

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

July 2, 2019
7:30 P.M.

PRESIDING: Council President Grossman

INVOCATION: Council Member Laney

PLEDGE OF ALLEGIANCE TO THE FLAG

1. ROLL CALL

PRESENT

Council President Grossman
Council Member Finkbiner
Council Member Laney
Council Member Raynor
Council Member Siquett

ABSENT

Council Vice-President Uzman
Council Member Meisel
Mayor Burton

2. RECORDING OF MEETING

Council President Grossman asked in accordance with Resolution No. 787 if any member of the audience was recording the meeting.

Lynne Frederick, 227 East Broad Street, stated she was audio recording the meeting.

3. APPROVAL OF AGENDA

A motion was made by Council Member Laney, seconded by Council Member Siquett, and carried by a vote of 5-0, to approve the agenda for the July 2, 2019 meeting of Borough Council as presented.

4. APPROVAL OF MINUTES

A motion was made by Council Member Siquett, seconded by Council Member Laney, and carried by a vote of 5-0, to approve the minutes of the meeting held on Tuesday, June 18, 2019, as amended.

5. RESOLUTION NO. 791 – APPROVAL OF REQUIRED PEDESTRAIN ACCESS FOR MALVERN PREPARATORY SCHOOL

Borough Manager Bashore stated that Resolution No. 791, is regarding the proposed walking trail for Malvern Preparatory School. The construction of a walking trail was a condition of approval contained in Resolution No. 737, which approved the land development application for the S.T.E.A.M. expansion on the Malvern Preparatory School property. At the Planning Commission meeting conducted on Thursday, June 20, 2019, the proposed walking trail was reviewed. Before Borough Council are the following items for review: 1) A plan dated September 24, 2018, last revised June 25, 2019, prepared by James Bannon, Jr., P.E. depicting the installation of the proposed walking trail; 2) Resolution No. 791;

REGULAR MEETING

July 2, 2019

Page 2

3) Recommendation letter from the Malvern Planning Commission dated June 25, 2019; 4) Review from the Borough Engineer, dated June 11, 2019; and 5) Resolution No. 737 outlining the conditions of approval for Malvern Preparatory School's expansion project.

Ted Caniglia, Chief Finance Officer, and Jim Bannon, P.E., Senior Project Manager for Nave Newell, were present on behalf of the Malvern Preparatory School.

Council Member Finkbiner asked if the trail will be for private or public use. Mr. Bannon stated the trail will be in the public Right-of-Way, therefore it will be for public use. Wendy, McLean, Esq., Borough Solicitor, stated a revised development plan should be recorded at the County Recorder of Deeds since the trail will be situated within the public Right-of-Way.

Council Member Finkbiner asked when the trail will likely be installed. Mr. Caniglia said the Board would like to install the trail in the earlier summer of 2020, after the school session ends.

Dave Knies, 114 Warrington Way, was present on behalf of the Malvern Planning Commission as the Commission Chair. Mr. Knies asked if the Official Map will be revised to include the trail. Borough Solicitor McLean stated the Official Map already references the trail as it is a portion of the proposed Patriot's Path. Mr. Knies asked who is responsible for the proposed trail maintenance. Borough Solicitor McLean said the trail will be maintenance by the Malvern Preparatory School and is stated in proposed Resolution No. 791.

A motion was made by Council Member Finkbiner, seconded by Council Member Laney, and carried by a vote of 5-0, to adopt Resolution No. 791, approving the pedestrian access for Malvern Preparatory School, required as part of their previously granted land development approval pursuant to Resolution No. 737, as amended.

6. ORDINANCE NO. 2019 – 5: INITIATING THE AMENDMENT OF SECTION 409 (FORFEITURE OF OFFICE) OF THE MALVERN BOROUGH HOME RULE CHARTER

Borough Manager Bashore stated that proposed Ordinance No. 2019 – 5 would initiate the amendment of the Malvern Borough Home Rule Charter in order to establish meeting attendance requirements for the office of the Mayor. The proposed ordinance was advertised in the June 21, 2019 edition of the Daily Local News, as required, and posted on the Borough website.

Council President Grossman recommended that Borough Council table discussion on the proposed ordinance due to the need for further legal guidance on the matter as the Solicitor who prepared the ordinance was not present this evening.

A motion was made by Council Member Finkbiner, seconded by Council Member Raynor, and carried by a vote of 5-0, to table agenda item No. 6. Ordinance No. 2019-5: Initiating the Amendment of Section 409 (Forfeiture of office) of the Malvern Borough Home Rule Charter.

REGULAR MEETING

July 2, 2019

Page 3

7. ORDINANCE NO. 2019 – 6: INITIATING THE AMENDMENT OF SECTION 409 (FORFEITURE OF OFFICE) OF THE MALVERN BOROUGH HOME RULE CHARTER

Borough Manager Bashore stated that proposed Ordinance No. 2019 – 6 would initiate the amendment of the Malvern Borough Home Rule Charter in order to establish removal procedures for the office of the Mayor. The proposed ordinance was advertised in the June 21, 2019 edition of the Daily Local News, as required, and posted on the Borough website.

Council President Grossman recommended that Borough Council table discussion on the proposed ordinance due to the need for further legal guidance on the matter as the Solicitor who prepared the ordinance was not present this evening.

A motion was made by Council Member Finkbiner, seconded by Council Member Raynor, and carried by a vote of 5-0, to table agenda item No. 7. Ordinance No. 2019-6: Initiating the Amendment of Section 409 (Forfeiture of office) of the Malvern Borough Home Rule Charter.

8. UNFINISHED BUSINESS

Council President Grossman stated that there are no items of Unfinished Business for discussion.

9. NEW BUSINESS

a. Approval of Settlement Agreement – John McNamee v. Malvern Borough

Borough Manager Bashore stated the settlement agreement is the result of the conference held on June 6, 2019 with Mr. McNamee, his legal counsel, and Borough officials, as well as discussion in Executive Session. Borough Solicitor McLean noted that she reviewed the agreement and believes that it is fair.

A motion was made by Council Member Laney, seconded by Council Member Sinquett, and carried by a vote of 5-0, to approve the settlement agreement of John McNamee verse Malvern Borough, as presented.

b. Authorization to Bid – Paving of the 200 Block of Church Street

Borough Manager Bashore state that before Borough Council is a request for authorization to bid the paving of the 200 block of Church Street, as part of the 2019 Paving Program. Paving projects allocated in the 2019 budget included Green Street and West King Street. These projects were awarded at the May 21, 2019 and June 18, 2019 meetings of Borough Council. Bids for the 2019 paving program were received on June 13, 2019. The bid results came in under budgeted anticipation. In reviewing the bid amounts based on the low bid, the following are the anticipated costs: 1) Green Street at an estimated cost of \$28,173.00, and 2) West King Street at an estimated cost of \$43,237.04 for a total estimated costs of \$71,410.04.

REGULAR MEETING

July 2, 2019

Page 4

The Public Works Committee met on June 18, 2019 to review additional paving projects for 2019. The Committee is recommending paving the 200 block of Church Street. Dan Daley, P.E., Borough Engineer, previously provided an estimated cost of \$36,312.22 for this work. The 200 block of Church Street was not paved as part of the streetscape project that was completed in 2010, this section of road was previously paved in 1993.

Brendan Phillips, 228 Church Street, asked if the paving project could be amended to include sidewalks on the 200 block of Church Street. Borough Manager Bashore stated the 2019 Budget did not account for the time and cost associated with sidewalk installation and would delay the paving work to 2020. Borough Manager Bashore noted that this section of Church St. was not surveyed by the Borough Engineer as part of the Church St. Streetscape Project.

Council Member Finkbinder said the reason for the scope of work on Church Street was based on the recommendation of the Public Works Committee, Superintendent Ira Dutter, and the Malvern Planning Commission's 2015 Walkability Study. Council Member Finkbinder and Council Member Sinquett noted that the recent streetscape projects have been completed through grant funding, with Council Member Finkbinder noting that the funds could take a significant amount of time to secure.

Councilor Sinquett said when the Public Works Committee reviewed the paving projects for 2019, Ira Dutter was concerned that Church Street would not make it through another winter season without requiring major base repair, which would significantly increase project costs.

A motion was made by Council Member Sinquett, seconded by Council Member Raynor, and carried by a vote of 5-0, to authorize for bid the paving of the 200 block of Church Street, as part of the 2019 Paving Program.

- c. Escrow Release Request – Greenstone Development II Corp./TAG Builders, Inc. – Escrow Release Request #4

Borough Manager Bashore said Greenstone Development II Corp./TAG Builders, Inc. has requested escrow release No. 4 for the land development project under construction, located along South Warren Avenue, in the amount of \$95,114.50. In a letter dated June 27, 2019, the Borough Engineer is recommending release of \$72,934.50 with the remaining escrow balance of \$108,638.43.

Council Member Sinquett asked if the developer is aware of the reduction of the escrow release. Borough Manager Bashore stated the Borough Engineer informed the developer of the adjusted escrow amount.

A motion was made by Council Member Sinquett, seconded by Council Member Laney, and carried by a vote of 5-0, to approval escrow release request No. 4 for the land development project under construction by Greenstone Development II Corp./TAG Builders, Inc. in the amount of \$72,943.50, based on the Borough Engineer's letter dated July 2, 2019.

REGULAR MEETING

July 2, 2019

Page 5

d. Zoning Hearing Board

Borough Manager Bashore stated that there is one (1) new application from Malvern the Veterinary Hospital, received on June 27, 2019. The applicant is seeking the following relief from the Zoning Hearing Board:

- i. Special Exception pursuant to section 220-2702.B. pertaining to the extension or enlargement of a nonconforming use;
- ii. Variance from section 220-2702.B.(2) in order to increase the area devoted to the nonconforming use beyond 25%;
- iii. Variance from section 220-2702.B.(3) in order to exceed the area and bulk regulations in the R-1 zoning district; and a
- iv. Variance from section 220-2702.B. in order to enlarge a nonconforming use

In the alternative to the requested special exception, the applicant is seeking the following variances from the Zoning Hearing Board:

- i. Variance from section 220-402.D. in order to allow for a side yard less than 30 feet;
- ii. Variance from section 220-402.F. in order to exceed the maximum of 10% building coverage
- iii. Variance from section 220-402.G. in order to exceed the maximum of 20% lot coverage;
- iv. Variance from section 220-2501.D.(9)(e) in order to have parking lots separating rows of parking spaces by less than 14 feet for one-way use and 24 feet in width for two-way use

This application has not been reviewed by the Planning Commission. Borough Manager said the new application will be review by the Planning Commission for its recommendation to Borough Council in late July or early August of 2019.

No further discussion or action was taken by Borough Council.

10. 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.

Vickie Sharpless, 328 East Broad Street, and Jackie Johnston, 124 West King Street, organized a 'Porch Fest' on June 29, 2019 that consisted of twelve (12) residential properties, two (2) businesses and the Boy Scout Lodge. Two of the locations were canceled due to the

REGULAR MEETING

July 2, 2019

Page 6

inclement weather. The Porch Fest was advertised on Facebook and Instagram, included various types of performances, and with performers ranging in age from sixteen to eighty years old, and audiences ranged from twelve to fifty attendees. No pets or alcohol were allowed at the performances.

Planning has already begun for a Porch Fest in 2020, and Ms. Sharpless and Ms. Johnston are preparing a survey to gain feedback from attendees of the 2019 event.

Council Member Laney suggested for Porch Fest 2020 that the event goes further west towards Sugartown Road, including Landmark Drive.

Brendan Phillips, 228 Church Street, suggested Ms. Sharpless and Johnston coordinate with the Malvern Parks & Recreation Committee for Porch Fest 2020.

Kel Schmitt, 17 Channing Avenue, said the Annual Fireman's Fair at the Paoli Memorial Grounds on Monument Avenue is Tuesday July 9th through Saturday July 13th. There will be games, food and entertainment as well as fire truck rides. There will be fireworks at 10:00 p.m. on Friday the 12th with a rain date of Saturday the 13th.

11. ADJOURNMENT

All business having been discussed, a motion was made by Council Member Laney, seconded by Council Member Raynor, and carried by a vote of 5-0, to adjourn the meeting at 8:08 p.m.

Respectfully submitted,

Neil G. Lovekin
Assistant Borough Secretary