

October 25, 2017

A Work Session of the Borough Council of the Borough of Avalon was held on Wednesday, October 25, 2017 at 4:08 p.m. in the Meeting Room, 3100 Dune Drive, Avalon, New Jersey.

Attendance: Public ----- 20

Reporters ----- 2

The Meeting was called to order by Council President McCorristin.

Pledge of allegiance.

<u>Roll call:</u>	Council President McCorristin	Present
	Councilman Covington	Present
	Councilman Dean	Present
	Council Vice President Deever	Present
	Councilwoman Hudanich	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, Mott Macdonald, LLC  
Paul E. Short, Sr., Code Enforcement Officer  
Ed Dean, Fire Chief  
John Tracy, Construction Official  
John Cuthbert, Representative, ALHOA

Council President McCorristin read the Open Public Meetings Act Announcement.

Notice of this Work Session was included in the Annual Schedule of Meetings dated June 28, 2017. It was given to the news media and posted on the Official Bulletin Board as required by law.

**Statement by Scott Wahl concerning Special Meeting of Borough Council held on October 16, 2017.**

Scott Wahl read the following statement:

The Avalon Borough Council held a public meeting without adequate notice on Monday, October 16<sup>th</sup> at 10:00am to conduct a matter of urgency and importance. Borough Council went into closed session to discuss a potential settlement agreement regarding litigation involving Avalon Anchorage Marina. Council came out of closed session and voted unanimously to approve the settlement agreement which ends this litigation, pending approval of the agreement by Superior Court Judge Julio Mendez.

None of the parties involved in this settlement agreement are permitted to speak of the terms of the agreement pending the approval by Judge Mendez. At this time, the Borough will offer no additional comments on this matter.

Discussion regarding Avalon Volunteer Fire Department Stipend System.

Ed Dean read the following report:

Purpose: Due to overnight shortages in membership response, the Avalon Volunteer Fire Department (AVFD) and the Borough of Avalon partnered in October of 2016 to put into place a stipend program. The program offers a stipend to the membership of AVFD for spending the night in the firehouse ready to respond to any alarm. The sole purpose of the program is to have a crew of firefighters in the firehouse overnight. A full crew is one officer (or officer qualified), one apparatus driver, and two qualified firefighters. In accordance with the agreement between the Borough of Avalon and the AVFD, the Chief is required to present an annual report on the program, and the MOU may be altered if needed. I have asked for an alteration of the MOU to permit the participating members to accept a fifth overnight tour in each calendar month.

October 25, 2017

Page | 1



Stipend Program Data: The AVFD formally began overnight coverage of the firehouse under the Stipend Program on October 1, 2016. The AVFD responded to 250 total calls for service from October 1, 2016 to September 30, 2017. Of the total number for the year, 64 calls were received during the period of overnight coverage from 7:00 PM in the evening to 7:00 AM each morning. Calls during the period of overnight coverage accounted for 26% of the total fire call volume for the year.

Due to shortages in available membership, 6.25% of the overnight calls in the last year were answered by pager tone only, because there was no crew in the firehouse. There were about a dozen overnight fire calls in the past year not covered by an overnight tour. About 1/3 of the filled tours were short, meaning there were three firefighters instead of the desired four overnight for the tours.

On nights when stipend program tours were filled, the average response time for the initial fire engine was between 4 and 5 minutes. On nights when there was no coverage and the call was answered by pager tone only, the average response time was 9 minutes or more. On covered nights the AVFD was able to staff and fill the second due truck nearly 100% of the time. The second truck is manned by members answering the pager tone for the call. That second truck is extremely important to the safety of the AVFD team and our ability to provide effective service.

The AVFD was able to at least minimally staff the first due fire truck 100% of the time. You may recall that lack of response was one of the principal reasons the officers of the AVFD came to the Mayor and Borough Council with the stipend program proposal in the late spring of 2016. One of the utmost areas of concern was that the Chief and/or Assistant Chief responded to several calls without benefit of a responding main fire apparatus. I am happy to report that at least one fire engine responded for every call for service within the time period referenced herein.

Stipend Program Annual Review: There was anticipation of a generous influx of new members upon start-up of the stipend program. That has not occurred, and our membership numbers have remained fairly steady. While we did take in four new members last year, and moved one up from Junior Firefighter status, it has become clear that the stipend program was not a determining factor. As part of the changes we made to our by-laws ahead of the stipend program, we removed a long-standing residency requirement for new members. In two of the cases the new members had desired to join the AVFD for some time, but the residency requirement did not permit it. In the other two cases the new members had an employment relationship with the Borough separate from the AVFD. Employment with the Borough has long been an exception to the residency requirement for membership. One of those employees was newly employed last year, and the other just turned 18 years old. Of the new members we took in last year, all had some connection to the community, either having grown up here, work here in their own businesses, or work for the Borough of Avalon. In speaking with other volunteer fire chiefs throughout the state, connection with and concern for the communities' welfare are the most common reasons given by potential members as reasons for joining the local volunteer fire department.

Retention of members and re-activation of inactive members was another of the major objectives as we put together the stipend program. The program has been a great success in that area, as several inactive members have returned to active status in the past year. We have determined that the stipend program is an excellent incentive for volunteer retention and renewed interest among existing members.

One segment of data that was somewhat surprising was that response times during all times of day have been reduced by one to two minutes since the stipend program went into effect. Upon investigation I've concluded that there are three definite reasons for this:

1. There is improved morale and the general feeling among the members that Avalon cares about them and appreciates their dedication. That feeling of good will is obviously reciprocated by the members' willingness to respond at all times.
2. The firefighters involved in the stipend program spend time during their duty crew tours enhancing their general firefighting knowledge, and more specifically, improving their expertise with the equipment. That extra time has resulted in more firefighters with the ability to operate the trucks and to lead crews as officer qualified. The firefighters are proud of their accomplishments and being in the firehouse gives them more time to improve their skills.



3. In order to qualify for the stipend program the members must remain active on the rolls of the AVFD. The requirement for members to remain active provides an incentive to the members to respond at all times, and not just while they are in Avalon.

Another benefit of the stipend program to the Borough, though difficult to quantify, is the additional resource availability to other Borough agencies afforded by the crew in the firehouse overnight. The overnight crew has assisted EMS on serious medical calls and on EMS all-call pages on nearly dozen occasions this past year. The ready availability of this additional manpower resource has enabled EMS to provide more efficient service to the Borough. Also, since overnight duty crew participation is entirely voluntary, and when there are EMTs scheduled on the fire department duty crew, they are permitted to respond to EMS all-call pages when a second ambulance is needed in Avalon. That situation arose on three occasions last year. During monthly tour scheduling some thought is given to trying to maximize the number of overnight tours where EMTs are participating; so then the Borough may benefit from the availability of a second ambulance or manpower assistance when needed at night. Since most of the staff EMTs live outside of Avalon, in the past it has been rare for a nighttime EMS all-call page to garner a crew. When an EMS all-call is paged, Stone Harbor EMS is toned as well, but there can be little doubt that the ambulance from Stone Harbor takes more time to travel into Avalon than it takes for an all-call ambulance to respond when a crew is readily available.

Recommendations: I have only one recommendation at this time. The AVFD did not guarantee that we would be able to fill all available overnight tours; and in fact we admitted that we could not at our current membership level, but we came much closer than I imagined possible in the first year of the program. That happened despite the fact that the program has not been the positive tool for recruitment we thought it would be. We believe we can get to nearly 100% overnight coverage, and we can definitely improve the 1/3 short crew problem, if we are able to permit the members to take an additional overnight tour each month. We believe this is possible with the members who are already participating in the program currently. In consideration of the general rules for volunteer stipend programs we have gathered a list of median firefighter salaries in our geographical area, and have concluded that an additional overnight tour will not bring the participants close to the 20% of career salary cap generally applied under the FLSA. As with all overnight tours, participation in a fifth night would be completely and totally voluntary. With that goal in mind, I, as Chief of the Avalon Volunteer Fire Department, have requested that the Borough of Avalon permit the members to attend a fifth stipend program overnight tour in each calendar month. The addition would be budget neutral since the budget is already set to provide for stipend payouts at 4 members per tour. As is presently the rule, no more than 4 members will be scheduled in any overnight tour regardless of the number of members who are available, so there will not need to be additional money budgeted.

Council President McCorristin expressed happiness that the program has been a success in its first year and spoke in support of amending the Memorandum of Understanding to reflect Chief Dean's suggestion.

Councilwoman Hudanich stressed the importance of having the stipend payments with a fifth tour evaluated further with financial personnel to confirm that an additional payment will not encroach on the salary cap.

Ed Dean ensured Council he will make sure that is done.

Councilwoman Hudanich thanked Ed Dean for his report and noted the essence of the Volunteer Firefighters is not about the stipend, but rather the community.

Council agreed to proceed with further discussion of this item at the November 8, 2017 Work Session.



Further Discussion regarding easement realignment for Block 7.07 Lot 138 (576 7<sup>th</sup> Street) and Block 7.08 Lot 140.01 (606 7<sup>th</sup> Street).

Scott Wahl explained this easement involves two properties and a pipe that runs through the area. Council President McCorristin asked that professionals be consulted regarding this potential realignment. Municipal Engineer Tom Thornton was consulted and asked to do an in-depth analysis of the easement to provide a recommendation to Council.

Tom Thornton reported this request was considered in context of the other concerns, comments, and complaints received from residents after this particularly rainy spring and summer. Many of those concerns related to storm water infrastructure. The Borough currently maintains a 70 foot easement at the intersection of 6<sup>th</sup> Avenue and 7<sup>th</sup> Street. It is his recommendation to maintain that easement for the purpose of being able to implement whatever possible improvement may result from a more in-depth study of the drainage in the vicinity of that intersection. Possible solutions include a realignment of the existing storm water outfall pipe, a pump station, or some other structure that may require the ultimate use of more than the current width of pipe extending from the inlet out to the bay.

Council agreed to take no action on this request at this time.

Discussion regarding possible notification to adjoining property owners concerning demolition permits.

Scott Wahl read the following report:

Summary: A member of Council requested a discussion regarding the potential notification of neighbors relating to anticipated demolitions of private property in the Borough of Avalon. Many property owners host weddings, receptions, and special events at their homes which can be disrupted by an unanticipated demolition of a home adjacent to the property.

Building Demolition Facts: The number of building demolitions in the Borough is fairly consistent from year to year. In 2017, Avalon experienced 29 building demolitions before the summer break, and as of October 12<sup>th</sup>, had issued permits for another 33 buildings for after the summer break for a total of 62 demolitions with two and a half months remaining in the year.

Demolitions dates/times are currently established in Chapter 7 along with demolition permits

Potential Remedy: Avalon Construction Official John Tracy is present to discuss this further and can describe many of the challenges involved with a precise notification of any property owner when a demolition is scheduled to occur. Factors that involve the actual date of a building demolition include, but are not limited to:

- Date of permit issuance
- Conflicting schedules and availability of equipment for the demolition contractor
- Prep work to be finished in advance of the actual demolition

After multiple discussions with Mr. Tracy about this, it became increasingly difficult for us to be able to provide a lot of advance notice for a specific date of when a building would be demolished due to the factors above, the contractor's schedule, how much work has to be done, and so forth.

In order to effectuate this as policy and a requirement of the Borough, an ordinance change is required, likely to Chapter 20 that would obligate the demolition company to conduct a certified mailing to property owners adjacent to the property to be demolished. The mailing would have to indicate a date range of when the demolition is anticipated to occur, along with a contact number for a property owner to call to get a specific date from the company (our Construction Office wouldn't be aware of the specific date most of the time). However, even with the requirement that certified mail copies of a letter from the contractor to the adjacent properties shall occur, it may not be possible to specify a specific date of when the demolition of the property would occur.



However, John Tracy has taken a step to talk to the contractors who do many of the building demolitions in town, and they are in favor of a customer friendly approach to the demolition process. For example, notifying neighbors as a goodwill effort when a contractor knows the scheduled date of demolition. In some cases, that is already done when possible by some demolition companies. Another solution could be asking the demolition company to notify the Construction Office of an intended demolition date, and the Construction Office could notify neighbors at that point. In the past, demolition companies have moved demolitions when made aware of a special event in close proximity to a scheduled demolition to maintain the integrity of the neighborhood.

John Tracy reported he has reached out to the demolition companies, who seemed agreeable to a notification of neighbors. He noted any certified mail requirements would slow down the process, as receipts of the certified mailing would have to be shown to the Construction Office prior to permit issuance.

Councilwoman Hudanich indicated she brought this topic of conversation to light under the theory to be proactive rather than waiting for formal complaints to be received. The intention of this regulation is to offer a courtesy to taxpayers by providing knowledge of what is going on in their neighborhood. She thanked Scott Wahl and John Tracy for taking the time to conduct a preliminary investigation of this matter. Rather than requiring contractors to send certified mail, she asked if the Code Enforcement software CitizenServe has a module that would list permits and have a capability to notify neighbors.

Paul Short stated he is unaware of such a module, but will check with the software company to explore the issue further.

Councilwoman Hudanich expressed hope to find a way for the program to generate a letter to neighbors when a permit is entered into the system, and reiterated the primary concern of this effort is to provide a courtesy to neighbors.

Council President McCorristin noted it would be difficult for contractors to notify neighboring property owners of a demolition date, as there are many factors that affect scheduling a date of demolition, including coordinating with the Board of Public Utilities for disconnects. Ocean City currently requires notice be given to neighboring property owners of a demolition date, with certified mail receipts required prior to issuing a permit. Unfortunately, if a demolition date changes, the permitting process must begin again, according to those regulations.

Councilwoman Hudanich suggested sending an informative letter to neighbors explaining the situation and disclosing that a demolition will be upcoming, rather than providing a definitive date. If a neighbor has a large event planned at their home, it would be possible for that individual to reach out to the Construction Office to ask that the demolition not be done on that specific date.

Council President McCorristin asked if many complaints have been received by the Construction Office regarding this issue in the past two years.

John Tracy noted he has received approximately three complaints this year.

Councilwoman Hudanich suggested researching the possibilities of providing this courtesy to taxpayers more extensively and spoke against amending the Ordinance at this time.

Discussion regarding Ordinance amending Chapter 12 (Animal Control) concerning the Trap, Neuter and Return (TNR) Program.

Jim Waldron explained the existing Ordinance referencing this program has a sunset provision that expires December 31, 2017. Investigation has been done along with the Clerk's Office, and that research has found that this Ordinance has a continued sunset provision that has been expiring every three years. It is thought that the sunset provision was originally included in the Ordinance as a pilot program to assess how the project is running. Council has maintained that sunset provision since the implementation of the program, however it has been found that a sunset provision is not required to be maintained in the Ordinance. The program has been in place for many years and is working smoothly. The question before Council is whether to



Jim Waldron (continued) extend the Ordinance for an additional three years effective January 1, 2018 or to amend the existing Ordinance by deleting the three year sunset provision.

Council agreed to proceed with an Ordinance removing the sunset provision to be prepared for first reading at the November 8, 2017 Regular Meeting.

Discussion regarding Resolution to set a public hearing for a request to release two (2) story height restrictions for Block 17.01 Lot 12 (56 East 17<sup>th</sup> Street) and Block 17.01, Lots 19.01, 19.02, 20.01, and 20.02 (84 East 17<sup>th</sup> Street).

Jim Waldron reported this request is similar to requests received in the past that would eliminate a two story height restriction. The statute requires that a public hearing be held, however there is an opinion that the New Jersey Courts have determined the two story height requirement as “void for vagueness”. He asked Steve Barse to provide an opinion if a public hearing would still be required.

Steve Barse expressed the opinion that a public hearing should be scheduled, as the action taken to remove a two story height restriction would be amending an action previously taken by an Ordinance. If the two story height restriction is removed from the property, that property would then be governed by current zoning ordinance.

After brief discussion, Council agreed to proceed with a Resolution scheduling the public hearing on this matter for December 13, 2017 at 3:45 p.m. to be prepared for the November 8, 2017 Regular Meeting.

Discussion regarding Resolution to set a public hearing for a request to release certain deed restriction upon the premises known as Block 67.06, Lots 26, 28, 53, and 55 (154 67<sup>th</sup> Street).

Jim Waldron explained this matter has previously come before Council in which it had been asked that deed restrictions on two separate parcels of land be released. Council released the restrictions on one parcel and elected to retain the restriction on the second parcel, which is immediately adjacent to the dune area. At the time that the hearing was scheduled, there was a letter generated that did not get consideration in which there was an offer to reduce the size of that easement. Tom Thornton was asked to review the offer and the parcel of land to evaluate if there was a need for the size of the easement the Borough hold on the property. In the interim, litigation was instituted challenging the decision of the Council in denying the release. Steve Barse has had negotiations and there has been an offer of settlement. A hearing in relation to this release would need to be held, and it is recommended to schedule the hearing on December 13, 2017 to provide adequate time for publication. In the past, it has been Council’s practice to require the applicant to provide notice of the public hearing to all property owners within 200 feet of the property in question. He asked Council if that practice should be continued.

Council directed the Administration Office to notify the applicants of both deed restriction release requests to notify property owners within 200 feet of the properties in question and agreed to proceed with a Resolution scheduling the public hearing on this matter for December 13, 2017 at 3:30 p.m. to be prepared for the November 8, 2017 Regular Meeting.

Discussion regarding bids received for Bicycle Route Extension Signage and Striping Improvements Contract No. M-106.

Tom Thornton reported bids were received on October 17, 2017 for this project, which consists of extending the bike route from Dune Drive to First Avenue, and then on Avalon Avenue. The low bid submitted by Traffic Lines, Inc. was approximately 2% less than the Engineer’s Estimate. Traffic Lines, Inc. has worked with the Borough in the past on a Dune Drive project. He pointed out that the Engineer’s Estimate is higher than the original budget estimate of \$75,000.00, which is the figure the Open Space Grant was based upon. During the design phase of this project, it was determined more signs and symbols were required than originally assumed. The total number of some of those symbols is discretionary under the Manual Uniform Traffic Control Devices (MUTCD). It is possible to reduce that line item of the project, if Council wishes. The total bid is approximately \$15,000.00 higher than the Open Space Grant. Mr. Gould has also submitted his report having reviewed the low bid, and has recommended the award.

Councilwoman Hudanich asked Tom Thornton to investigate if a contract could be done with the County to stripe the project.



Councilman Covington directed Tom Thornton to review the discretionary signs and eliminate any that would not pose a health or safety issue if eliminated.

Council agreed to proceed with a Resolution to be prepared for the November 8, 2017 Regular Meeting.

Discussion regarding refund of zoning and construction fees for Block 7.08 Lots 151 and 152 (652 7<sup>th</sup> Street).

Jim Waldron explained the owner of 652 7<sup>th</sup> Street applied for and received a Construction Permit and Zoning Permit based on a 2006 minor subdivision approved by the Planning Board. An appeal was filed of the Zoning Officer's determination, alleging that the Zoning Officer made an error in issuing that permit. The matter came on before the Planning Board, which determined that the Zoning Official's decision was in error, and that decision was revised. That action nullified the Zoning Permit and the subsequent Construction Permit. There was a second application with a payment of a second zoning fee and a second construction fee. That application was again modified. A third and final application was submitted with additional zoning and construction fee payments based on the estimated cost of construction. The applicant is asking the Construction Office and the Zoning Office to refund those fees. Whether or not to refund those fees is exclusively in Council's prerogative as the governing body. The amount requested to be refunded is \$4,606.00, which includes construction and zoning fees paid on July 8, 2015, a subsequent construction permit paid on September 23, 2015, a subsequent zoning permit paid on March 2, 2016, and a construction permit fee paid on June 21, 2016.

After brief discussion, Council agreed to proceed with a Resolution to be prepared for the November 8, 2017 Regular Meeting.

Public Comments:

Council President McCorristin thanked the Borough, Avalon Community Hall, Public Works, Scott Wahl, the Police Department and the Fire Department for handling the funeral of John Ferguson in a very professional manner.

Sally Davis, 256 42<sup>nd</sup> Street, spoke in support of creating a guideline which would require contractors to notify neighbors prior to demolishing properties and referenced a recent incident where a property was demolished in her neighborhood without any notice to the neighbors.

Martha Wright, 632 7<sup>th</sup> Street, asked for clarification regarding the status of the proposed easement realignment on 7<sup>th</sup> Street.

Scott Wahl explained the Council is taking no action on the proposed realignment at this time due to the recommendation from Tom Thornton.

Martha Wright thanked Council for their consideration of conducting a flooding study in the area.

Scott Wahl reported that the Flood Plain Management Committee has reviewed every neighborhood within the Borough to evaluate if additional studies are needed. This area in particular has been a topic of conversation with the committee, and the committee agrees further study of the area is needed.

Elaine Scattergood, 75 30<sup>th</sup> Street, spoke in opposition of the easement realignment on 7<sup>th</sup> Street due to the realignment not serving the public good. She pointed out the uniqueness of the area, which include the bodies of water surrounding the area and events and classes at the Yacht Club. She expressed the opinion that by constructing three houses where there once was one would further exacerbate the flooding problem in the area.

October 25, 2017

Davis Pearson, 576 7<sup>th</sup> Street, indicated he has lived on 7<sup>th</sup> Street since 1983 and has observed occasional flooding during the duration of his property ownership. He noted if he is permitted to sell five feet of his property, he plans to replace the grade level bulkhead with a conforming bulkhead two feet higher than grade. He noted a source of flooding in the area is reverse flow of water through the storm water pipe where water comes through the pipe up onto the street and floods come up through the drains. He mentioned a few possible solutions to this problem, including the installation of a hinged steel device. An additional source of flooding is contributed to the lack of protective bulkheads on the north side of 7<sup>th</sup> Street to contain the flow of the water from Townsend's Inlet. He expressed the opinion that any flooding solution should not require the maintaining of the full 70 foot easement at the intersection of 7<sup>th</sup> Street and 6<sup>th</sup> Avenue.

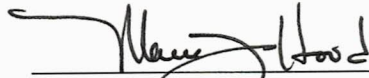
Michael Prinz, 635 7<sup>th</sup> Street, spoke in opposition of the easement realignment on 7<sup>th</sup> Street and asked Council not to make the decision based on builder's interests.

Motion made by Councilwoman Hudanich, seconded by Council Vice President Deever to adjourn the Work Session.

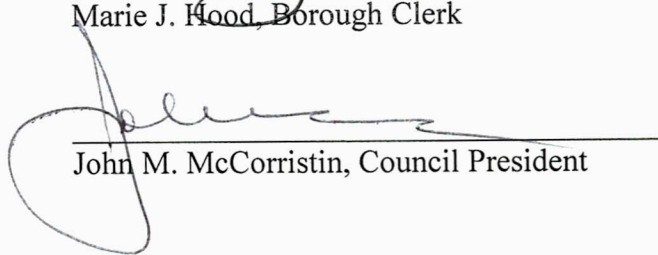
<u>ROLL CALL VOTE:</u>	Councilman Covington	Aye
	Councilman Dean	Aye
	Council Vice President Deever	Aye
	Councilwoman Hudanich	Aye
	Council President McCorristin	Aye

Work Session adjourned at 4:59 p.m.

Respectfully submitted,



Marie J. Hood, Borough Clerk



John M. McCorristin, Council President