

August 23, 2017

A Work Session of the Borough Council of the Borough of Avalon was held on Wednesday, August 23, 2017 at 4:04 p.m. in the Meeting Room, 3100 Dune Drive, Avalon, New Jersey.

Attendance: Public ----- 8

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
A. Steven Fabietti, Esquire, Gruccio, Pepper, DeSanto & Ruth, P.A.
Paul Short, Code Enforcement Official
William Macomber, Director of Public Works/Utilities
William McCormick, Chief of Police
Thomas R. Thornton, P.E., Borough Engineer, Hatch Mott Macdonald, LLC
Joseph S. Clark, Qualified Purchasing Agent
John Cuthbert, Representative, AHLOA

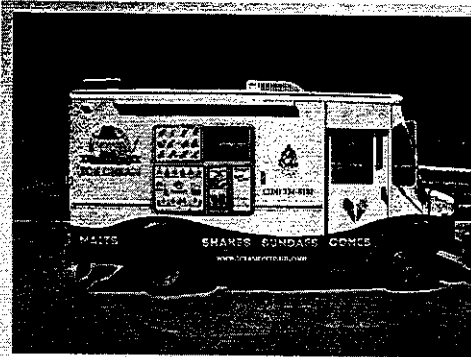
Council President McCorristin read the Open Public Meetings Act Announcement.

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.

Council President McCorristin announced the item titled "Discussion regarding easement realignment for Block 7.07 Lot 138 (576 7th Street) and Block 7.08 Lot 140.01 (606 7th Street)" has been removed from the agenda.

Presentation by Business Administrator, Scott Wahl and Purchasing Agent Joe Clark regarding amendments to Chapter 10, Licensing and Permits.

Scott Wahl gave the following presentation:

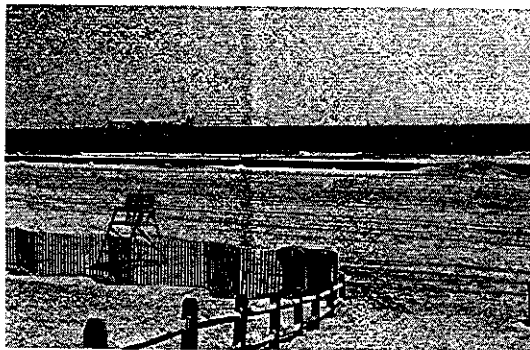


ICE CREAM VENDING IN AVALON, NEW JERSEY

PRESENTED BY JOE CLARK AND SCOTT WAHL AUGUST 23, 2017

SUMMARY OF CURRENT PRACTICES IN AVALON

- Avalon permits ice cream trucks to operate from Memorial Day to Labor Day between the hours of 11:00 am-7:00 pm; current beach hours are 10:00 am-5:00 pm
- From 2014 through 2017 inclusive, Avalon has generated **\$16,800** in licensing revenue
- In 2017, Avalon has six trucks operated by three LLCs which generates a total of **\$2,700** to the Borough

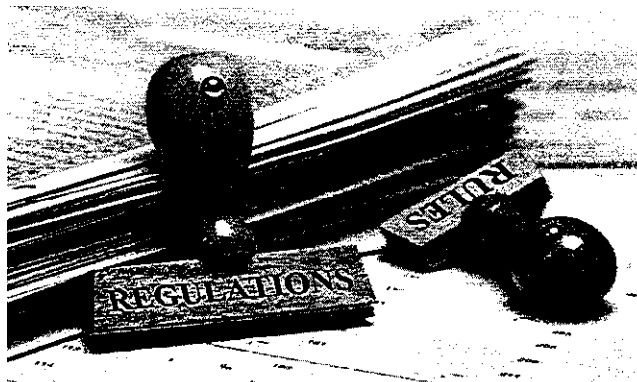


VENDING TRUCKS REGULATIONS/CHAPTER 10

-Ordinance provides for the sale of "edible food products, confections, and other related commodities". The Borough does not grant food truck licenses; if that is the Borough's intent, the ordinance needs to specifically state that fact.

-Borough has received more than a half dozen inquiries in recent years for food products to be sold from trucks, including roasted chickens, health drinks, and various cooked food items.

-Fees regulating the ice cream trucks have not been adjusted for more than 20 years.



ISSUES WITH PAST PRACTICES OF ICE CREAM TRUCKS

-May 4, 2010 Chief David Dean issued a memo to all vendors regarding ignoring the "30 minute rule" for street vending that caused "stacking" of trucks at profitable locations.

-April 13, 2012 Chief William McCormick issued an advisory memo to Council regarding zones established for the ice cream trucks

-We have various police complaints regarding the operations of the ice cream trucks including, but not limited to: Rival ice cream trucks harassing each other; trucks clearly violating the Borough ordinance by operating at a fixed location or at a private business; ice cream truck operators utilizing a cell phone while operating a vehicle; trucks operating at one street location for extended periods of time with the smell of diesel motors and incessant bell ringing.



CONSIDERATION OF LIMITED VENDING ON THE BEACH



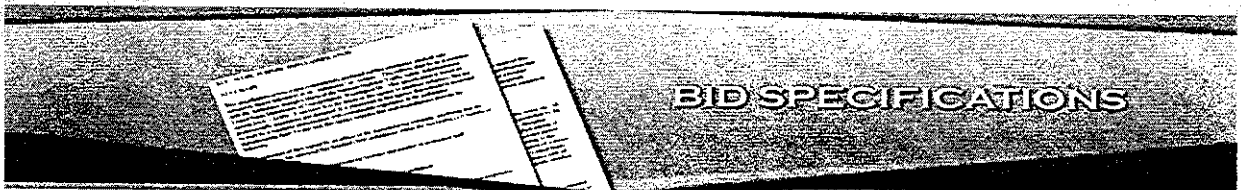
Advantages include:

- Eliminate nuisance complaints from the stacking of trucks/drivers on cell phones/incassant noise at popular locations
- Trucks were intended to provide a service to beach goers; Avalon takes this service directly to the public; increased service to the public
- Ordinance will clearly state that vending via motor vehicles is strictly prohibited in the Borough
- Potential for greatly increased revenue stream to the Borough
- Vending would follow operations of beach hours, so that trucks would no longer compete with brick and mortar businesses from 5:00 -7:00 pm
- Brings the Borough in compliance with the NJ Local Public Contracts Law, N.J.S.A 40A: 11-1 et seq.

HOW AVALON MAY IMPLEMENT THIS PLAN

What's
the
plan?

- In September 2017, introduce an amendment to Chapter 10 that would eliminate all vending from motor vehicles in Avalon
- Work with the Borough Purchasing Agent, Joseph Clark on specifications to place limited beach concession vending out to public bid
- Consider a three-year agreement; one (1) year initially with the Borough's option to renew two (2) additional years
- This is NOT a gateway to other beach vending as the overall quality of the beach experience and public safety is of paramount importance to the Borough
- Bid specs will include the Borough desires, ie: water ice, water, ice cream sandwiches, ice cream cups, etc.
- Bid specs shall prohibit bell ringing, shouting, amplified music; silent operation to preserve the positive beach experience



- Contract awarded to one (1) vendor; not in the Borough's best interests to bid out separate sections of the beach
- Bid specs to prohibit vending in the protected bird area; that area will be determined in the Borough's update of the Beach Management Plan
- Specs will delineate how & where the successful bidder will be permitted to load up & restock the ice cream push carts
- Specs will outline to the vendor acceptable vending practices, advertising, attire for employees, type & style of cart, acceptable products to be sold
- Specs may permit allowable exception(s) to be determined by Council, including evening vending on the beach during the July 4th fireworks display and other special events

RECENT HISTORY WITH NEIGHBORING COMMUNITIES



-Sea Isle City received a successful bid of **\$153,000** for 2017, and **\$349,000** for 2018 from the same vendor, utilizing the identical model that is being suggested for Avalon.

-Stone Harbor leases out fixed structures on the beach; customers have to walk to these fixed structures for service

-North Wildwood has ten (10) ice cream vendor permits on the beach; when one is surrendered, Mayor & Council decide who gets the next permit

-Ocean City has (14) licenses w/ multiple contractors at designated street ends. Currently they are realizing \$38,550 in annual revenue, but have experienced issues with having multiple vendors



Avalon Home and Land Owners Association

-Scott attended the Saturday, July 8th meeting of the Avalon Home and Land Owners Association and presented this proposal before the Executive Committee

-We answered all of the questions and concerns from the Committee

-The following week, we received notification from President, Michael Matt that the Executive Committee is on board with this proposal and recognizes the overall benefits to the Borough

FINAL THOUGHT: VETERANS WHO ELECT TO VEND



We have had only one veteran interested in vending in Avalon, and he no longer has a truck. Veterans must be a resident of the County to get a County Veterans Vending License; process paperwork with the Borough of Avalon, and one license per veteran.

Under N.J.S.A. 45, veterans are entitled to a hot dog vending license and the Borough can designate where and when veterans may actually vend in the Borough.

The award of a contract to vend ice cream/water on the beach would go to the highest qualified responsible bidder. That contract is not subject to the regulations regarding veterans who elect to vend in New Jersey.

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Joe Clark added the goal is to approach this issue as a fair and open process in accordance with the Local Public Contracts Law. He recommended mirroring Sea Isle City's process, which contracts one vendor for all beach sales. By contracting only one vendor, it will eliminate the majority of complaints received regarding the ice cream vending. Furthermore, this proposal also eliminates all bell ringing, which will improve the beach experience. Items eligible for restriction in this contract would include the vending areas, items sold, and hours of operation. All restrictions should be included in the bid specifications as well as the Ordinance. Pricing for each item could also be restricted to a range of prices, if Council chooses. Another goal is to write a very detailed Ordinance and bid specifications. This proposal will provide a service to beachgoers, improve the quality of the beach experience, eliminate most public safety concerns with ice cream trucks, and realize a fair revenue to the Borough.

Councilwoman Hudanich spoke in support of this initiative.

Scott Wahl noted questions raised during the AHLOA meeting referenced where the carts would be loaded and asked Mr. Clark to respond to those concerns.

Joe Clark indicated specific places or parking lots for loading can be designated in the Ordinance and bid specifications.

Council President McCorristin expressed concerns that there are not many parking facilities or similar areas close to the beach. He mentioned that ice cream trucks currently vend until 7:00 p.m., however the presentation stated the beach vending would end at 5:00 p.m. He questioned if the hours for beach vending can be extended past 5:00 p.m.

Joe Clark mentioned that beach vending is permitted from 9:00 a.m. to 6:00 p.m., however, vendors are typically on the beaches from 11:00 a.m. to 4:00 p.m. The hours proposed for beach vending mirror the hours when lifeguards are on duty. He advised against encouraging patrons to remain on the beaches after lifeguards leave.

Council Vice President Deever raised concerns about possible beach vending during special events such as for the 4th of July fireworks, which could potentially hurt downtown businesses. He expressed the opinion that beach vending should not impact businesses in town.

Joe Clark explained the contract would be bid for one year with the option to renew for two additional years to get an idea of the revenue to be realized each year. At the end of the first year of the contract, Council would have the option to renew the contract. If Council decides not to renew, 60 days of notice would be provided to the vendor.

Councilwoman Hudanich mirrored the concerns raised by Council Vice President Deever and spoke in support of allowing beach vending from 9:00 a.m. to 5:00 p.m. and not permitting beach vending during special events for at least the first year of the contract. She further raised concerns that beach vending during special events could cause the necessity of additional clean-up efforts.

Councilman Covington inquired if there will be any consideration on the debris this contract may create on the beaches within the bid specifications.

Joe Clark responded that additional trash cans would be placed on all street ends.

Council agreed to proceed with further discussion regarding this item at the September 13, 2017 Work Session.

Discussion regarding Resolution authorizing Joseph Clark, Purchasing Agent, to prepare specifications and advertise for bids for Collection & Disposal of Solid Waste & Materials, Municipal Recycling and Bulk Waste Material for a period of up to 5 years.

Joe Clark reported the bid specifications for this project will be using the same model from the previous cycle. The pricing will be based on the Philadelphia CPIU with the contracts to renew during the month of October. Traditionally, gas prices tend to decrease during that month, which allow for lower rates for the contract. The Borough is currently courting four vendors in connection with this contract. Those vendors include Gold Medal, Earth Tech, Waste

Joe Clark (continued) Management, and the ACUA. Prices bid tend to be more contained when there are more vendors participating in the bid. The current bid specifications have been under review with Bill Macomber for approximately three months to include all necessary data, including recycling tonnage, solid waste tonnage, collection requirements, and the requirement to return trash receptacles to the yards of properties. Preliminary talks have taken place with Jim Waldron, Scott Wahl, and Bill Macomber to address the possibility of the Borough providing waste carts that would help alleviate worker's compensation claims while the containers are being moved by personnel. Options for those carts would include the Borough purchasing them initially and having taxpayers purchase them from the Borough. If the Borough decided to move forward with this option, that purchase would not happen during this contract period. The contract will be advertised twice in a statewide newspaper and the official newspaper, and there will be a prebid conference held during the month of September with Bill Macomber to answer any questions prospective bidders may have.

Council agreed to proceed with a Resolution to be considered at tonight's Regular Meeting.

Discussion regarding Resolution authorizing transfer of vehicle not needed for public use to the City of Cape May.

Scott Wahl explained this is a 2007 Freightliner that the Borough acquired for nothing through the federal government. The City of Cape May has a need for this type of vehicle, and currently the Borough does not have a need for it. Mayor Pagliughi has spoken to Cape May officials exploring future potential agreements between the City of Cape May and Avalon that may be beneficial to both towns. While Cape May has a need for the truck and Avalon does not, it is proposed to transfer the title to the City of Cape May. It will be the responsibility of Cape May to maintain the vehicle, and in return, Avalon has permission to use the vehicle when necessary.

Council agreed to proceed with a Resolution to be considered at tonight's Regular Meeting.

Discussion regarding Resolution requesting approval of items of revenue and appropriations for a Community Stewardship Incentive Program Grant in the amount of Thirty Thousand (\$30,000.00) Dollars.

Scott Wahl reported this opportunity was brought to the attention of the Borough by Mr. Lomax. Meetings have taken place with Bill Macomber and Jim Waldron to assess areas of town where trees are dead or dying and a very aggressive application was made, which was awarded the grant. He thanked Mayor and Council, the Environmental Commission and all other entities involved for their help and support.

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

Public Comments:

Martha Wright, 632 7th Street, inquired if ice cream trucks are currently permitted to vend on regular streets of the borough. She further suggested that ice cream trucks be converted to electric vehicles or golf carts in the future.

Scott Wahl responded ice cream trucks currently have designated areas where they are allowed to vend, and explained the initiative discussed earlier this evening would prohibit all vending trucks in the Borough of Avalon.

Martha Wright suggested that trees planted with the \$30,000.00 grant received from the Community Stewardship Incentive Program be indigenous trees, and asked for an update on the test plantings of service berries throughout the Borough.

Bill Macomber responded the service berries are not doing well on the Dune Drive Island and noted any trees planted would be trees approved by the Environmental Commission and indigenous to the area.

Martha Wright asked for an update on the mediation ordered in the matter of the Borough of Avalon vs. The Marina at Avalon Anchorage, LLC.

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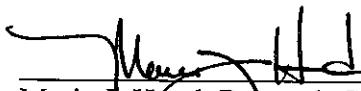
Jim Waldron reported the mediation is ongoing. The mediator has exacted confidentiality and the Borough is unable to provide a more detailed update in open session at this time. He added the originally mandated sixty day period for mediation was extended by the courts.

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

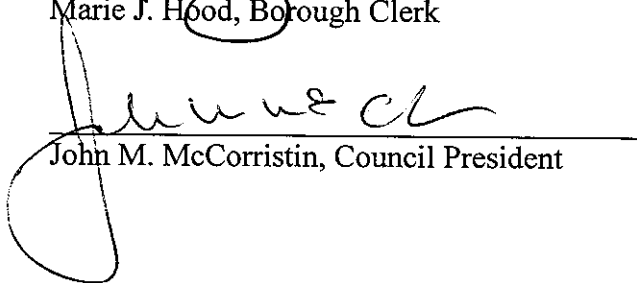
<u>ROLL CALL VOTE:</u>	Councilman Covington	Aye
	Councilman Dean	Aye
	Council Vice President Deever	Aye
	Councilwoman Hudanich	Aye
	Council President McCorristin	Aye

Work Session adjourned at 4:52 p.m.

Respectfully submitted,



Marie J. Hood, Borough Clerk



John M. McCorristin, Council President