

REGULAR MEETING  
BOROUGH COUNCIL  
MALVERN BOROUGH

November 17, 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- Deceased  
Council Member Lynch - ABSENT  
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 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?

No public comments.

3. APPROVAL OF MINUTES:

A motion was made by Council Vice President Raymond, seconded by Council Member Smith and unanimously carried by a vote of 5-0 to approve the minutes of the meetings held on Tuesday, October 6 and October 20, 2009, as submitted.

4. APPROVAL OF REPORTS:

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

5. PUBLIC HEARING – PASSENGER RAIL STATIONS:

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 of 2003, as amended, by creating a definition of “Passenger Rail Station” and providing design criteria for passenger rail stations in the LI Zoning District and also amending Article XXII, Section 2202.B of the Malvern Borough Zoning Ordinance of 2003, as amended, to exempt certain types of man-made steep slopes from the provisions of the natural features protection provisions.

Notice of the public hearing was advertised in the Daily Local News on October 28, 2009 and November 4, 2009, as required.

Copies of the Ordinance were available to the public at the Malvern Borough Hall, Daily Local News and Chester County Law Library.

A copy of the Ordinance was submitted to the Chester County Planning Commission for Act 247 Review and comments were received.

A recommendation for approval was also provided by the Malvern Borough Planning Commission.

No comments being received from the public, the hearing was closed.

6. ORDINANCE NO. 2009-6 – PASSENGER RAIL STATION:

A motion was made by Council Member Smith, seconded by Council Member Vike and unanimously carried by a vote of 5-0 to enact Ordinance No. 2009-6 amending the Borough of Malvern Zoning Ordinance of 2003, as amended, by creating a definition of “Passenger Rail Station” and providing design criteria for passenger rail stations in the LI Zoning District and also amending Article XXII, Section 2202.B of the Malvern Borough Zoning Ordinance of 2003, as amended, to exempt certain types of man-made steep slopes from the provisions of the natural features protection provisions.

Electronic copies of the plans were requested for submittal to the members of Borough Council.

7. RESOLUTION NO. 608 – MUNICIPAL RECORDS SCHEDULE:

A motion was made by Council Vice President Raymond, seconded by Council member Vike and unanimously carried by a vote of 5-0 to approve Resolution No. 608, a Resolution of Borough Council of the Borough of Malvern, Chester County, Pennsylvania, declaring its intent to follow the schedules and procedures for disposition of records as set forth in the Municipal Records Manual, approved on December 16, 2008.

8. RESOLUTION NO. 609 – DESTROY PUBLIC RECORDS:

A motion was made by Council Member Vike, seconded by Council Member Smith and unanimously carried by a vote of 5-0 to approve Resolution No. 609, a Resolution declaring the Borough's intent to follow the schedules and procedures for the disposition of records as set forth in the Municipal Records Manual approved December 16, 2008, and authorizing the disposition of the records.

9. RESOLUTION NO. 610 – ARAS RUG EXTENSION OF LAND DEVELOPMENT:

A motion was made by Council Member Vike and seconded by Council Member Crawford to approve Resolution No. 610, a Resolution extending the approval contained within Resolution No. 528, approving, subject to conditions, the Final Land Development Plan, submitted by Angelo and Jayne Aras, pursuant to the Malvern Borough Subdivision and Land Development Regulations of 1977, as amended, for the development of certain property located in the Borough of Malvern, Chester County, PA, which development is known as the Aras Rug Company Land Development, at 190 Pennsylvania Avenue.

Council President Van Sciver stated that without a review by the Borough Engineer, he does not know what changes in our new SALDO might impact this development. He stated that he is not inclined to give an extension.

Wendy McLean, Esq., stated that the one new thing that would apply is the new stormwater management ordinance.

Council Member Vike stated that they have one month to convince us that it is acceptable.

Council President Van Sciver stated that he would like a report from the Borough Engineer and the Planning Commission that things have not changed substantially.

Council Vice President Raymond stated that she would hate to interfere with anyone who was having trouble going forward because of funding.

Council Member Crawford asked if Council President Van Sciver's concern was that Council did not have a response from the Planning Commission or Borough Engineer?

Council Vice President Raymond stated that was Council President Van Sciver's concern.

The motion failed by a vote of 2-3, with Council Members Van Sciver, Vike and Smith being opposed.

10. 2010-2012 REGIONAL HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM:

A motion was made by Council Member Crawford, seconded by Council Member Smith and unanimously carried by a vote of 5-0 to participate in the Southeast Regional Household Hazardous Waste Collection Program for the Years 2010-2012.

11. WAIVER OF LAND DEVELOPMENT – RENEHAN REALTY, LLC:

A motion was made by Council Vice President Raymond and seconded by Council Member Vike to approve the request of Renehan Realty, LLC, for a waiver from land development to add a storage shed in the rear of his parking lot. The waiver was reviewed by the Planning Commission and the Planning Commission recommended approval of the waiver.

Council President Van Sciver asked if the Planning Commission was certain the applicant would comply with the zoning ordinance.

Chris Mongeau, Chairman of the Planning Commission, responded that the applicant would still have to meet the zoning requirements. They would have to screen, meet setbacks, etc. The Planning Commission felt comfortable with them having a waiver of land development. The Codes Officer will make sure the shed is not adding (exceeding) impervious coverage.

Council President Van Sciver stated that he would like to see a better sketch with some acknowledgement from the Zoning Officer that it would comply or not comply with the zoning ordinance. Council President Van Sciver stated that he does not have enough information to approve it.

Wendy McLean, Esq., stated that any improvement to a non residential lot requires land development but it is a judgment call. It is different than the structure in the industrial park where land development was required because of the hazardous material being stored.

Chris Mongeau stated that it was presented to the Planning Commission as being a temporary storage shed where tools would be stored.

The motion carried by a vote of 3-2 with Council Members Van Sciver and Vike being opposed.

12. OTHER BUSINESS:

a. 2<sup>nd</sup> Draft of 2010 Budget – Council Vice President Raymond reported that the Finance Committee met prior to the Council meeting and considered the current draft of the budget that is not all that different from the previous draft except for some updated numbers. It is a conservative budget with no capital projects included for 2010. It is expected that the Finance Committee may recommend a ¼ mill tax increase, a smaller number than originally considered.

Council Member Smith stated that the Borough seems to be in decent shape and the Committee is looking down the road in 2011, 2012 and 2013 to offset issues from a capital improvement standpoint in those years. The ¼ mill will bring in approximately \$50,000 and the increase to the average homeowner will be about \$3.00+ per month. This is not bad considering how other government agencies are increasing taxes in 2010.

Council Member Vike stated that the Borough is at 82% of realizing our current goal. We have addressed the budget with appropriate caution and have identified capital expenditures that we may be able to push later into the calendar year if revenues aren't realized.

Council Vice President Raymond stated that the Committee has taken into account expenditures that have gone up; and, no significant capital improvement projects will be

undertaken in 2010. We will continue to provide civic contributions, but at the same rate as 2009 with no increases.

The Finance Committee is using the same philosophy as previous years by considering a slight increase, in order to prevent a huge tax increase in any one year.

Council Member Vike reported that the trash collection contract is up for renewal in July 2010 and it is not known what increase that may generate.

b. 204 W. King Street – Council President Van Sciver stated that the new owner of 204 W. King Street be advised that the Borough is patient but that our patience will not last forever. The building must be demolished by March.

Council Member Smith stated that he agreed, but that he does not think the new owner is dragging his feet. Financing is difficult to obtain.

Council Vice President Raymond stated that we can communicate that to him.

Council President Van Sciver stated that we should communicate to him that if something doesn't happen by March 15<sup>th</sup>, we will do something to make sure it happens. He should know that up front so he has time to react.

Council Member Vike stated that he is okay with that approach.

Council Member Crawford feels that this response is not harsh, but if it comes to financing, we should give him some consideration if he can't get financing right now. If he passes the deadline, will we say too bad, or are we open to further discussion with regard to an extension.

Council Vice President Raymond stated that she would be okay if we say to him that we appreciate his plan to demolish and build, but to get it demolished by March 15<sup>th</sup>. The Borough has taken great pains to get to the point where we can try to have the house demolished and we spent a lot of money to do that. We must now take appropriate action.

Council Member Crawford stated that if this guy comes back, the next Council should not be so rapid to say goodbye, we will see you in court.

13. ADJOURNMENT:

All business having been discussed, a motion was made by Council Member Smith, seconded by Council Member Crawford and unanimously carried by a vote of 5-0 to adjourn the meeting at 8:30 p.m.

Respectfully submitted,

Sandra L. Kelley  
Secretary/Manager