

REGULAR MEETING  
BOROUGH COUNCIL  
MALVERN BOROUGH

August 16, 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
  - Council Member Macaleer
  - Council Member McCrory
  - 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: a) painted yellow lines at the corner of Woodland Ave. and King Street; b) a truck with its trunk open in Railroad Alley and fences and a shed in the alley; c) questioned why warning letters, then violation letters have to be sent more than once to the same people for violations of the same codes; and, d) reported on the crack in the sidewalk by his house and stated that the caulk that was placed over the crack was smeared onto his sidewalk

b. David Burton, 19 Powelton Avenue, asked about the zoning hearing decision from the hearing held on July 18<sup>th</sup>. He asked that if the Zoning Hearing Board allowed it, would there be any recourse. Wendy McLean, Esq., responded that they would have 30 days to file an appeal from the date of the decision. She explained that they would have to file a Notice of Appeal through the Court of Common Pleas. She suggested that Mr. Burton contact the Manager for a copy of the Decision when it becomes available.

3. APPROVAL OF MINUTES:

A motion was made by Council Member McCrory, seconded by Council Member Sponenbergh and carried by a vote of 5 ayes to approve the minutes of the Regular Meeting held

on Tuesday, July 19, 2011, as submitted. Council Vice President Raymond abstained as she was not present at the meeting.

4. APPROVAL OF REPORTS:

A motion was made by Council Vice President Raymond, seconded by Council Member Sponenbergh and unanimously carried by a vote of 6-0 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 July 2011, as submitted.

5. PUBLIC HEARING – 237 KING PARTNERS, LLC:

Council President Van Sciver announced that Borough Council will now open the public hearing for the conditional use for the E. King Street development.

Wendy McLean, Esq., stated that the hearing was to consider and act upon the Conditional Use Application of 237 King Partners, LLC as to 3.72 acres in the Borough (3.92 acres gross to title lines) on the north side of East King Street, extending west from the Malvern Borough Line, including tax parcels UPI 2-4-148; 2-4-150; 2-4-151; 2-4-152; 2-4-153; 2-4-158; 2-4-159; 2-4-160; 2-4-161 and 2-4-162, to modify a previously approved Multi-Use Development in the C-4 High Intensity Commercial District, pursuant to Malvern Zoning Ordinance Sections 1501 (C-4 Use Regulations); 2425 (Multi Use Development); 2910 (Conditional Uses) and related ordinance standards.

Ms. McLean asked the Manager if there was a proof of publication and a proof of posting. After receiving a positive response, the Proof of Publication was entered as M-1.

Andy Rau, Esq., stated that he would keep his comments relatively brief and presented copies of Exhibits A-23, A-24 and A-25 to the members of Council.

Mr. Rau reported that PECO is saying they can't and they won't bury the utility lines.

Mr. Rau questioned David DellaPorta regarding his conversations with PECO regarding the burying of the utility lines.

A copy of the Transcript is on file at the Borough Hall.

Following all testimony and questions from the Council and the public, the hearing was closed at 8:20 p.m.

**A motion was made by Council Member McCrory, seconded by Council Member Lynch and unanimously carried by a vote of 6-0 to strike Condition #11 from the Conditional Use Decision for 237 King Street Partners, LLC.**

Council President Van Sciver called for a five minute recess.

Following the recess, the meeting was reopened.

6. OTHER BUSINESS:

a. Paoli Battlefield Preservation Fund Renewal Agreement – In response to the PBPF’s question regarding the northern boundary property line, Wendy McLean, Esq., reported that the fence along the northern property line is not on the property line. While Ms. McLean feels it is a good idea to have the boundary line marked, she felt it was a decision for Council as it would require an expenditure to have the property line surveyed and monuments installed. Council agreed to obtain an estimate from E. B. Walsh and consider including the expenditure in the 2012 Budget. Ms. McLean suggested that it may be a grant opportunity.

The PBPF stated that in the original Agreement, Paragraph No. 6, regarding the “remainder of the parcel”, the PBPF believes that there is **no** remainder of the Parcel. Ms. McLean stated that she didn’t think it was appropriate at this time to give them final authority over the remainder of the Parcel. As far as she is aware, the PBPF has not come to Borough Council or the Planning Commission to say what archaeological artifacts they found and what they are going to do about it.

Council President Van Sciver stated that the PBPF has requested a Councillor to participate in their once a month meeting. Council President Van Sciver asked Council Member McCrory if he would consider being the liaison to the PBPF to work through this particular issue and Council Member McCrory responded that he would.

The PBPF has requested that in Paragraph No. 16 where it states “The Borough agrees to indemnify the Fund”, that the additional language of “or the Fund’s agents, employees, officers, invitees” be added and Council had no objection.

Regarding the PBPF’s last comment regarding the charging of fees for an event, Ms. McLean felt the language in the Renewal Agreement was clear and did not require further clarification. Council concurred.

b. TCDI Grant Application – Council President Van Sciver stated that this TCDI Grant application is a follow-up to the Malin Road Feasibility Study that was funded by DVRPC. This TCDI grant is also being funded by DVRPC. He stated that the only way to pursue this would be to make the entire industrial area more formal for more density and if you model what they have done for the Paoli Transportation Study, they talked about the area immediately adjacent to the train station would be the more densely developed and as you move west up the industrial park, it would be less dense. If it could potentially pay for the kind of infrastructure improvements anticipated in the Malin Road extension through the TRID’s and TIF’s, they would say these parcels would be of more value. The Chester County Planning Commission has agreed to put together the application but they estimate the cost would be \$70,000-\$80,000 and the Borough would be responsible for a 20% match.

An Official Map was discussed, but it was felt that we would have to involve East Whiteland in that discussion and that could create another whole process. One of the primary reasons for an Official Map is, if someone wants to develop his property, his plan should incorporate the Official Map’s design and there is an obligation on the part of the property owner

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to do that. If it takes away from the owner's property value, the municipality would have to pay them for their loss because of the Official Map requirement.

The Chester County Planning Commission also raised the question of what would it do to the character of the Borough if there was an eight-story building on the north side. Council President Van Sciver stated that he does not really feel it would impact the vista that we see now when you walk down King Street because of the topography on the north side.

Council Vice President Raymond asked if we might interest East Whiteland in the Malin Road extension.

Council President Van Sciver responded that the Borough has always had on their Permanent Agenda the issue of truck traffic on Warren Avenue. He feels that a lot of the traffic will be going down Warren Avenue if the north side was developed as a TOD. He believes that East Whiteland would be much more interested in talking about the Malin Road extension if their residents were to be impacted by this development.

If Malvern Borough decides to create a TOD zone around the train station and it turns out to be financially attractive to develop on the north side in the Borough, all the folks heading north going down Warren Avenue would be substantial and East Whiteland might then want to say what can we do about it. They included Three Ton Road off Route 352 in the Study and it dead ends in a cul de sac and they wanted to connect that cul de sac to Malin Road.

It was felt that we won't really know if a TOD would be worthwhile unless we do the study. It was also stated that we make sure we are trying to tie them both together so we provide better access to our rail facility. That has to be part of the intent for better access. The Malin Road Study already addresses that and says the project is feasible.

David Knies, a member of the Malvern Borough Planning Commission, stated that this would be the only TOD opportunity in Chester County.

Council President Van Sciver stated that when we shared some speculations with the County, if there was somehow a 1200 car garage in Malvern and we would be supporting more riders than the proposed Paoli Train Station, they were very clear that the Chester County Planning Commission will not in any way take anything away from the Paoli Transportation Center to support Malvern Borough.

Everything points to TOD's as transportation becomes a more expensive concept in your life. People want to move towards transportation centers.

Following discussion, **a motion was made by Council Member Sponenbergh, seconded by Council Member Lynch and unanimously carried by a vote of 6-0 to proceed with the TCDI Grant application and include the 20% match of \$16,000 in the 2012 Budget.**

c. Council Member Lynch announced that St. Patrick's School erected a flagpole and on September 11<sup>th</sup> and 12<sup>th</sup>, between the 10:30 and 12:00 Mass, they will dedicate the flagpole in honor of the members of the Armed Forces that are from St. Patrick's Parish. The dedication is open to anyone who is interested in attending.

7. ADJOURNMENT:

All business having been discussed, a motion was made by Council Vice President Raymond, seconded by Council Member Macaleer and unanimously carried by a vote of 6-0 to adjourn the meeting at 9:15 p.m.

Respectfully submitted,

Sandra L. Kelley  
Secretary/Manager