

REGULAR MEETING  
BOROUGH COUNCIL  
MALVERN BOROUGH

April 21, 2009  
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  
Council Member Lynch  
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. John Buckley, 165 Church Street, asked how he would go about getting a curb in the front and around the side of his property. He stated that he was told by a State Representative that it was the Borough's responsibility to install this curb.

Council President Van Sciver responded that curb and sidewalk would be installed in the front of Mr. Buckley's home during the streetscape project on Church Street but did not believe it was the Borough's responsibility to install curbing. We would, however, look into whether it is the Borough's responsibility to install curb and respond at the May meeting.

- b. CVLL Scoreboard (Dick McDonnell) – Mr. McDonnell asked for permission to install a scoreboard at the First Avenue ballfield and asked if the Borough would waive the permit fee.

A motion was made by Council Member Vike, seconded by Council Member Lynch and unanimously carried by a vote of 7-0 to permit the Chester Valley Little League to install a scoreboard at the First Avenue field.

A motion was made by Council Member Lynch, seconded by Council Member Smith and unanimously carried by a vote of 7-0 to waive the permit fee for the Chester Valley Little League to install a scoreboard on the First Avenue field.

Mr. McDonnell stated that he would be in touch with the Supt. of Public Works to determine the exact placement of the scoreboard and to seek assistance from the Public Works Department for a backhoe to lift the two uprights in place.

3. APPROVAL OF MINUTES:

A motion was made by Council Member Crawford, seconded by Council Member Edge and carried by a vote of 6-1 to approve the minutes of the meeting held on Tuesday, March 3 and Tuesday, March 17, 2009, as submitted. Council Vice-President Raymond abstained from the vote as she was absent for the March 17<sup>th</sup> meeting.

4. APPROVAL OF REPORTS:

A motion was made by Council Vice President Raymond, seconded by Council Member Smith 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 March 2009 as submitted.

5. PUBLIC HEARING – E. KING STREET DEVELOPMENT:

Council President Van Sciver announced that Borough Council will now open the public hearing to consider an Ordinance amending the Borough of Malvern Zoning Ordinance to provide for multi-use development in the C-4 High Intensity Commercial District.

The Notice of Public Hearing was published in the Daily Local News on April 1 and April 8, 2009, as required.

Copies of the entire text of the Ordinance were on file at the Daily Local News and the Chester County Law Library in West Chester, PA.

Wendy McLean, Esq., stated that in addition to the above, the Ordinance was referred to the Chester County Planning Commission, as required by the Municipalities Planning Code with the original letter being dated March 18, 2009 and a revised letter dated March 19, 2009, with the original submission being more than thirty days prior to the hearing. All procedural events were as required. The Malvern Borough Planning Commission also endorsed approval of the Ordinance.

Council President Van Sciver reported that a Task Force was formed to review the Ordinance and productive meetings were held between the applicant and the Borough that resulted in the Ordinance being considered this evening. It was felt that, going forward, this Ordinance should meet both the needs of the applicant and the Borough. The Ordinance allows for conditional use of the proposed development so there will be another pretty extensive review period with the Master Plan review, etc.

Ms. McLean added that two tweaks were recommended by the Chester County Planning Commission for clarification : change the word "relief" and add "interconnecting parking areas" that will be taken up in the Master Plan process. Ms. McLean stated that we can change the Ordinance for adoption within 60 days but she doesn't regard this change as a problem that would require delay of the passage of the Ordinance. It is a procedural change, not a substantive change.

Andrew Rau, Esq., attorney for the applicant, stated that the Chester County Planning Commission did receive all the updates before they did their review. Mr. Rau noted that if

Council passes and enacts the Ordinance, the final version of the Ordinance should be changed, in Paragraph 1, to Section 1501(B) and the Multi-Use subsection should read (13).

All comments being heard, Council President Van Sciver closed the public hearing.

6. ORDINANCE NO. 2009-3 – MULTI-USE DEVELOPMENT:

A motion was made by Council Member Smith, seconded by Council Member Lynch and carried by a vote of 6-1 to enact Ordinance No. 2009-3, an Ordinance amending the Borough of Malvern Zoning Ordinance to provide for multi-use development in the C-4 High Intensity Commercial District. Council Member Edge voted No.

7. OTHER BUSINESS:

a. Recommendation to ZHB for 101 Church Street – following discussion on the parking issue, it was decided that Ms. McLean would contact the applicants attorney and invite them to the May 5<sup>th</sup> meeting of Borough Council to explain in more detail the number of parking spaces available, with whom they have requested shared parking and whether or not they were able to obtain additional parking. There are a lot more options to have more access and we want to be sure the applicant has explored all options.

A condition could be built into the approval of the Zoning Hearing Board following their attendance at the Council meeting.

b. Draft Comcast Agreement – Council discussed the open items in the Comcast Agreement and decided that the Borough would probably never have an on-site studio. The Borough currently grants an access right to the Great Valley School District to use one PEG Channel.

It was determined that the language in Rights to Inspect and Audit Books and Records should mirror the Verizon Agreement.

Lastly, it was determined that the one time grant of \$6,000 would be acceptable under the section of PEG Grants.

Council concurred that they want the Comcast Franchise Agreement to mirror the Verizon Franchise Agreement.

c. Borough Council E-Mails – Council President Van Sciver stated that currently the members of Council are using their personal e-mails for Borough business. He suggested that another e-mail account be established to be used strictly for Borough business so that if any legal issues come up in the future, personal e-mails would not be accessed in order to obtain Borough business e-mails. The Manager reported that she is seeking additional e-mail accounts from Comcast in order to set up Council Member e-mail accounts.

d. EGGS Grant – Council President Van Sciver asked the members of Council for their permission to reserve a table at the Delaware Valley Regional Planning Commission's Annual Dinner, at a cost of \$1,200 per table or \$140 per ticket, and to invite the East Whiteland Supervisors, the preparer of the EGGS Grant, Malvern Borough Council Members, a representative of SEPTA and others. The recipients of the EGGS Grant award will be announced at this dinner and the recipients of the EGGS Grant have been encouraged to attend the

presentation. Our project was rated the highest in the category. Council President Van Sciver feels this might be a good opportunity to discuss the project with the East Whiteland Supervisors and with SEPTA.

Council was encouraged to notify the Manager if they wanted to attend the dinner on May 14<sup>th</sup>.

William Noll, Rafaella Drive, asked if it would take five years to get done once the Study was completed.

Council President Van Sciver responded that a discussion was held with Congressman Sestak in October and was included in his Stimulus Plan.

Mr. Noll asked if it was possible for an aggrieved landowner to hold up the project.

Council President Van Sciver responded that we believe it will take years to complete this project. No one knows how close the roadway would get to the private properties on Spring Road. It is expected that this feasibility study would reveal this kind of information.

e. Announce May 2<sup>nd</sup> CRC Streams Clean-Up at Randolph Woods – the Manager again announced the CRC Streams Clean-Up event at Randolph Woods on Saturday, May 2<sup>nd</sup> from 9:00-11:30 a.m. with a picnic lunch following at Rose Tree Park in Media. Volunteers are needed to help clean-up the stream and stream bank.

f. SEPTA Overlay District – Council Member Vike reported that he had attended the Planning Commission meeting on April 16<sup>th</sup> when the Mass Transit Overlay District Ordinance was discussed. An adjacent property owner had his lawyer at the meeting who provided some new perspectives that will require additional review. Council Member Vike stated that he still feels the overlay district is appropriate unless it is deemed this would be considered spot zoning.

Wendy McLean, Esq. stated that spot zoning would be different from what is being considered at this site. She has never seen spot zoning with a number of permitted trees, parking spaces, etc. This Ordinance will bring organization to what is currently chaos.

## 8. ADJOURNMENT:

All business having been discussed, a motion was made by Council Member Edge, seconded by Council Member Raymond and unanimously carried by a vote of 7-0 to adjourn the meeting at 8:17 p.m.

Respectfully submitted,

Sandra L. Kelley  
Secretary/Manager