

November 8, 2017

A Work Session of the Borough Council of the Borough of Avalon was held on Wednesday, November 8, 2017 at 4:00 p.m. in the Meeting Room, 3100 Dune Drive, Avalon, New Jersey.

Attendance: Public ----- 9

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	Absent

Also present:

Scott Wahl, Business Administrator
James Waldron, Assistant Business Administrator
Stephen D. Barse, Esquire, Borough Solicitor
William Macomber, Director of Public Works/Utilities
Police Captain Jeffrey Christopher
James V. Craft, Chief Financial Officer
Thomas R. Thornton, P.E., Borough Engineer, Mott Macdonald, LLC
Paul E. Short, Sr., Code Enforcement Officer
Chuck McDonnell, Recreation Director
John Cuthbert, Representative, AHLOA
Dr. Stuart Farrell, Stockton Coastal Research Center
Dean Marcolongo, Esquire, Planning/Zoning Board Solicitor

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.

Discussion of approved settlement agreement with the Avalon Anchorage Marina.

Scott Wahl read the following statement:

I am pleased to report, and read into the record, that a settlement agreement has been reached involving the principals of Avalon Anchorage Marina, the Avalon Planning and Zoning Board, and the Borough of Avalon. This settlement agreement ends the litigation, allows the principals of the Marina to proceed with a development plan, and obligates both the developer and the Borough to make improvements in the area. The settlement agreement has been approved by a New Jersey Superior Court, and has been approved by the Avalon Planning and Zoning Board during a special hearing that was held on Wednesday, November 1st, in this room. It was brought about by a court-mandated mediation between the Marina and the Planning and Zoning Board for which the Borough sought, and received, a seat at the table to participate. The fair and equitable agreement was settled with the help of retired Judge Ray Batten; absent his efforts, an agreement would have been very unlikely.

The Borough has been unable and unwilling, up to this point, to comment on this dispute per strict instructions provided to us by the courts and Judge Batten.

The interest by the Mayor, this Council, and the Planning and Zoning Board have been to protect public access to the waterways. Public access is disappearing throughout the State, and frankly once it's gone, it rarely if ever returns. The Borough currently operates and maintains a successful public marina, kayak park, and Sport Fishing Center; it recently completed a very comprehensive back bay dredging project all in the interests of preserving public access to the waterways. The interests of the Borough are much larger than one development project.

The settlement agreement which guides this development does just that. The marina is obligated to maintain in good condition 20 boat slips that will be available for public use; construct a boardwalk that connects to a gazebo for access to the waterfront; maintain the riparian license obligated by the State of New Jersey; and obtain all necessary CAFRA permits related to the project.

The Borough is obligated to replace 40 linear feet and a ten foot existing wing wall of a bulkhead that provides resiliency for the neighborhood, and agrees to reconfigure the delivery of electrical power to the neighborhood with underground distribution that will reduce the public safety risk of energy disruption caused by strong winds in the marina district by severe storm events in our marina district.

We wish to thank the efforts of the Mayor, Borough Council, the Avalon Planning and Zoning Board, the judicial system, Judge Batten, and the Marina for an agreement that will result in improvements to a very special neighborhood in Avalon that will pay dividends to all parties for many years to come. Additional information regarding this settlement agreement can be found on the Borough's website at avalonboro.net.

Discussion regarding Resolution authorizing submission of 2017 Recertification Plan in compliance with the Borough's Floodplain Management Plan.

Tom Thornton explained the 2017 Floodplain Management Plan Evaluation Report will be submitted to FEMA. The Borough had a very successful series of meetings with the Floodplain Management Committee, including two plan review meetings and a plan revision meeting. At the plan revision meeting, the actual changes prepared in draft form were distributed among the group and discussed. Tonight's meeting is for the purpose of presenting the report to Council, obtaining any feedback, and providing an opportunity for the public to provide any comments they may have on the report. The report has also been posted on the Borough's website. The most prominent item under the Preventative Measures category is simply the ongoing participation in the CRS program. Frank Bruton has been involved in multiple meetings to ensure that the program is being properly implemented, and that all documents are submitted to FEMA in a timely manner. Another item in that category is an update on the monitoring of the jetty. In this case, the actual design of the jetty is underway. It is expected to submit the permit applications shortly for the repairs to the 8th Street Jetty, which was damaged by Winter Storm Jonas. A new item under Preventative Measures is the adopting of the flood insurance rate maps, which became effective on October 5, 2017. Under the Property Protection category, the significant items include the three foot freeboard, which was adopted in the most recently revised Chapter 19 Flood Damage Prevention Ordinance. The report was updated to indicate that Ordinance has been passed. New items within that category include a flood sensor program where Stockton University has installed these sensors to impart data on the depth of the flooding that occurs and that data will be used for planning and design of future projects. Additionally, the Watershed Management Plan, which will be discussed with Council by Dr. Farrell and is a major step towards increasing the CRS class of the Borough towards a Class 4 designation. Within the Natural Resource Protection category, there are no significant changes. The Emergency Services category is a series of contracts and agreements that the Borough has enacted and activities related to warning of disasters. Two items have been updated to include an agreement that the Borough has entered through the Houston-Galveston Area Council. The Code Red system as well as possible reverse lane system on 30th Street are also included. There has been a lot of activity in connection with the Structural Projects category, starting with the 78th Street Storm Water Pump Station design being underway. There have been some delays associated with the lack of an easement through a particular property. An alternative route is being explored for the force main for that project, however it is expected that construction will proceed in 2018 on that very important project, which will alleviate flooding on Ocean Drive in the area between 75th and 80th Streets. The Borough owned bulkhead included in previous reports, has been updated to indicate that the reconstruction or the replacement of the 5th Avenue bulkhead at 20th Street is complete, and the replacement of two additional bulkheads are scheduled for the spring of 2018. It is expected to have permits for both of those bulkheads in the near future. An item recently added to this category is the progress made in installing the SCADA systems on oceanfront pump stations, which is scheduled to be complete next month. Those same pump stations will be furnished with portable generators, and is scheduled to be completed this month. Another additional item is the North End Shore Protection and Beach Stabilization Alternative. The final report from the subcontractor has been received and the next

Tom Thornton (continued) step would be to hold a public meeting to present the results. Additional new items include the Ocean Drive Sanitary Sewer Improvements Project, that is scheduled to be completed by December, which will improve resiliency in the Borough on Ocean Drive related to the sanitary sewer system. Ongoing concurrently and then continuing next year is the County's reconstruction of Ocean Drive, which includes multiple drainage improvements as well as the raising of the road at several locations. Those improvements will provide for easier mobilization of vehicles through that area in terms of flooding for an evacuation. This category does into more detail regarding the 8th Street Jetty. Discussion has taken place with the Army Corps regarding the Army Corps of Engineer's Back Bay Flooding Feasibility Study, which has a different emphasis on the possibilities of the project. The Borough will continue to pursue with the Army Corps any potential projects that could be incorporated into their three year plan for flooding protection from the back bay. Also mentioned is the 2017 Army Corps Beach Renourishment Project, as well as the north end drainage study that Council has authorized. The last category is Public Information. One item is an activity that involved the intent to use a Google Earth street view representation of projected flooding. This hope turned out to be impractical in relation to the extremely high volume of data involved in producing a visual representation of that. Other options are currently being explored to achieve a similar end result. Also included is a description of the work the Borough is conducting relating to placing markers at strategic locations in town to represent what the projected flood heights would be for various forecasted flood levels to give the public a visual interpretation of the forecast. Bill Macomber has developed a prototype of these indicators that will be placed around town. Furthermore, Scott Wahl, Public Works, and Dr. Farrell have been involved in looking at high water markers that would be placed around town indicating the historic high water level. Most likely, flooding associated with Superstorm Sandy would be used. Another item is to establish publicized designated locations for parking cars during high tidal conditions, which will be pursued this in 2018. Presentations were made along with Dr. Farrell at the Avalon Library for flood hazard educational programs. Similar public information events will continue in 2018. The Borough-wide elevation map was completed in 2017, which was very effective this summer and was very helpful in letting people know where the high parts of town are that they can park their cars or otherwise avoid flooding. The final item is the program for public information that Avalon has been involved in this year. This is a program that should result in a large amount of CRS points for the Borough's continued pursuit of the Class 4 CRS designation. The next step would be to make a final revision to this plan, and adopt by Council at the December 13 meeting.

Council President McCorristin asked how often this report is completed.

Tom Thornton responded the report is done annually. The report is a continuation of the 2015 Flood Mitigation Plan, and includes an expanded version of the table. An evaluation report should be done annually following the various meetings held with the Flood Plain Management Committee.

Council President McCorristin suggested exploring options to post signage that would show recommended driving routes during flooding events in the Borough so that motorists can avoid as much floodwater as possible while navigating the streets.

Councilman Covington asked how the many additional items within the report relate to the CRS program.

Tom Thornton explained the Borough received a significant increase in points from doing its own Floodplain Management Plan. Before doing its own Floodplain Management Plan in 2015, the Borough was relying on the County. The Borough receives additional points just by engaging in this process. By definition, this process includes meeting with the community and developing these types of activities. However, the activities themselves fit into some of the other categories where specific points are awarded. Not every activity in the report is associated with a particular number of points, although some are. Some activities primarily demonstrate the Borough's proactive approach, which results in points, but less directly than some of the other items.

Council agreed to proceed with a Resolution to be prepared for the December 13, 2017 Regular Meeting.

Discussion regarding Resolution accepting proposal from Stockton State College for a Watershed Management Plan.

Dr. Farrell explained this Watershed Management Plan, would be the Borough's sixth plan to undertake this last eighteen months. Sea Isle City was approved at a Class 4 designation with their plan being accepted. Many other municipalities in Atlantic County are also either exploring this possibility or in the process of having their plans approved. This plan consists of two elements, the Storm Water Management Regulations, and the Watershed Management Plan. The total Storm Water Management Summary is worth up to 755 points. The Water Shed Management Plan is a mandatory requirement for the CRS Class 4. Stockton University has drafted a proposal, which has been submitted to Council. He referenced the abnormally high tide observed earlier today, and reported the HOBO sensors were successfully installed on the storm grates in August. He reviewed a chart of data collected at the station at Ingram-Thoroughfare. Nuisance flooding events were reported to have occurred on a series of dates from September 18 through September 20, and September 22. The data was downloaded and reviewed last week. The sensors at 11th and 12th Street at the beach where rainwater is a problem has not shown as an issue lately. There is data which documents what occurred between 78th and 21st Streets. Two new sensors have been added, at the request of Chief Dean, further out to the west in the 21st Street bridge area. He reported the Cape Atlantic Coastal Coalition has Dr. Mahaney applying for a grant for the 19 members to have a map drafted that will depict where flooding will occur based on real elevations that exists for Cape May County and Atlantic County.

Councilman Covington inquired what areas of Avalon will be included in this study.

Dr. Farrell explained the Watershed Management Plan covers all of Avalon. The study will evaluate wetlands, open space, recharge areas, review of all Ordinances related to Construction, single family home locations, multi-family home locations, commercial locations, lot coverage, capturing and keeping on-site roof runoff, and impervious surface runoff. All factors will be built into the plan along with a model for the 100 year storm event. The plan will include three separate iterations of the model. The first, a steady rain over a 72 hour period that reaches the 100 year rainfall event. The second, an onset of heavy rain peak rainfall that then tapers off the rest of the 72 hours. The third being a storm that begins slowly, builds to a crescendo and ends. The second and third models have a bigger impact on most of the storm water systems than the steady rain does.

Councilman Covington noted the plan guidelines required by FEMA mention 25 year events.

Dr. Farrell explained the minimum storm that must be considered is the 25 year storm. There is data for the 100 year event. Avalon has a lot of territory that is considered open space, including the open area on 8th Street which is deeded in perpetuity, and the island in the middle of Dune Drive. The 100 acre Dune Park is also considered open space.

Councilman Covington asked what the dates of the study will be.

Dr. Farrell noted it is the intent to date the study along with the next CRS review for the Borough of Avalon.

Tom Thornton reported he spoke with Frank Bruton this morning who indicated the cycle verification for Avalon will take place in October of 2018. It is the intent to combine both efforts. If a Class 4 designation is being pursued, it either has to happen during cycle verification or become a modification.

Council agreed to proceed with a Resolution to be prepared for the November 21, 2017 Regular Meeting.

Discussion regarding 2018 facilities use of the 8th Street Tennis Courts.

Chuck McDonnell reported several inquiries have been received regarding outdoor pickleball courts in Avalon. Currently all pickleball play is done on four inside courts within Community Hall. A significant decrease in numbers was realized this year because of other facilities that offer outdoor pickleball courts. This idea was presented to the Recreation Advisory Committee in October and was unanimously accepted. It was requested that the proposal be brought before Council in advance of the 2018 season. The goal is to convert the three westerly tennis courts at the 8th Street facility into outdoor pickleball courts. A concern of offering outdoor pickleball was the noise, however by choosing the westerly courts for this change, it is believed the building will provide a buffer between the courts and nearby homes. The project would be funded through the 2018 Recreation Capital Budget and would involve three coats of paint, striping, and nets. The cost of the project is estimated to total between \$15,000.00 and \$18,000.00. The outdoor pickleball program would be treated in a similar manner to the tennis programs with similar fee structures. Indoor pickleball during colder months would still take place inside Community Hall.

Council President McCorristin asked about the usage of the tennis courts.

Chuck McDonnell reported the usage at the 8th Street tennis facility has significantly dropped. Times when all six courts are being used is very minimal.

Council Vice President Deever inquired what the attendance rates are for areas that offer outdoor pickleball.

Chuck McDonnell reported outdoor pickleball courts are being used daily with high usage rates.

Councilman Covington noted there is a certain group of players that exclusively play tennis at the 8th Street facility and asked if they have been made aware of this proposal.

Chuck McDonnell reported he has spoken with some tennis players at 8th Street and those players were happy with the proposal, provided pickleball players are charged for use of the courts in a similar fashion.

Councilman Covington questioned what the time slots would be.

Chuck McDonnell noted Stone Harbor rents courts by the hour, however time slots will be discussed in more detail after additional research, and when the fees are established.

Councilman Covington asked where the players will be staged.

Chuck McDonnell reported it is possible to fit twelve courts in place of the three tennis courts, however it is intended to have a staging area between the tennis and pickleball courts. By adding a staging area between the courts, it is expected to offer between eight and ten courts.

Councilman Covington spoke in support of this proposal and advocated considering how to ensure pickleball and tennis can coexist in one area without disturbing players.

Council agreed to support this proposal.

Further Discussion regarding Ordinance 764-2017; Peddling and Hawking.

Scott Wahl issued the following statement:

The Avalon Borough Council held a public hearing on Wednesday, October 25th, 2017 regarding Ordinance 764-2017, Peddling and Hawking. Council received some public input on this ordinance that calls for the prohibition of vending vehicles, which would allow Council to put limited vending on the beaches of Avalon in 2018.

Following the discussion, Council tabled the ordinance pending further review. In consultation with Municipal Clerk Marie Hood and Council Vice President Jim Deever, the ordinance remains on the regular agenda following this work session meeting. Action on this ordinance is recommended during the regular meeting.

If it remains Council's intentions to further study this issue and at this time keep the current ordinance in place, it is recommended that the ordinance, currently tabled, be taken off the table via an official motion by Council at the regular meeting. And if Council deems that further review on this ordinance remains necessary, we recommend that Council vote against the ordinance at the regular meeting this afternoon. It is likely that any changes that Council would recommend to the existing ordinance would be substantial, and substantially different from the amended ordinance that is on the table.

After brief discussion, Council agreed to remove the Ordinance from the table and to not approve the Ordinance at the Regular Meeting to possibly allow for further research and revisions.

Further Discussion regarding Avalon Volunteer Fire Department Stipend Program.

Scott Wahl asked Council to defer this discussion until the December 13, 2017 Work Session. As Council may recall, at the October 25, 2017 meeting, Councilwoman Hudanich made two requests before this would be discussed further. One request was to have a conversation with our CFO Jim Craft, and the second would be to obtain a legal opinion about the proposal before us. Unfortunately, a legal opinion has not yet been received.

Council agreed to defer the discussion until the November 21, 2017 Work Session.

Discussion regarding transfer of 2017 Appropriations.

Jim Craft reported there were some changes in salaries due to union contracts, and the state now bills in the current year for those changes in the pension liability. It is necessary to increase the appropriations in those lines to pay the bill.

Council agreed to proceed with a Resolution to be prepared for the November 21, 2017 Regular Meeting.

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

Jim Waldron reported, as previously discussed with Council, the intent with this Ordinance amendment is to eliminate the sunset provision associated with the TNR Program and enact the Ordinance on a permanent basis. Subsequent to that discussion, Lomax Consulting was consulted to ensure the Ordinance did not in any way conflict with the existing Beach Management Plan or the amendment to that plan, which is presently being negotiated. As a consequence of that, there were several non-material changes that were made. The additional changes occur in Section 16.1 and are consistent with the existing Beach Management Plan. These amendments are, in the opinion of Mr. Lomax, also consistent with the current plan that is being amended. Section 16.1 states that in addition to the duties of the animal coordinator, there is an old provision to encourage adoption when appropriate so that the feral cats are not simply returned to the wild. That same concept appears in Section 16.4, and the other change indicates that the proof of sterilization, vaccination, ear tipping, and implantation of microchip and medical records for all cats to the maximum extent possible. These changes simply move language that appears in the Beach Management Plan as it currently exists.

Council agreed to proceed with an Ordinance to be prepared for first reading at tonight's Regular Meeting.

Discussion regarding Ordinance amending Chapter 22 Rental Properties.

Jim Waldron reported as part of a general routine review of this Ordinance, some amendments were identified. There is a clarification with respect to late payments as a result of issues that arose last year as to when the \$50.00 late payment fee would be due. The attempt to resolve that issue is to include language that states payment must be physically delivered by December 31st or the next business day, or it must be postmarked by December 31st. If that occurs, there will not be an assessment of a late charge by the Licensing Clerk. Another proposed amendment changes the enforcement agencies able to implement a complaint either for suspension or revocation of the license, or for the posting of a bond. Specifically, it is recommended that it be

Jim Waldron (continued) limited to the Director of Public Safety, Deputy Director of Public Safety, the Chief of the Avalon Police Department or his or her designee. This differs from the current language, which allows the members of the Avalon Police Department. This amendment has the recommendation of the Chief of Police, to clarify who is able to file this complaint and exercise some control over it. The Fire Official and Zoning Official are also being added as enforcing agents for the purpose of this section. The Cape May County Department of Health remains an enforcing agent within this proposed amendment. Additionally, the Borough Clerk has discovered that critical language of the state statute necessary to implicate a landlord's bond was inadvertently omitted from the codification in the Ordinance's current version. In order to invoke that provision of the state statute to require a landlord to post a bond, there must be a number of convictions. Under the state statute, the minimum is two convictions within a 24 month period. When the committee that was revising this ordinance in the past, it was determined that two offenses within 24 months was too strict. That regulation was then changed to a minimum of 4 convictions over a 24 month period. However, those 4 convictions must involve a violation of a provision of Title 2C, which is the criminal statute, or the municipal ordinance in the nature of disorderly persons conduct. For example, violations for recycling would not give rise to a landlord's bond. Another change requested in consultation with the Police Chief, the Municipal Prosecutor, and the Municipal Clerk would enact the same procedures to take place under both Article 3 and Article 4. Another proposed amendment is to remove the Borough Council as one of the parties eligible to file a complaint, due to Borough Council being designated as the ultimate decision maker regarding whether a license should be revoked or suspended.

Council President McCorristin asked for clarification regarding the designee of the Chief of Police as an enforcement agent.

Jim Waldron explained the Chief of Police is the charging officer on behalf of the Police Department. The Chief would like the authority to designate, a specific individual that is thoroughly familiar with the ordinance, so that a Police Officer who is running into trouble with a problem property has that designee within the department to consult with to see if this is an appropriate remedy. He noted this is the second year in a row that there are no rental complaints, because the properties have not reached the level where there can be enforcement action against them. This helps to streamline the process in the Clerk's Office when the complaint is filed, who files the complaint, and it clarifies what taxes have to be paid and what the deadline is before a late charge is assessed. Furthermore, this proposed amendment clarifies that under the Borough Ordinance, all rental properties must be registered and inspected, regardless if they're owner-occupied.

After brief discussion, Council agreed to proceed with an Ordinance to be prepared for first reading at the November 21, 2017 Regular Meeting.

Discussion regarding Resolution approving items of revenue and appropriations for the NJ Electric Vehicle Workplace Charging Grant in the amount of Five Thousand (\$5,000.00) dollars.

Council agreed to proceed with a Resolution to be prepared for the November 21, 2017 Regular Meeting.

Discussion regarding Resolution appointing Class II Special Police Officers.

Captain Christopher explained this Resolution is done in compliance with the requirement of the Police Training Commission, which requires that a Resolution be adopted to hire Class II Special Officers.

Council agreed to proceed with a Resolution to be prepared for the November 21, 2017 Regular Meeting.

Discussion regarding Resolution authorizing Joe Clark to prepare specifications and advertise for bids for Maintenance of Borough owned grounds.

Bill Macomber reported the current landscaping contract is expiring December 31, 2017.

Council agreed to proceed with a Resolution to be prepared for the November 21, 2017 Regular Meeting.

Public Comments:

Armin Avetisyan, Wildwood Crest, thanked Borough Council for deciding to revisit the Ordinance regarding ice cream vendors and expressed willingness to meet with the Borough to help find a solution that will be beneficial for all parties.

Martha Wright, 632 7th Street, referenced concerns raised by Borough Officials regarding ice cream truck vendors and advocated better enforcement. She suggested implementing stricter enforcement regarding idling engines, congestion, and cell phone use while driving during the 2018 summer season to evaluate if the stricter enforcement improves the situation. She pointed out if ice cream trucks are eliminated, that loss of service will be primarily impacting individuals not on the beach.

Council President McCorristin expressed the opinion that the Borough needs ice cream truck vendors to take a more active role in abiding by the rules and regulations set forth in current Ordinances.

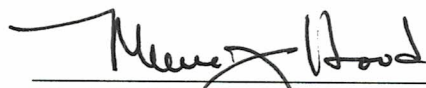
Elaine Scattergood, 75 30th Street, urged Council to reconsider banning ice cream truck vending and expressed the opinion that there are many more nuisances in town other than ice cream trucks. She suggested that all building and construction be prohibited in the Borough during summer months. She mentioned a new law requiring that any individual in connection with beach management or the maritime forest be a Certified Tree Expert will be effective April 12, 2018.

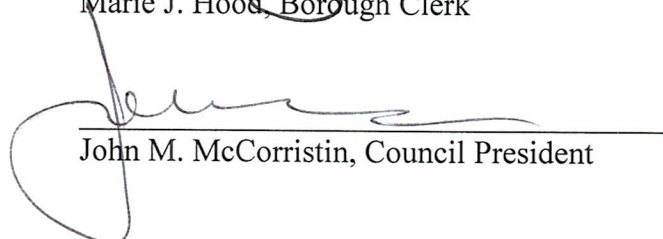
Motion made by Council Vice President Deever, seconded by Councilman Covington to adjourn the Work Session.

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

Work Session adjourned at 5:11 p.m.

Respectfully submitted,


Marie J. Hood, Borough Clerk


John M. McCorristin, Council President