

March 27, 2019

A Work Session of the Borough Council of the Borough of Avalon was held on Wednesday, March 27, 2019 at 4:01 p.m. in the Meeting Room, 3100 Dune Drive, Avalon, New Jersey.

Attendance: Public ----- 14

Reporters ----- 2

The Meeting was called to order by Council President Deever.

Pledge of allegiance.

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| <u>Roll call:</u> | Council President Deever | Present |
| | Council Vice President Covington | Present |
| | Councilwoman Hudanich | Present |
| | Councilwoman Juzaitis | Present |
| | Councilman McCorristin | Present |

Also present:

Scott Wahl, Business Administrator
James A. Waldron, Assistant Business Administrator
Nicole Curio, Esquire, Borough Solicitor
Police Captain, John Roscoe
Steve Camp, Assistant Director of Public Works & Utilities
Thomas R. Thornton, P.E., Borough Engineer, Mott Macdonald, LLC
Paul E. Short, Sr. Code Enforcement Officer
John Tracy, Building Official
Brenda Camp, Deputy Tax Assessor
Vincent L. Lamanna, Jr., Nehmad Perillo & Davis

Council President Deever read the Open Public Meetings Act Announcement.

Notice of this Work Session was included in the Annual Schedule of Meetings dated June 27, 2018. It was given to the news media and posted on the Official Bulletin Board as required by law.

Further discussion regarding request from Thomas and Jennifer Curry at 597 24th Street seeking a partial vacation of Sixth Avenue.

James Waldron: explained an application requesting a partial vacation of Sixth Avenue was originally submitted by counsel representing Thomas and Jennifer Curry to Council in late 2018, and was discussed at a Work Session held December 12, 2018. The application has since been circulated among various departments of the Borough which would have an interest in this application. Reports from Jeff Hesley as Tax Assessor and Zoning Official, Stephen Morey of Mott MacDonald, and Fire Chief Ed Dean have been received and distributed to Council for review. Jeff Hesley's report indicates the advantages and disadvantages of the street vacation, should Council elect to vacate the street. The report from Stephen Morey addresses the issue of the Municipal Public Access Plan. Currently, the Borough has a valid Municipal Access Plan. The Borough is currently in negotiations with the DEP for a renewal of that plan. Those negotiations have ben stalled due to the DEP requesting that the Borough commit itself to a conservation deed of restriction as to each street end at the beach and the bay. The Borough's position is that those street ends either on the bay or the ocean front have been dedicated to public use and public access. Administration does not feel that a further document is necessary, therefore this issue can be appropriately addressed in the plan. In sum, Stephen Morey's report alerts Council that this may be a violation of the Municipal Access Plan. The written report from Fire Chief Ed Dean voices grave reservations and opposition to the application in its present form.

Vincent Lamanna thanked Council for the opportunity to speak and referenced a survey prepared by Mark Gibson Associates dated January 9, 2012, when this matter first arose. At that time the then-Borough Administrator, Andy Bendnarek, made some recommendations, which included the demolition of the existing structures. At the time, Thomas and Jennifer Curry were not ready to demolish their existing structure. Presently, the Curry Family is ready to demolish the home and rebuild. Currently this lot contains two non-conforming structures. The Zoning Ordinance

Vincent Lamanna (continued) permits a duplex, however does not permit two separate single-family dwellings on a single property. The property is also non-conforming in terms of the bulk regulations. The home extends beyond the bulkhead, past the property line and over the waterway. The property owner is seeking a vacation of ten feet of a seventy foot right of way to permit the lot to become conforming with other corner lots throughout the area in order for the construction of a side-by-side duplex. Due to this property being a corner lot, there are certain limitations and set-backs which would make the construction of a side-by-side duplex on the lot in its current form very difficult, which difficulty would be resolved with the addition of the ten feet the property owner is requesting. He noted the ten-foot street vacation would not exceed the curbs presently in place. The survey from 2012 shows from the property line to the curb is 14.4 feet and the property owner is seeking ten feet. A fence that the owner, Thomas Curry, has installed along the existing curb line is actually beyond the ten feet, therefore the partial street vacation, if granted, would not encroach on the Borough right of way any more than the current state of the street end.

Council Vice President Covington expressed his confusion about the extent of the encroachment and requested clarification that the simple matter of the request is that the owner wishes to add ten feet to the property, which would then encroach the Borough's right of way, therefore reducing the right of way from seventy feet to sixty feet.

Vincent Lamanna: confirmed that is correct.

Council Vice President Covington questioned why would it encroach into the right away, if the ten feet would not reach the curb-line of the street.

Councilman McCorristin noted an aerial view of the property shows where the curb line is poured near the intersection of the roadway, which is poured at a width of 43 feet.

Vincent Lamanna agreed with Councilman McCorristin and noted that width is conforming with Sixth Avenue on the other side of 24th Street.

Councilwoman Hudanich noted Mr. Lamanna's explanation simply states that the ten feet being requested in this partial vacation request is closer to the home than the fence that has been constructed by the property owner, which is over 14 feet from the existing property line, and encroaches onto the street by that amount, however noted a wrong action should not be used as an argument to grant the vacation.

Vincent Lamanna pointed out the property across Sixth Avenue from the property being discussed this evening has executed the same practices to provide boundaries to their property.

Councilwoman Hudanich asked that the discussion focus solely on the property in question, rather than properties nearby. She then clarified if the ten foot vacation were to be granted, it would simply take ten feet from the 14 feet that are currently being encroached by the fence along the property line.

Vincent Lamanna stressed the importance of the appearance of the street and stated at some point in the history of the Borough, the determination was made as to the width of the Sixth Avenue. The curb to curb measurement, the inlets adjacent to the curb, and the paving defines the street. To address the issue of the DEP seeking a confirmation of access, he noted the DEP would like to know that the Borough is on board with the public access policies. He suggested that vacating 10 feet of Sixth Ave will not change the public access of the street, as it will not look any different if the Borough continues to keep the street the way that it is. He noted the property contains two non-conforming uses, one being an old boathouse that projects into Princeton Harbor by approximately 20-30 feet. This represents a navigational hazard and an obstruction of view. The DEP may be interested in the removal of that obstruction and hazard. Moreover, if the concern is public access from the curb to the bulkhead, the property owner is willing install a sidewalk to the bulkhead to enhance public access. If this application were to be granted, it would benefit the Borough with the demolition and reconstruction of a conforming duplex, which would eliminate two non-conforming structures. Additionally, the new construction would render the property code-compliant and, most importantly, FEMA compliant. He addressed Fire Chief Dean's comments with respect to the turn-around of equipment in the street, and noted this street has not changed in years, since the placement of the fence along the

Vincent Lamanna (continued) property line and the partial vacation would not change the street end in a way that would create an additional hazard. He mentioned the existence of a fire hydrant directly in front of the property as well as one down the street. He further pointed out that across 24th Street from this property are wetlands or uplands that continue to the channel, therefore this is not a densely populated area, and is fully developed as it currently exists. For these reasons, he asked Council to consider granting this request.

James Waldron: added Chief Dean intended to be at the meeting tonight; however, due to other obligations, he was unable to attend. He explained there is a fire hydrant near the property, however Chief Dean's concern is not only water availability, but also water pressure and adequacy of water for fires in this particular area in the community. Chief Dean did indicate that all of Avalon's equipment is either front end or rear end, so the vehicle can approach the waterway and suck water through the front or rear of the truck. Chief Dean references the fact that many fire trucks can only access waterway by the side. If a fire occurs that is a mutual aide situation and a truck from another department had to help, but the truck was not equipped with front or back loading facilities, they would not be able to accommodate the street end because it needs seventy feet.

Vincent Lamanna stated the layout of the street is historical. He also pointed out there is a considerable amount of vegetation located at the bulkhead, which is an impediment for the use of the water adjacent to the bulkhead, as the vegetation is very thick. The bulkhead is significantly deteriorated. If the ten-foot vacation is granted, there will be additional bulkhead pickup by the applicant. The cost of replacing the bulkhead will diminish as far as the Borough is concerned because there will be less bulkhead for the Borough to replace. The property owner is prepared to pay his pro-rated of share of any bulkhead replacement.

Thomas E. Curry, 597 24th Street thanked Council for their time, and reported he and his wife Jennifer have lived at this address for past 23 years and intend on staying at this address long term. He explained the reason the fence is located on Borough property and encroaches into the right of way, is because the existing curb line was followed.

Councilman McCorristin clarified this property is currently zoned as a duplex lot, therefore it is possible to build a duplex; however, it would not be conducive to have a side by side duplex due to the setbacks and other requirements, therefore it would be prudent to build a front to back duplex. As far as the sight line goes, the existing house on the lot is approximately 4'4" away from the actual current property line, therefore if the property remains the same, but is rebuilt under the current code, the house would shift almost ten feet towards the east, which would result in an increased sight line as far as the public access and public view. Under current Borough Code, if there is a substantial improvement to a bayfront property, the property owner would be required to install a side walk to the bulkhead. Even if Mr. Curry does not receive the vacation, there would be some major changes necessary. If Mr. Curry decided to rebuild, it would be an enhancement towards the Borough FEMA guidelines in respect to public access. Again, Mr. Curry is permitted to build a duplex, however it would be a small duplex if it was built side by side, therefore it would be more prudent to build a front to back duplex in the event the property remains the same size, and the vacation is not granted.

Councilwoman Hudanich agreed with Councilman McCorristin and stated it is possible to have a front and back duplex on this lot. If the property owner decided to build a duplex on the property, it would be required to have a side walk installed and the property would be conforming. These two items would be adhered to, regardless of the ten feet.

Vincent Lamanna agreed with Councilman McCorristin.

Public Comments:

Susan Dietz, 487 24th Street: explained she has lived at her property for fifty years and voiced her opposition of the street vacation of 597 24th Street. She inquired if there has been an engineering study done as to what is beneath the street and expressed befuddlement as to why Mr. Curry is claiming a hardship because the owners currently have fifty feet, they would be able to build a duplex on the property, questioned why they need an additional ten feet. She expressed concern about loss of view by building a larger structure on the property if granted the vacation. She further noted flooding is an issue on 24th Street in Avalon and if the owners cover more ground, the water will have no where to go. She stressed the importance of stopping all future street vacations.

Martha Wright, 632 7th Street voiced her opposition to the partial vacation of Sixth Avenue and stated she submitted a letter to Council voicing her concerns, which has not been referred to this evening. She noted Administration referred to letters from the Fire Chief, Tax Assessor, and Mott MacDonald, however she believes there are also additional letters from the public on file opposing this issue.

James Waldron explained the only reports that he had access to were the reports from the internal department heads or divisions that spoke to this issue. These are the only reports from the officials indicated.

Councilwoman Hudanich explained Martha is referring to the letter that was personally sent to Council. She clarified that this is not a hearing, but a courtesy Council has extended to the public giving the residents of Avalon a chance to voice their opinions concerning this matter.

Martha Wright, 632 7th Street expressed support of the Municipal Access Plan and stated public access to waterways is a protected right and makes Avalon the desirable destination that it is. She noted it is possible to build a front to back duplex on the current lot, which would increase ratables, improve the environment, safety, and lower FEMA and insurance ratings. She also voiced her concerns about fire safety. Not only are high winds an issue during the winter season, but visiting Fire Departments may not have access from the side of their truck to obtain water from the bay. Another concern are the drainage pipes located below Sixth Avenue. The outfall pipes need to be maintained and the Borough needs full access to maintain them. She encouraged Council to deny the street vacation and protect the Borough's relationship with the DEP.

Elaine Scattergood, 75 30th Street voiced her opposition to the street vacation.

Discussion regarding Resolution authorizing reassignment of Collection & Disposal of Municipal Solid Waste and Recycling Materials Contract.

Nicole Curio explained Avalon has been contacted by Earth Tech Contracting requesting that the current contracts with the Borough for Collection and Disposal of Municipal Solid Waste as well as the Collection and Disposal of Municipal Recycling Materials be assigned to Gold Medal Environmental of New Jersey. The two parties, Earth Tech and Gold Medal, have entered into an agreement in which Gold Medal is essentially taking over Earth Tech as part of that sale. Earth Tech wishes to sign all of its rights and obligations under the Borough contracts to Gold Medal. Gold Medal desires to take on the responsibilities and obligations under those contracts. The contract with the Borough requires that in order for it to be assigned, express written consent from the Borough is required. It is important to mention that this assignment does not change the terms of the contract. All the terms remain the same, and all of the obligations that Earth Tech had are now the obligations of Gold Medal. Gold Medal will be required to provide a performance bond for its work under the contract. This matter has been discussed with Frank Boning, an attorney representing Earth Tech. A Consent Agreement has been drafted, which acknowledges the assignment and the obligations by Gold Medal under the contract. Gold Medal has been made aware that the Borough is looking for something that all the parties would be able to sign, so the Borough is assured that all parties are aware of all their rights and obligations under the contract. Both companies have signed the agreement. Mr. Boning has represented that he has a goal of having a deal with Earth Tech and Gold Medal closing on April 1, 2019. With the April 1st date in mind, there is a Resolution, which has been placed on the Regular Meeting Agenda this afternoon if Council chooses to authorize the contract. The issue has been reviewed by the Borough Solicitor, Administration, Mr. Clark, and William Macomber who all recommend that Council approve the contract.

Councilwoman Hudanich recommended to Administration that in the future, a Consent Agreement section could be included within the contract, as this seems to be a frequent event as this industry morphs into repeated acquisitions. The Borough should also be aware of any other contractors or industries that are starting this type of iteration.

Councilwoman Juzaitis explained the Borough has a good relationship with Earth Tech and noted there is a supervisor by the name of Bob Webster who has been observing Avalon, and it would be great if Bob could stay in Avalon during this transition.

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

Presentation regarding Recycle Coach service.

Scott Wahl made a very short presentation on the television screens in the meeting room regarding the implementation of the Recycle Coach app that is provided to the Borough free of charge, through the Cape May County MUA and through the NJDEP. A press release has been issued by the NJDEP regarding the product, which has been vetted through the Avalon Department of Public Works, the Avalon Green Team, and the Avalon Office of Public Information.

The app is both web based, with exposure on the Borough's website, and phone based, supported by Android and Apple. It is free of charge to the Borough and to all users. It is also supported by Amazon's "Alexa" product.

How to Use It: All the user has to do is download the app on a smart phone, or go to www.avalonboro.net and click on the link. No personal information is needed, not even a name. Type in the property address. What comes up is the trash, recycling, and brush schedule on a calendar for the year. If a user has it on a phone, notifications will be pushed to the app shall the Borough need to reschedule a pickup due to a major storm event or other issue. The user can also type in search words like "paint" or "electronics" and find out if they are collected or not, where to take them at the County MUA, and information of that nature.

This program contains voluminous recycling information which we are certain will be changing in the coming year(s) due to the recycling market, and background information on non-recyclable products and the impact on the environment (ie: plastic straws) which supports the Avalon Clean Water Initiative.

Additionally, it provides information about specific Borough policies and events, including the existence of our complimentary trash/recycling depot, bulk trash collection weeks, and our once a year Community Paper Shredding Day.

Council agreed to proceed with a Resolution to be prepared for the April 10, 2019 Regular Meeting.

Discussion regarding Resolution scheduling a public hearing for a two-story height deed restriction release for the property known as 26 East 12th Street.

James Waldron stated this is a routine deed restriction, which was instituted in a deed dated June 7, 1955 and has been deemed "void for vagueness" controlled by the Wilcox v. Sorgenti case. He recommended that Council consider releasing this restriction.

After a brief discussion, Council agreed to proceed with a Resolution to be considered at today's Regular Meeting.

Discussion regarding Resolution renewing Shared Services Agreement with the Borough of Stone Harbor for Backup Construction Official

Scott Wahl asked Council to consider an additional one-year shared service agreement for Backup Construction Official. This is a no cost agreement to Stone Harbor or Avalon and provides fluidity and continuity shall a Construction Official from one town or the other be out of the office for an extended period of time. This service agreement would enable construction services to continue without delay.

Councilwoman Hudanich suggested extending the agreement to three years, if all parties agree.

Council agreed to proceed with a Resolution to be prepared for the April 10, 2019 Regular Meeting.

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Discussion regarding sale of abandoned and unclaimed property on Saturday, May 11, 2019

Captain John Roscoe reported every year on Mother's Day weekend there is an auction for bicycles and other articles of unclaimed property that the Avalon Police Department collects throughout the year.

Council President Deever informed the public the items include one drone, four scooters, one baseball glove, North Face backpack, two hand saws, one blue tooth radio, and forty-four bicycles.

Scott Wahl stated this event takes place every year over Mother's Day weekend. This event will take place on Saturday, May 11, 2019.

Council agreed to proceed with a Resolution to be prepared for the April 10, 2019 Regular Meeting.

Discussion regarding Resolution appointing Class I and Class II Special Officers for the Borough of Avalon

Captain John Roscoe explained every year the Police Training Commissioner requires the Avalon Police Department to swear in new officers, part-time officers, and they are given a one-year term of service. This year term allows them to operate as Special Officers for the Borough of Avalon. There are also several returning Class II Special Officers that will need to be re-sworn in for the season.

Council agreed to proceed with a Resolution to be prepared for the April 10, 2019 Regular Meeting.

Discussion regarding Resolution authorizing submission of an Application for Municipal Recycling Tonnage Grant

Steve Camp explained this resolution is to renew the application. This is money Public Works receives from all of the recyclable material Public Works sends to the MUA. In 2014, Public Works received \$2,871.00 and in 2015, Public Works received \$8,765.00. Public Works uses these funds to purchase trash bags, trash cans, and to help offset the cost of other materials.

Council agreed to proceed with a Resolution to be prepared for the April 10, 2019 Regular Meeting.

Discussion regarding Resolution appointing Municipal Tax Assessor

Scott Wahl stated as Council is aware, Jeffrey Hesley retires on April 1, 2019. Administration conducted an intensive interview process for potential replacements for Jeff as Tax Assessor. The candidates for the position were interviewed and canvassed, and it is the recommendation to Council that Brenda Camp be appointed as the new Tax Assessor in Avalon. In 2013, Brenda began her career in the Tax Assessor's office as a Clerk. In 2015, with her own initiative, Brenda enrolled in Rutgers Tax Assessors courses and became certified. Administration is recommending Brenda Camp become the Tax Assessor for the Borough of Avalon.

Council President Deever stated he is sad to see Jeff Hesley retire. Jeff was Tax Assessor at the Borough of Avalon for 26 years. The Borough was very fortunate to have Jeff, who was very knowledgeable and Council is grateful to have Brenda who can step right into his position.

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

Discussion regarding ongoing construction of Townsend's Inlet Bridge

Scott Wahl explained last summer Administration reported to Council that the Townsend's Inlet Bridge was going to be closed on September 18th, 2018. The County issued an \$8.5 million contract to Agate Construction for major work on the Avalon side of the bridge, which includes the replacement of seven spans being replaced by four; and six piers being replaced by three

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Scott Wahl (continued) piers. A preconstruction meeting was held last summer, with the promise of the bridge being open before Memorial Day weekend, 2019.

Progress: The County issued a few progress reports which were posted on our municipal website, the last one being on February 28th. That progress report detailed an accelerated work schedule, and did not indicate any delay in the bridge being open.

Update: On Monday, March 18th there was a conference call organized by the County. Avalon was not on the call, nor invited to be part of it. I asked County officials why, and the response was this was an internal discussion with freeholders and the County Administration. During that call there were construction issues discussed that contemplated not meeting the deadline to open the bridge on time.

Current Status: A meeting was to be held with the contractor and the County this morning to discuss the re-strike of a pile on a Pier. Initially that was to be done on Thursday. The latest update I received last night from the County Engineer suggested that may possibly occur on Saturday, March 30th. Once that pile is re-struck, the County intends to have a better idea of when the project will be finished. Once that re-striking occurs, the contractor will be able to resume work on a pier cap, which will then allow the contractor to begin installing girders that will begin the completion of the bridge. If you look at the bridge off Avalon Boulevard or other vantage points, you will see the open space on the portion of the bridge closest to Avalon where no bridge currently exists.

Information/Misinformation: There has been speculation about the intended opening of the bridge, including some news coverage. One outlet reported yesterday that the bridge would in fact be open in time for Memorial Day weekend, which is not true. I communicate often with the administration in Sea Isle City and we both agree that once this re-striking occurs, hopefully Saturday, that sometime next week we will have a more accurate idea of a completion date by the contractor.

Questions to be Answered: Some questions that are fair and need to be answered include, but are not limited to: Why has it taken up to less than ten weeks before the opening date to learn that the project could be weeks or months behind schedule? What answers will be provided to the business communities who have reasonably counted on this bridge being open by the summer kickoff weekend? Who was the supervising authority on this project? To this date, there has been no outreach to towns, we had to reach out to cull the information.

Council President Deever asked for clarification concerning the February 28, 2019 Progress Report.

Scott Wahl explained the Progress Report can be found on the Avalon Borough website. The report indicates the upcoming work to be performed on the bridge and the construction schedule would be accelerated. There was no indication of the pier strike nor was there any indication regarding a delayed opening.

Council President Deever requested clarification that 19 days later is when Administration learned of a conference that took place, which Avalon was not invited to.

Scott Wahl confirmed and added the Borough of Avalon was not privy to the conversation. He noted he learned of the conversation after reaching out to the County independently.

Councilman McCorristin asked what "restrike" means.

Scott Wahl explained the pier that supports the deck is either too high or too low and it has to be adjusted vertically to make sure it conforms to the design guidelines.

Councilwoman Hudanich asked why Mr. Church, the engineer, cannot give the Borough a narrative as to the problem. She stated she heard the County found additional structural damage and emphasized that the Borough should be privy as to what is happening at the north end of town. There has been a transition period with Dale Foster retiring, the County has an Environmental and Civil Engineer, but notwithstanding, the Borough is entitled to a narrative concerning the damage and the fix. The Borough owes it to the public to keep them informed, however the Borough needs the correct information.

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Scott Wahl agreed and intends to question the County to gather more information.

Council President Deever stated the Borough must be informed as to what is going on. The business community in both Avalon and Sea Isle are liable to suffer due to the bridge being closed for an extended period of time.

Scott Wahl stated he doesn't believe its unreasonable should Council agree to ask the County to have a meeting with Council, Administration, and invite the business community and other interested parties, so all of the answers to questions can be provided. There is no reason why the County should object for the interest of transparency and planning purposes.

Public Comments:

Dutch Dechert, 56 W 16th St spoke on behalf of the Avalon Chamber of Commerce and noted the community understands the Borough has no part of the construction or contracts with regard to the construction of Townsend's Inlet Bridge, however urged Council and Administration to put pressure on the County to move this construction along and provide the public with some answers. The closure of the bridge is negatively affecting the businesses, restaurants, and retail during this time of the year, and with the summer season is approaching and it will only get worse. This is negatively affecting Avalon as well as Sea Isle. He again urged Council to keep the pressure on the County as this is vital to all the businesses in the community.

Councilwoman Hudanich explained to Dutch that on Thursday, March 28, 2019, there is a League of Municipalities meeting for all of the counties elected officials. She expressed her intent to attend and speak to each and every one of the Freeholders in attendance regarding this matter.

Jackie Ewing, 31 W 22nd St, stated the businesses in the community have gone through this once before and there is a certain amount of outrage. She noted she put out a broadcast to the business community and within twenty minutes, fourteen people responded and voiced their concerns. The bridge closing has hurt and will continue to hurt business in Avalon. She stated she finds it unconscionable that the County did not have a backup plan.


Mark Papineau, 189 34th St, commented on the 2018 backpassing and the future backpassing for 2019. Mark is in support of backpassing as long as the work is done right. Last year, the backpassing was done right and thanked Public Works, Thomas Thorton, Scott Wahl and Council for all of their hard work.

Motion made by Council Vice President Covington, seconded by Councilwoman Juzaitis to adjourn the Work Session.

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

Work Session adjourned at 5:22 p.m.

Respectfully submitted,


C. Danielle Nollett, Borough Clerk


James Deever, Council President