

REGULAR MEETING
BOROUGH COUNCIL
MALVERN BOROUGH

June 21, 2011
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 - ABSENT
 - Council Member Macaleer
 - Council Member McCrory - ABSENT
 - Council Member Sponenbergh
 - Council Member Uzman - ABSENT
 - Mayor McGlone

2. PUBLIC FORUM:

Council President informed 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. John Buckley, 165 Church Street, commented on the following:
 - First responders traveling west on First Ave. fly through the stop signs
 - A lot of work is being done in the Borough without permits
 - There is a mechanics shop being run in Fishers Feed old building and Mr. Buckley questioned whether it was a permitted use

3. APPROVAL OF MINUTES:

A motion was made by Council Vice President Raymond, seconded by Council Member Sponenbergh and unanimously carried by a vote of 4-0 to approve the minutes of the Regular Meeting held on Tuesday, May 17, 2011, as submitted.

4. APPROVAL OF REPORTS:

A motion was made by Council Member Sponenbergh, seconded by Council Member Macaleer and unanimously carried by a vote of 4-0 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 May 2011, as submitted.

5. RESOLUTION NO. 642 – PRELIMINARY PLAN OF 237 E. KING STREET PARTNERS, LLC:

A motion was made by Council Member Sponenbergh and seconded by Council Vice President Raymond to adopt Resolution No. 642, a Resolution approving, subject to conditions, the land development plan of 237 King Partners, LLC, entitled "Preliminary/Final Land Development Plan East King Street, prepared by Chester Valley Engineers, Inc., dated December 22, 2010, last revised April 1, 2011 as a preliminary development 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 development is located in the C-4 High Intensity Commercial Zoning district, and for 3.72 acres in Malvern Borough on the north side of East King Street, including tax parcels 2-4-148, 150, 151, 152, 153, 158, 159, 160, 161 and 162.

Council Vice President Raymond asked Planning Commissioner Carroll Sinquett, a member of the audience, what the Planning Commission's thinking was regarding the Planning Commission's recommendation to waive the 20' radius for the western part of the driveway. Commissioner Sinquett responded that the Planning Commission couldn't find a single radius that met the ordinance and most were under the ten foot that the ordinance required. The 20' radius would also substantially encroach onto an existing property that was not being demolished.

Council President Van Sciver stated that a meeting with PECO has been set. He questioned the language in Item 2 of the Resolution where it states "the location of the utility wires shall be determined" and stated that suppose there is a different disagreement over that regarding this language? Ms. McLean responded that either the developer presents plans to the Borough doing something else with the wires, and if the Borough is not satisfied with it, she believes this condition leaves that item open. The reason that statement is in there is that the developer has to come back with revised plans that the Borough will have to approve.

Council President Van Sciver asked if this was a contingent approval subject to final plan approval.

Ms. McLean responded that the final plan would show something different than the preliminary plan. The plan would be consistent unless you have a contingency that says you may change something else. The most common one's are the PA Highway Occupancy Permit, or a community septic system that changes between preliminary and final plan. The final plan may then look different than the preliminary plans. PECO is acting as a third party approval and we have limited ability to push them to do anything. The developer agreed to drop the waiver request for Preliminary/Final approval. There was no grant of a waiver for Preliminary/Final approval.

Council President Van Sciver and Ms. McLean discussed having Condition 2 of the Conditional Use Decision that states, "to facilitate the use of the upper level parking by

commercial patrons, appropriate signage directing motorists into and out of the structure shall be provided. Safe, clear, pedestrian pathways with appropriate signage shall be provided for ingress and egress into both buildings” and should be included in the Resolution as a condition. Ms. McLean argued that the signage would be shown on the building plans that the Codes Officer and L & I would be reviewing for consistency with the IBC and other applicable Fire & Safety Codes, and that it would be dealt with at the permitting process. Council President Van Sciver argued that the pathways should be shown on the plan. Ms. McLean stated that the building code is a different set of regulations. Ms. McLean also stated that there is nothing that she can point to that would support this condition being part of the land development plan approval process. Council President Van Sciver disagreed that this Condition should not be included in the Resolution as it was a condition of the Conditional Use approval. Although they differed in their opinions as to whether or not it was considered a land development requirement vs. a building permit and L & I requirement, the developer felt there was nothing in the Conditional Use Order that was inconsistent with the IBC that they have to follow. Those items that the Council President and Ms. McLean are talking about are already on the building plans that are complete. The clear pathways will be on the final plans. On the plans you will see the walkway and exterior sidewalk coming around to the garages and they will show the signage. It is part of the revisions that will be submitted for Final Plan approval.

Council President Van Sciver proposed an amendment to include a condition that states “Prior to final approval, the applicant will submit documentation showing compliance with Condition 2 of the Conditional Use Agreement that states to facilitate the use of the upper level parking by commercial patrons, appropriate signage directing motorists into and out of the structure shall be provided. Safe, clear, pedestrian pathways with appropriate signage shall be provided for ingress and egress into both buildings”. The motion was seconded by Council Vice President Raymond and unanimously carried by a vote of 4-0.

6. OTHER BUSINESS:

- a. Proposed Solid Waste Ordinance – the Manager explained that a letter had been received from DEP stating that we failed to meet DEP’s requirement that all residents have waste services and recycling services. The proposed amendment to the Solid Waste Ordinance will incorporate these requirements.
Council agreed to publicize the proposed Ordinance for adoption.
- b. Volunteer Picnic – Council agreed to move forward with the Volunteer Picnic to be held on Saturday, September 10th at Burke Park. All volunteers, elected and appointed officials and staff , with their families, will be invited.
- c. Capital Considerations – a list of capital considerations for out-years was distributed to Council. Council Member Macaleer stated that he liked the items that addressed the downtown area; i.e., wayfinding signage, beautification of King Street to include

street furniture, banners, signage, landscaping, a façade improvement program and physical streetscape improvements along King Street.

Council President Van Sciver stated that one could argue that we are working more towards the commercial properties.

Council Vice President Raymond stated that crosswalks would be used by a lot of people; a greater spectrum of people than would be interested in the greenway trail for Randolph Woods. She also felt that it was hard to determine projects without having costs associated with the projects.

- d. Historic Ordinances – Council President Van Sciver asked that Council carefully review the proposed Historic Ordinance. He feels that a burden is being placed on the requestor to provide documentation when a home is being demolished or revitalized/redeveloped. He believes the historic inventory is too large and stated that Council can change the Ordinance or inventory so that those 1961 track houses are not covered. There is also no procedure included to request a waiver from the requirements.

7. ADJOURNMENT:

All business having been discussed, a motion was made, seconded and unanimously carried by a vote of 4-0 to adjourn the meeting at 8:25 p.m.

Respectfully submitted,

Sandra L. Kelley
Secretary/Manager