

December 13, 2017

A Work Session of the Borough Council of the Borough of Avalon was held on Wednesday, December 13, 2017 at 4:00 p.m. in the Meeting Room, 3100 Dune Drive, Avalon, New Jersey.

Attendance: Public ----- 6

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	Absent
	Council Vice President Deever	Present
	Councilwoman Hudanich	Present

Also present:

Mayor Martin L. Pagliughi
Scott Wahl, Business Administrator
James A. Waldron, Assistant Business Administrator
Stephen D. Barse, Esquire, Borough Solicitor
William McCormick, Chief of Police
Paul E. Short, Sr., Code Enforcement Official
William Macomber, Director of Public Works & Utilities
Thomas R. Thornton, P.E., Borough Engineer, Mott Macdonald
Neil Hensel, Chairman, Planning/Zoning Board
James V. Craft, Chief Financial Officer
Dr. Lenore Tedesco, Executive Director, The Wetlands Institute
Deborah Scott, Municipal Court Administrator
Edward Dean, Fire Chief
Lawrence Pepper, Esquire, Gruccio, Pepper, DeSanto & Ruth, PA

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.

Mayor Pagliughi presented a Proclamation to Dean Marcolongo, Esquire.

Dean Marcolongo thanked the Borough and the Mayor for the honor of the proclamation, and stated his time with the Borough has been a learning experience for which he is grateful. He thanked Scott Wahl, Jim Waldron, Neil Hensel, all members of the Planning/Zoning Board, Jeff Hesley, Joe Maffei, John Tracy, and Kimberly Mastriana for contributing to a happy work environment and expressed that the Borough of Avalon is very lucky to have such hardworking and caring public servants.

Mayor Pagliughi presented Certificates of Achievement for years of Service.

5 years: Jennifer Bailey, Heather Burns, Sean Farrel, Olivia Gorecke

10 years: Linda Duffy, Eric Heisman, Patricia Wilk

15 years: Ann Marie McCormick

25 years: Marie Hood, William Macomber, John Roscoe

30 years: William McCormick, Robert Rhoda

35 years: Earl Whildin, Jr.

Council President McCorristin presented Mayor Pagliughi with a Certificate of Achievement for thirty years of service with the Borough of Avalon.

Discussion regarding Professional Services Contract with The Wetlands Institute of Stone Harbor, NJ

Scott Wahl reported in the past, Dr. Tedesco has been very gracious in serving the Borough with questions, analysis and recommendations for many environmental projects. Discussions have taken place regarding how The Wetlands Institute can provide further guidance to the Borough of Avalon. Additionally, Dr. Tedesco was very forthcoming with some environmental initiatives being done at The Wetlands Institute, in which Avalon can participate. The purpose of this discussion is to evaluate the potential for an agreement with The Wetlands Institute and Dr. Tedesco. It is proposed to have Dr. Tedesco involved in the planning and development of projects, review and opinion on existing projects, and discuss initiatives for grant funding.

Dr. Tedesco added The Wetlands Institute likes to find opportunities to provide services to the community and help guide decisions about different issues related to natural resources, natural resource management, and unintended consequences of plans. This proposed agreement provides an opportunity for The Wetlands Institute to help with the planning of projects to avoid environmental issues during the work. As an example, it may be prudent to evaluate what impact the proposed butterfly garden will have on terrapins and how the plans could be changed to enhance both the project and terrapin nesting. The intent is not to replace the Borough's consultants, but rather provide a different view and expertise that considers natural resource opportunities as well as challenges that the Borough faces.

Council President McCorristin spoke in support of developing projects to the benefit of natural resources.

Councilman Covington suggested The Wetlands Institute could also explore an opportunity to partner with the Planning Board.

Council agreed to proceed with a Resolution to be prepared for the January 10, 2018 Regular Meeting.

Discussion regarding Resolution renewing Shared Services Agreement with Middle Township for Court Room Video Conferencing Equipment.

Scott Wahl reported the proposal for this renewal proposes no increase or changes to the terms.

Debroah Scott explained this Shared Services Agreement has been beneficial to the court in that Middle Township bears the cost of all upkeep and initial outlay of all equipment. The video conferencing equipment allows for incarcerated defendants to appear before the Judge. Considering that occurrence is infrequent for the Borough, it is both beneficial and cost-efficient to participate in this Agreement.

After brief discussion, Council agreed to proceed with a Resolution for consideration at tonight's Regular Meeting.

Discussion regarding bids received for Contract M-105, Reconstruction of 39th Street, First Avenue to Dune Drive.

Tom Thornton reported this contract has a 120 day completion period and requested permission to proceed in January to ensure project completion before Memorial Day. The Borough received funding under the Municipal Aid Grant Program in the amount of \$180,343.00 for this project. On November 9, 2017, four bids were received for this project. The Engineer's Estimate was \$407,320.00. The low bid, submitted by Lexa Concrete, LLC, was approximately 20% below the Engineer's Estimate at \$339,497.75. Lexa Concrete has done work in the Borough of Avalon in the past, and is a well-qualified contractor. It is recommended that the Borough award the contract to Lexa Concrete. This project includes the replacement of sewer in addition to the reconstruction of the street. Also submitted for Council's approval is Mott MacDonald's proposal to provide the construction engineering services along with a detailed scope of work. The intent is to first complete sewer work, which is anticipated to be completed within 60 days to

Tom Thornton (continued) allow for a period of settlement those trenches. Although there are strict compaction requirements in place, it is best to allow for at least a 30-45 day period for those trenches after being backfilled and compacted.

Council agreed to proceed with Resolutions for consideration at tonight's Regular Meeting.

Further discussion regarding Ordinance amendments to the Avalon Borough Code, pertaining to Administration, Police Regulations, Personnel and Construction Site Standards.

Jim Waldron reported this item was previously discussed at the work session on November 21, 2017. Since that meeting, Councilman Covington has provided assistance to resolve some issues, such as the residency requirement. That has been clarified. The hiring preferences have been clarified. Additionally, there is an amendment in the military pay and military leave of absence consistent with recommendations received from Labor Counsel Nicole Curio. Should Council choose to adopt these amendments, the Borough will have five departments. One department is being eliminated and a new office of Public Information and Affairs is being created. Another amendment addresses concerns about diving from bridges. The police regulations are being amended to prohibit this with a specific exemption that fishing and crabbing from bridges is still permitted. Furthermore, there are two conditions for bonds within the Construction Code are being removed. The first requires a demolition bond in the amount of \$5,000.00, which is not required and is also inadequate. The second item for consideration to be deleted requires a moving bond, which no longer serves a purpose. With respect to dumpsters, there is a clarification indicating a need for a construction fence. This fence must now be 24 inches high and made of plywood.

Councilman Covington asked for clarification regarding the active duty military.

Jim Waldron explained there are two classes, categorized as the military service, and the state militia. The state militia is composed of four categories: the organized, the unorganized, the active, and the inactive. Every citizen of this state between the ages of 17 and 45 years of age is a member of the unorganized militia. If the organized militia is activated by either the Governor or the President, individuals within that category are entitled to a leave of absence for 90 days. Other military branches are entitled to a 30 day leave of absence. If more than 30 days is needed, that leave would be without pay, without the loss of benefits or seniority. Nicole Curio has worked diligently to clarify the language as much as possible for the Ordinance. Unfortunately, there is no way to clarify the language further given the confusion in the statutes.

Councilwoman Hudanich questioned why the Ordinance prohibiting jumping and diving from bridges includes language which allows fishing and crabbing from bridges.

Jim Waldron explained the intent is to avoid any confusion from residents and visitors.

Councilwoman Hudanich referenced the section of the Ordinance referencing the requirement of a wooden silt fence and inquired about the definition of the type of wood to be used.

Jim Waldron explained the type of wood that should be used for such fencing should be plywood, and noted that section references Section 20-11.6 of Borough Code, which states "there shall be a suitable opening to allow for ingress and egress for the contractor and equipment. Said fence shall be two feet in height and construction of plywood. It must remain in place from the start of construction until completion of the project and the removal of all equipment from the site." He noted the specific language that plywood should be used can be included in the section to be amended.

Councilwoman Hudanich agreed with the language change, and asked if it is following procedure by including the job description of the Public Information Officer in the Borough Code.

Jim Waldron explained the duties of Directors are specified in the code book. Considering the Public Information Officer is an executive officer subject to certain appointment and removal provisions, the duties and responsibilities for that title are set forth in the Ordinance. For all other positions, there is a master file of all job descriptions, maintained by the Administrator's Office.

Council agreed to proceed with an Ordinance to be prepared for introduction at the January 10, 2018 Regular Meeting.

Discussion regarding the following annual Resolutions:

- Designate Borough Clerk/Deputy Borough Clerk to issue Municipal Improvement Certificates
- Scott Wahl as Public Compliance Officer
- Scott Wahl as Fund Commissioner/Jim Waldron as Alternate Fund Commissioner for Atlantic County Municipal Joint Insurance Fund
- Trustee of the Free Public Library – Jim Thatcher (5 year term)
- Cash Management Plan
- Michael Sorensen, Esquire, Municipal Public Defender
- Frank Guaracini, Municipal Prosecutor/Emily Buonadonna, Assist. Municipal Prosecutor
- Tax Assessor to file appeals and/or municipal appeals

Scott Wahl recommended that Council approve these items.

Council agreed to proceed with Resolutions to be prepared for the January 10, 2018 Regular Meeting.

Discussion regarding Resolutions authorizing Professional Services for 2018.

Non-fair and open (contracts anticipated to exceed \$17,500.00):

- Michael S. Garcia, Auditing Services
- Thomas R. Thornton, P.E., Borough Engineer
- Thomas G. Smith, Esquire, Tax Appeal Counsel
- Howard Marlowe, Government Affairs Consultant and Lobbyist
- Scott D. Taylor, Professional Planner and Landscape Architect
- Clarke, Caton Hintz, Affordable Housing Planner for the Planning/Zoning Board
- Joseph H. Maffei, Engineer Planning/Zoning Board
- Paul J. Baldini, Esquire, Solicitor Planning/Zoning Board
- V-COMM, LLC, Telecommunications Technical Consulting Services
- Lomax Consulting Group for Environmental Consulting Services
- Neil Yoskin, Esquire, Special Litigation & Environmental Counsel
- Stephen D. Barse, Borough Solicitor
- Lawrence Pepper, Borough Labor Attorney
- McManimon, Scotland & Baumann, Bond Counsel
- Marsh & McLennan Agency Associates, Healthcare Consultant

Under the non-fair and open threshold (contract anticipated to fall below \$17,500.00):

- Alan I. Gould, Esquire, Special Conflict Counsel/Administrative Hearing Officer
- Animal Control Services
- Marsh & McLennan Agency Associates, LLC, Risk Management

Over \$17,500.00 but exempt from the pay-to-play non-fair and open requirement because vendor is the college:

- Dr. Stewart C. Farrell, Director, Coastal Research Center, The Richard Stockton College of NJ, Beach Monitoring Services

Scott Wahl explained Paul Baldini has been chosen to replace Dean Marcolongo as the Solicitor for the Planning/Zoning Board. He noted most of the professionals have maintained similar rates to prior years.

Councilwoman Hudanich questioned the increases proposed by Taylor Design Group for their professionals, and asked how often rates for Taylor Design Group are raised.

Scott Wahl responded Taylor Design Group has not submitted increases in recent years, and pointed out that many professionals included within the proposal are not utilized by the Borough.

Council briefly discussed these items and agreed to proceed with Resolutions to be prepared for the January 10, 2018 Regular Meeting.

Discussion regarding Resolution authorizing renewal of the following agreements:

- a. Senior Travel Services
- b. Ransome Rental Company – Portable Generator

Jim Waldron reported proposals have been received from both contractors indicating willingness to provide the Borough with the same services as the current contract. These contracts do not require the Borough to pay the contractor unless their services are required in emergent conditions. If Council chooses to renew these contracts, the appropriate documentation will be prepared by Mr. Barse's office.

Mayor Pagliughi added these contracts are only used if there is an evacuation when a bus service is needed or if a shelter needs to be opened where a generator would be necessary. The Senior Travel Services contract was last used when the Borough was evacuated for Hurricane Irene.

Council agreed to proceed with Resolutions to be prepared for the January 10, 2018 Regular Meeting.

Discussion regarding Resolution accepting grants for Cops in Shops 2017-2018 Fall Initiative and 2018 Summer Shore Initiative.

Chief McCormick reported the Borough has been awarded the same amounts as in previous years, and there are no changes to either program.

Council agreed to proceed with a Resolution to be prepared for the January 10, 2018 Regular Meeting.

Discussion regarding Resolution authorizing a Person-To-Person Transfer of Plenary Retail Consumption License for the Windrift for change in corporate name from Dilbet, Inc. to The Windrift Hotel Resort, Inc.

Scott Wahl clarified that this is a change in name only. All stockholders and business operations will be remaining the same.

Council agreed to proceed with a Resolution for consideration at tonight's Regular Meeting.

Discussion regarding Resolution opposing the expiration of the interest arbitration cap.

Jim Waldron read the following report:

In 2010 the Legislature imposed a 2% cap on Interest Arbitration awards in Police and Fire employment contracts. That legislation was set to expire in 2014. However, the legislation was extended and unanimously approved by the Legislature and the Governor in June 2014, the extension on the 2% cap on Interest Arbitration awards is now set to expire on December 31, 2017.

While the 2% property tax levy cap will continue, the cap on Interest Arbitration awards will expire on December 31, 2017, as indicated, unless immediate action is taken by the Legislature.

Among the reasons for extending the legislation are the following which are contained in the report of the Governor's appointees to the Task Force:

1. **Salary awards have not suffered:** The report noted that from 2012 to 2016 there was 90 interest arbitration awards. 36 of the 90 awards were subject to the 2% cap, with an average salary increase of 1.6%. Over the same period of time, 46 voluntary settlements were reached with an average increase of 1.80%.
2. **Number of applicants for police and fire jobs has not suffered:** Using Civil Services data, the report found that there has been an increase in the number of individuals taking both the police and fire exams – a 43% increase in the number of applicants and eligible candidates for police and a 90% increase in the number of applicants and eligible candidates for fire. The increase in candidates is at a time when NJ's unemployment rate dropped from 9.5% to 5%.

For example:

- In August 2010, the last time the LEE was offered prior to the effective date of the 2% cap, there were 26,066 applicants and 18,568 eligible candidates placed on the list.
 - In August 2016, after five years under the 2% cap, there were 37,393 applicants for the LEE and 26,696 eligible candidates placed on the list. That represents a 43% increase on both the number a similar trend for firefighters.
 - In March 2010, there were 18,170 applicants for the Firefighters' Test with 6,392 eligible applicants placed on the list. In August 2015, four years after the 2% cap went into effect, the number of applicants increased to 19,075.
3. **Salary increases have been contained within reasonable limits:** The report found that using data from the Division of Pensions:
 - The average annual pay for all police pre-cap (2006-11) increased 18.3%, from \$75,301 to \$89,066.
 - Post cap (2011-16) it increased 4.8%, from \$89,066 to \$93,360.
 - In addition, using data from the US Bureau of Labor Statistics from 2012-14, the report found that the average mean wage of police in New Jersey was the highest in the nation. In 2015-16, New Jersey moved to 2nd place behind California.
 - For all fire personnel, using data from the Division of Pensions, the report found that the average annual pay for all fire pre-cap (2006-11) increased 21.8%, from \$78,079 to \$95,107.
 - Post cap (2011-16), it increased 4.8% from \$95,107 to \$99,674.
 - In addition, using US Bureau of Labor Statistics data, from 2013-16 the average mean wage of fire service employees in New Jersey was the highest in the nation.
 4. **Crime rates:** In regards to crime rates the report found, using data from the Uniform Crime Report, that crime rates fell before and after the cap. Precap (2006-11), there was a 5.8% decrease in crime rates. Post cap (2011-16), crime rates decreased by an additional 22.3%.
 5. **Recruitment concerns:** The Task Force was provided data from the Civil Service Commission ("CSC") which demonstrates, importantly, that the caliber of the candidates for these exams also has not suffered.
 - While there were only 4,941 applicants with a Bachelor's Degree who sat for the 2010 LEE, there were 7,812 applicants with a Bachelor's Degree who sat for the 2016 LEE.
 - For the Firefighter Test, there were 1,984 candidates with a Bachelor's Degree who sat in 2010. In 2015, that number increased to 2,988.
 - During this same period, unemployment declined in New Jersey from 9.5% in 2010 to 5% in 2016.

These are some of the reasons justifying a further continuation of the cap legislation.

Council agreed to proceed with a Resolution for consideration at tonight's Regular Meeting.

Discussion regarding appointments to the Avalon Planning/Zoning Board.

Scott Wahl reported the recommendations received from the Mayor regarding Planning/Zoning Board appointments include Michael Coskey as a Class IV, Alternate 1 and John Morrison as a Class IV, Alternate 3. Both of those terms would be for a one year term, covering the period of January 1, 2018 through December 31, 2018. Other appointments for the Planning/Zoning Board for the year 2018 include Kimberly Mastriana as Secretary, Joe Maffei as Engineer, and Paul Baldini as Solicitor.

Marie Hood added there is also a recommendation for Council Vice President Deeever to be reappointed to the Planning/Zoning Board for 2018.

Council agreed to proceed with Resolutions for consideration at tonight's Regular Meeting.

Public Comments:

Martha Wright, 632 7th Street, expressed enthusiasm regarding specifications of silt fences, however requested the code to be clarified to require a silt fence to be erected on all sides of the property, specifically along the bay for Bayfront properties. She referenced the construction site located at 2788 Ocean Drive as an example of a site that does not have a silt fence along the bay.

Council President McCorristin expressed his understanding that it is a requirement to have a silt fence in place on all sides of a property, and asked Jim Waldron to clarify.

Jim Waldron read the following language from the existing Borough Code, 20-11.6a:

20-11.6 Construction Site Requirements.

a. A temporary construction fence (sometimes referred to as a silt fence) shall be installed around the entire perimeter of the construction site or area of disturbance. This includes the construction of the principal structure or use and any accessory structures or use including the swimming pool. Only one such fence shall be required at each construction site for the duration of construction activity. There shall be a suitable opening to allow for ingress and egress for the contractor and equipment. Said fence shall be two (2) feet in height and constructed of plywood. It must remain in place from the start of construction until completion of the project and the removal of all equipment from the site.

Paul Short noted that property is located within a zone that will be evaluated for code violations in the coming days. He added that if a bulkhead is two feet or higher, he does not require the erection of a 24 inch plywood silt fence. He also does not require such a silt fence if the construction site has solid vinyl or wood fences. As a clarification, orange plastic fencing is only required for swimming pools under construction to keep workers from falling in the hole. The orange fencing has not been an acceptable form of silt fencing for some time.

Martha Wright asked that the code be clarified with very strict regulations regarding silt fencing and the exceptions to those rules. She further advocated that these regulations not be selectively enforced.

Jim Fleischmann, 275 13th Street, spoke on behalf of the American Legion Post 331 and thanked the Mayor, Borough Council, Borough Administration, and all other departments for their help and support.

Council President McCorristin commended all for another fantastic year, and jobs well done. He wished all a Merry Christmas.

December 13, 2017

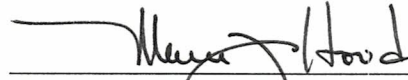
Motion made by Councilman Covington, seconded by Councilwoman Hudanich to adjourn the Work Session.

ROLL CALL VOTE:

Councilman Covington	Aye
Councilman Dean	Absent
Council Vice President Deever	Aye
Councilwoman Hudanich	Aye
Council President McCorristin	Aye

Work Session adjourned at 4:49 p.m.

Respectfully submitted,



Marie J. Hood, Borough Clerk



John M. McCorristin, Council President