

PRESIDING: Henry H. Briggs, President

PLEDGE OF ALLEGIANCE TO THE FLAG

1. ROLL CALL: Council President Briggs
Council Vice President VanSciver
Council Member Crawford
Council Member Edge
Council Member Lynch - ABSENT
Council Member Raymond - Late
Council Member Smith - ABSENT
Mayor McGlone

2. Council President announces that copies of the Agenda are available at the Press Desk. There is no public forum scheduled; however, citizens/taxpayers are invited to offer comments during the discussion phase of each agenda item.

- a. Dan Daley, P.E. – MS4 Program for DEP Education Requirement – Dan Daley, Borough Engineer, distributed an overview of the DEP MS4 Stormwater program and the Stormwater Management Program to Council. Dan then explained each Phase of the stormwater program and reminded Council that the Borough obtained a five-year permit from DEP and is required to submit annual reports. It was suggested by DEP that we update our website to include more educational information. Dan reported that he is working with the Manager to make the updates. He also reported that DEP requested a stronger effort be made with public participation and involvement. Curb Markers were purchased and installed by the Public Works Dept. at the storm sewer inlets that state “No Dumping – Drains to Stream”. Dan reported that he has met with the Public Works Dept. to recommend the use of less salt when salting the roads, to continue the street sweeping and staff training. Dan feels the Borough is doing well with the program and with what is being required and reports that we will continue to work to keep in compliance with the DEP and EPA requirements.

Council Vice President VanSciver asked if our current ordinance regulates how the water from pools is discharged. Dan responded that the Stormwater Management Ordinance addresses the pool issue. He explained that after the water is dechlorinated, it is considered clean water.

The Manager was asked to review the Stormwater Management Ordinance to see if regulations are in place regarding erosion onto a neighbors property and if fines are assessed.

- b. SEPTA Pedestrian Tunnel – Council President Briggs reported that he and the Manager met with representatives of SEPTA to discuss the pedestrian tunnel. At this meeting, he asked if Septa would be willing to do something to mediate the danger of people walking on the sidewalk under the tunnel, since it is estimated that the tunnel will not be completed until 2011. Septa discussed this issue with their engineers and e-mailed a sketch of the proposed walkway improvements. The Borough Engineer will look at the cartway width and height to determine if small trucks, emergency equipment, etc., can go under the bridge if the proposed walkway improvements are put into place.

Dan Daley stated that he will create a small sketch, to scale, with a section view of the arch and show the limiting zone.

c. James Vike, Chair, Malvern Planning Commission re. Historic Ordinances – Jim reported that he was here with Lynn Hockenbury and Joan Stackhouse from the Historical Commission as they are interested in looking into a historical preservation ordinance. Jim reported that a member of the PA Museum & Historical Commission came to one of the Planning Commission meetings to talk about what municipalities can do relative to Historic Ordinances to protect historical structures. The Historical Commission looked at two options: (a) create a historic district; (b) create a historic overlay district. The Planning Commission has had several meetings with the Historical Commission and the Historical Commission has recommended a historic overlay district for the Borough. They talked to the Planning Commission and identified all the decisions that would need to be made along the way. To create this District would take time and resources and the Planning Commission felt that Borough Council should give the authorization to proceed.

Council Vice President VanSciver reported that in the past, the Planning Commission and Historical Commission had discussions about how to preserve the historically significant buildings in the Borough. However, as they got into it, the problem was that most of the historically significant structures in the Borough had changed so significantly from their original construction that they didn't look the same today. Council Vice President VanSciver stated that the second thing they considered, was what do you do about it. Ultimately, you are deciding what restrictions you will place on the property owner because of the historical significance of the building. The options presented to the Planning Commission at that time were narrow. We could establish a HARB and mandate what the artifacts were and what buildings we could restrict and feel comfortable about it. That was the Historical District option. The only thing that ever came out of it was a procedural agreement that anytime anything ever came up for development that was on the resource list, would be referred to the Historical Commission.

(Council Member Raymond arrived)

Jim Vike stated that lots were also included on the Resource List and would be included in the criteria. They are considering an overlay list of requirements; i.e., bring photographs before a structure is demolished, refer the demolition application to the Historical Commission for comment or have an escalating level of restrictions. Both the Planning Commission and Historical Commission felt it would be worthwhile to look at and establish a list of criteria.

Borough Council unanimously agreed that the Commissions should proceed.

3. APPOINTMENT TO PLANNING COMMISSION:

A motion was made by Council Vice President VanSciver, seconded by Council Member Raymond and unanimously carried by a vote of 5-0, to appoint Vicki Sharpless to the Malvern Planning Commission for a term to expire January 1, 2008. Ms. Sharpless was unanimously recommended for appointment by the members of the Planning Commission at their meeting held on February 1, 2007.

4. PUBLIC HEARING – REALTY TRANSFER TAX:

Council President Briggs announced that Borough Council will now open the Public Hearing to consider adoption of an Ordinance enacting a Realty Transfer Tax and other tax

related provisions pursuant to Article XI-D of the Tax Reform Code of 1971, and authorizing the Department of Revenue of the Commonwealth of Pennsylvania to determine, collect and enforce the tax, interest and penalties.

The Notice of Public Hearing was published in the Daily Local News on February 11, February 19 and February 25, 2007, as required. Does anyone have any comments on this Ordinance?

There being no comments, the hearing was closed.

5. ORDINANCE NO. 2007-2 – REALTY TRANSFER TAX:

A motion was made by Council Member Raymond, seconded by Council Member Edge and unanimously carried by a vote of 5-0, to adopt Ordinance No. 2007-2, an Ordinance enacting a Realty Transfer Tax and other tax related provisions pursuant to Article XI-D of the Tax Reform Code of 1971, and authorizing the Department of Revenue of the Commonwealth of Pennsylvania to determine, collect and enforce the tax, interest and penalties.

6. OTHER BUSINESS:

a. Presentation by Main Line Motor Connections, Inc. re. Conditional Use Application – Robert Burns, property owner, explained that his tenant wanted to sell used cars from this location. Mr. Burns explained that only five cars are permitted to be on the lot.

Council Member Raymond asked what the property has been used for up to this point. Mr. Burns responded that this portion of the property has been unoccupied for 10-12 years. He explained that he has renovated the entire property. A roofing company previously rented a portion of the property and the rest of the property is currently occupied.

Jim Vike reported that the Planning Commission met with them at their last meeting and there were two items that required additional clarification. One question was parking -- where would the customers, owner, display cars, etc., be parked. The other question was a legal question for the solicitor. They are requesting the conditional use but it is all on one lot so the Planning Commission was uncertain whether they could issue a conditional use for just that one area or if it would follow the entire parcel.

The solicitor will also be asked if the number of cars is a qualifier that would matter.

b. Boy Scout Troop 7 – Harold Morris, 221 W. First Avenue, Chairman of the Boy Scout Committee, reported that everything is in place for the Webelo Woods event that is scheduled to take place later this month. One of the events that has been traditional is a BB shooting range. Mr. Morris reported that they contacted the Paoli Battlefield group and they were okay with the event as long as we got approval from the Chief of Police. The Chief stated that it was okay as long as we got approval from the Borough Council. He explained that they wanted to have the event on the battlefield as far away from the houses as possible. The event will be run by people with experience and run under strict rules and guidelines. There are significant safety precautions in place. The potential for danger is limited. Any overshots would go into the woods which would be kept clear. The Chester County Council is providing insurance coverage for this event so the Borough wouldn't be taking on any responsibility or liability for this event. Mr. Morris stated that they are seeking approval for this one-time event.

The Chief responded that he didn't say it was okay as long as they got approval from the Borough Council. To him, a BB gun is still a weapon. It would be a one in a million accident where a kid could get hurt. He would like to see these things held where there are instructors, etc.

Mr. Morris explained that they would be setting up a range that requires stringent guidelines and requirements by the Boy Scouts.

Council Member Crawford stated that regarding the insurance, he would like to have the solicitor give a stamp of approval for BB guns in the Borough.

Council President Briggs stated that if this Borough approves it, this Borough has culpability if someone is hurt.

Council Member Raymond stated that she does not disapprove of the idea. She approves of teaching people how to responsibly use firearms but she is concerned about the liability issues.

Council Member Edge stated that he does not see a big problem with it. He understands the concerns, but as long as it is monitored properly, he doesn't see a problem.

Council President Briggs stated that he is worried about the event being in the Battlefield. The neighbors worry him. He questions whether something could be set up at Randolph Woods.

Vicki Sharpless responded that it would be a logistical issue in getting the scouts to the Randolph Woods site. She does not feel that the range of a BB gun is very far. She said that they are talking about a kids BB gun. They would be willing to have the Chief choose an optional site for this range. They just chose the Battlefield because of the woods behind it, but if it is felt that that is not a good location, they would be willing to put it anywhere that the Borough feels is a safe location. The kids get five BB's. Their weapon is on the ground and they are told when they can pick up the weapon, when they can commence firing and when to put it back down. It is very controlled. There are only five Scouts on the range at a time. There is a lot of supervision. These people have acted as range masters in the past. This event has been handled for several years and should not pose a huge liability.

Council Member Crawford feels the issue should be first run by the solicitor. If they say it is not a problem, he says go ahead with the event. He just wants the attorney to say it is okay and we won't be stuck having somebody come after us if something goes wrong.

Council Member Raymond stated that she would like to make it possible for the Scouts to have this event.

Council Member Edge asked Ms. Sharpless if they would consider talking to the Phelps School as another option.

Council President Briggs agreed that perhaps Willistown may be a shortcut because the Phelps School is on private property and they have a lot of room and it is in close proximity to the Boy Scout event.

Mr. Morris stated that they would investigate both options; however, they would prefer to do it in the Borough. This event has been traditional for decades and the kids really look forward to it.

c. Letter from Frank Morgan, Attorney for Guglielmi – the Manager reported that a letter had been received from Frank Morgan, the attorney for Guglielmi, requesting a meeting between the seller, Mrs. Guglielmi, the buyer and interested members of the Planning Commission and/or Borough Council.

Jim Vike reported that the plan that is before the Planning Commission now is the LaGrie Subdivision. There are three lots at the very top of the private road off Old Lincoln Highway.. The developer is proposing subdivision of those lots, purchasing the Guglielmi property and proposing to subdivide eight individual lots with the driveway coming up from Old Lincoln Highway with a turnaround at the end. They submitted a preliminary plan. The Planning Commission did a site visit and the Guglielmi's were thinking they would sell their property. The buyer had to buy into making the violation corrections.

Council felt that they should not meet with them outside of the Borough Council meeting. They did not indicate in their letter why they wanted to meet.

Council President Briggs reported that last Friday he received a call from our attorney to settle the litigation matter with Guglielmi. They requested that the date for curing the violations be extended. If the agreement was not signed on Friday, we would have to go to Court on Monday. Council President Briggs stated that he did sign the Agreement.

d. Malvern Preparatory School Zoning Hearing Board Application – Malvern Preparatory School has applied to the Zoning Hearing Board to modify the Board's prior Order delaying the demolition of Dennis Hall to a date no later than August 31, 2008.

Members of Council feel that Malvern Prep will need to make their argument as to why this is necessary. They are now saying it is because of timelines that they want to be able to keep using Dennis Hall for another academic year.

Jim Vike stated that his concern is why Dennis Hall is essential and the report on the analysis of the pond and dam was issued and nothing has been addressed regarding this issue. To him, completing improvements to the pond and dam would be an indicator that they are following through on those promises.

Council President Briggs stated that if they hold to it, they have to do it. The last page states that they build Duffy Hall and demolish Dennis Hall. Jim Vike stated that they want the occupancy permit to go into Duffy Hall. He is thinking that it may be completed but not outfitted properly. He wonders what will change next year.

Council directed the Manager to ask the Borough attorney to be prepared on the issues. If they are going to the Zoning Hearing Board, Council may want to voice opposition. The Prep should be invited to come in and talk to the Planning Commission about why they are requesting the extension. Council Vice President VanSciver agreed to attend the Planning Commission meeting.

e. Shade Tree Commission – E-mails from the Shade Tree Commission were distributed to Council and Council President Briggs asked that they be read in sequence so that the members of Council can get an idea of a dialogue that took place. The Shade Tree Commission has requested meeting with Council on either March 20th or April 3rd.

f. Extension of Trash & Recyclables Contract – the Manager explained that we had requested from our trash hauler an extension of our current trash & recyclables contract. They replied that they would extend the contract with the following conditions: (a) without a performance bond or payment bond or other surety as their current bond is not renewable; (b) the Borough agrees to pay the increased tipping fees of \$3/ton; and, (c) the Borough agrees to pay a fuel surcharge of \$50/day.

The Manager reported that the Chair of the Finance Committee e-mailed her to say that he was agreeable to the conditions. Council agreed to extend the contract to no later than June 30, 2007.

g. Discuss Permanent Agenda:

Septa Tunnel
Randolph Woods/Greenway Link
Community Center/Recreation
North & South Warren Ave. Sidewalks
Revitalization Plan/Main Street
Traffic Calming
Infrastructure Improvements

7. ADJOURNMENT:

All business having been discussed, the meeting adjourned at 8:53 p.m.

Respectfully submitted,

Sandra L. Kelley
Secretary/Manager