

A Work Session of the Borough Council of the Borough of Avalon was held on Wednesday, June 28, 2017 at 7:06 p.m. in the Meeting Room, 3100 Dune Drive, Avalon, New Jersey.

Attendance: Public ----- 4

Reporters ----- 2

The Meeting was called to order by Council President Hudanich.

Pledge of allegiance.

<u>Roll call:</u>	Council President Hudanich	Present
	Councilman Covington	Present
	Councilman Dean	Present
	Councilman Deever	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
Chief William McCormick, Police Department
Thomas R. Thornton, P.E., Borough Engineer, Hatch Mott Macdonald, LLC
Paul E. Short, Sr., Code Enforcement Officer
John Cuthbert, Representative, AHLOA

Council President Hudanich 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.

Council President Hudanich read the following statement:

Before we begin this evening's meeting, I deem it necessary to state the following. As you know, the position of Council President is for one year. In fact during each elected 4 year term, a Council member may serve as President for only one year. And since I am serving as the President of the Avalon Borough Council this evening for the last time prior to our reorganization meeting on July 7th I want to share the following for clarification and edification:

First, a response to public statements and suggestions made at the last council meeting during the public comment portion. One member of the public suggested that the Avalon Volunteer Fire Department be involved in a program through the Deborah Heart and Lung Center in Browns Mills, NJ that provides free physicals for first responders in our State who have no insurance. We appreciate the suggestion; in fact, our volunteer fire department has been actively involved in that program for many years. It is a volunteer program for which all firefighters must pass a physical to attend fire school, and become a member of the State Association.

As elected officials we value individuality and independent thought. It is our fiduciary responsibility to not only accept this thought, but to use whatever resources possible, both human and financial, to make important decisions to benefit the entire Borough. Decisions are made with a great deal of time and analysis of the situation.

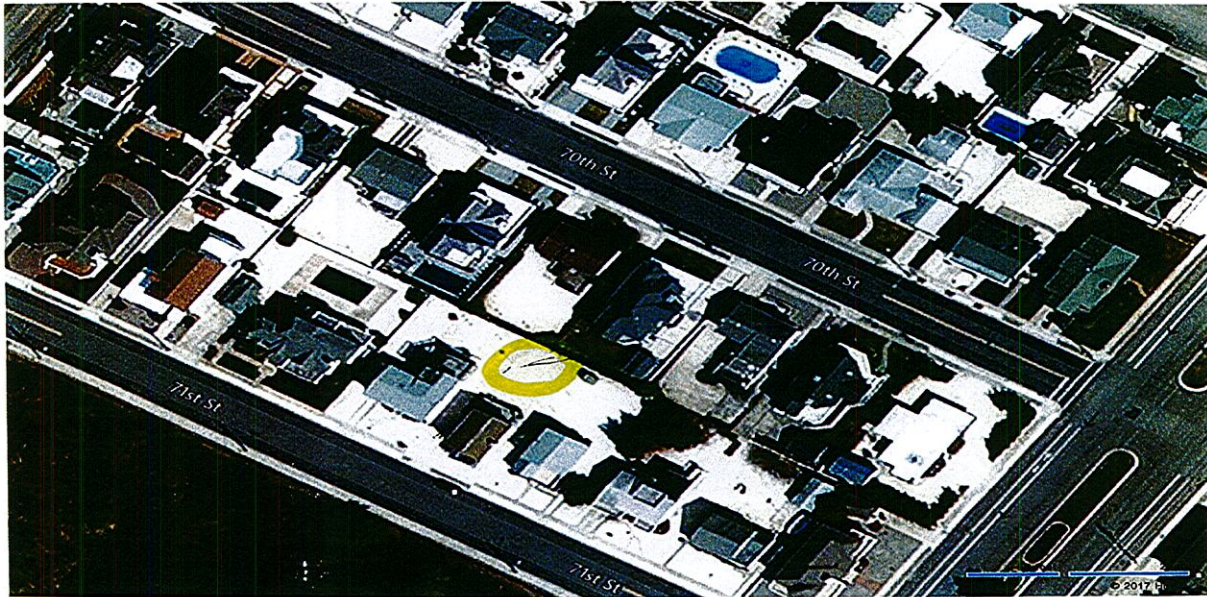
Part of this process is to require civility from the public without making personal attacks on character. The respect Council shows for the public is also required from the public to show to Council ... as we are all part of the same community – Avalon ...the Town we all call home! However, we simply will not tolerate attacks on character, whether it be directed at a Borough employee, volunteer or elected official. Examples include accusations of employee dereliction of duty and how this Council was accused months ago of fraud over the acceptance of a State grant. That accusation was baseless, groundless, and without merit; however, no apology was offered by the accuser and no effort was made to fact check after reports were published of this self-serving, mean spirited, intellectually stupefying false accusation.

June 28, 2017

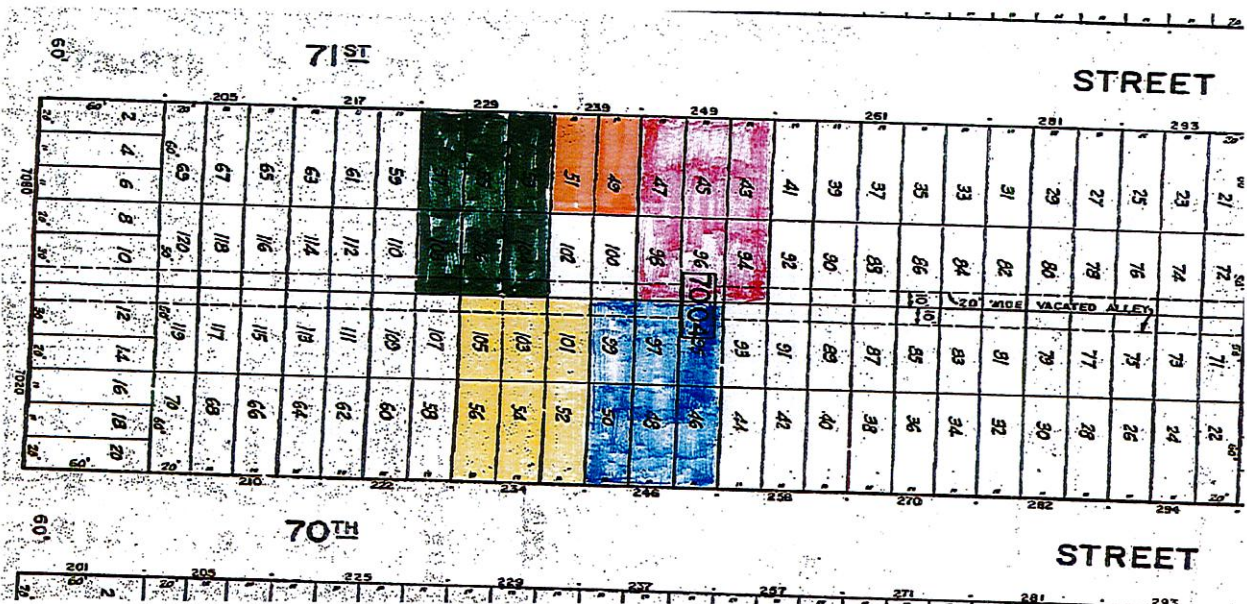
In 2017, there continues to be repeated examples at every level of government where one person does not get his or her own way, then there is a posture of bullying tucked conveniently behind the curtain of freedom of speech. I can assure you that this Council will now, and in the future under Councilman McCorristin's leadership, identify and respond to meritless attacks by anyone whose interests are solely self-fulfilling and disregard the greater good of the Borough of Avalon, which we, as Councilmembers, are obligated to serve.

Discussion regarding request to purchase Borough owned property at Block 70.04, Lots 100 & 102 (no physical address).

Scott Wahl gave the following presentation:



The area noted in YELLOW CIRCLE is the Borough owned parcel of land that we have received a request to sell. The home with the gray roof just above the circle, offset to the east, is owned by the interested purchaser.



Lots 100 and 102 noted in WHITE are the lots owned by the Borough. Lots noted in YELLOW are owned by Mr. and Mrs. Ermentrout, the party interested in purchasing the Borough property.

Regarding this decision:

- It is a 40x50 parcel of land the Borough owns that was the result of “checkerboarding” years ago where small lots were for sale to individuals who needed land for buildable lots. The property is landlocked by five properties, not accessible by the Borough, and is not eligible for a building permit because it is undersized and has no frontage; the Borough does not maintain this property
- The potential intent to purchase this lot would be to increase the Floor Area Ratio of a property to construct a larger home; or create a walkway to a gazebo; or construct a pool
- The small house located in front of this property was constructed before modern zoning regulations; in 1975 the Municipal Land Use Law requires that zoning be “consistent and fair to everyone”
- The process for the Borough would be either accept or reject this request to sell the land; if the decision is to reject, the process ends with a letter by the Business Administrator to the property owner. If the decision is to accept, then the Borough selects an appraiser to appraise the land at the interested buyer’s expense
- Council then would decide if it wishes to potentially sell the property at that price. If no other adjacent property owners are interested, the land would be sold to the interested party at the appraised value. If another property owner is interested, an auction would be held with the “floor” of the auction being the appraisal the Borough received

Points for Consideration:

- During a meeting with Jeff Hesley, he indicated the Borough has never sold this type of property to have an odd shaped lot that this sale would create, and which Zoning discourages
- Dependent on current market conditions and other factors, the Borough would likely receive a higher appraisal if the owner of the small, non-conforming lot with frontage to the street was interested in the purchase
- The owner of the small lot could replace the current house with a larger house, meeting the FAR, on an undersized lot and the Borough would not be in a position to oppose it

Council Vice President McCorristin added that if the owners of the orange property were to purchase the Borough owned lots, the lot size would still be undersized, as it does not have 60 feet of frontage. However, it would be more advantageous if the orange property owner wished to purchase the property.

Council President Hudanich commented that this is a unique situation with having five contiguous property owners to a Borough owned property. She spoke in opposition of selling the parcel, as it would not be the best fiduciary gain at this point.

Scott Wahl noted Jeff Hesley has conveyed that this is a unique situation, and is unsure that there is another property with similar circumstances.

Councilman Deever asked if current zoning regulations would permit the construction of a fence or pool on the property.

Scott Wahl responded both Jeff Hesley and John Tracy have confirmed that the property could be used to factor into a floor area ratio to build a larger home, or it could have a gazebo, seating area, large shed, or pool constructed on the property. He also noted if Council approves the sale, depending on the successful purchaser, the lot could contribute to a very unusually shaped lot.

Councilman Covington referenced the vacated alley that runs between the properties on 70th Street and 71st Street, and asked whose responsibility it is to maintain the alleyway.

June 28, 2017

Jim Waldron explained the alleyway was annexed to the adjoining property owners, and fifty percent went to the properties on each side of the alleyway and is to be maintained by each property owner.

Bill Macomber asked what the Borough's maintenance responsibility would be on this Borough owned land if the Borough decides not to sell the property, and if the current individual maintaining the property ceases the maintenance. He noted it would be difficult to access the property.

Jim Waldron responded that issue would be dealt with when the problem arose.

Councilman Covington noted that if the owners of the undersized lot eventually purchased the Borough owned land, the only benefit would be that they could build a larger home on the property.

Council President Hudanich agreed and spoke in support of heeding the advice of the Tax Assessor.

After discussion, Council agreed to not move forward with the sale of the property. Scott Wahl was authorized to contact the interested property owner and convey the status.

Discussion regarding Resolution authorizing Change Order Nos 6-11 for Fifth Avenue & 60th Street Water & Sewer System Improvements, Contract M-54

Tom Thornton reported there are six additional Change Orders in connection with this project in connection with relocating water meter pits, unforeseen difficulties regarding the orientation of the duct bank in 60th Street, repairs of a six inch asbestos cement pipe and two inch galvanized water main at the intersection of 60th Street and Ocean Drive, subtasks related to water service sizes, a blowoff at the end of Fifth Avenue, replacing two driveway aprons on 61st Street, and tie ins of the water main on Fifth Avenue where it intersects with 42nd Street. All six Change Orders totaled \$28,976.24. All documentation has been reviewed by Mott Macdonald, and he recommended Council approve the Change Orders.

Councilman Covington noted that Atlantic City Electric had recently repaved 61st Street, and asked if they have any responsibility to replace those driveway aprons.

Tom Thornton responded he is unsure if those repairs are expected from Atlantic City Electric. When the paving took place, it was not required to redesign the street, which sometimes causes problems in establishing the grade and encroaching upon driveway aprons. He expressed the opinion that the repairs would not fall under the responsibility of Atlantic City Electric, but if Council would like, he can reach out to Atlantic City Electric and explain the situation.

Councilman Covington expressed the opinion that Atlantic City Electric should be responsible for the repairs.

Council President Hudanich spoke in support of researching the matter further.

Tom Thornton stated he will do more research and get more details of the repairs and will report back to Council.

Council agreed to proceed with a Resolution to be prepared for the July 12, 2017 Regular Meeting.

Discussion regarding proposals from Mott Macdonald for 39th Street between Dune Drive to First Avenue and the Bike Lane Extension

Tom Thornton reported the Borough recently received grant funding from the Local Aid Funding Program through the New Jersey Department of Transportation for the repaving of 39th Street in the amount of \$180,343.00. When reviewing the site, it was determined that the water system is not in need of replacement, however, the sanitary sewer main is nearing the end of its useful life. He recommended that Council look into replacing the sanitary sewer main before the repaving is done.

Councilman Covington asked what the relationship is between 39th Street and the bike path.

Tom Thornton explained 39th street is the crossover of the bike lane from Dune Drive to First Avenue and the repaved road would provide a nice transition for the proposed bike lane. The bike lane project is independent of this project, and must be completed by the end of 2017. There are no striping plans for the bike path on 39th Street, so the only impact the repaving will have on the bike path is that bicyclists will have a rougher ride on 39th Street until the work is completed.

Council President Hudanich inquired if there is money in the budget to complete the sanitary sewer main replacement.

Tom Thornton noted that there is funding included in the budget for water and sewer replacements annually, however, he is unsure of the amount of funding available in the budget.

Council President Hudanich stated the Chief Financial Officer will need to be consulted with regarding the project to ensure the funding is in place.

Council agreed to proceed with a Resolution to be prepared for the July 12, 2017 Regular Meeting.

Update regarding quotes received for floating dock and ramp at Fifth Avenue and 20th Street

Tom Thornton reported the Public Works Department recently constructed the pier at this location, however there is also a need to have a mooring spot for the Borough's fire vessel. A permit has been obtained from the Department of Environmental Protection to do so. Quotes have been received for the work, and the lowest quote was received from Channel Marine in the amount of \$16,700.00. The project includes the construction of three mooring piles, a floating dock, and an aluminum ramp down to the floating dock.

Council Vice President McCorristin asked if the area will be gated off.

Tom Thornton responded yes. He added that some of the work will be done by the Public Works Department, and there are possibly some electrical components that will need to be done by soliciting quotes from electricians. He further added that work will begin shortly after Council's approval.

Council agreed to proceed with the project.

Discussion regarding Resolution authorizing participation in the Cape May County Cooperative Pricing System Membership

After brief discussion, Council agreed to proceed with a Resolution to be prepared for the July 12, 2017 Regular Meeting.

Discussion regarding the County Highway Safety program to install center line rumble strips on Avalon Boulevard

Scott Wahl reported this item does not require official action by Borough Council. The County Engineer has contacted the Borough regarding the installation of center line rumble strips in connection with federal funding in the amount of \$2 million the County had received for such projects. These rumble strips will not be throughout the right of way, but instead on the center lines so that if a driver drifts onto the center of the road, they can be alerted and, hopefully, self-correct back into the right of way. The center line rumble strips are a safety initiative and, according to the Federal Highway Administration Reports, crash frequency is reduced by 45% on rural two lane roads and 64% on urban two lane roads where these rumble strips are installed. The proposed rumble strips in Avalon would run the length of Avalon Boulevard from the bridge at Avalon's border to Ocean Drive. The Chief and the Mayor have been consulted, and both are in support of this initiative.

June 28, 2017

Council President Hudanich spoke in support of the center line rumble strips and asked Scott Wahl to educate the public through the website on what to expect on the roadway.

Councilman Covington asked if these rumble strips will also run the length of Avalon Boulevard in Middle Township.

Scott Wahl responded the County did not provide that information, however he will ask.

Councilman Covington noted the Borough should have an idea of the entire scope of the project to better educate our residents and guests.

Council agreed to support this action proposed by the County.

Discussion regarding Resolution authorizing sale of surplus property on GovDeals

Bill Macomber reported the property being sold includes equipment no longer used as well as some of the military equipment the Borough currently owns that cannot be used. Permission to sell those military items has been obtained from the State Police.

Council Vice President McCorristin asked why there is cedar fencing being sold.

Bill Macomber explained the Borough does not use cedar post and rail fencing, so it is troublesome to store items that cannot be used.

Council agreed to proceed with a Resolution to be prepared for the July 12, 2017 Regular Meeting.

Public Comments:

Martha Wright, 632 7th Street, commended the Borough for the installation of turtle tubes along Avalon Boulevard, which saves many lives. She expressed concern about the turtle carnage on Avalon Boulevard west of the bridge in Middle Township as well as on Ocean Drive. She suggested turtle tubing be installed on Ocean Drive between 53rd and 57th Street near the kayak park and Bay Park Marina.

Councilman Covington and Council President Hudanich agreed that the option of installing turtle tubing according with Ms. Wright's request should be explored.

Martha Wright spoke in opposition of changing the meeting schedule to include all Council Meetings to be held at 4:00 p.m. She stated the meeting time change will make it difficult for out of state property owners to attend meetings. She suggested that Council look into possibly livestreaming or podcasting meetings held at 4:00 p.m. She also spoke in opposition of ill-considered and unnecessary litigation, specifically relating to The Marina at Avalon Anchorage. She expressed concern about the tax dollars spent on this litigation and reported she has submitted OPRA Requests in hopes of finding out the exact amount that has been spent on this litigation. She thanked Marie Hood for her guidance in explaining what types of documents are kept by the Borough. She spoke in support of the Borough taking fiscal responsibility and keeping more detailed records in connection with money spent on individual litigations. She opposes litigating this matter at the New Jersey Supreme Court level and expressed hopes of a settlement in the future. She further suggested that the Borough explore the option of opening another kayak park in that location.

Council President Hudanich advised Ms. Wright that legal bills submitted from the Borough Solicitor began being broken down by litigation in October of 2016.

Marie Hood notified Council President Hudanich that information was conveyed to Ms. Wright when they spoke earlier this week.

June 28, 2017

Thomas Thaddeus Marshall referenced the ongoing litigation between the Borough of Avalon and The Marina at Avalon Anchorage. He raised questions of qualified immunity and mentioned that issue will be under scrutiny in regards to this case, and could possibly be stripped from any parties who have committed improper conduct during the litigation. He spoke as Travis Marshall's personal advisor, and noted there is an opportunity to settle the case. An offer to settle will be forthcoming from Mr. Marshall's attorney to the Borough, and he urged Council to consider the offer when received.

Jim Waldron asked for clarification that the Borough is to expect to receive an offer of settlement from Mr. Marshall's attorney, Mr. Hluchan, and that offer will be conveyed through the proper channels to the Borough.

Thomas Thaddeus Marshall responded yes.

Travis Marshall, 885 21st Street, mirrored Ms. Wright's statements about the turtles being killed on the roadways and asked Council to consider her suggestions.


Council President Hudanich thanked Mr. Marshall for his comments and asked Scott Wahl to contact Middle Township about installing turtle tubing on Ocean Drive.

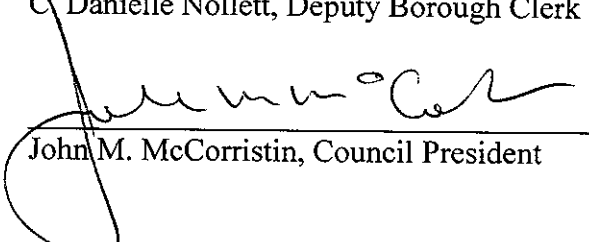
Motion made by Council Vice President McCorristin, seconded by Councilman Deever to adjourn the Work Session.

<u>ROLL CALL VOTE:</u>	Councilman Covington	Aye
	Councilman Dean	Aye
	Councilman Deever	Aye
	Council President Hudanich	Aye
	Council Vice President McCorristin	Aye

Work Session adjourned at 8:07 p.m.

Respectfully submitted,


Danielle Nollett, Deputy Borough Clerk


John M. McCorristin, Council President