

AGREEMENT

BY AND BETWEEN

BOROUGH OF AVALON
A MUNICIPAL CORPORATION OF
THE
STATE OF NEW JERSEY

AND

SEAN MCNAIR
CAPTAIN OF POLICE
AVALON POLICE DEPARTMENT

AGREEMENT

This Agreement effective as of the ____ day of _____, 2022 by and between the Borough of Avalon, in the County of Cape May, New Jersey, a municipal corporation of the State of New Jersey, hereinafter called the Borough and Sean McNair, the Captain of Police of the Borough of Avalon, hereinafter called the Captain.

1. Responsibilities of the Captain of Police

The Captain shall perform his duties in a diligent manner in conformance with state laws, the ordinances of the Borough, the Police Manual of the Avalon Police Department and the regulations and policies of the Borough. The responsibilities of the Captain shall include but not be limited to, the following:

- a. Under the supervision of the Chief of Police during an assigned tour of duty, has charge of subordinates engaged in activities intended to provide assistance and protection for persons, safeguard property, assure observance of the laws, and apprehend lawbreakers.
- b. Assigns subordinates to their posts and supervises them in the prevention of crime, the protection of life and property, and the enforcement of laws.
- c. Disciplines subordinates for neglect of duty.
- d. Assigns subordinates to duty at public gatherings.
- e. In the absence of the Chief has charge of the police headquarters.
- f. Is responsible for seeing that any problems that arise are handled properly.
- g. Prepares reports and keeps records.
- h. Supervises the cleaning and maintenance of headquarters.
- i. When not needed at the headquarters office, patrols area to observe subordinates on duty and to assist in police activities.
- j. Reviews arrest books, police blotter, rounds books, and property books daily.
- k. Reviews evidence in cases and the marking of same and supervises the preparation of reports.
- l. Has responsibility for the safeguarding of prisoners.
- m. Inspects police equipment, materials and supplies.
- n. Supervises the establishment and maintenance of needed records and files.
- o. Will be required to utilize various types of electronic and/or manual recording and computerized information systems used by the agency, office, or related units.
- p. Will take charge in the absence of the Chief of Police and shall have the authority and responsibility normally exercised by the Chief.
- q. May be required to perform duties assigned by Director of Public Safety and/or Chief of Police related to the oversight and administration of the Rescue Squad of the Borough of Avalon.

2. **Workweek**

- a. The Captain shall spend sufficient time at his job to insure the smooth and responsible operation of the Police Department over which he has supervisory control. The work hours of the work week shall be flexible so long as the responsible operation of the Police Department is not impaired by said flexibility and the Chief of Police and the Mayor are satisfied with Departmental operations.
- b. The Captain shall not be entitled to be compensatory time, overtime or additional compensation for holidays. However, due to the nature and complexity of the job, the hour of the Captain's work week shall be flexible.
- c. The Captain's normal work week will consist of at least 40 hours per week.
- d. The Captain is deemed to be on-call at all times, except when unavailable and so excused by the Chief of Police.

3. **Education/Professional Development**

It is the policy of the Borough to encourage membership in professional associations and to encourage periodic skills enhancement training at conventions and retraining seminars.

The cost of such training and memberships shall be provided by the Borough so long as the Captain receives prior approval of the Chief of Police. The time off necessary to attend such training, including travel time, shall be granted by the Borough with prior approval of the Chief of Police.

4. **Police Vehicle / LAPTOP**

- A. The Captain shall have full and unlimited 24 hour use of an unmarked police vehicle from the fleet of police vehicles and it shall be equipped and maintained at the Borough's expense. Said vehicle is provided for purposes of employment as Captain of Police and is to be utilized as such. Said vehicle is not to be used for off-duty personal use as a rule, with exceptions granted for brief and infrequent stops for errands en route to or from duty.
- B. If deemed necessary for efficient operations by the Chief of Police, the Captain shall be issued a Borough laptop for use for Borough business only. The laptop shall remain the property of the Borough and use of the laptop may be revoked at any time for any reason in the full discretion of the Chief of Police. The Laptop shall be used as directed by the Chief of Police.

5. **Grievances**

For the purpose of this Agreement, the Grievance definition set forth in the Borough of Avalon Personnel Policy Manual shall apply.

In the event the Captain believes that he has a work-related problem, the Captain should bring it to the attention of the Chief of Police, with a copy filed with the Borough Administrator, within five (5) business days after the event giving rise to the grievance has occurred. Failure to act within five (5) business days shall constitute an abandonment of the grievance. It is the Chief of Police's responsibility to investigate, to attempt resolution, and to communicate a decision to the Captain within five (5) business days thereafter.

If the Captain is dissatisfied with the Chief of Police's decision, he may appeal to the Borough Administrator within five (5) business days. The Borough Administrator will address the grievance by discussing the situation with the Captain and the Chief of Police. After reviewing the grievance, previously rendered decisions, and other appropriate facts, a final decision will be issued by the Borough Administrator to the Captain within ten (10) business days.

If the Captain is dissatisfied with the Borough Administrator's decision, he may appeal to the Mayor within five (5) business days. The Mayor will address the grievance by discussing the situation with the Chief and the Borough Administrator. After reviewing the grievance, previously rendered decisions, and other appropriate facts, a decision will be issued by the Mayor to the Captain within fifteen (15) business days. The determination of the Mayor is final and binding.

6. Disciplinary Action

The Borough retains the right to suspend, demote, discharge or take other disciplinary action against the Captain for good and just cause according to law.

7. Compensation

The Borough and Captain agree to the following adjustments to the Captain's compensation:

Base Wages – During the term of this Agreement, the Captain's base wages shall be as follows:

Upon appointment and for the remainder of 2022	- \$127,500
January 1, 2023	- \$130,688
January 1, 2024	- \$133,955

8. Legal Defense

In accordance with N.J.S.A. 40A:14-155, whenever the Captain is a defendant in any action or legal proceeding arising out of and directly related to the lawful exercise of Police

powers in the furtherance of his official duties, the Borough shall provide the Captain with the necessary means for the defense of such action or proceeding. In the event that the Captain utilizes counsel or other than that supplied by the Borough, the fees and costs shall be agreed upon by the attorney and the Borough prior to the attorney performing such services.

The above does not apply for the defense of the Captain in a disciplinary proceeding instituted against him by the Borough or in a criminal proceeding instituted as a result of a complaint on behalf of the Borough. If any such disciplinary or criminal proceeding instituted by or on complaint of the Borough shall be dismissed or finally determined in favor of the Captain, he shall be reimbursed for the expense of his defense.

9. Insurance, Health and Welfare

The Borough shall provide for the Captain and his family medical benefits, except for retiree benefits which are provided for under paragraph 12 below, as provided for all members of the Police Department under the terms of the Agreement then in effect between the Borough of Avalon and PBA Local 59. The Captain shall be subject to the cost contributions as set forth in tier four of P.L. 2011, Chapter 78.

Prescription, Dental and Vision Plan shall be provided as is provided for all members of the Police Department under the terms of the Agreement then in effect between the Borough of Avalon and PBA Local 59.

The Captain may also opt out of insurance coverage as is permitted for all members of the Police Department under the terms of the Agreement then in effect between the Borough of Avalon and PBA Local 59.

10. Vacations and Personal Days

The Captain shall be entitled to take the following vacation leave time off and personal leave time off each year:

Vacation Leave – 180 hours
Personal Leave – 24 hours
Holiday Time – 96 hours per year

- a) Vacation and personal leave shall be scheduled in such a way so as not to hamper the proper operation and function of the Police Department. In the event that the Captain wishes to take more than one consecutive week of vacation at one time, the vacation should be approved in advance by the Chief of Police in order to verify that he has arranged for proper coverage with appropriate Officers in the Police Department.

- b) In the event all vacation leave for any calendar year is not taken during the calendar year by reason of the pressures of business of the Police Department, as determined by the Chief of Police, such vacation leave shall accumulate but must be taken during the next succeeding calendar year only. The rate of the Captain's vacation pay shall be based on the Captain's total yearly salary, earned pro-rata.
- c) Vacation leave and personal leave are granted in advance on January 1st in each calendar year in anticipation of the Captain's continued employment for the full year. In the event that the Captain resigns his position or is terminated for any reason, earned and unused vacation leave will be paid to the Captain on a pro-rated basis. In such event, the number of vacation leave hours to be paid will be the proportional number earned and unused up to the date of the Captain's termination.
- d) In the event that, as of the date of the Captain's termination, the number of vacation leave hours or personal leave hours which the Captain had taken exceed the number of vacation leave hours or personal leave hours actually accrued to the date of termination, the Borough shall be entitled to reimbursement.
- e) The Captain shall have the option upon written notice to the Business Administrator prior to October 1st, of receiving salary in lieu of vacation time. This shall apply up to a maximum of five (5) vacation days (40 hours) per calendar year. Payment is to be made in the first pay of December of the then current year.
- f) Upon the death of the Captain, unused vacation leave shall be paid to the Captain's estate.
- g) If the Captain becomes sick and hospitalized while on scheduled vacation leave, the Captain shall have the option of having this time charged to his accumulated sick leave instead of vacation leave.
- h) In recognition of the fact that the Captain may have to work any and all holidays during the course of the calendar year, holiday time shall be provided on January 1 in anticipation of continued employment for the year and shall be pro-rated for any time during the year in which the employee does not work. Holiday time shall be scheduled in the same fashion as vacation leave and subject to the approval of the Chief of Police. Holiday time shall not accrue from year to year and shall have no cash value if not utilized.

11. Clothing Allowance

The Captain shall receive the sum of one-thousand (\$1,000.00) dollars annually as a clothing allowance. This allowance is paid to the Captain upon submission of receipts evidencing the purchase of such clothing.

12. Retirement Benefits

- A. The Captain shall have all pension rights available under current or future New Jersey Law.
- B. The Borough will pay one hundred (100%) percent of the cost (subject to cost contribution as set forth below) of group health insurance for the Captain, his spouse and eligible dependents with hospitalization and major medical insurance until age 65 or until such time as the Captain is eligible for Medicare and fifty (50%) percent of such cost thereafter, including the cost of coverage for the employee's dependents. In order to qualify for such benefit, the Captain must satisfy the following eligibility criteria as mandated by N.J.S.A. 40A:10-23:
 - a. The employee must have retired on a disability pension; or
 - b. The employee retires after 25 years or more of service with the Borough; or
 - c. The employee has retired and reached the age of 62 or older and has at least 15 years of service with the Borough of Avalon.

The Captain shall be subject to the cost contributions as set forth in tier four of P.L. 2011, Chapter 78.

The coverage provided to the Captain, his spouse, and eligible dependents shall be the same coverage provided to the PBA in their current agreement.

- C. If the Captain is killed in the line of duty, the Borough shall continue to provide in full force and effect all health, dental and vision insurance benefits as specified in Insurance, Health and Welfare for the Captain's spouse until she reaches 65 or remarriage, whichever comes first, and for the Captain's children until each reaches his or her 25th birthday. The benefits and coverages to be provided shall be the same as are provide in the medical benefit section of this agreement and are, therefore, subject to modification from time to time.

13. Sick Leave

- A. If the Captain is incapacitated and unable to work because of an injury incurred while on duty, he shall be entitled to injury leave with pay and full employment entitlement during the period in which he is unable to perform his duties. Such injury leave shall be limited in duration to one (1) year as specified by state statute. The Borough reserves the right to have an injured Captain evaluated by a doctor of its choosing to determine the employee's extent of injury and ability to work. The Captain may seek the opinion of a physician of his own choosing to render such an evaluation with any conflict between the two physicians decided by a third physician jointly chosen.

- B. Sick leave may be utilized by the Captain when he is unable to perform his work by reason of personal illness, accident or exposure to a contagious disease. Sick leave may also be used to due to health reasons affecting an immediate family member which term shall be defined as spouse or civil union partner, child, stepchild, parent, brother, sister, step mother, step father, mother-in-law, father-in-law, grandmother, grandfather, grandchildren, sister-in-law, brother-in-law, aunt, uncle, legal guardian, child's spouse and relative living under the same roof, and any others as proscribed by law.
- C. Sick leave shall accrue to the Captain on the basis of ninety-six (96) hours per year for each calendar year of employment. An unlimited amount of sick leave may be accumulated. On retirement, accumulated sick leave shall be paid for on the basis of one-half (1/2) hour for each hour accumulated to a maximum of \$15,000; and then one-quarter (1/4) hour for each hour accumulated thereafter. At the Captain's option, unused sick leave may be converted to terminal leave according to the same prorated formula as for cash out and used prior to retirement (except for a deferred retirement). During the time that the Captain is on terminal leave, he shall be considered retired from active service and no additional vacation, holidays or sick leave shall accrue after the calendar year in which he becomes inactive.
- D. In the event the Captain shall be absent on sick leave for four (4) or more consecutive working days, he shall submit acceptable medical evidence substantiating the illness. This physician's certificate shall be secured at the Captain's expense.
- E. The Borough may require the Captain if he has been absent because of personal illness, as a condition to return to duty, to be examined at the expense of the Borough by a physician designated by the Borough. Such examination shall establish whether the Captain is capable of performing his normal duties and that his return to work will not jeopardize the health of other employees.
- F. In the event of a baptism, first communion, confirmation, graduation or marriage which requires the attendance of the Captain during work time for a child or member of the immediate family, the Captain shall be permitted one (1) day leave. Any such leave time shall be charged against the Captain's accrued leave time for vacation, sick leave or personal leave time.

14. Terminal Leave

- A. The Captain who retires, except for a deferred retirement, shall receive terminal leave immediately prior to retirement. Such leave shall be computed at a rate of four (4) working days for each calendar year of service with the Borough of Avalon. Added to such leave shall be any sick time and vacation time due which is owed to the retiring Captain. A Captain must be employed a minimum of ten (10) years before becoming eligible to receive terminal leave payments as set forth above.

- B. Upon six months' prior written notice to the Borough, the Captain shall receive payment for terminal leave, accrued vacation, sick time and personal time in a lump sum. If the Captain elects to receive a lump sum cash payment for terminal leave, sick leave or any other compensation at retirement, he must notify the Borough of his choice prior to the adoption of the annual budget. Failure to do so will result in payment being made after the adoption of the following year's budget. The Borough agrees to make reasonable efforts to include said payment in the temporary budget.

15. Funeral Leave

- A. In the event of a death in the Captain's immediate family, the Captain shall be granted time off from the day of death up to and including the day of the funeral, but in no event to exceed five (5) days.
- B. Immediate family for the purpose of Paragraph "A" shall be defined as follows: Spouse, child, stepchild, parent, brother, sister, stepmother, stepfather, mother-in-law, father-in-law, grandmother, grandfather, grandchildren, sister-in-law, brother-in-law, aunt, uncle, niece, nephew, legal guardian, child's spouse and relative living under the same roof.
- C. In the event the employee requires additional time off for personal reasons, such time off may be granted upon request to the Chief of Police.

16. Transition Upon Retirement

The Borough and the Captain desire and agree to affect an orderly transition upon the Captain's retirement. The Captain shall give notice of his retirement date at least six (6) months before his retirement date. During the ninety (90) day period preceding his retirement, the Captain shall pass control and responsibility of his position to his successor to the extent necessary, so as to sufficiently prepare his successor for the role of Captain. However, the Captain shall retain all final say and ultimate responsibility for his position until his final day on the job.

17. Term of the Agreement

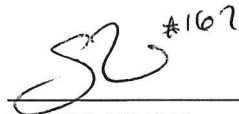
This Agreement shall be retroactive to the date of appointment of the Captain and will remain in effect until December 31, 2024, or at such earlier time as the Captain retires or is otherwise separated from employment. No separation of the Captain shall occur except as permitted by law. The terms of this Agreement related to post-retirement benefits shall survive the Captain's retirement.

18. Related Documents

The terms of the then existing Collective Bargaining Agreement between the Borough and PBA Local 59 (the PBA Agreement) and the terms of the Borough of Avalon's Personnel Policy Manual (the Manual) are applicable to the Captain. In the event that the terms of the PBA Agreement, the Ordinance, or the Manual conflict with any term or provision of this Agreement, the terms of this Agreement shall govern.

19. Signatures

CAPTAIN SEAN MCNAIR



SEAN MCNAIR
CAPTAIN OF POLICE

BOROUGH OF AVALON



MAYOR MARTIN PAGLIUGHI



ATTEST: C. DANIELLE NOLLETT
BOROUGH CLERK