

November 14, 2022

A Work Session of the Borough Council of the Borough of Avalon was held on Monday, November 14, 2022 at 4:00 p.m. in the Meeting Room, 3100 Dune Drive, Avalon, New Jersey.

In-Person Attendance: Public ----- 5 Reporters ----- 0

Remote Attendance: Public - - - - - 10 Reporters - - - - - 1

The Meeting was called to order by Council President Wierman.

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
R. Edward Dean, Fire Chief
Paul Short, Code Enforcement Official
William McCormick, Director of Public Works/Utilities
John Roscoe, Police Captain
Thomas R. Thornton, P.E., Borough Engineer, Mott MacDonald

Council President Wierman read the Open Public Meetings Act Announcement.

Notice of this Regular Meeting was included the annual Schedule of Meetings dated June 22, 2022. It was given to the news media and posted on the Official Bulletin Board as required by law.

Council President Wierman read the following statement:

"For the convenience of the public, the Borough is offering 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."

Presentation regarding Bay Park Marina Project.

Scott Wahl introduced Scott Taylor of Taylor Design Group, the Borough Planner, who is spearheading this project in partnership with the Borough's Engineer. This project was first initiated years ago with the renovating of the kayak launch to include handicapped access. Upon review of the viability of such an improvement, three issues with Bay Park Marina as a whole were identified, with those issues being waterfront access, environmental sustainability, and resiliency. The project development for this location has been a multi-year, multi-agency effort. The plans have been finalized, and a public presentation was made on November 4, 2022 in-person, and via live stream, which was well received.

Scott Taylor gave a detailed presentation concerning the plans for this project, and gave an overview of changes made out of both desire and necessity, including the elevation of bulkheads, a grade change of the boat ramp, sidewalk additions, terrapin habitat improvements, parking lot grade changes to promote flooding resiliency, the installation of a floodgate near kayak beach, changes to the dockmaster building, a sunset pavilion, a walking promenade along the waterfront, kayak storage, reconfiguration of the boat slips, and grant money received from the Cape May County Open Space Grant Program in the amount of \$1.3 million as well as the improvements funded by that grant award.

Councilman McCorristin added the handicapped kayak ramp was moved to the southernmost dock, which is used less frequently, to promote the best ease of access. Additionally, all options were explored regarding the structures to be built in Bay Park Marina, and noted the best possible options were chosen to abide by all building codes and minimize impacts to the neighborhood.

Council spoke in full support of this project and advocated for its completion in accordance with the proposed plans.

Council President Wierman asked if there were any questions or comments from the public regarding this project.

Erin Yeatman, 295 55th Street, expressed concerns with regards to the large scale and color schemes of the proposed structures, and questioned the necessity of the gazebo. She added expanding the boat ramp may result in additional pollutants being emitted into the environment, which may harm migratory species and turtles. Additionally, turtles may be harmed by having a dog walking path in close proximity to the turtle nesting area.

Scott Taylor explained the existing dockmaster building has a pavilion. This plan proposes the minimization of the dockmaster building, and the relocation of the pavilion by way of a gazebo. He mentioned meetings have addressed concerns of gathering youths after dark during the summer months, and indicated motion-activated lighting will be installed throughout the park, in addition to security cameras. This proposed plan does not expand the footprint of the boat ramp, but instead improves the slope and safety standards of the boat ramp.

Erin Yeatman noted four additional boat slips are included in this plan, which will increase boating traffic. The renovated boat ramp may also contribute to additional boating traffic. She inquired if the railing around the dockmaster building that is currently proposed will be the railing to officially be used when completing construction.

Scott Taylor reported all DEP regulations will be followed, including taking all necessary measures to mitigate any and all environmental impacts. He overviewed some changes that could be made to the structures that could minimize view impact for the neighbors, and explained this project is still in its design phase. The railings ultimately used will be durable, meet building codes, and have the lowest visual impact.

Discussion regarding Resolution appointing Class II Special Officers.

Chief Christopher explained Special Officers are hired two times each year in advance of the Police Academy. This year, Council is being asked to hire a number of Class II Special Officers to begin the academy in December, 2022.

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

Discussion regarding Resolution authorizing release of deed restrictions previously imposed upon the following properties:

- a) 10 East 11th Street, Block 11.01, Lot 4.02
- b) 177 80th Street, Block 79.03, Lot 1

James Waldron stated this is a routine deed restriction release request, allowable to be released in the routine manner by Resolution.

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

Discussion regarding Resolution approving a supplement to the plan of Reorganization for the Division of Recreation.

James Waldron indicated Council previously approved this plan of Reorganization for the Division of Recreation, and explained the original plan appointed an Administrative Coordinator and Operations Coordinator. Since the adoption of the plan, it was determined the more appropriate titles for these positions would be Administrative Co-Program Coordinator and Operations Co-Program Coordinator, which includes a term that is defined to mean the development of certain recreational programs. The utilization of these titles also provides liability protection for the employee and the Borough.

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

Discussion regarding Ordinance further amending Ordinance 834-2022 concerning Floor Area Ratio (FAR) calculation.

James Waldron explained Council previously approved an amendment to the Zoning Ordinance dealing with the FAR calculation as it pertains to enclosing garages. A further amendment is being recommended at this time that would continue to exclude enclosed garages from the FAR calculation. The amendment further recommends eliminating enforcement provisions and the requirement of property owners signing non-conversion agreements and deed restrictions. After the most recent FAR amendment was adopted, the State mandated that every municipality develop a new flood ordinance. In dealing with that new ordinance, the Borough incorporated all safeguards, enforcement mechanisms, and restrictions imposed in the Zoning Ordinance, which in turn left duplicative information within the Zoning Ordinance. There is an advantage to proceed with enforcement under the Flood Ordinance as opposed to the Zoning Ordinance, in addition to avoiding confusion or liability. Zoning violations require advance corrective notice, while violations under the Flood Ordinance require no such advance corrective notice, allowing the municipality to assess penalties immediately. Unfortunately, this amendment permits a negligible increase in the allowable size of houses that still complies with the FAR requirement. Recently, some architects have been applying for permits with open garages, then later applied to enclose the garages under the new ordinance regulations after construction of the home is complete. Those enclosed spaces will still be prohibited from being converted into living spaces. The recommendation at this time is to continue the exclusion of the garages from the FAR calculation, which provides a benefit by way of enhanced aesthetic, enhanced security to property owners, and poses no violation of FEMA or DEP rules.

Councilman McCorristin inquired why a third floor outside porch is considered part of the FAR calculation if it is not a living space, and suggested changing the Ordinance to exclude same.

James Waldron noted that language has been carried over from the existing Ordinance; however, a compelling argument can be made that it should not be included in the FAR calculation. This issue has not been discussed during the drafting process, but will be explored and presented to Council at the December 14, 2022 Work Session.

After brief discussion, Council agreed to proceed with further discussion on this item at the December 14, 2022 Work Session and an Ordinance to be prepared for first reading at the December 14, 2022 Regular Meeting.

Discussion regarding Compulsory Liability Insurance and Business Registration Ordinance.

James Waldron reported the State of New Jersey enacted a new law in August 2022 requiring every business, including rental units, to carry Compulsory Liability Insurance in minimum amounts and to annually file a certificate evidencing that coverage with the municipality. Avalon has, since 1988, required registration, inspection, and licensing of all rental units without requiring Compulsory Liability Insurance. Due to this recent legislation, such coverage will now be required. In order to have effective enforcement, all businesses must be required to register with the Borough of Avalon, with the contemplation that all rules and regulations will be in place by May 2023, with no registration fee assessed. It is proposed to require a one-page registration with the business location and zoning district. Such a registration should deal with innovative requests for beach businesses that have no physical presence in the Borough. The Licensing Office has indicated most rental unit owners are voluntarily complying and presenting certificates of insurance for the 2023 licensing year. If Council approves this concept, the insurance certificate will be a condition of the license for the 2024 licensing year. All businesses and licensing requirements will now be integrated into one centralized system to monitor compliance and promote enforcement. State statute gives Borough the right to charge an administrative fee. It is recommended that only businesses that do not pay any type of license fee or inspection fee be required to pay a one-time \$65 administrative fee.

Councilman McCorristin asked if registration stickers will be used for businesses to aid in enforcement.

James Waldron agreed with Councilman McCorristin's suggestion and noted it will be explored.

Ed Dean advocated that registration decals would make enforcement on the streets easier.

After discussion, Council agreed to proceed with an Ordinance to be prepared for first reading at the December 14, 2022 Regular Meeting.

Discussion regarding request for Zoning Map amendment in reference to the B-1 Ocean Drive Zone to R-2A Zone and preparation of updated Zoning Map to reflect 2016 Ordinance change.

James Waldron noted a memorandum has been received from the Zoning Official requesting there be a re-zoning along Ocean Drive from 22nd Street to 27th Street from the B-1 business district to the R-2A residential zone. If Council were to approve this Ordinance amendment, the amendment would be referred to the Avalon Planning/Zoning Board for advice and consultation. The Planning Board Engineer and Planning Board Solicitor have provided opinions to support this change, as it is consistent with the Master Plan. There are also recommendations to include a requirement to create a new Zoning Map incorporating all zoning changes since 2016.

Councilman Mccorristin requested clarification that existing commercial structures in this zone will be permitted to stay commercial structures, even if sold or transferred.

James Waldron confirmed.

Council President Wierman noted the new zoning will allow duplex residential units as a regular use, which would clear up confusion and promote consistency.

James Waldron mentioned the memorandum received from the Zoning Official indicates with this zoning change, there will be more conforming properties than non-conforming properties, which is a significant benefit.

After brief discussion, Council agreed to proceed with an Ordinance to be prepared for first reading at the December 14, 2022 Regular Meeting.

Discussion regarding Resolution authorizing Mott MacDonald to conduct an American's Water Infrastructure Act (AWIA) Risk Assessment.

Thomas Thornton explained the American's Water Infrastructure Act of 2018 requires that community water systems develop risk and resilience assessments, as well as emergency response plans. Middlesex Water Company has requested that these items be completed. Mott MacDonald's responsibilities and duties regarding completing this assessment and the development of the emergency response plan was overviewed for the benefit of the public.

After brief discussion, Council agreed to proceed with a Resolution to be prepared for the December 14, 2022 Regular Meeting.

Discussion regarding bids received and engineering services for Contract No. M-130, 22nd Street Water Main Replacement.

Scott Wahl indicated this project will help improve water pressure for property owners in the area and for firefighting services. The CFO has certified available funds, which would allow award of contract.

Thomas Thornton reported four bids were received for this project on November 4, 2022 with Perna Finnigan being the lowest responsible bidder that has completed satisfactory work for the Borough in the past. The Engineer's Estimate changed throughout the bidding process for this project, as it was difficult to determine final quantities for this project area, in addition to higher inflation.

After brief discussion, Council agreed to proceed with Resolutions to be prepared for the December 14, 2022 Regular Meeting.

Discussion regarding Resolution approving memberships in the New Jersey State Firemen's Relief Association.

Scott Wahl stated a letter has been received recommending the approval of two volunteer firefighters and expressed happiness with volunteerism in the community.

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

Discussion regarding Resolutions approving the following contracts awarded under New Jersey State Contract for the Fire Department Addition and Renovations:

- a) NJ Business Systems and SHI to provide video, data, and security installation
- b) Brennan’s Office Interiors, Inc. to provide office and bunk room furniture

Scott Wahl explained these contracts are part of the work being completed at the Avalon Fire Department.

Paul Short added NJ Business Systems is currently working with the Borough for borough-wide cameras with Police Department, and both contracts for these items are being awarded under state contract.

Council President Wierman agreed with entering into contracts for these planned expenses.

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

Public Comments

Martha Wright, 632 7th Street, spoke in strong support of the zoning map change to have more conforming than non-conforming properties, and suggested Council also consider broadening the scope of this zoning change to include 22nd Street between Ocean and Dune Drive. She requested confirmation that the Compulsory Liability Insurance requirement also impacts short-term rentals of whole or partial units and homes. She expressed concerns regarding the FAR calculation amendment, as it is possible the enclosure of these garages will negatively impact street parking, as enclosed garages typically act as storage, rather than parking spaces, as considered when a home is being built. She mentioned third flood porches are required to have a variance, as they impact light, air, and open space, and asked that Council consider that before allowing them to be excluded from the FAR calculation.

Council President Wierman thanked Martha Wright for her comments and confirmed that the Compulsory Liability Insurance requirements pertain to all rentals within the Borough of Avalon.

Council to check over the agenda for the Regular Meeting.

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

Motion made by Council President Wierman, seconded by Councilman McDermott to adjourn the Work Session.

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

Work Session adjourned at 5:22 p.m.

Respectfully submitted,


C. Danielle Nollett, Borough Clerk


Samuel D. Wierman, Council President