

May 11, 2022

A Work Session of the Borough Council of the Borough of Avalon was held on Wednesday, May 11, 2022 at 4:00 p.m. in the Meeting Room, 3100 Dune Drive, Avalon, New Jersey.

Attendance: Public ----- 6

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
John Roscoe, Captain of Police
R. Edward Dean, Construction Official
Thomas R. Thornton, P.E., Borough Engineer, Mott MacDonald
Ed Kennedy, 24th Street, LLC

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.”

Discussion regarding Resolution authorizing Place-to-Place transfer concerning license number 0501-33-004-004 held by 24th Street LLC for a transfer to the location of 2688 Dune Drive.

Council President Juzaitis asked Councilman Wierman to provide an update as to the May 10, 2022 Avalon Planning/Zoning Board Meeting regarding this property.

Councilman Wierman announced the Avalon Planning/Zoning Board approved the site plan for this property. The owners will be operating a seafood restaurant with no indoor dining or service. The applicant worked with the board with all recommendations, including parking and curb cuts, as well as landscape buffers. No variances were required.

Council President Juzaitis requested that Borough Solicitor Nicole Curio give Council an overview as to what this discussion should entail and the rights of Council as it pertains to this Place-to-Place transfer application.

Nicole Curio explained today Borough Council will be reviewing this application and determine whether Special Conditions will be imposed upon the licensed premises as this application currently exists. No Special Conditions may be imposed for any future uses. As the uses of the property changes, and on an annual basis, Council has the ability to review all current Special Conditions and amend as necessary.

Council President Juzaitis invited Mr. Ed Kennedy to the podium and inquired if this application is for an interim use of the property in question.

Ed Kennedy responded yes.

Council President Juzaitis asked Mr. Kennedy to detail the current intended use for the property.

Ed Kennedy indicated the outside area will offer seating for the restaurant. The inside will be for food storage, food prep and the kitchen areas. Commercial machines will be used in the kitchen to allow high-capacity cooking with a minimal footprint. Restrooms will also be indoors, and will offer enough stalls deemed proportionate to the seating outdoors. All outdoor seating and pergolas will be temporary, as this plan is for the 2022 summer season only. Artificial turf will also be placed in the landscaping. The landscaping within the outdoor games area will be designed differently, and will host cornhole and Jenga. The primary focus of this establishment is a family friendly restaurant with alcohol service. There will also be an order and pickup window, with a technologically advanced option for ordering food and drinks to avoid large congregations near the bar and order window area. It is estimated to employ approximately 11 staff with all food prep occurring indoors.

Councilman McDermott inquired about the hours of operation.

Ed Kennedy explained for lunch, the restaurant will be open from approximately 12:00 noon through 4:00 pm; with the restaurant reopening for dinner from 5:30 pm through 10:00 pm with last call occurring at 9:30 pm. He noted this plan was developed while trying to be cognizant of the neighbors. All trash will also be enclosed to avoid neighborhood disturbance as much as possible. Plastic cups will be used outdoors to avoid hazards of breaking glass in high traffic areas. Trash will be collected a minimum of twice per week. The front parking along 27th Street has been removed with landscaping added to that area, with the handicapped space to remain. The entire establishment area will be ADA compliant.

Councilman McDermott asked Mr. Kennedy to detail the plans for the property along the property line adjacent to the residential property on 27th Street.

Ed Kennedy noted trees will be planted along the property line as far as possible, along with a 6-foot fence. All Borough Ordinances will be followed. A 4-foot fence will be constructed along the property line abutting Sturdy Bank.

Council President Juzaitis questioned what the proposed licensed area for liquor service would be.

Ed Kennedy requested that Council consider licensing the building and the areas where the tables and bar are located.

Councilman McCorristin noted there are Borough Ordinances governing the use of astroturf, and inquiring about lighting on the exterior of the property.

Councilman Wierman stated the proposed asphalt will be placed on top of the existing asphalt, which is allowable.

Ed Kennedy explained lighting will not be via lighting towers, as it will be attempted to light the dining area with minimal neighborhood impact.

Councilman McCorristin spoke in favor of performing last call 30 minutes before closing while noting special conditions can set hours for alcohol service. He inquired if there will be outdoor music.

Ed Kennedy responded yes, acoustic performances by local musicians will be offered with no amplifiers.

Council President Juzaitis noted special conditions typically imposed upon liquor licensed establishments only permit outdoor music during the hours of 12:00 noon to 8:00 pm.

Councilwoman Coskey asked Mr. Kennedy to clarify that the alcohol service will end simultaneously with food service.

Ed Kennedy confirmed.

Council President Juzaitis inquired about the seating around the proposed bar.

Ed Kennedy noted the primary function of the bar is a service bar. Originally, 10 seats around the bar were requested; however, that seating will be downsized to 5 seats, as the seats will be only for patrons waiting to receive drinks. No food service will be offered at the bar.

Council President Juzaitis stated another typical special condition imposed upon similar establishments is the requirement that cleanup of a one-block area be completed by 9:00 am each morning after operation.

Council President Juzaitis opened the meeting for public comments on this agenda item only and asked if there were any questions or comments.

Joe Schanne, 246 27th Street, described the dynamic of the intersection of 27th Street and Dune Drive, including the unprecedented congestion of individuals that congregate in the area after the beaches and boardwalk close. He expressed disbelief about having a B-1 zoned establishment with alcoholic service adjoining private residences in an outdoor environment, and further expressed disappointment that 188 seats will be offered at this establishment with no parking added, which will exasperate the existing parking situation. He asked Council to consider the impact this establishment will have on the neighborhood, and suggested Council consider strict but fair special conditions to be imposed on the property.

Martha Wright, 632 7th Street, noted the creation of parking spaces for this application is not required, as all seating is outdoors. Additionally, this is a permitted use for this property with no variances being required. She expressed the opinion that this development is creative, innovative, exciting, and a great addition to the town and expressed her support of this application. She requested that the applicant consider shades on any lighting to avoid light spillover into adjacent properties. She advocated for the Planning/Zoning Board to project applications on television screens at all meetings in the future.

Kevin Dougherty, 792 21st Street, spoke in support of this application and encouraged Council to look favorably upon same.

Discussion amongst the Council took place concerning the special conditions to be imposed upon this license, with all agreeing to impose conditions restricting the hours of indoor and outdoor amplified sound and music; requiring cleanup of all debris in a one-block radius before 9:00 am the next morning after any business operating day; and ceasing the hours of consumption and sale of alcoholic beverages at 10:00 pm.

John Kauterman, 2809 Dune Drive, supported the requests made by Mr. Schanne and asked Council to consider the residents in the areas nearby this proposed establishment.

Council agreed to proceed with a Resolution to be prepared for the May 25, 2022 Regular Meeting.

Discussion regarding Resolution approving the Avalon Watershed Management Plan.

Scott Wahl reported the Watershed Management Plan was developed several years ago by Dr. Stewart Farrell, which contains information regarding how the Borough tries to regulate stormwater runoff with historical data included concerning storm events and accumulated rainfall for each, while including empirical data for open space, recreation properties, and the value of the wetlands. There is also discussion in the plan regarding efforts to prepare for sea level rise. Minimal changes were made to the plan in 2019, which has been a guiding document in Ordinances and Floodplain Management review. Under the Community Rating System (CRS) review, adoption of the Watershed Management Plan is required. Council is being asked to do so.

Council agreed to proceed with a Resolution to be prepared for the May 25, 2022 Regular Meeting.

Discussion regarding proposed amendments to Chapter 19 Floodplain Management Regulations.

Scott Wahl noted as Council is aware, many towns and communities have problems or faults with the amendments proposed by the Department of Environmental Protection (DEP). Ed Dean has taken a leadership role in redrafting these proposed amendments to ensure the Borough of Avalon regulates stormwater activities and resiliency options. The proposed amendments before Council today have been reviewed by Borough Administration, the CRS Coordinator, Paul Baldini, and all other necessary professionals.

Ed Dean reported the original proposed amendments were compiled at the state level along with the Flood Hazard Area Protection Act. Adopting a similar Ordinance presents an opportunity for CRS points. The model Ordinance cedes municipal authority to the DEP for establishing flood hazard elevations and adopting flood hazard data. The proposed amendments before Council remove all of that power from the DEP and place those powers back into the hands of the Borough of Avalon. Amendments to Chapter 27 concerning the enclosure of garages previously excluded from Floor Area Ratio (FAR) calculations were recently adopted. The Borough also recently adopted a Resolution opposing the DEP's proposed coastal regulations. This proposed Ordinance aligns with the recently adopted FAR ordinance and extends the finishing prohibitions to all enclosed structures below design flood elevation regardless of the FAR calculation. Additional CRS points will come from required inspections of new, rehabilitated and existing buildings through increased enforcement and establishment of procedures for inspections, notice of violations, and legal means to enforce the Ordinance requirements. There will be no new flood elevation requirements in the new Ordinance. After Superstorm Sandy, in 2013 FEMA issued new flood maps titled "Advisory Base Flood Elevation Maps". CRS communities received 235 points for adopting these maps, which Avalon did. This credit went away in 2022. In 2017, new flood insurance maps were released and adopted by the Borough. As Council is aware, the Borough is currently under CRS review. This Ordinance seeks to recapture the lost 235 points by gaining approximately 200 points through codifying the enforcement process and procedures for floodplain management regulations. These proposed amendments also detail how the Ordinance is to be enforced and when permits are required.

Council President Juzaitis thanked Ed Dean for his hard work on this Ordinance.

Councilwoman Coskey mentioned in the draft Ordinance, there is a question about violations and penalties for non-compliance and asked Mr. Dean to explain this note.

Ed Dean explained the language currently exists in the Ordinance; however, there was a question regarding whether the regulations were enforceable. That is still under review but it is recommended to keep the existing language.

After brief discussion, Council agreed to proceed with an Ordinance to be prepared for introduction and first reading at a future Regular Meeting.

Discussion regarding Resolution authorizing 2022 Backpassing Project Bird Monitoring Services.

Thomas Thornton reported certain rules are in place from the US Fish & Wildlife, the DEP and the Army Corps of Engineers governing backpassing projects. These projects have been done in Avalon for many years. Each year, the permits contain seasonal restrictions stating no work can occur after March 15th. The Borough of Avalon regularly requests waivers of this restriction, which are typically granted. This year, the waiver was granted on the condition that the beaches be monitored for two endangered birds for a certain period of time prior to work beginning. Mott MacDonald conducted this monitoring with three different employees. During the review period, many piping plovers were observed. The observations were reported to the agencies. The agencies ordered additional monitoring for two full days. If, during that review, the piping plovers are not exhibiting nesting behaviors, the project can continue as scheduled. No nesting behaviors were observed; therefore, the contractor began work on May 2, 2022. Morning monitoring is now required for the duration of the project. Additional authorization for these services is required at this time. The estimated cost contained in the proposal is most likely higher than what will actually be charged.

Scott Wahl supplied an update on the project, noting recent wind storms have significantly eroded the north end beaches, which has impacted the scope of the project, as the project was in its early stages when the wind storms began. As a result of the storms, all placed sand has eroded away. At this time, it is clear the project will go beyond Memorial Day Weekend, although work will not take place Thursday through Monday of Memorial Day. The completion date for this project is June 17, 2022 under contract; however, the contractor is confident the project will be done in advance of that date, barring any further coastal storms. A Change Order is expected to increase the amount of sand to be placed on the northern beaches to replenish what was lost. As is seen in all backpassing projects, the borrow area's volume is replenished quickly when sand is scraped.

Councilman McCorristin commended the contractor and all involved for a job well done up until this point in the project, and expressed disappointment about the winds eroding the beach. He spoke in support of a Change Order, as the beach erosion has reached a point that it is now a public safety concern.

After further discussion, Council agreed to proceed with a Resolution to be prepared for the May 25, 2022 Regular Meeting.

Discussion regarding Resolution approving certain jitney licenses to operate within the Borough of Avalon during the 2022 summer season.

Captain Roscoe reported the Avalon Police Department has completed its review of 16 applications, 15 of which have been approved, with one being denied. He recommended Council look favorably upon licensing the 15 approved drivers.

Council agreed to proceed with a Resolution to be prepared for the May 25, 2022 Regular Meeting.

Discussion of amendment to Chapter 21 (Fire Safety) to require a portable fire extinguisher in all units of a multiple dwelling structure when the unit contains cooking facilities.

Ed Dean explained in approximately 2018, a change was made to the fire extinguisher standards within the fire code that created an exception in multiple family dwelling units to not require portable fire extinguishers within those units. Due to many units within Avalon being left unsupervised for large portions of the year, there is a wish to maintain the requirement to have portable fire extinguishers within all multiple family dwelling units with cooking facilities.

Council agreed to proceed with an Ordinance on first reading to be considered at today's Regular Meeting.

Discussion regarding Resolution accepting proposal of Taylor Design Group, Inc dated November 7, 2021 and authorizing that firm to continue work on the Bay Park Marina Project.

Scott Wahl indicated the Bay Park Marina improvement project is underway, with both Taylor Design Group and Mott MacDonald performing services for the project. This project has received over \$1 million in Open Space Grant Funding and is now in the design phase, during which permits will be obtained and bids will be received. There are more grant opportunities that will also be explored for this project. Currently, the goal is to have a successful project with as much financial support as possible.

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

Discussion regarding the renewal of Shared Services Agreement with Borough of Woodbine for services of Chief Financial Officer.

Scott Wahl stated Council is being asked to continue this existing Shared Services Agreement with the Borough of Woodbine to share Chief Financial Officer Services. This agreement does not impact Mr. Craft's obligations to the Borough of Avalon, as the work for Woodbine is completed outside of regular business hours. Both agencies have expressed willingness to continue this agreement.

Council agreed to proceed with a Resolution to be prepared for the May 25, 2022 Regular Meeting.

Discussion regarding proposals received for the contract known as Water & Sewer Management Contract.

Scott Wahl explained the ten-year contract with Middlesex Water Company for Water & Sewer Management is expiring this year. A team of Borough officials has worked together to review and draft bid specifications to be tailored to the current climate, as well as the next ten years for this contract. During the process, it was decided to move all billing and payments in-house, rather than having it handled by the outside contractor. With the new water meters being installed, the team felt this was the best way to move forward. The bidding process generated many interested parties with one bid being received from Middlesex Water Company. It is recommended to award this contract to Middlesex Water Company to continue a successful working relationship and to offer the best services to the residents and visitors to the Borough of Avalon.

James Waldron added Special Counsel, Archer & Greiner, has reviewed the specifications and has offered a preliminary assessment that the bid is in compliance with the formal opinion forthcoming. With this contract being for a ten-year period, the award of contract will exceed the \$2 million award threshold, requiring that the award of contract be reported to the State Comptroller's Office within 30 days of award. When the formal opinion is received, a contract will be approved and sent to Middlesex Water Company for signature, with Council being asked to consider a Resolution approving same at an upcoming meeting.

Council agreed to proceed with a Resolution to be prepared for the May 25, 2022 Regular Meeting.

Public Comments:

John Kauterman, 2809 Dune Drive, referenced the Avalon Sport Fishing Center and inquired about the processes employed to assign slips. He asked if Council has had the opportunity to review the Mayor's review of the Sport Fishing Center, as was requested by members of the public at a prior meeting.

James Waldron explained the Sport Fishing Center regulations require that slip assignment preference be given to charter boat operators. Mr. Lutz operates a charter boat operation in Avalon and has done so for many years. Over a year ago, Mr. Lutz indicated his contemplation of acquiring a third boat if he could be considered for a third slip at the Sport Fishing Center. At that point, the waiting list was reviewed for charter boats. On the waiting list at the time Mr. Lutz made his application, there were 9 individuals, including Mr. Trainor and Mr. Kauterman; both of whom are on the list for a 55-foot boat which cannot be accommodated. Mr. Kauterman applied to be put on the waiting list on November 22, 2021 for a 36-foot boat. Mr. Lutz submitted his application on September 17, 2021. Mr. Kauterman remains the only charter boat on the waiting list that can be accommodated by the Sport Fishing Center at this time. The next slip that becomes available would be offered to Mr. Kauterman.

John Kauterman inquired about the assignment of the "Miller" slip.

James Waldron indicated the "Miller" slip was assumed by the widow of the slip holder upon his death, which was viewed as an inheritance rather than a transference, which is permitted by the regulations.

John Kauterman mentioned a statement made by Council President Juzaitis regarding the Avalon Sport Fishing Center at a previous Council Meeting was not properly captured by the audio system and asked that the statement be read again.

Council President Juzaitis stated an announcement is made at the beginning of each meeting explaining that technical difficulties will not hinder the conduct of a meeting.

Martha Wright, 632 7th Street, expressed difficulty hearing members of Council speaking during today's meeting. She noted the terms of the trash collection contract were recently renegotiated, with one of the changes being no longer offering side yard return of trash receptacles. She implored Council to consider requiring side yard return in future trash contracts, as trash cans being left in the streets are creating public safety hazards. She also asked how the Borough spent the funding received as a result of the CARES act.

Scott Wahl indicated he will look into the allocation of those funds received and announced at the next Council Meeting, Council will be asked to authorize notice to bidders for the next trash contract. Side yard return of trash receptacles will be a bid option for the governing body and the Mayor to review and consider.

Councilman McCorristin asked if it would be possible to develop a plan to return lost trash cans to property owners.

Scott Wahl reported on June 2, 2022, a meeting will be held to discuss and explore the possibility of providing micro-chipped trashcans to all property owners to aid in the return of lost trash cans to their rightful owners.

Martha Wright suggested tip out cans with trucks with arms for more orderly look and easier trash removal.

Councilman McCorristin noted maneuverability may be an issue with such cans with more congested street parking during the season.

Kevin Dougherty, 792 21st Street, referenced the conversation regarding the Sport Fishing Center and expressed concerns with references made to an applicant calling the Mayor prior to filing their application. He asserted the Ordinance requires owning a boat and applying to be placed on the waiting list. He expressed confusion that the explanation offered by Mr. Waldron seemed as though an application for Mr. Lutz was filed before owning a boat, and stated he was not mentioned to be on the waiting list as a charter boat operator during that discussion.

James Waldron clarified Mr. Dougherty is on the waiting list for 54-foot boat since December 14, 2021.

Kevin Dougherty further indicated the 36-foot charter boat on the waiting list is his boat, as well.

Council President Juzaitis recommended that Mr. Dougherty follow-up with the Administration Department concerning any specific questions he may have.

Kevin Dougherty asked that review of the Sport Fishing Center regulations be added to a future agenda.

Nicole Curio stated public comment period is to offer comments to Council, and all comments offered today have been noted by Council.

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 5:45 p.m.

Respectfully submitted,


C. Danielle Nollett, Borough Clerk


Barbara L. Juzaitis, Council President