

REGULAR MEETING
BOROUGH COUNCIL
MALVERN BOROUGH

MAY 20, 2008
7:30 P.M.

PRESIDING: Woody J. Van Sciver, President

INVOCATION: Gerard J. McGlone, Mayor

PLEDGE OF ALLEGIANCE TO THE FLAG

1. ROLL CALL: Council President Van Sciver
Council Vice President Raymond
Council Member Crawford
Council Member Edge - ABSENT
Council Member Lynch - Late
Council Member Smith
Council Member Vike
Mayor McGlone

2. PUBLIC FORUM:

Council President informs all present that copies of the agenda are available at the press desk. This is a Public Session of Council. Should any citizen/taxpayer wish to offer comments on any item on the agenda, now is the time to bring those comments before Council. Are there any citizens/taxpayers who wish to bring before Council any item not on the agenda?

- a. Phil Mellusi, 343 Old Lincoln Highway, read a letter to Council regarding the LaGrie subdivision on the private road off Old Lincoln Highway. A copy of the letter is attached to the Minutes.

3. APPROVAL OF MINUTES:

A motion was made by Council Vice President Raymond, seconded by Council Member Crawford and carried unanimously by a vote of 5-0, to approve the minutes of the Meetings held on Tuesday, April 1 and April 15, 2008, as submitted.

4. APPROVAL OF REPORTS:

A motion was made by Council Member Crawford, seconded by Council Member Smith and unanimously carried by a vote of 5-0, to approve the Treasurer's Report, the Committee Reports for Finance and Administration, Public Safety, Public Works and the Chief of Police Report, the Code Enforcement Officer's Reports (Building Inspector's Report, Housing and Property Maintenance Report and Zoning Report), the Superintendent of Public Works Report and the Manager's Report for the month of April 2008 as submitted.

5. RESOLUTION NO. 587 – FINAL PLAN APPROVAL FOR GREENSTONE DEVELOPMENT II CORPORATION (T.A.G. BUILDERS):

A motion was made by Council Member Smith and seconded by Council Vice President Raymond to approve Resolution No. 587, a Resolution approving, subject to conditions, the

Final Plan of Greenstone Development II Corporation, entitled "Final Subdivision Plan for Greenstone Development II Corporation" prepared by Chester Valley Engineers dated November 14, 2006, last revised April 4, 2008, consisting of eight (8) sheets, as a Final Subdivision Plan pursuant to the Malvern Borough Subdivision and Land Development Regulations of 2006, as amended, for the development of certain property located in the Borough of Malvern, Chester County, Pennsylvania, which Property is situated at the southeast corner of Monument Avenue and a former public right-of-way, known as Griffith Avenue in the R-3a Residential Zoning District.

Tom Galbally, applicant, questioned the escrow for the sidewalks and stated that through discussions with the Planning Commission, they discussed putting sidewalks on one side of the road only. He requested that he be permitted to reserve the right to install the sidewalks or, in lieu of installing the sidewalks, to give the escrow monies to the Chester Valley Little League.

Council President Van Sciver responded that the purpose of the fund is for the public improvements of sidewalks in other places within the Borough. This approval has been conditioned upon putting monies into a sidewalk fund to construct sidewalks in other areas. (Council Member Lynch arrived.)

Mr. Galbally stated that both Preliminary and Final approval stated sidewalks were to be constructed on one side of the street. It was not straight forward from the Planning Commission that monies would be required in lieu of sidewalks.

Mr. Galbally also questioned the \$16,000 for maintenance of the roadway and requested that this money be included in the Tri-Party Agreement. Upon dedication of the road, he would be responsible for maintenance for a period of eighteen months. He requested that this money be released to the Borough at time of dedication of the road.

A motion was made by Council Member Vike to amend the Resolution to include the fee-in-lieu for the sidewalks and the escrow for the maintenance of the road. Lou Colagreco, Esq., will prepare the amended Resolution, as discussed. Council voted unanimously, by a vote of 6-0, to accept the amended Resolution.

6. RESOLUTION NO. 586- APPOINT CHIEF ADMINISTRATIVE OFFICER OF MUNICIPALITY AND PENSION PLANS:

A motion was made by Council Vice President Raymond, seconded by Council Member Lynch and unanimously carried by a vote of 6-0, to approve Resolution No. 586, a Resolution appointing Sandra L. Kelley, Secretary/Manager, to the position of Chief Administrative Officer of the Board of Malvern and Chief Administrative Officer of the Police and Non-Uniformed Pension Plans with the responsibilities as indicated.

7. PENSION FUND RESOLUTION NO. 1 - 2008:

A motion was made by Council Member Smith, seconded by Council Member Lynch, and unanimously carried by a vote of 6-0, to adopt Pension Fund Resolution 1- 2008, assigning members of the Finance Committee as Trustees for the Borough of Malvern Police and Employees Pension Plans.

8. PUBLIC HEARING – ORDINANCE NO. 2008-2:

Council President Van Sciver announced that Borough Council will now open the public hearing to consider an Ordinance amending Chapter 139 of the Borough of Malvern Code of Ordinances entitled “Parks and Recreation” to amend Section 139.2.A (5) to permit commercial or for-profit activity in conjunction with borough-sponsored or borough-organized community events.

Pat Gallagher, 134 Church Street, questioned what events would be permitted in Burke Park and whether anyone would be able to sell things in the park.

Council President Van Sciver explained the intent of the Ordinance.

There being no additional comments, the hearing was closed.

9. ORDINANCE NO. 2008-2 – AMENDING PARKS & RECREATION ORDINANCE:

A motion was made by Council Member Lynch, seconded by Council Vice President Raymond and unanimously carried by a vote of 6-0, to adopt Ordinance No. 2008-2, an Ordinance amending Chapter 139 of the Borough of Malvern Code of Ordinances entitled “Parks and Recreation” to amend Section 139.2.A (5) to permit commercial or for-profit activity in conjunction with borough-sponsored or borough-organized community events.

10. OTHER BUSINESS:

a. Planning Consultant for E. King Street Development – Council President Van Sciver explained that the Borough is considering hiring a planning consultant for the proposed E. King Street development. The applicant will be asked to execute an Agreement that would allow the Borough to recapture the costs of the consultant.

Requests for proposals have been requested from Ray Ott, Tom Comitta, Chester County Planning Commission, John Snook of the Brandywine Conservancy and Kenneth Amey. The Chester County Planning Commission informed us that they do not perform these types of services.

Council President Van Sciver asked the members of Council if they had any qualms about hiring a planning consultant and all members were in favor of moving forward with obtaining proposals for planning consulting services.

Council Member Vike reported that the Planning Commission also made a recommendation to hire a planning consultant and also suggested that Urban Research Development Corporation may also be a good choice.

Phil Richardson, 132 Church Street, asked if the Borough residents would have access to a detailed plan for review. Council President Van Sciver responded that we hope to post it to the website.

Mr. Richardson asked if the plan would address parking. Council President Van Sciver responded that parking would be addressed during the approval process.

Council President Van Sciver characterized the proposed zoning amendment as significant changes and stated that parking and traffic are components of development.

Council Member Vike stated that the proposed ordinance amendment did include a request for the reduction of parking for the restaurant and a request to reduce some other parking requirements.

Council President Van Sciver stated that it is very early in the process. It is very likely that a Task Force will be appointed but, ultimately, the Borough Council will make the decision for the proposed ordinance amendment.

b. New Garden Authority Pool Financing – the Manager explained that she had received a call from an attorney regarding the Borough’s loan with the New Garden General Authority. This Loan Agreement was dated December 1999 and was used for the purchase of the Paoli Battlefield. She was informed that the Authority would be terminating their Authority this summer and that we should either consider paying off the loan or seeking alternative financing. As paying off the loan was not included in the 2008 budget, she recommends alternative financing. The National Bank of Malvern was contacted and they have agreed to consider financing at a rate of 5.00-5.25 percent per year with a \$225.00 application fee. There would be no additional monthly fees. Although the interest rate changes weekly on the New Garden loan, for the past month the interest has averaged 8.26%. The Manager recommended financing the balance of the loan with the National Bank of Malvern.

Council Member Smith stated that he had asked the Manager about piggybacking on other loans, but the Manager reported the current Delaware Valley Regional Finance Authority has a minimum loan amount of \$100,000 and the Borough could not piggyback on the current loan and the other Borough loan is financed through a bond and the costs of refinancing that bond would be far more than financing through the National Bank of Malvern.

Council agreed to finance through the National Bank of Malvern, if approved, and a Resolution would be prepared for the next Council meeting.

c. Malvern Fire Company – Council President Van Sciver stated there was an issue raised by the Malvern Fire Company who has asked if there was any concern from Council regarding the Malvern Fire Company’s behavior. Mr. Van Sciver stated that he wanted to discuss the matter publicly this evening because there are some rumors in the Malvern Fire Company that Council is concerned about the activities in the Fire Company and other concerns that Borough Council might have.

Council Member Smith stated that for the past couple of years there were questions about the Malvern Fire Company getting the best interest rates on their money and how financial-minded people may not have been handling their money. The Borough contributes \$50,000 per year to the Fire Company and, since Council must assume fiduciary responsibility for spending the taxpayers money, we wanted to be sure the Fire Company was getting the best interest rates for their money. We had asked the Malvern Fire Company to take the study we had completed, consider changing some of their by-laws to complement some of the recommendations and to change some of the ways they finance their funds to get better interest rates and procedures. Some rumors have been circulating as to what Council thought was going on and what we did and didn’t expect from the changes from the Fire Company. Council Member Smith stated that he received an e-mail from the President of the Malvern Fire Company addressing these issues.

Council President Van Sciver stated that Council Member Smith has been monitoring the Fire Company’s attempt to comply and that there has been some persistent discussion in the Fire Company that Council has been reaching out to members of the Fire Company looking for information that management of the fire company was not giving the Borough. There were rumors that Council thought there was malfeasance, mismanagement of the funds and some other

rumors and Council President Van Sciver felt that Council should have a public discussion regarding these rumors.

Council Member Smith stated the Borough Council would like to set the public straight that whoever is spreading the rumors is incorrect.

Council President Van Sciver stated that he doesn't have any idea what they are talking about.

Council Vice President Raymond stated that she was at just about all of the discussions that Council had about the fire company and no one even raised the notion that there could be malfeasance.

Council Member Crawford stated that he had no problems with their conduct.

Council Member Lynch stated that he can't remember anybody since this Council turned over who seemed to think that there was malfeasance or mismanagement.

d. E. King Street Streetscape – Linda Finnegan, 132 Church Street, asked what was going on with E. King Street and the streetscape project.

Council President Van Sciver explained that the Borough is in dispute with the contractor. We feel they did not do what they were hired to do. We have secured the roads and made sure they aren't deteriorating anymore. We should, however, do an aesthetic improvement. Council President Van Sciver feels the aesthetic value is just as important.

Council Vice President Raymond feels this issue should be discussed in Executive Session as the matter is currently in litigation.

Council Member Crawford stated that when you are suing a party, you don't want to make any improvements. It would not be wise to make a decision without consultation.

Council President Van Sciver stated that he thinks we need to stress to our solicitor that the aesthetic appearance is just as important as the structural improvement of the road.

Council Members Lynch and Raymond feel the matter should be discussed with the attorney prior to making any improvements.

Council Member Vike suggested some above-ground plantings in a large planter be placed in the E. King Street island.

Stormwater was also discussed regarding this island as water is being pushed to the middle of E. King Street.

11. ADJOURNMENT:

A motion was made by Council Member Lynch, seconded by Council Member Crawford and unanimously carried by a vote of 6-0 to adjourn the meeting at 8:20 p.m.

Respectfully submitted,

Sandra L. Kelley
Secretary/Manager