

November 13, 2023

A Meeting of the Borough Council of the Borough of Avalon was held on Monday, November 13, 2023, 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 - - - - - 3

Reporters - - - - - 1

The Meeting was called to order by Council President McDermott.

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

Also present:

Scott Wahl, Business Administrator
James Waldron, Assistant Business Administrator
Nicole Curio, Esquire, Borough Solicitor
William McCormick, Director of Public Works/Utilities
Jeffrey Christopher, Police Chief
Thomas R. Thornton, P.E., Borough Engineer, Mott MacDonald
Paul Short, Code Enforcement Official
James V. Craft, Chief Financial Officer
R. Edward Dean, Emergency Management Coordinator
Kevin Scarpa, Avalon Rescue Squad

Council President McDermott read the Open Public Meetings Act Announcement.

Notice of this Council Meeting was included the annual Schedule of Meetings dated July 12, 2023. It was given to the news media and posted on the Official Bulletin Board as required by law.

Council President McDermott 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."

Greg Sheehan spoke on behalf of the New Jersey Run for the Fallen and thanked the Borough of Avalon and all of its officials for the accommodations made each year for the Run for the Fallen. He commended all involved for going above and beyond to honor the fallen, as well as make all participants feel welcomed and taken care of by providing lunch, refreshments, and friendly faces.

Discussion regarding Best Practices Inventory.

James Craft reported the 2023 Best Practices Inventory has been completed and submitted by the Borough of Avalon. Through a total of 67 questions in three categories; those being core competencies, best practices, and unscored questions, the Borough has obtained a score of 37.5, which is above the minimum allowable score of 29.

Discussion regarding Resolution accepting funding from the Boscia Foundation for the purchase of bullet-proof vests.

Chief Christopher noted the Avalon Police Department outfits officers within the Avalon Police Department with bullet-proof vests, mostly through grant funding provided by the Department of Justice. In 2023, seven (7) bullet-proof vests were due for replacement; however, the Department of Justice grant was only providing enough funding for one (1) vest. The Boscia Foundation has offered to provide funding for the remaining six (6) bullet-proof vest by way of donation to the Avalon Police Department. He requested Borough Council look favorably upon receiving this funding and incorporating it into the 2023 budget.

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

Discussion regarding 2023 Emergency Operations Plan

Scott Wahl explained pursuant to state statute, each county and municipality must prepare a written Emergency Operations Plan, which must be updated every two years. The Plan has been reviewed for amendments and changes for the next two-year period, and is being presented for Council's consideration today. The final review indicated the document is in good order and fully functional for the Borough of Avalon.

Ed Dean mentioned the only amendments for this iteration of the plan are minor in nature and pertain to procedural methods only.

Council agreed to proceed with a Resolution to be prepared for the December 13, 2023 Council Meeting.

Discussion regarding Resolution authorizing amendment to the Professional Services Contract with Archer & Greiner, P.C.

James Waldron stated the Borough of Avalon currently has a Professional Services Contract with Archer & Greiner for Bond Counsel services. In the past, this firm has been utilized for legal review in connection with special projects. Council is being asked to amend the existing Professional Services Contract to allow the firms use on an as-needed basis to provide general legal services of a specialized nature. If Council looks favorably upon this request, it is recommended to amend the Contract through end of 2023, with potential renewal of the Contract with a similar scope for 2024.

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

Discussion regarding Resolutions amending Resolution 2-2011 concerning the operation and management of Avalon Sport Fishing Center; and Resolution 1-2011 concerning the operation of Bay Park Marina.

James Waldron reported draft Resolutions amending the rules and regulations of the Avalon Sport Fishing Center and Avalon Bay Park Marina have been provided to Council. These proposed amendments will be the first update of any rules or regulations concerning the two marinas since 2011. If approved, the proposed amendments would be effective January 1, 2024. Both marinas will continue to authorize the lease of slips on an annual basis, which charges being assessed per foot. For 2024, new rates would be recommended at \$125 per foot at the Sport Fishing Center, and \$100 per foot at Bay Park Marina. The increase in these fees is necessary, as the Borough will be incurring additional fees with respect to the maintenance of those facilities in the near future. These proposed amendments now allow the Borough to revoke any lease in the event of a violation of the rules or regulations. Another proposed change would be to allow the Borough to assign a slip to the surviving spouse or child of any individual who has held a slip for five or more consecutive years, upon their passing. However, an assignment from the child or spouse would not be permitted thereafter. The boating season for Bay Park Marina is recommended to remain the same; however, the Resolution would extend the season to December 15 for the Sport Fishing Center, with the additional allowance that the Borough could, at its discretion, extend the season on a case-by-case basis. Additionally, language is being recommended to grant the Borough the right to remove any boat from any slip on an as-needed basis if the vessel poses a threat to public health, safety, or welfare. In the event this is necessary, the owner of the boat would be responsible for reimbursing those costs. No change to the insurance requirements is recommended at this time. Commercial boats will remain explicitly banned from Bay Park Marina, with a maximum vessel length permitted being 21 feet. Due to contemplated construction at Bay Park Marina, the boating season may be shortened, which will be determined in the future. Boats at the Sport Fishing Center will be required to be equipped and rigged for sport fishing, at a minimum length of 23 feet. One slip at Bay Park Marina will be reserved for emergency vessels. It is further proposed to restrict the waiting list for Bay Park Marina to a maximum of 25 vessels. Furthermore, Council is being asked to give consideration to suspend the charter preference at Sport Fishing Center when necessary. Currently, 50 percent of slips at that location are devoted to charter vessels, which is contributing to critical parking concerns.

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Councilwoman Coskey inquired about language contained within the draft Resolutions and questioned if “Borough of Avalon” would be defined as the Mayor.

James Waldron responded Borough Council sets the policy for the marinas, while the Mayor implements the policy on a daily basis. By stating “Borough of Avalon”, it would be collective of those procedures.

Council President McDermott thanked all involved and expressed the opinion that these procedures protect and maintain the services offered at these two locations. He further reported meetings have taken place with Mr. Moran, who has indicated his willingness to add bait and tackle services to his business at the Sport Fishing Center.

Councilman Johnson agreed and stressed the importance of retaining small businesses, especially those that provide eateries as well as bait and tackle services. He further agreed with the proposed pricing for vessels leasing slips at the marinas.

Council agreed to proceed with two (2) Resolutions to be prepared for the December 13, 2023 Council Meeting.

Discussion regarding Resolution authorizing the correction of a billing error with regard to 4713 Fifth Avenue and a refund in the amount of \$11,800.51.

Scott Wahl explained this error dates back to 2014 when some installations at this property were done. The installation of a new water meter as well as the implementation of the new billing process for water usage brought this error to light. It is recommended Council grant a refund to the property owner for the overpayments made since this error was made.

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

Discussion regarding Resolution approving lease agreement with DISH Wireless, LLC for use of a portion of Borough Property – 38th Street Water Tower, for 5 years at an annual rental of \$36,000 payable in monthly installments of \$3,000.

James Waldron indicated a pre-existing lease with Sprint has recently been terminated. DISH Wireless is seeking to utilize the space recently vacated by the terminated lease for their equipment. The language contained in this proposed lease agreement is identical to similar existing lease agreements in terms of tower space and ground space being utilized. The Borough’s Technology Consultant has also asserted the placement of the equipment will have no impact on the water meter reading software also in place on the water tower. The Lease Agreement is on file in the Borough Clerk’s Office, with the proposed terms being a five-year lease automatically renewing for four additional five-year periods. A 15 percent escalation clause is also included, which would increase the fees paid when the lease agreement renews.

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

Discussion regarding increasing fees for Yard Sale permits.

Scott Wahl reported conversations recently took place with the Avalon Garden Club regarding the Borough’s consideration to increase fees for yard sale permits. The Borough currently charges \$10 per permit. Independent of the Avalon Garden Club’s annual Borough-wide yard sale, approximately 25 yard sale permits are issued, approximately 20 of which are issued in connection with estate or demolition sales.

Council agreed to proceed with an Ordinance to be prepared for introduction at the December 13, 2023 Council Meeting.

Discussion regarding appointment to the Planning/Zoning Board.

Scott Wahl announced Mayor McCorristin has appointed Michael Coskey to the Avalon Planning/Zoning Board as a Class IV, Alternate #2 Member with a term concluding in December 31, 2025.

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

Minutes:

Council Meeting – October 25, 2023

Motion made by Councilwoman Juzaitis, seconded by Councilman Wierman that the minutes be approved as submitted.

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

Public comments regarding Resolutions:

None.

Council President McDermott asked if any Councilmember wished to have any Resolution acted upon independently of the consent agenda.

Councilwoman Coskey requested Resolution 206-2023 be acted upon independently of the consent agenda, due to a conflict of interest.

<u>Resolution No. 200-2023:</u>	A RESOLUTION AUTHORIZING AN AGREEMENT FOR SHARED SERVICES WITH THE COUNTY OF CAPE MAY FOR A SNOWPLOW OPERATIONS PILOT PROGRAM
<u>Resolution No. 201-2023:</u>	A RESOLUTION AUTHORIZING MOTT MACDONALD TO PROVIDE PROFESSIONAL ENGINEERING SERVICES FOR WATER SYSTEM MASTER PLAN FOR A LUMP SUM FEE OF NINETY-NINE THOUSAND FIVE HUNDRED DOLLARS (\$99,500.00)
<u>Resolution No. 202-2023:</u>	A RESOLUTION REQUESTING APPROVAL OF ITEMS OF REVENUE AND APPROPRIATIONS, (N.J.S.A. 40A:4-87), BOSCIA FOUNDATION DONATION
<u>Resolution No. 203-2023:</u>	A RESOLUTION AUTHORIZING AN AMENDMENT TO THE PROFESSIONAL SERVICES CONTRACT WITH THE LAW FIRM OF ARCHER & GREINER P.C. FOR AN AMOUNT NOT TO EXCEED \$25,000.00
<u>Resolution No. 204-2023:</u>	A RESOLUTION AUTHORIZING THE CORRECTION OF A BILLING ERROR WITH REGARD TO 4713 FIFTH AVENUE AND AUTHORIZING A REFUND IN THE AMOUNT OF \$11,800.51 (PROPERTY OF JEROME F. Jr. AND AUDREY V. LOMBARD BLOCK 42.06 LOT 70) [UTILITY ACCOUNTS 2805-0 AND 4801-0]
<u>Resolution No. 205-2023:</u>	A RESOLUTION AUTHORIZING THE BOROUGH TO EXECUTE A LEASE AGREEMENT WITH DISH WIRELESS, L.L.C. FOR SPACE ON THE BOROUGH WATER TOWER AT 38 TH STREET FOR A TERM OF FIVE YEARS AT AN ANNUAL RENTAL OF \$36,000 PER YEAR TO ERECT AND MAINTAIN TELECOMMUNICATIONS ANTENNAS AND RELATED EQUIPMENT
<u>Resolution No. 206-2023:</u>	A RESOLUTION RECOGNIZING VARIOUS APPOINTMENTS MADE BY THE MAYOR TO THE AVALON PLANNING AND ZONING BOARD EFFECTIVE NOVEMBER 1, 2023
<u>Resolution No. 207-2023:</u>	A RESOLUTION AUTHORIZING PAYMENT OF BILLS

Motion made by Council President McDermott, seconded by Councilwoman Coskey that Resolutions 200-2023 through 205-2023 and 207-2023 as listed on the consent agenda be adopted.

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

Resolution No. 206-2023: A RESOLUTION RECOGNIZING VARIOUS APPOINTMENTS MADE BY THE MAYOR TO THE AVALON PLANNING AND ZONING BOARD EFFECTIVE NOVEMBER 1, 2023

Motion made by Councilman Wierman, seconded by Councilman Johnson that Resolution 206-2023 be adopted.

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

Second reading, public hearing and final action on Ordinance No. 869-2023:

Motion made by Councilman Wierman, seconded by Councilman Johnson that Ordinance No. 869-2023 be brought on for second reading, public hearing, and final action.

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

Borough Clerk read aloud Ordinance No. 869-2023:

Ordinance No. 869-2023:

AN ORDINANCE APPROPRIATING \$24,680.00 FROM CAPITAL SURPLUS FOR THE DEMOLITION OF THE BUILDING AT 251 26TH STREET AND SITE IMPROVEMENTS

Council President McDermott opened the meeting for public hearing on Ordinance No. 869-2023 and asked if there were any questions or comments.

There were no questions or comments.

Motion made by Councilman Wierman, seconded by Councilman Johnson that the public hearing be closed.

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

Motion made by Councilman Wierman, seconded by Councilman Johnson that Ordinance No. 869-2023 be finally adopted, submitted to the Mayor for approval and advertised according to law

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

Reports and Recommendations by Mayor and Officials:
Reports of Officials:

Chief Christopher announced the following upcoming events and encouraged all to attend: Pickle with the Police November 14, 2023 at 12:30 pm at the 8th Street pickleball courts; the presentation of the colors by the Avalon Police Department at the Philadelphia Flyers game on November 18, 2023; and the unveiling of the HERO car on November 24, 2023 at 1:00 pm at Veteran’s Plaza.

Danielle Nollett reported a Special Municipal Election was recently held during the General Election on November 7, 2023, for the unexpired term on Borough Council to be filled. Those election results are expected to be certified on November 22, 2023; however, the unofficial election results indicate the vacant position being won by Councilman Gregory Johnson. She requested that the official swearing in for the unexpired term be added to the December 13, 2023 Council Meeting.

Monthly Reports:

Month of October 2023 – submitted by respective Department/Division Heads

Borough Clerk and Registrar’s Report
Bureau of Fire Prevention, Bureau of Licensing, Miscellaneous Construction Collection,
Construction Water and Sewer, Uniform Construction Code & Taxicab Reports Code
Enforcement Report
Municipal Court Report
Municipal Engineering Report
Police Department Report
Public Works Department Report
Recreation Revenue Report
Tax Collector & Water Sewer Control Account Reports
Zoning Report

Motion made by Councilwoman Coskey, seconded by Councilman Wierman that the reports be received and filed.

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

Pending Business:

None.

New Business:

None.

Public Comments:

John Kauterman, 2809 Dune Drive, pointed out amendments to rules and regulations solidify previous actions taken by the Borough and spoke in opposition of the amended fee schedule. He stressed the importance of maintaining the spirit of the Sport Fishing Center.

Martha Wright, 632 7th Street, referenced the discussion surrounding the Sport Fishing Center and Bay Park Marina, and inquired if the draft Resolutions relating to the rules and regulations of the two Borough-owned marinas would be available to the public, if the Borough is contemplating increasing the rent charged in connection with the lease agreement for Moran’s Dockside, and if there would be a procedure in place to define how the charter preference would be suspended in the event the Borough found it necessary to do so.

James Waldron replied the draft Resolutions will be available as responses to properly submitted OPRA Requests, and that the Moran’s Dockside lease agreement is currently under negotiation and the subject of a Closed Session with Borough Council today. In terms of the potential suspension of the charter requirement at Sport Fishing Center, there would be a provision that Council can and will make rules and regulations as the need arises. At this point in time, there is a recommendation to suspend that requirement, as 50 percent of the marina is dedicated to charter boats. If the suspension is granted, there would be no change to the vessels leased at that location.

Martha Wright made reference to the vacant lot on 26th Street where the former Avalon School was recently demolished and asked about the plans for the lot, including how uses would be permitted in the future.

James Waldron responded the ultimate use of that lot must be decided by Borough Council. If any proposed use would be presented to Council in conflict with the Zoning of the property, Council would be required to present that potential concept to the Zoning Board.

Martha Wright advocated for community feedback with regards to the use of the lot, and suggested the consideration of a pollinator garden or dog park.

Kevin Dougherty, 793 21st Street, supported the concept of the Borough entertaining feedback from the community for any future uses of the lot on 26th Street, and questioned how many parking spaces are in the parking lot at the Sport Fishing Center.

James Waldron indicated he does not have the site plans with him at the meeting, and would be unable to provide a definitive answer to that question at this time.

Kevin Dougerty noted recently approved privately-owned marinas have fewer parking spaces offered than that of the Avalon Sport Fishing Center. He spoke in opposition of the removal of a charter boat preference at the Sport Fishing Center, while expressing the opinion that such action is not friendly to small businesses. He asserted his opinion that there are no parking issues at the location, and disagreed that the sandwich shop is a critical component to the facility. He advocated the importance of following all procedures set by the Resolutions moving forward, and questioned the proposed reassignment amendment. He further opposed a 23-foot minimum length requirement for vessels at the Sport Fishing Center, and requested explanation surrounding a boat currently located in Slip 4, while noting the boat differs from that which is included on documents obtained via OPRA.

Nicole Curio explained the questions posed require research, which the Borough will do and report back, if necessary. She encouraged Mr. Dougherty to submit an OPRA Request for the draft Resolution and reach out with any questions after review.

Resolution No. 208-2023: A RESOLUTION TO CONDUCT A CLOSED SESSION PURSUANT TO N.J.S.A. 10:4-12.b OF THE OPEN PUBLIC MEETINGS ACT PERTAINING TO CONTRACT NEGOTIATIONS CONCERNING EMERGENCY MEDICAL TECHNICIANS OF THE AVALON RESCUE SQUAD ASSOCIATION

Motion made by Councilwoman Juzaitis, seconded by Councilman Johnson that the resolution be adopted.

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

Motion made by Councilman Wierman, seconded by Councilwoman Coskey to recess the public portion of the meeting, and go into Closed Session.

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

Council President McDermott announced official action will not be taken after the Closed Session.

Public portion of Council Meeting recessed at 4:58 p.m.

Public portion of Council Meeting reconvened at 5:12 p.m.

- Present:
- Council President McDermott
 - Councilwoman Coskey
 - Councilman Johnson
 - Councilwoman Juzaitis
 - Councilman McDermott
 - Scott Wahl, Business Administrator
 - James A. Waldron, Assistant Business Administrator
 - Nicole Curio, Esquire, Borough Solicitor

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Resolution No. 209-2023: A RESOLUTION TO CONDUCT A CLOSED SESSION PURSUANT TO N.J.S.A. 10:4-12.b OF THE OPEN PUBLIC MEETINGS ACT PERTAINING TO CONTRACT NEGOTIATIONS CONCERNING NON-LABOR MATTERS

Motion made by Councilwoman Juzaitis, seconded by Councilman Wierman that the resolution be adopted.

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

Motion made by Councilwoman Coskey, seconded by Councilman Johnson to recess the public portion of the meeting, and go into Closed Session.

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

Council President McDermott announced official action will not be taken after the Closed Session.

Public portion of Council Meeting recessed at 5:13 p.m.

Public portion of Council Meeting reconvened at 5:51 p.m.


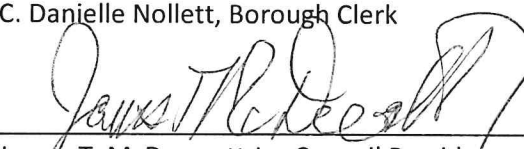
Present:
Council President McDermott
Councilwoman Coskey
Councilman Johnson
Councilwoman Juzaitis
Councilman McDermott
Scott Wahl, Business Administrator
James A. Waldron, Assistant Business Administrator
Nicole Curio, Esquire, Borough Solicitor

Motion made by Councilman Johnson, seconded by Councilwoman Juzaitis to adjourn the Council Meeting.

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

Council Meeting adjourned at 5:51 p.m.

Respectfully submitted,


C. Danielle Nollett, Borough Clerk

James T. McDermott Jr., Council President