the current equipment being used by the Borough and the water company is in dire need of repairs and/or replacement. The contractor for this equipment is offering a fair trade in value to the Borough for the current equipment, and has the necessary equipment available for purchase with no wait time. A demonstration was recently given to the Borough and the water company, with all parties agreeing the new equipment will meet the Borough's needs.

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

**Discussion regarding Mott MacDonald's proposal for Reconstruction of Various Streets – 2022.**

Thomas Thornton indicated this project is part of the final year of the five-year road program previously developed by the Borough, which includes Fourth Avenue between 39<sup>th</sup> and 42<sup>nd</sup> Streets, the beach blocks of 37<sup>th</sup> Street and 59<sup>th</sup> Street, and the southbound lanes of Dune Drive, for which DOT grant funding was received. All street reconstructions, excluding Dune Drive, include water and sewer being replaced. Mott MacDonald's scope of work for this project includes surveying, base map preparation, utility design and design of roadway reconstruction.

Council agreed to proceed with a Resolution to be prepared for the February 23, 2022 Regular Meeting.

**Discussion regarding Mott MacDonald's proposal for 23<sup>rd</sup> Street Pier Replacement.**

Scott Wahl stated while this pier was targeted as one in need of replacement, this project was brought to the Borough's attention in August by nearby property owners requesting various upgrades. Since August, numerous discussions have taken place regarding this pier to determine what this project would entail. The project being proposed today will meet all of the Borough's needs; however, it will require permitting from the New Jersey Department of Environmental Protection (DEP). Due to slow processing times, this project cannot be completed in advance of Memorial Day 2022. As part of the budgeting process, William McCormick was asked if the Department of Public Works could complete the work in early 2023, with Mr. McCormick responding yes. This will significantly reduce the costs and avoid the bidding process.

Thomas Thornton explained the current elevation of the bulkhead and pier at this location is inadequate in keeping tidewater from entering the street and/or intersection during certain high tide events. Council previously authorized a higher bulkhead. This project would raise the pier to the same level as the bulkhead, as well as construct a timber ramp to provide ADA compliant access, as the bulkhead and pier will be raised approximately three feet. In addition to raising the deck to a higher elevation, the size of the lower deck will be increased to allow for more varied public use, along with the replacement of the dock ladder, new bench locations, cable handrails in lieu of wooden handrails, and minor areas of landscaping and irrigation. This design is intended to maximize the view while maintaining public safety and increasing public use. The proposal submitted is for design and permitting services, minor site improvements, development of specifications, Tidelands License renewal, and soil boring to a depth of up to 50 feet. Without going to bid for this project, the proposal will be amended and resubmitted at a lower cost to the Borough.

Councilman McCorristin noted cable rails require routine maintenance and could deteriorate and fray, posing potential safety hazards. He recommended exploring aluminum railing, which would require no maintenance and have a longer useful life.

Thomas Thornton thanked Councilman McCorristin for his suggestion.

Councilman McCorristin further suggested contacting adjacent property owners and requesting their bulkheads be replaced to the higher elevation to aid with flooding concerns.

Council agreed to proceed with a Resolution to be prepared for a Regular Meeting after an updated proposal is received, along with budget and Bond Ordinance adoption for proper funding.

**Discussion regarding Resolution authorizing Borough Administration to solicit Requests for Qualification and Requests for Proposals for a Water/Sewer Management Contract for a ten-year term commencing July 1, 2022.**

James Waldron reported the current contract for Water/Sewer Management expires June 30, 2022. Council is being asked to authorize the solicitation of proposals for a new contract for these services for an additional 10-year term, commencing July 1, 2022. The new contract would include a provision moving the billing and collections to be handled in-house by the Borough at a savings in expenditures. Final drafts of the specifications have been received from Archer & Greiner, which include qualifications for prospective bidders. Those specifications include minimum requirements in terms of expertise, past history, and financial status, all of which must be regulated by the New Jersey Board of Public Utilities. The proposal is to solicit proposals as early as next week, with proposals being received March 17, 2022, at which point a committee will review all proposals and conduct interviews. It is expected Council would be in receipt of a report and recommendation for award during the month of April.

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

**Discussion regarding amendment to Ordinance 829-2021 concerning the FAR calculation to provide for not less than one annual inspection of premises.**

James Waldron Ordinance 829-2021 was finally adopted by Borough Council on November 15, 2021, which dealt with the Floor Area Ratio (FAR) calculation, the inclusions and exclusions of the calculation, and a non-conversion agreement, which was approved by Resolution 218-2021. Subsequent to those adoptions, it became clear that FEMA and the DEP are requiring the adoption of a new flood ordinance to supersede the existing Ordinance, with several models available to the Borough. The Borough has chosen the most restrictive model with added provisions, which has resulted in a very favorable CRS rating for the Borough. In the course of discussions regarding the new Ordinance, a FEMA requirement imposed by the DEP became apparent, which requires a minimum of one inspection of each affected property per year. The Ordinance as adopted allows inspection of the enclosed garage through multiple inspections, such as fire inspections, rental licenses, sale or transfer, and other occasional inspections. The DEP has requested the Ordinance specifically state that there will be a minimum of one inspection annually. Additionally, amendments with respect to flood related issues will now be controlled by Chapter 19 of the Borough Code, rather than Chapter 27 (Zoning). The Zoning Board Solicitor has opined that these proposed Ordinance amendments would not require referral back to the Planning Board due to only procedural changes being made to the original Ordinance. Another change to the Ordinance addresses language included regarding a finished entryway into garages. FEMA regulation indicates entryways can be finished, up to 20 lineal feet. Since the Ordinance adoption, many requests for clarification concerning this language have been received. After consulting with the DEP about these clarification requests, it was recommended to modify the language to state a finished area maximum of 400 square feet. The amended Ordinance also makes the schedule of penalties clearer than originally stated. If a violation of the non-conversion agreement is discovered, a notice of violation is issued with a deadline to correct the violation within 30 days. If the violation is corrected within that time frame, there is no monetary penalty, and the violation is dismissed. Starting the 31<sup>st</sup> day, continuing an additional 30 days from that point, violators will be assessed a fee of up to \$500 per week calculated on the basis of seven-day increments or any portion thereof. After that period, if the violation is still unabated, a penalty of \$500 per day will be assessed for an additional 30-day period. After that additional 30-day period, the final penalty period begins, which assesses a charge of \$1,000 per day until the penalty is abated. If Council agrees with these changes, an amended Ordinance and Resolution approving the revised non-conversion agreement would be required.

Councilwoman Coskey clarified that any property that encloses garages originally prohibited from being enclosed under previous FAR regulations would be subject to an annual inspection to verify compliance, and inquired if these inspections will be planned.

James Waldron responded the inspections will be conducted by appointment.

After a brief discussion, Council agreed to proceed with a Resolution to be prepared for tonight's Regular Meeting.

**Public Comments:**

Martha Wright, 632 7<sup>th</sup> Street, commended the Borough for refining the Floor Area Ratio Program and inquired if garages with pool tables, ping pong tables, bars, or other entertainment devices are considered habitable spaces.

James Waldron explained everything described by Ms. Wright are considered habitable area, subject to removal according to this Ordinance.

Councilman Wierman noted flood insurance also frowns on bathrooms on the ground level of homes.

James Waldron indicated the purpose of the annual inspections is to ensure these areas will not be converted into living space with recreation or entertainment activities. Any of these items found during the annual inspection would trigger notice of violations and the penalty schedule detailed earlier.

Martha Wright requested that the Borough clarify these new rules and regulations to all residents for a better public inspection, and inquired if homes with outstanding violations related enclosing garages prior to these allowances being put into place will be revisited now that this Ordinance has been adopted.

Paul Short noted properties with outstanding violations concerning these regulations have come into compliance under the new Ordinance, with non-conversion agreements and deed restrictions being imposed. Due to the compliance, the court matters have been dismissed.

James Waldron added if the deed restrictions are not filed, penalties can be assessed.

John Kauterman, 2809 Dune Drive, mentioned the lease agreement with Moran’s Dockside for the structure located at the Sport Fishing Center.

Council President Juzaitis reiterated her statement made at the start of the meeting, explaining the Sport Fishing Center is under the Mayor’s purview, and that concerns regarding same should be directed to the Mayor. She welcomed Mr. Kauterman’s comments.

John Kauterman stated the business lease for this purpose is dated in 1993 for \$6,600 per year or \$550 per month, which allows the leasing of the building, parking spots, and boat slips; however, the lessee rents the boat slips to other individuals. The original rules discourage one person from occupying more than one slip, which is now common practice. He suggested that the slip decision making process be given back to the fishermen.

Kevin Dougherty, 792 21<sup>st</sup> Street, asked Council President Juzaitis to summarize her statements made concerning the Sport Fishing Center.

Council President Juzaitis obliged Mr. Dougherty by restating her announcement.

Kevin Dougherty expressed the opinion that the Borough Council should govern the rules of the Sport Fishing Center and thanked Borough Officials for their help regarding a plan to implement a charitable community flounder fishing tournament. He inquired what the duration of the Mayor’s review of the Sport Fishing Center rules and regulations would be.

Council President Juzaitis encouraged Mr. Dougherty to address all questions and concerns regarding the Sport Fishing Center in writing to Mayor Pagliughi.

**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 Coskey, seconded by Councilman McDermott to adjourn the Work Session.

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

Work Session adjourned at 4:51 p.m.

Respectfully submitted,

C. Danielle Nollett  
C. Danielle Nollett, Borough Clerk

Barbara L. Juzaitis  
Barbara L. Juzaitis, Council President

