

October 9, 2013

A Work Session of the Borough Council of the Borough of Avalon was held on Wednesday, October 9, 2013 at 7:03 p.m. in the Meeting Room, 3100 Dune Drive, Avalon, New Jersey.

Attendance: Public ----- 8

Reporters ----- 1

The Meeting was called to order by Council President Ellenberg.

Pledge of allegiance.

<u>Roll call:</u>	Council President Ellenberg	Present
	Council Vice President Covington	Present
	Councilman Dean	Present
	Councilwoman Hudanich	Present
	Councilman McCorristin	Present

Also present:

Andrew J. Bednarek Business Administrator  
Stephen D. Barse, Esquire, Borough Solicitor  
James V. Craft, Director of Revenue/Finance  
Police Chief McCormick  
William Macomber, Director of Public Works/Utilities  
Paul E. Short Sr., Code Enforcement Official  
John Tracy, Construction Official  
Ed Dean, Fire Official  
Jeffrey R. Hesley, Tax Assessor/Zoning Official  
Scott Wahl, Public Information Officer  
Salvatore J. DeSimone, Flood Plain Manager  
Harry de Butts, Deputy Emergency Management Coordinator  
Thomas R. Thornton, P.E., Borough Engineer, Hatch Mott Macdonald, LLC  
Dean Marcolongo, Esquire, Planning/Zoning Board Attorney  
Joseph Maffei, P.E., P.P., C.M.E., Planning/Zoning Board Engineer  
Vincent Lamanna, Esquire

Notice of this Work Session was included in the Annual Schedule of Meetings dated June 12, 2013. It was given to the news media and posted on the Official Bulletin Board as required by law.

Council President Ellenberg read the Open Public Meetings Act Announcement.

Discussion regarding 2013 Best Practices Inventory.

Council discussed the 2013 Best Practices Inventory with input from James V. Craft, Director of Revenue/Finance. Mr. Craft indicated that the Borough of Avalon is at eighty-eight percent (88%) compliance therefore the Borough of Avalon does not lose its eligibility for State Aid.

Discussion regarding a Resolution authorizing the cancellation of unexpended grant fund receivable and appropriation balances of the 2011 Cops in Shops Grant and the 2012 Drive Sober or Get Pulled Over Grant.

Council had no problem with this item and agreed to proceed with a Resolution to be voted upon at the Regular Meeting this evening.

Further discussion regarding procedure for private development of property fronting an undeveloped public right of way, Block 24.06, Lots 113.01, 113.02, 113.03, 114.07 and 114.08 (Owner: Groller).

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Vincent L. Lamanna, Jr., Esquire representing Mr. Groller, owner of Block 24.06, Lots 113.01, 113.02, 113.03, 114.07 and 114.08 recapped the request of the owner to develop the right-of-way to this property. He distributed a copy of the survey of the property to Council. He indicated that beyond the owner's lots is Wetlands. The only property impacted is the subject property which is why the proposed improvement is a twenty foot wide access road with a cul-de-sac for turning radius of emergency apparatus. He is here tonight asking for approval to move forward with this project.

Council Vice President Covington asked if vacant lot 112 is owned by Mr. Groller.

Vincent L. Lamanna, Jr., Esquire responded that lot 112 is owned by someone else. He added that the New Jersey Department of Environmental Protection (NJDEP) may require a Jurisdictional Waiver and he is prepared to address this issue.

Council Vice President Covington commented that there was also an issue as to whether the freshwater wetlands line crossed over to the paper street. The owner was supposed to be getting information on that.

Vincent L. Lamanna, Jr., Esquire responded that it would have to be investigated.

Thomas R. Thornton, P.E., Borough Engineer, Hatch Mott Macdonald commented that in December, 2012 he had discussed this matter informally with the NJDEP. He had hoped they would give informal approval but he got a letter in January, 2013 from them indicating that a jurisdictional determination would be required.

Council Vice President Covington asked if the owner would be applying for this.

Vincent L. Lamanna, Jr., Esquire responded that if the Borough applies, he understands they would need to post escrow.

Ed Dean, Fire Official commented that the plan, on page 3, is for a twenty foot (20') roadway with a one hundred fifty foot (150'). He said he would be remiss in not saying that there may be access problems and he would like to see the road developed to full width. He added that there is congestion in the area. He also pointed out that their application does meet the minimum standards.

Councilman McCorristin commented that he doesn't want to see this road made wider, that if this were made forty feet (40') wide, people would park there.

Vincent L. Lamanna, Jr., Esquire commented that he asked the Zoning Official for requirements for permits and read the following response from the Zoning Official: "as the property is in the R-2B Zone the minimum requirements for a duplex lot in that zone are 5,000 square feet with a 50' frontage. As the subject lot has more than the minimum requirements the Zoning Permit would be issued for construction of a duplex. Also, as discussed, the lot would need access to an improved street as part of the approval."

Andrew J. Bednarek, Business Administrator commented that the question that has to be decided is who's going to design the street, pay for the street. Does the Borough take Mr. Lamanna's design or get an estimate from the Borough Engineer for the entire project, including engineering, soft costs, legal fees, hard costs, everything and give that to Mr. Lamanna.

Vincent L. Lamanna, Jr., Esquire said certainly that would be very helpful. He indicated he thinks it would probably be in the Borough's best interests for the Borough Engineer to prepare specifications and to conduct the bidding. He said they have faith in the Borough Engineer to prepare the specs and he thinks that's probably the way to go but he would certainly welcome any estimates at this point so they can get their arms around the project estimates.

Andrew J. Bednarek questioned who would do the permitting.

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Vincent L. Lamanna, Jr. Esquire responded that it should include permitting. Whoever does the permitting, it's part of the project estimate. It should include whatever the costs are with respect to the NJDEP jurisdictional waiver.

Andrew J. Bednarek commented that he can see an issue with coming up with an estimate. The Borough would have to come up with an estimate for engineering and construction. Typically there is money in an Ordinance to authorize the Borough Engineer to proceed with plans and specs, permitting, etc. He questioned would that money get put up front so that the Borough draws down on private escrow money instead of having Borough funds set up.

Vincent L. Lamanna, Jr., Esquire suggested the Borough could require a Bond posted. He pointed out that anything they prepare would have to be approved by the Borough Engineer anyway.

Council Vice President Covington clarified that the first thing needed is a decision on the street, whether there is a wetland issue or not.

Andrew J. Bednarek asked if something like this would have to go before the Planning Board.

Vincent L. Lamanna, Jr., Esquire responded he does not think so, the Land Use Act covers it under Section 35. This is something that is up to the municipality. They are entitled to a Permit, but the Permit can be reasonably conditioned by the governing body for improvement of the street in the manner in which they see sufficient. That is not a Planning Board issue, that is a Borough Council issue. He indicated that the Borough Solicitor could speak to this.

Stephen D. Barse, Esquire, Borough Solicitor said he wants to read the Statute but he thinks that's generally correct.

Andrew J. Bednarek referred to a similar situation on 79<sup>th</sup> Street that went to the Planning Board, but that was part of a sub-division approval. This is a new part of a street.

Council Vice President Covington commented that conceptionally he understands this. But before going forward with this Council needs to decide who's going to do what.

Andrew J. Bednarek said right now it's basically a grass street and that road has been back there for many, many years for access to the back. If it's paved, people are going to want to park there and how is that going to be prevented. So does the Borough create an easement arrangement, because once it's a public street, people are going to want to park back there.

Vincent L. Lamanna, Jr., Esquire suggested prohibiting parking with signage.

Andrew J. Bednarek responded then an Ordinance would be needed to prohibit parking on that street, so there are some unintended consequences that really have to be thought out about how the Borough proceeds. This would be almost creating an easement.

Councilman Dean pointed out it would be the same as another one over the 25<sup>th</sup> Street years ago that had a long drive back and the Borough had some problems with parking.

Councilwoman Hudanich added that there were also problems with fire trucks getting in there.

Councilman McCorristin pointed out that in this case, if there was an issue with a fire truck, if they needed two more feet, they're still going to be riding on gravel because that road is more than just muck.

Andrew J. Bednarek indicated that a team will have to be put together, including Public Works, Middlesex Water Company because it's going to involve utilities and drainage, the electric company may need to put a street light back there. The development standards will have to be looked at so that the Borough isn't in violation of Ordinances with regard to developing a street end.

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Discussion regarding Shared Services Agreement with the County of Cape May for the purchase and use of fuel from the Borough of Avalon.

Council discussed this item with Harry de Butts, Deputy Emergency Management Officer. Mr. de Butts indicated that the Shared Services Agreement with the County of Cape May for the purchase and use of fuel is very important and is glad that the Borough of Avalon will be participating. Council agreed to proceed with a Resolution to be voted upon at the Regular Meeting this evening.

Discussion regarding Ordinance amending Chapter 5 (Personnel) concerning employee eligibility for health care benefits and employee cost contribution for health care benefits.

Council discussed this item briefly and agreed to proceed with introduction of an ordinance amending Chapter 5 (Personnel) at the Regular Meeting this evening.

Discussion regarding Letter of Intent to the New Jersey Environmental Infrastructure Trust funding Program for favorable financing for back bay dredging project.

Thomas R. Thornton, P.E., Borough Engineer, Hatch Mott Macdonald, LLC explained that Mr. Bednarek found out about funding available from the federal government through the New Jersey Environmental Infrastructure Trust Fund. There are several funding programs that NJEIT offered. The particular one the Borough applied for would provide eighteen percent (18%) principal forgiveness, which is basically a grant. Then the remainder of the amount would be at a twenty-five percent (25%) discount for the market interest rate. They went through an on-line Letter of Intent (LOI). Steve Morey from Hatch Mott Macdonald, LLC put together the environmental planning document which was uploaded as part of this application process. The amount applied for is \$2.4 million dollars. It would be for the Borough's dredging project which, as of now, the Borough intends to start in late 2014 and 2015. They included in that the portion of Middle Township that, all indications are right now, would be part of that project. They got the LOI in, they will all be reviewed, screened and then the actual application would be due in March, 2014.

Andrew J. Bednarek indicated that it's a long shot, but they had to do the Letter of Intent to have a chance. He just wanted to bring Council up to speed on this. They have also incorporated the Sturbik Harbor portion of Middle Township in this LOI. Middle Township is aware of it and was very happy to be included in it. He spoke to Middle Township's Administrator last Friday and they are ready to proceed. He is trying to get together a conference call either Thursday or Friday of this week with Erin Law, Esquire of Bond Counsel to work on an Interlocal Agreement between Avalon and Middle Township for the backbay dredging portion. The reason they didn't file for the Confined Disposal Facility (CDF) is because NJEIT rules would only permit for those projects that have not been authorized or started. Since the CDF has already been authorized by awarding a contract, that portion of the total project was not eligible. He added that this application includes the dredging portion of Middle Township. The Interlocal Agreement will include the dredging portion and the CDF proportional expenses of the project for Middle Township.

Public comments:

None.

Motion made by Council President Ellenberg, seconded by Councilman Dean to adjourn the Work Session.

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

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Work Session adjourned at 7:42 p.m.

Respectfully submitted,

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Georgann Berardis, Deputy Borough Clerk

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Charles P. Covington, Council Vice President