

A Meeting of the Borough Council of the Borough of Avalon was held on Wednesday, June 12, 2024, at 4:00 p.m. in the Meeting Room, 3100 Dune Drive, Avalon, New Jersey.

In-Person Attendance: Public ----- 6 Reporters ----- 0

Remote Attendance: Public ----- 8 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

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.”

Discussion regarding Resolution amending the Cash Management Plan.

Scott Wahl explained this Resolution designates Ann Degennaro as a signatory on bank accounts, to replace the most recent Chief Financial Officer after his recent retirement.

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

Discussion regarding Resolutions renewing ABC Licenses for the 2024-2025 licensing year.

Danielle Nollett reported all licensees have met all renewal requirements, with the exception of one licensee, who is awaiting an inspection by the Police Department. That inspection will be conducted in advance of the June 26, 2024 Council Meeting. All licenses expire June 30, 2024.

Council agreed to proceed with appropriate Resolutions to be prepared for the June 26, 2024 Council Meeting.

Discussion regarding Resolution establishing meeting dates for the governing body for the period covering July 1, 2024 through June 30, 2025.

Scott Wahl indicated the proposed meeting schedule maintains the current practice of Council holding meetings every second and fourth Wednesday of the month at 4:00 pm, with the exception of Monday, July 3, 2024 at 12:00 noon for the Reorganization Meeting, as well as meetings held Monday, November 18, 2024 and Wednesday, December 18, 2024, both at 4:00 pm, which are on differing dates in the months of November and December due to the holiday season.

Council agreed to proceed with a Resolution to be prepared for the June 26, 2024 Council Meeting.

Discussion regarding Resolution authorizing grant application to the New Jersey Department of Transportation for Municipal Aid Grant.

Thomas Thornton noted the Borough has been successful over the last several years in getting grant funding through the Municipal Aid Grant funded by the New Jersey Department of Transportation (DOT) to reconstruct the southbound lanes of Dune Drive in two-block increments. It is recommended to continue that approach and submit a grant application to reconstruct the southbound lane of Dune Drive between 37th and 39th Streets. Due to the condition of that section of the roadway, all qualifications for the grant application are met.

Council agreed to proceed with a Resolution to be prepared for the June 26, 2024 Council Meeting.

Discussion regarding Resolution authorizing engineering services in connection with Lead Service Line Test Pitting and Regulatory Compliance.

Thomas Thornton explained this portion of the project will be broken into two tasks; the first of which is for the preparation of plans, specifications, and performance of bidding services for the first of an anticipated five test pitting projects. The goal of the project would be to test pit approximately 20 percent of the service lines within the Borough to comply with the State's lead service line replacement law. The second task would be to continue the regulatory compliance services related to the program, including the inventory lists, notifications to customers with galvanized services, and a couple of other regulatory and progress reports required.

Council agreed to proceed with a Resolution to be prepared for the June 26, 2024 Council Meeting.

Discussion regarding Resolution appointing a Class I Special Officer.

Chief Christopher announced the hiring of one additional Special Officer to help provide coverage in the Police Department during the summer season, with consent and appointment being requested from Council to allow for all training and licenses to be obtained.

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

Discussion regarding Resolution denying a request for a reduction in the size of an easement created and reserved unto the Borough by Ordinance 34-80 and a Resolution authorizing the relocation and installation of stormwater infrastructure and authorizing payment at Block 7.07, Lot 138 (576 7th Street) and Block 7.08, Lot 140.01 (606 7th Street).

Council President McDermott announced his abstention from this discussion.

Scott Wahl read the following report:

Summary: This discussion focuses on the installation of a stormwater pipe on a 70-foot easement the Borough currently has on between two properties identified as 576 7th Street and 606 7th Street, which appear respectively on the tax map as Block 7.07 Lot 138 and Block 7.08 Lot 140.01. The Borough has interest in installing a stormwater pipe that drain excessive rain and flood water in the neighborhood for the protection and safety of lives and property.

Background: A stormwater pipe currently exists on the property at 576 7th Street, adjacent to the existing residential structure. In 1980, the Borough Council approved ordinance 34-80 that created the 70-foot easement, shared by both properties with 35 feet on each side of the center line of Sixth Avenue. Council's intent at the time was to create an easement for stormwater conveyance for which the Borough could enact at any time.

Current condition of existing pipe: The stormwater pipe currently located adjacent to the structure at 576 7th Street has essentially failed and collapsed, providing negligible to no stormwater conveyance benefit to the neighborhood. An expenditure of not to exceed \$53,000 is required to install a new, larger outfall pipe and clear vegetation in the easement for the installation and potential maintenance of the stormwater pipe. If Council agrees, this would be a summertime project as relief should be obligated to the neighborhood in advance of the Atlantic storm season, if possible. This has been reviewed by the municipal engineer and the manager of Avalon's water/stormwater/sewer system. If Council looks favorably upon this plan, the existing pipe will be removed, and the bulkhead sealed.

Location of new stormwater pipe: The Borough's practice and policy has been to require all stormwater infrastructure obligations, to the greatest extent possible, along the division line of the shared properties. This requires to further restrict six feet on either side (total of 12 feet) to remain clear of any structure or improvement to permit the service, repair, or replacement of any stormwater pipe shall the need arise.

Objections: One property owner had objected previously to the size of the easement and sought to have the size reduced. That objection has been waived by the property owner. The second property owner filed notice to the Borough stating the 1980 ordinance approved by Council was for a potential sewer pipe, and not a stormwater pipe; therefore, the Borough has no opportunity to put the stormwater pipe in the easement. The Borough refutes that argument with these following facts:

-In 1980, both properties had independent sewer service to the lateral in the street. The Borough would have no interest in putting a sewer pipe in the easement.

-Common lingo, still used today by contractors, is to refer to stormwater pipes as "stormwater sewer pipes". Clearly, this was the intent by Council.

-The Borough never had an intention to place a sewer pipe in the easement as the sewerage would have to flow directly untreated into the bay when it already had sewer connections to a sewer main from both properties.

-If Borough Council had intended to place a sewer pipe in that location, a manhole would have existed or would currently exist. It never has and does not now.

-The Borough had previously installed storm drains in the area of the easement, and only did so with the understanding that a new stormwater pipe would be located in the easement approved in 1980. The neighborhood, and the objector, have benefitted from those storm drains that took water to the now-failed pipe.

Conclusion: Council is being asked to approve a resolution at the June 26th meeting that will approve the installation of the stormwater pipe in the Borough's easement as close to the centerline of the property as possible with the most limited disturbance to existing vegetation as practical. Council is being asked if this should be a summer project, if the contractor is available, in advance of the storm season.

Nicole Curio added this item was scheduled to come before Council several meetings ago; however, the item was removed from the agenda with late notice due to a written objection coming forth which required research. The issues raised in that objection have been reviewed, and a response has been sent to the objector. She expressed the opinion that the Borough would be within its rights to exercise the use of this easement. A phone call was recently received from a party's attorney, who made it clear that this issue would certainly end up in litigation if Council decides to move forward with that action. To the extent that there may be public comment on this matter, Council is advised not to engage with the public concerning this easement.

Minutes:

Council Meeting, Closed Sessions – May 22, 2024

Motion made by Council President McDermott, seconded by Councilwoman Coskey that the minutes be approved as submitted.

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

Public comments regarding Resolutions:

None.

Resolution No. 112-2024: A RESOLUTION AUTHORIZING CHANGE ORDER NO. 1 FOR 2023 RECONSTRUCTION OF VARIOUS STREETS, CONTRACT M-134

Resolution No. 113-2024: A RESOLUTION APPROVING ACCEPTANCE OF ESCROW AGREEMENT WITH NEW JERSEY DEP IN THE MATTER OF CHARLES STREET DEVELOPERS LLC FOR PROJECT LOCATED IN THE BOROUGH OF STONE HARBOR, NEW JERSEY IN THE AMOUNT OF \$4,690.00 TO BE APPLIED TOWARD THE COST OF IMPROVEMENTS TO AVALON BAY PARK MARINA

Resolution No. 114-2024: A RESOLUTION AMENDING THE CASH MANAGEMENT PLAN OF THE BOROUGH OF AVALON FOR THE YEAR 2024

Resolution No. 115-2024: A RESOLUTION APPOINTING A CLASS I SPECIAL OFFICER FOR THE BOROUGH OF AVALON.

Resolution No. 116-2024: A RESOLUTION AUTHORIZING PAYMENT OF BILLS

Motion made by Council President McDermott, seconded by Councilwoman Coskey that Resolutions 112-2024 through 116-2024 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

Introduction and first reading by title only of Ordinance No. 882-2024:

Motion made by Councilman Johnson, seconded by Councilman Wierman that Ordinance No. 882-2024 be brought on for first reading by title only.

<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. 882-2024:

Ordinance No. 882-2024:

AN ORDINANCE AMENDING CHAPTER 2 OF THE AVALON BOROUGH CODE PERTAINING TO THE POSITIONS OF ASSISTANT DIRECTOR OF THE DEPARTMENT OF PUBLIC WORKS AND UTILITIES AND THE CHIEF FINANCIAL OFFICER IN THE DEPARTMENT OF REVENUE AND FINANCE AND REPEALING CONFLICTING PROVISIONS OF ORDINANCE 814-2021

Motion made by Councilman Johnson, seconded by Council Wierman that Ordinance No. 882-2024 be passed on first reading 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:

Councilwoman Coskey thanked the Avalon Beach Patrol for their accommodation and responsiveness in handling Avalon Elementary School's recent field day event.

Pending Business:

None.

New Business:

None.

Public Comments:

Jake Perskie, Fox Rothschild, LLP, spoke on behalf of his client and the owner of 606 7th Street, Dan Hopkins. He referenced Council's discussion regarding the outfall pipe on 7th Street and announced his client's intention to contest any deviation from the current CAFRA permit, attempts to amend the CAFRA permit, or the validity of the use of the easement for stormwater pipes rather than sewer pipes. He gave background of his client's communication with Borough officials concerning this easement and the stormwater outfall pipe in question, during which the Borough made representations that the pipe would not be moved, as it would disturb a utility pole and existing vegetation within the easement. He read the terms of the CAFRA permit as it pertains to the location and reconstruction of the outfall pipe, as well as the Economic Impact Studies included with the permit application. He further admonished the Borough for the lack of communication with his client concerning this issue, and expressed opinions about the validity of claims made to his client as it pertains to the status of this outfall pipe.

Nicole Curio advised Borough Council not to respond to Mr. Perskie due to threatened litigation and noted any allegations formally brought against the Borough will be vigorously defended.

Martha Wright, 632 7th Street, referenced the discussion surrounding the outfall pipe on 7th Street and noted differences between the CAFRA permit application for this project and what was presented to Council today. She voiced her opposition to Council taking the action proposed during the discussion today.

Kevin Dougherty, 792 21st Street, questioned how a boat slip at the Avalon Sport Fishing Center was granted to a new applicant, and requested the Borough advise his place on the waiting list. He referenced his previous inquiries about the Sport Fishing Center in the past, and gave a history of the responses received, and the questions he still feels have been unanswered. He made suggestions of reassignments of boat slips to further accommodate other vessels, and inquired about the recent repairs made to the pier at the Sport Fishing Center. He requested Council advise as to the reasoning behind the latest assignment of a slip at the Sport Fishing Center, the registration information for an unknown vessel at one of the slips, and why he was overpassed when the recent slip assignment was made, while imploring the rules of the Borough be followed.

James Waldron noted Mr. Dougherty was offered and refused two boat slips at the Avalon Sport Fishing Center, as his vessel does not fit in any of the available slips at the Sport Fishing Center. Therefore, Mr. Dougherty was reassigned to the bottom of the list. Further, there are requirements not met by Mr. Dougherty as they pertain to the charter boat preference. Mr. Harvey, the most recent assignee, has met all requirements, is considered a charter boat preference, and could fit within the available slip. The possibility of reconfiguring boat slips has been explored. A representative of Mott MacDonald gave the Borough Engineering estimates for such reconfiguration, the cost of which was approximately \$20,000 to change the slips. If Council wishes to review the configuration of the Sport Fishing Center, a report will be provided.

June 12, 2024

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

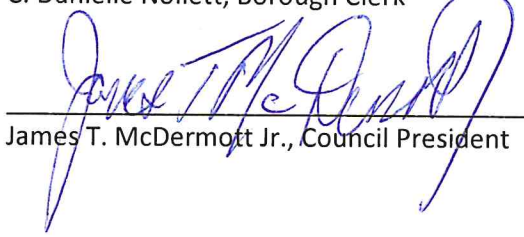
<u>ROLL CALL VOTE:</u>	Councilwoman Coskey	Aye
	Councilman Johnson	Aye
	Councilwoman Juzaitis	Aye
	Councilman Wierman	Aye
	Council President McDermott	Aye

Council Meeting adjourned at 4:30 pm.

Respectfully submitted,



C. Danielle Nollett, Borough Clerk



James T. McDermott Jr., Council President