

REGULAR MEETING
BOROUGH COUNCIL
MALVERN BOROUGH
1 East First Avenue
Malvern, PA 19355

April 2, 2019
7:30 P.M.

PRESIDING: Council President Grossman

INVOCATION: David B. Burton, Mayor

PLEDGE OF ALLEGIANCE TO THE FLAG

1. ROLL CALL

PRESENT

Council President Grossman
Council Member Finkbiner
Council Member Laney
Council Member Meisel
Council Member Raynor
Council Member Sinquett
Mayor Burton

ABSENT

Council Vice-President Uzman

Council President Grossman announced that Borough Council met in Executive Session prior to the meeting in order to discuss collective bargaining agreement negotiations and a matter of litigation.

2. RECORDING OF MEETING

Council President Grossman asked in accordance with Resolution No. 714 if any member of the audience was recording the meeting.

No member of the audience identified themselves as recording the meeting.

3. APPROVAL OF MINUTES

A motion was made by Council Member Laney, seconded by Council Member Raynor, and carried by a vote of 6-0, to approve the minutes of the meeting held on Tuesday, March 19, 2019, as submitted.

4. INTRODUCTION AND SWEAR-IN OF PART-TIME POLICE OFFICERS – KEVIN DEEGAN AND JOSEPH CAPUANO

Chief Marcelli introduced Kevin Deegan and Joseph Capuano as new part-time patrol officers with the Malvern Police Department. Chief Marcelli highlighted the experience of Officers Deegan and Capuano. Mayor Burton swore-in Officers Deegan and Capuano as part-time patrol officers. Borough Council congratulated and welcomed Officers Deegan and Capuano to the Malvern Police Department.

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5. UNFINISHED BUSINESS

a. First Ave. Basketball League – Lease Agreement

Borough Manager Bashore stated that before Borough Council this evening is a proposed amended agreement between the Borough and John Rigsby for the use of the full-court basketball court at Horace J. Quann Memorial Court for the First Ave. Men's Basketball League. Mr. Rigsby operated the league for the first year in 2018 and an agreement was previously in place as approved at the June 5, 2018 meeting of Borough Council. The league operated from June 11, 2018 until August 5, 2018.

At the March 19, 2019 meeting, Borough Council reviewed a proposed lease agreement for the 2019 season. During the aforementioned meeting, proposed amendments were discussed, including ensuring that the basketball court would be publicly available prior to 6:00 pm, the fee for use of the court, termination procedures, and parking. Changes to the proposed lease have been made and are before Borough Council this evening. These changes have been incorporated into the agreement. A red-lined and clean version has been attached. If approved, the new lease would run from May 20, 2019 until August 7, 2019.

Borough Manager Bashore stated that Mr. Rigsby contacted him about the new lease and has requested that Borough Council maintain the fee at the per week rate that was in effect in 2018. Based on that rate, the fee would be \$525.00 for the season.

Borough Council reviewed the revised agreement based on the discussion at the March 19, 2019 meeting. Borough Council discussed the proposed fee for 2019. Council President Grossman stated that she believed that increasing the fee would be appropriate. Borough Manager Bashore noted that a fee of \$550.00 was discussed at the last meeting. Council Member Raynor asked how the fee for 2018 was determined. Borough Manager Bashore stated that the fee was the same as charged to the Malvern Farmers' Market and that 2018 was first time fees were charged for the use of Borough parks. Council Member Raynor asked about fees for similar uses in surrounding municipalities. Borough Manager Bashore stated that he was unsure what other municipalities charged for a similar use. Council President Grossman noted that the fee could be adjusted annually. Council Member Finkbiner provided information on research she had done, noting fees in certain municipalities and that the amount of hours that the basketball court was being used was doubling from the previous year based on the extra day of use per week. Borough Council directed Borough Manager Bashore to research fees in surrounding municipalities for similar uses.

A motion was made by Council Member Finkbiner, seconded by Council Member Raynor, and carried by a vote of 6-0, to approve the lease agreement with John Rigsby d/b/a the First Ave. Men's League at a fee of \$600.00 for the season.

b. Community Installation Policy

Borough Manager Bashore stated that before Borough Council this evening is a revised Community Installation Policy. This policy would govern proposals for projects that are

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intended for Borough property. Recent examples of projects that may have fallen under this policy would include the Little Free Library in Burke Park, the Eagle Scout ramp installed in Quann Park, and the swing set in Burke Park. At the March 5, 2019 meeting, Borough Council referred this matter back to the Finance & Administration Committee for further review.

Borough Manager Bashore stated that the revised policy includes recommended language from the Borough Solicitor regarding matters pertaining to the first amendment of the United States Constitution. The Finance & Administration Committee reviewed the proposed policy at their meeting on March 19, 2019 and recommended forwarded the document to Borough Council.

A motion was made by Council Member Laney, seconded by Council Member Sinquett, and carried by a vote of 6-0, to adopt the Community Installation Policy for the Borough of Malvern.

6. NEW BUSINESS

a. Proposal – Installation of Shade Trees on Warren Ave.

Borough Manager Bashore stated that before Borough Council this evening is a proposal from Anthony DuFour Gardens for the installation of shade trees along Warren Avenue. The Shade Tree Commission is proposing the installation of six (6) ornamental trees along Warren Avenue behind the Baptist Church in the vicinity of the cemetery. Proposed locations had been marked by the Shade Tree Commission and evaluated by the Borough Engineer. Smaller shade trees are being proposed so as to avoid conflict with the gravesites. The Borough Engineer does not believe that there will be conflicts with the proposed locations. All work proposed is within the public right-of-way of Warren Avenue.

Borough Manager Bashore stated that the estimate in the proposal is \$3,034. Council Member Meisel asked about the tree species being proposed. Borough Manager Bashore stated that the trees proposed are two (2) American hornbeam, two (2) flowering cherry, and two (2) tree lilac.

Joseph Bones, 4 High Street and member of the Malvern Shade Tree Commission, stated that the Shade Tree Commission desires to create a tree lined road on Warren Avenue using the existing Borough right-of-way, as well as provide a break in the sight line.

A motion was made by Council Member Sinquett, seconded by Council Member Raynor, and carried by a vote 6-0, to approve the proposal from Anthony DuFour Gardens at a price of \$3,034 to install six (6) ornamental shade trees along Warren Avenue.

b. Amendment to the Borough's Subdivision & Land Development Ordinance – Section 181-511(F) – Authorization to Advertise

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Borough Manager Bashore stated that before Borough Council this evening is a request for authorization to advertise a proposed amendment to the Borough's Subdivision & Land Development Ordinance. Specifically, this ordinance would amend section 181-511(F) to only read that lots shall be regularly shaped. The current language outlining lot width-to-depth ratios would be removed. At the February 19, 2019 meeting, Borough Council authorized the submission of the proposed ordinance to the Chester County Planning Commission for review pursuant to the PA Municipalities Planning Code.

Comments were received from the Chester County Planning Commission on March 22, 2019. In their letter dated March 22, 2019, the Chester County Planning Commission recommended adoption of the proposed ordinance. Borough Manager Bashore stated that if authorized for advertisement, the hearing would be scheduled for the May 7, 2019 meeting of Borough Council due to the advertising requirements.

A motion was made by Council Member Sinquett, seconded by Council Member Finkbinner, and carried by a vote of 6-0, to authorize advertisement to the proposed amendment to section 181-511(F) of the Borough's Subdivision and Land Development Ordinance.

- c. Amendment to the Borough's Administrative Code (Alternate Planning Commission member) – Section 25-28(I) – Authorization to Advertise

Borough Manager Bashore stated that before Borough Council this evening is an ordinance to amend section 25-28(I) of the Borough's Administrative Code. This would permit the appointment of one (1) alternate member to the Borough's Planning Commission pursuant to the PA Municipalities Planning Code.

At the March 19, 2019, Borough Council reviewed information prepared by the Borough Solicitor on adding an alternate member to the Planning Commission. The individual appointed would serve a four (4) year term. Similar to the alternates on the Zoning Hearing Board, an individual appointed as an alternate would be able to participate in all meetings and discussion, but would only be able to vote in the at the designation of the chair. This would be in an instance where a member is either absent, has recused themselves from a topic of discussion, or is disqualified by the governing body. Borough Council authorized the Solicitor to prepare the necessary ordinance amendment at the conclusion of the discussion.

Borough Manager Bashore stated that the ordinance has not been authorized for advertisement. If authorized for advertisement, the public hearing would be scheduled for the April 16, 2019 meeting.

A motion was made by Council Member Laney to authorized advertisement of the proposed ordinance. Council Member Sinquett seconded the motion. Council President Grossman opened up the motion for discussion.

Council Member Finkbinner recommended amending section 2 (a) of the proposed ordinance to remove the language regarding the previously approved expansion of the Planning Commission. Borough Solicitor McLean stated that this would be appropriate.

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A motion was made by Council Member Finkbiner, seconded by Council Member Laney, and carried by a vote of 6-0, to amend the proposed ordinance to remove the language related to the previous expansion of the Planning Commission.

There being no further discussion, Council President Grossman called the vote. Borough Council voted 6-0 to authorize advertisement of the proposed ordinance to amend the Administration Code in order to add one (1) alternate member to the Planning Commission.

d. Amendment to Resolution No. 714 – Meeting Code of Conduct/Parliamentary Procedures

Borough Manager Bashore stated that Borough Council this evening is a proposed resolution to amend Resolution No. 714, which established a code of conduct at meetings of Borough Council. This resolution would replace the existing code of conduct. Aside from establishing a minimum level of civility at public meetings, the proposed resolution would set forth certain parliamentary procedures and guidelines for Borough Council pursuant to Robert's Rules of Order.

Borough Council previously discussed amendments to the existing code of conduct in 2018. When it was determined that Resolution No. 760 would not be put into effect, the matter was forwarded to the Finance & Administration Committee for review. Recently, a new draft was prepared and presented to the Finance & Administration Committee for their review. The Committee reviewed the document at their meeting on March 19, 2019 and recommended forwarding it to Borough Council for review.

Council Member Finkbiner outlined the changes contained in the proposed resolution and Resolution No. 714. Notable amendments include a requirement for the adoption of the agenda at the beginning of each meeting, adjusting the public comment time limit to three (3) minutes and allowing for additional comment if the motion changes substantially, appeal procedures, and reworking language pertaining to transparency. Council Member Finkbiner encouraged the members of the public to review the resolution once it has been published to the Borough website, noting that since it is a resolution, making changes is relatively easy. Council President Grossman thanked Council Member Finkbiner for her efforts in amending the Borough's meeting code of conduct.

A motion was made Council Member Laney, seconded by Council Member Finkbiner, and carried by a vote of 6-0, to adopt Resolution No. 787, rescinding Resolution No. 714 and establishing parliamentary rules for the conduct of public meetings of the Borough Council.

e. PA Local Government Investment Trust – CD Agreement

Borough Manager Bashore stated that before Borough Council this evening is a CD Agreement with the PA Local Government Investment Trust (PLGIT), as well as rate information. The Borough previously placed funds in the PLGIT/Term program. These funds matured on February 14, 2019 and the balance of \$126,448.63 was transferred into the Borough's PLGIT-Class account.

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Borough Manager Bashore stated that on March 12, 2019, Neil Lovekin, Mary Lou Whitcomb, and he met with Paul Robinson of the PFM Group to discuss investment opportunities. Mr. Robinson stated that in order to purchase a one (1) year CD, the amount would need to be at least \$250,000. The Finance & Administration Committee reviewed this information and are recommending proceeding with a one (1) year CD and depositing the balance of the Borough's funds with PLGIT in our existing PLGIT/Prime account. A motion approving the CD Agreement with PLGIT would be required.

Borough Manager Bashore stated that the funds in the Borough's PLGIT accounts are not operating funds and the accounts were established for investment purposes.

A motion was made by Council Member Sinquett, seconded by Council Member Laney, and carried by a vote of 6-0, to approve the CD agreement with the PA Local Government Investment Trust for a one (1) year CD.

f. Zoning Hearing Board

Borough Manager Bashore stated that there are no new applications before the Zoning Hearing Board. Borough Solicitor McLean stated that she and the Assistant Borough Manager/Zoning Officer, Neil Lovekin, are scheduled to meet with the owners of 331 Old Lincoln Highway on April 4, 2019 to seek to resolve the Notice of Violation issued against the property.

7. PUBLIC FORUM

Council President Grossman informed all present that Public Forum is the time to offer comments on any item not on the agenda and to bring any issues/concerns before Council.

No member of the audience made any comments.

8. ADJOURNMENT

All business having been discussed, a motion was made by Council Member Finkbiner, seconded by Council Member Laney, and carried by a vote of 6-0, to adjourn the meeting at 8:13 p.m.

Respectfully submitted,

Christopher C. Bashore
Borough Secretary