

REGULAR MEETING
BOROUGH COUNCIL
MALVERN BOROUGH

November 16, 2010
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 Lynch
 - Council Member Macaleer
 - Council Member McCrory
 - Council Member Sponenbergh
 - Council Member Uzman
 - Mayor McGlone

Council President Van Sciver reported that Council met in Executive Session prior to the meeting to discuss a legal matter regarding the W. King Street streetscape project.

2. PUBLIC FORUM:

Council President informs all present that copies of the agenda are available at the front 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. Steve Iacobucci, owner of the Flying Pig Saloon, stated that he had met with the Mayor and the Chief regarding police surveillance of his establishment. He stated that he wanted to find the proper forum to get his concerns before the Borough Council rather than just keep it between the Mayor and the Chief. He stated that he is having a real hardship in the evenings as a result of one or two police officers who have ruined his night time business. He feels there is a lot of fear in customers that frequent his establishment in that they will be pulled over at night for a minor infraction that they would not have been pulled over for during the day. He stated that he has had patrons followed out of his bar for a minor infraction and then asked to take a breathalyzer. Sometimes they have been asked to retake it four times. Mr. Iacobucci asked how he could open up the discussion rather than just limit it to the Mayor and the Chief.

Council President Van Sciver stated that if these issues are substantial, if Council agrees, we could place this topic as an Agenda item for the next meeting to hear Mr. Iacobucci's concerns.

Mr. Iacobucci told a story about a seventy year old woman being pulled over because she was seen leaving the bar with an unsteady gait. She explained to the officer that she had hip

problems and limped, but she was asked to take a breathalyzer test and she was very upset over the incident.

It was discussed that Steve meet with the Public Safety Committee to discuss his concerns.

The Mayor asked that Mr. Iacobucci identify by name who the officers were and Mr. Iacobucci responded that Lloyd Douglas was the worst and he trains the other officers. He did not know the names of the other officers.

A meeting will be set up with the Public Safety Committee.

b. John Buckley reported that he was up town sitting on the bench around 9:30 at night. When he got down off the bench, he was limping. He proceeded to walk down to Woodland Avenue and before he knew it, a police car was coming down First Avenue from Woodland Avenue. When Mr. Buckley got to Church Street, the police car pulled in front of his house. The officer asked what Mr. Buckley was doing walking in the middle of the street and Mr. Buckley responded that Woodland Avenue is a bad street to walk on because of the uneven pavement. Mr. Buckley stated that before he could get his key in the door, the police officer had his arm up behind his back. Mr. Buckley stated that he went up to the police station the next day for a copy of the police report and there was no report.

Mr. Buckley asked if the telephone pole on Roberts Lane between Channing Avenue and Woodland Avenue was going to be sitting there all winter.

Mr. Buckley asked that if the Borough was going to enforce the snow and ice ordinance that it be enforced along King Street as there are several people along King Street that don't clear their walks.

3. APPROVAL OF MINUTES:

A motion was made by Council Member Macaleer, seconded by Council Member Sponenbergh and unanimously carried by a vote of 7-0 to approve the minutes of the Regular Meetings held on Tuesday, October 5, 2010 and Tuesday, October 19, 2010, as submitted.

4. APPROVAL OF REPORTS:

A motion was made by Council Member Uzman, seconded by Council Member McCrory and unanimously carried by a vote of 7-0 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 October 2010, as submitted.

5. APPOINTMENT TO SHADE TREE COMMISSION:

A motion was made by Council Member Sponenbergh, seconded by Council Member Uzman and unanimously carried by a vote of 7-0 to appoint Linda Burton, 19 Powelton Avenue, to the Shade Tree Commission, to complete the unexpired term of Tony Dufour. Said term to expire January 1, 2014.

6. RESOLUTION NO. 632 – GREENSTONE DEVELOPMENT II CORP. – GRIFFITH AVENUE:

A motion was made by Council Vice President Raymond, seconded by Council Member Sponenbergh and unanimously carried by a vote of 7-0 to adopt Resolution No. 632, a Resolution approving, subject to conditions, the Lot Line Change Plan for Greenstone Development II, Corp - Lot 4, 151 Griffith Avenue prepared by InLand Design, dated July 8, 2010, last revised October 15, 2010, sheet 1 of 1, as a preliminary/final 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, in the R3a zoning district.

7. RESOLUTION NO. 633 – ACT 537 PLAN REVISION FOR VALLEY CREEK TRUNK SEWER:

A motion was made by Council Member Sponenbergh, seconded by Council Vice President Raymond and unanimously carried by a vote of 7-0 to adopt Resolution No. 633, a Resolution for Act 537 Plan Revision for Valley Creek Trunk Sewer.

8. PUBLIC HEARING – LEVYING A TAX ON EARNED INCOME AND NET PROFITS:

Council President Van Sciver announced that Borough Council will now open the public hearing to consider an Ordinance levying a tax on earned income and net profits; requiring tax returns; requiring employers to withhold and remit tax; and related provisions.

The proposed Ordinance was advertised, as required, and copies of the proposed ordinance were on display in the Borough office for review by the public.

There being no public comment, the hearing was closed.

9. ORDINANCE NO. 2010-2 – EARNED INCOME TAX COLLECTOR

A motion was made by Council Member Uzman, seconded by Council Member Sponenbergh and unanimously carried by a vote of 7-0 to adopt Ordinance No. 2010-2, an

Ordinance levying a tax on earned income and net profits; requiring tax returns/ requiring employers to withhold and remit tax; and related provisions.

10. PUBLIC HEARING - SNOW AND ICE REMOVAL:

Council President Van Sciver announced that Borough Council will now open the public hearing to solicit public comment on an Ordinance prohibiting the deposit of ice and snow onto public streets. A copy of this proposed Ordinance has been published as required and was on display at the Municipal Building.

The proposed Ordinance was advertised, as required, and copies of the proposed ordinance were on display in the Borough office for review by the public.

Council President Van Sciver stated that the main provision here is to adopt an Ordinance to prevent larger organizations property management groups to plow and throw snow into the cartway. This Ordinance enforces provisions against doing that.

Mr. Iacobucci reported that the Flying Pig is on a corner and he throws the snow into the street because the cars turn it into water by running over it and it goes down the drain.

There being no additional public comment, the hearing was closed.

11. ORDINANCE NO. 2010-3 – SNOW AND ICE REMOVAL:

A motion was made by Council Member Sponenbergh, seconded by Council Vice President Raymond and unanimously carried by a vote of 7-0 to adopt Ordinance No. 2010-3, an Ordinance amending Chapter 179, Article V of the Malvern Borough Code of Ordinances entitled “Snow and Ice Removal” to prohibit the deposit of ice and snow onto public streets in the Borough of Malvern.

12. PUBLIC HEARING – AUTHORIZING PARTICIPATION IN THE DELAWARE VALLEY HEALTH INSURANCE TRUST:

Council President Van Sciver announced that Borough Council will now open the public hearing to consider participation of Malvern Borough in the Delaware Valley Health Insurance Trust.

The proposed Ordinance was advertised, as required, and copies of the proposed ordinance were on display in the Borough office for public review.

Council President Van Sciver stated that Borough Council has investigated to try to buy the most cost effective health insurance coverage for the employees of the Borough. This year the Borough is anticipating joining with DVHIT that specializes in insuring health insurance coverage to municipalities and school districts. This Ordinance will authorize the Borough to engage them.

There being no public comments, the hearing was closed.

13. ORDINANCE NO. 2010-4 – DELAWARE VALLEY HEALTH INSURANCE TRUST:

A motion was made by Council Vice President Raymond, seconded by Council Member Uzman and unanimously carried by a vote of 7-0 to adopt Ordinance No. 2010-4, an Ordinance authorizing the participation of Malvern Borough in the Delaware Valley Health Insurance Trust pursuant to the Pennsylvania Intergovernmental Cooperation Law.

Council Member McCrory asked to review a copy of the Agreement that was indicated in the proposed Ordinance. The Manager will send a copy of the Trust Agreement to Council Member McCrory for review and comment prior to submitting the agreement to DVHIT.

14. OTHER BUSINESS:

- a. Council Member Macaleer reported that the Finance Committee will be meeting on Thursday morning, November 18th, at 7:30 a.m. to discuss the remaining issues of the budget.
- b. Council President Van Sciver asked that Council respond with comments to his proposed letter to the employees.

15. ADJOURNMENT:

All business having been discussed, a motion was made by Council Member Uzman, seconded by Council Member Sponenbergh and unanimously carried by a vote of 7-0 to adjourn the meeting at 8:10 p.m.

Respectfully submitted,

Sandra L Kelley
Borough Manager