A Work Session of the Borough Council of the Borough of Avalon was held on

Tuesday, November 22, 2016 at 4:02 p.m. in the Meeting Room, 3100 Dune Drive, Avalon, New Jersey.

Attendance: Public -------------------- 3 Reporters ----------------------- 1

The Meeting was called to order by Council Vice President McCorristin.

Pledge of allegiance.

Roll call: Council President Hudanich Absent

Councilman Burns Present

Councilman Covington Present

Councilman Dean Present

Council Vice President McCorristin Present

Also present:

Scott Wahl, Business Administrator

James Waldron, Assistant Business Administrator

Stephen D. Barse, Esquire, Borough Solicitor

William Macomber, Director of Public Works/Utilities

William McCormick, Chief of Police

Thomas R. Thornton, P.E., Borough Engineer, Hatch Mott Macdonald, LLC

Ed Dean, Fire Official

Council Vice President McCorristin wished everyone a Happy Thanksgiving, and a safe and happy holiday.

Council Vice President McCorristin read the Open Public Meetings Act Announcement.

Notice of this Work Session was included in the Annual Schedule of Meetings dated June 22, 2016. It was given to the news media and posted on the Official Bulletin Board as required by law.

Discussion regarding Flood Management Plan Evaluation Report.

Tom Thornton reported meetings have been held over the past year in accordance with the plan provided in the Flood Plain Management Plan. It is important to maintain and implement this plan throughout the year. That process includes several meetings known as plan review meetings which were conducted in March, April, and September. At those meetings various items in the action plan were discussed as well as the feasibility of implementing them. Most of the items are already in place and are being continued, while other items were new actions to be considered. All members of the Flood Plain Management Committee were very committed to the discussions regarding the various action items contained in the plan. The evaluation report is a culmination of those meetings and outlines every item in the action plan included in the original flood mitigation plan.

Councilman Covington referenced the emergency management section of the plan and asked for an explanation of the ID Card program being developed by the County.

Tom Thornton explained in the event of an emergency, certain ID Cards previously issued to Borough First Responders and Borough Emergency Response could be used to gain access to the Borough. Originally it was thought Avalon would need to implement the program independently, however, the County has begun the process.

Councilman Burns inquired if these actions will keep the Borough in good standing.

Tom Thornton responded yes, and explained the next step is to finalize the plan. The plan has been posted on the Borough website to notify the public and encourage any members of the public to raise concerns or make comments. Council is being asked to adopt a Resolution finalizing the Flood Management Plan at the next Council Meeting.

Council agreed to proceed with a Resolution to be prepared for the December 14, 2016 Regular Meeting.

Discussion regarding Resolution approving Change Order Nos. 1, 2 & 3 for 39th Street Park, Contract M-99.

Tom Thornton reported this project has been completed and was a successful project. These Change Orders are a result of finalizing items relating to the very small area of contaminated soils that were found in the site. Change Order No. 1 was for the mobilization of equipment, vehicles and labor to the site which amounted in an additional cost of $1,245.94. Change Order No. 2 was for the actual work in connection with removing the soil and replacing it with clean material in the amount of $4,161.74. Change Order No. 3 was for the replacement of concrete sidewalk that had broken as a result of equipment traveling over the concrete sidewalk to get to the site in an amount of $2,760.00. The contractor has provided a detailed breakdown of all costs, which are consistent with the requirements in the contract. He recommended Council approve the Change Orders as submitted.

Councilman Burns questioned why Change Order No. 3 states the scope of work includes installation of concrete sidewalk damaged during installation of water service to the park.

Tom Thornton explained he had reached out to the contractor who clarified that the replacement of concrete sidewalk was in the vicinity of the water service, however the work was not directly related to the installation of the water service. The inspector that completed the paperwork for the Change Order will be contacted for clarification as well.

Councilman Covington noted there is a Certification of Funds from the Chief Financial Officer certifying there are funds available to pay the balances of the Change Orders.

Council agreed to proceed with a Resolution to be prepared for the December 14, 2016 Regular Meeting.

Discussion regarding Resolution approving Change Order No. 1 for Reconstruction of Fifth Avenue Bulkhead Contract M-104.

Tom Thornton reported this Change Order is an adjustment of the final as-built quantities associated with this project. During the course of the project there were additions and reductions to quantities of materials. The additions included a minor increase in the amount of soil aggregate base course used for the road, and curbing that had to be extended to the nearest joint. The reductions included the reduction of three square yards of measured landscape stone area. The net result of all quantity changes came to an added cost of $1,733.41. Council may recall the original bid price was $89,800.00, which was significantly lower than other bids received. Overall, it was a very good bid and the contractor did a nice job completing the project. He recommended Council approve the Change Order as submitted.

Council Vice President McCorristin inquired if the dock will be rebuilt.

Tom Thornton responded yes and explained there is an outstanding request for determination from the Department of Environmental Protection to evaluate if the Borough must apply for a permit. It is intended to reconstruct the dock similarly to the current construction and would only have a slightly different footprint. When a determination is received from the Department of Environmental Protection, the project can proceed.

Council Vice President McCorristin asked if the construction on the dock will be completed prior to the summer of 2017.

Tom Thornton responded yes.

Council agreed to proceed with a Resolution to be prepared for the December 14, 2016 Regular Meeting.

Discussion regarding Shared Services Agreement with the Borough of Stone Harbor for Emergency & Non-Emergency Dispatch Calls.

Scott Wahl read the following report:

Summary: Avalon and Stone Harbor entered into a Shared Services Agreement with Stone Harbor on January 1, 2014 to have all non-emergency police calls handled by a central dispatch unit located in the Avalon Public Safety Building. The agreement is for three years and expires on December 31st, 2016. The initial term of the agreement was delayed for a few weeks so some technology issues could be ironed out.

Discussions: I have had two meetings with Stone Harbor Business Administrator Jill Gougher and Stone Harbor is interested in extending this agreement for another three years. There have been a few meetings involving police and administration in both towns through the length of this agreement to recognize any issues that needed to be cleared up. As Chief McCormick has stated many times, if there were any issues they have been dealt with that day without waiting for a meeting. Both sides remain very satisfied that the program has worked well with staffing and technology, providing a significant benefit for public safety and for the benefit of taxpayers.

Structure of agreement: The current agreement started with compensation to the Borough of Avalon by Stone Harbor starting at $275,000 with two percent increases in 2015, and again in 2016. Discussions we have had with Stone Harbor recommend another three year agreement with the two percent escalation on an annual basis, again. Equal quarterly payments are made in February, May, August, and November. Article 6 of the agreement reserves the right for Avalon to re-open the agreement and negotiate the school shall there be an unanticipated, extraordinary change in the cost of health care benefits or the need for expensive technology.

Termination/County Dispatch: We are all aware that the County of Cape May is moving towards the construction of a new Joint Dispatch Facility that may encumber dispatch services that is currently provided by Avalon to the 7 Mile Beach. This agreement carries in it a six month notice of termination of the agreement by either party shall one or both decide to move into the countywide dispatch system or shall other issues arrive. In addition, and we are not prepared to present this yet to Council, the Borough’s agreement with the County for emergency dispatch services expires on March 1, 2017; I have already reached out to Mike Laffey at the County to put him on notice that we prepare to discuss this; he has expressed interest the County will be interested to continue this agreement.

Chief McCormick added the years of planning regarding this program have paid off, as the program works very well. Both municipalities are working well together and all would be happy to see this program continue.

After brief discussion, Council agreed to proceed with a Resolution to be prepared for the December 14, 2016 Regular Meeting.

Status Report on Beachfill project.

Scott Wahl read the following report:

Summary: Avalon continues to work on this federally funded hydraulic beach fill project on two levels, in negotiations with the NJDEP/USACOE and with our filing in federal court relating to the Coastal Barrier Resources Act Issue. I also want to thank the Avalon Home and Land Owners Association for the opportunity to discuss these beach issues at the November 12th meeting at Community Hall.

NJDEP Update: Chris Constantino from the NJDEP has been in constant communication with the Borough on this issue. He informed us that both of the contractors that bid on the project agreed to extend their bids through December 15th as the agencies continue to work with the Boroughs to resolve these issues. Mr. Constantino also informed me over the weekend that the Borough should receive a State Aid Agreement this evening or tomorrow to move this financial arrangement forward, along with an MOU.

Legal: There is a second appearance before the judge on December 8th. At that point we will have the MOU and the State Aid Agreement. Our legal team is prepared to argue before the court that this issue involving the CBRA Act must be removed from current and future joint beach fills between Avalon and Stone Harbor.

Schedule: It is still anticipated that this project will occur after the winning bidder would begin a beachfill on December 1st in the Cape May area and take approximately 50 days to complete. With both towns weighing various options in the contract, it’s premature to have a concrete start and finish schedule for both towns.

Public Comments:

Elaine Scattergood, 75 30th Street, read the following Letter written by Elizabeth Smith published in The Press of Atlantic City on November 19, 2016:

Trees are vital to the survival of our species. They provide oxygen, prevent soil erosion, provide habitat for wildlife — including pollinators — and reduce carbon dioxide on the warming planet. Not to mention their sheer majesty.

In my volunteer roles at Tropical Audubon Society and Whitman Woods Project (board member and project manager, respectively), I advocate for trees and open space, both increasingly rare in Avalon. The borough allows developers to scrape lots clean of every twig, native or otherwise, and is allegedly complicit in the removal of perfectly healthy trees to improve views for wealthy beachfront residents.

I have been a seasonal Avalon resident since 1969, a year that marked the dawn of a movement to protect the environment instead of pillage it. I applaud the borough for rebuilding its maritime forest and dune system over the intervening decades — no small feat. Indeed, this restored ecosystem stood up to Hurricane Sandy very well.

In recent years, however, I am increasingly horrified by the wanton destruction of trees here. That 210 Japanese black pines were felled despite a lack of southern pine beetle evidence is alarming. I hope that for every pine lost, three native trees will be planted in their stead, and an independent certified tree expert will finally be permitted into the dunes.

Avalon is practically denuded of trees altogether, and the Bradford pear trees planted by the borough on Dune Drive are silly lollipops that don’t belong here either.

Council Vice President McCorristin noted the Borough of Avalon is working diligently to restore the maritime forest along the dunes.

Scott Wahl read the following statement from Jake Donnay, Legislative Affairs Specialist, of the Forest Service regarding the Southern Pine Beetle Grant:

The USDA Forest Service, through its State & Private Forestry programs administered in the Northeastern Area (USFS-NA), provides technical and financial assistance to 20 States and the District of Columbia across the Northeast and Midwest.  This assistance is provided under the Cooperative Forestry Act of 1978 (as amended).  The State of New Jersey-Department of Environmental Protection-State Forestry Services (NJDEP), receives financial assistance from USFS-NA on a 1:1 matching basis.  The NJDEP has broad discretion in designing its forest conservation programs to meet the needs of the State, local communities, and the public in compliance with the Cooperative Forestry Act as administered by the Forest Service.  For the issue raised here, funding from two USFS – “Urban and Community Forestry” and “Forest Health Protection” - are involved.

For the Urban and Community Forestry program, with support from the USFS-NA, the NJDEP supports a multi-faceted program that includes providing financial and technical assistance to local communities, enabling them to develop “Community Forestry Plans.”  The Borough of Avalon participates in this program and has a Community Forestry Action plan, approved by the NJDEP that addresses the need for management of its forest resources, including pine trees.

In the area of Forest Health Protection, also with USFS-NA financial assistance, the NJDEP created a “Southern Pine Beetle Community (SPB) Grant Program”.   That grant program is administered by the NJDEP as a voluntary grant program with local communities.  It is a component of a larger NJDEP effort, supported on a 1:1 cost-share basis by the USFS-NA, to address the infestation of SPB in the southern region of the State.  The State is taking a proactive approach to dealing with the significant and dangerous threat to the pine forests of NJ posed by SPB.  Since 2002, the initial onset of major SPB infestations in the state, SPB has impacted over 40,000 acres of pine forests in southern NJ.  SPB trapping efforts have been positive for SPB in Cape May County (where the Borough of Avalon is located).  All pines are susceptible to SPB infestation, including Japanese Black Pine.

The Borough of Avalon choose to participate in the program and apply for a grant, which the NJDEP subsequently approved.  The NJDEP has informed USFS-NA that the Borough of Avalon applied for a “Southern Pine Beetle suppression or prevention grant” on 12/16/2015 to remove infected or at risk pines.  NJDEP stated that they reviewed the project proposal, conducted on-site evaluations and concluded that the project met the grant requirements. The grant application was awarded to Avalon on 04/22/2016.  The NJDEP believes the grant supports the municipality’s efforts to sustain its maritime forests, and has stated that the Borough of Avalon recently passed a resolution that specifically addressed concerns related to the presence of SPB and at-risk trees in their community forests.  Finally, the NJDEP has informed us that the grant to the Borough can only be used for the removal of infested or “at risk” pine trees in a specific area of the ocean front maritime dune forests.   The longer term vision and approach for sustaining forest/vegetative cover of the dune system and other parts of the Borough are described in Avalon’s approved Community Forestry Plan.

Given the history of SPB activity in NJ, widely accepted preventative measures to manage pine stands and remove and dispose of at-risk pine trees is a standard and important SPB forest management practice.

From the perspective of the USFS-NA, the NJDEP is working with and supporting local communities in NJ in a manner that supports long-term forest sustainability and is consistent with our expectations for how USDA Forest Service financial assistance should be used by a State under the Cooperative Forestry Assistance Act.  The NJDEP has been transparent in providing information about SPB management, grant opportunities, and the community forestry planning process on their website.

Scott Wahl added any allegations of mismanagement and fraud are unfounded, untrue, self-serving and reckless.

Mark Papineau, 189 34th Street, stated the recent backpassing project within the Borough was successful and benefited Avalon overall with the exception of those that live on 34th and 35th Streets, where the sand was taken. He raised concerns that the beach from 34th Street to 35th Street was severely negatively impacted and took what was once an outstanding beach and has become an unsatisfactory beach as a result of the backpassing project due to ponding and extreme high tides.

Tom Thornton explained the Borough has been completing backpassing projects for the past fifteen years, and the most recent iteration was in 2012 when Avalon applied for permits from the Department of Environmental Protection and Army Corps of Engineers to scrape sand from the area of Avalon’s beaches south of the fishing pier. The beaches from 40th Street to 60th Street must be reserved for the Piping Plover. The agencies required a demonstration that scraping sand from beaches north and south of that area would not impact the prey base for the Piping Plover within the Piping Plover area. That proof was demonstrated through studies completed by a sub-consultant, and the Borough was approved to scrape sand from 32nd Street to 40th Street, and from 60th Street to 71st Street. The first project completed under those permits, saw sand scraped from both borrow areas. Since then, two projects have been completed by scraping sand from only the north borrow area which reduced the hauling costs. When the permits were issued, the Department of Environmental Protection established a floor that could not be scraped below. The most recent project included an effort with Public Works to push sand back into those lower areas after scraping was done to attempt to retain approximately 100 feet of beach area. Upon visits to the site after the two most recent backpassing projects, it was observed a gully extended well to the north and some distance to the south of the borrow area. It is possible the scraping project helped to exacerbate these gullies. It was also found that the beaches within the borrow area replenish themselves relatively quickly, and the beaches in question are higher now than before the scraping project began.

Councilman Burns noted work was done to the beach for the Lifeguard Races and that work was very well received. He asked if it would be possible to complete that type of work on a regular basis.

Bill Macomber explained when the Public Works Department backfilled the gullies on the beaches, the replaced sand washed away in a few days.

Tom Thornton added during the summer months the beaches will realize a buildup of a sand bar on the shore due to summer depositions of sand naturally taking place. Those bars can create what appears to be a gully, as the sand on the west side of the bar is lower than the sand on the water ward side of the beach.

Councilman Burns asked why the backfilled sand is washed away so quickly.

Tom Thornton explained backfilled sand is placed in a soft state and not a compacted state, which leaves the sand susceptible to washing away at a quicker rate. He added the efforts made by the Public Works Department were very helpful.

Scott Wahl noted Dr. Stewart Farrell recently made a report at a Council Meeting which stated the area in question saw a shoreline advance of 197 feet due to shifting sand. He questioned if the gullies being created could be a result of the same affect.

Tom Thornton responded it is possible to be the cause, however it is difficult to determine.

Council Vice President McCorristin added tremendous storm events also occurred which helped contribute to erosion on the beaches.

Tom Thornton noted a backpassing project may not be necessary this year, and is interested to see how that will impact the beaches within the borrow areas.

Councilman Covington expressed upset over Mr. Papineau’s concerns and stressed the importance of studying the impacts of backpassing projects more in depth.

After further discussion, Council asked Mr. Papineau to reach out to Scott Wahl to coordinate a meeting to address his concerns and review any photographic evidence he has.

Jim Summers, 56 35th Street, agreed with all concerns and statements made by Mr. Papineau and stressed the importance of the Borough looking into this matter further.

Motion made by Councilman Covington, seconded by Councilman Dean to adjourn the Work Session.

ROLL CALL VOTE: Councilman Burns Aye

Councilman Covington Aye

Councilman Dean Aye Council Vice President McCorristin Aye

Council President Hudanich Absent

Work Session adjourned at 4:50 p.m.

Respectfully submitted,

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Marie J. Hood, Borough Clerk

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Nancy M. Hudanich, Council President