

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

October 1, 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 Vice-President Uzman  
Council Member Finkbiner  
Council Member Laney  
Council Member Raynor  
Council Member Sinquett

ABSENT

Council Member Meisel

Council President Grossman announced that Borough Council met in Executive Session immediately prior to tonight's meeting to discuss a personnel matter and Collective Bargaining Agreement negotiations.

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 E. Broad Street, stated she was audio recording the meeting.

3. APPROVAL OF AGENDA

A motion was made by Council Vice-President Uzman, second by Council Member Laney, and carried by a vote of 6-0, to approve the agenda for October 1, 2019 as presented.

4. APPROVAL OF MINUTES

A motion was made by Council Vice-President Uzman, second by Council Member Laney, and carried by a vote of 6-0, to approve the minutes of the meeting held on Tuesday, September 17, 2019 as amended.

5. RESOLUTION NO. 792 – DECLARING THE WEEK OF OCTOBER 6, 2019 TO OCTOBER 12, 2019 AS FIRE PREVENTION WEEK

A motion was made by Council Vice-President Uzman, second by Council Member Laney, and carried by a vote of 6-0, adopt Resolution No. 792, declaring the week of October 6, 2019 to October 12, 2019 as Fire Prevention Week.

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6. UNFINISHED BUSINESS

a. Grant Application – Chester County Vision Partnership Program

Borough Manager Bashore presented the recommendation of the Malvern Planning Commission regarding the scope of work prepared by the Brandywine Conservancy for updates to the Borough's Comprehensive Plan, adopted in 2012. This was reviewed at the Planning Commission's September 5, 2019 meeting. This matter was previously discussed at the June 18, 2019 meeting of Borough Council, where the scope of work was forwarded to the Planning Commission for an evaluation and recommendation. The estimated total project costs is \$53,190.00.

The scope of work was reviewed by the Malvern Planning Commission at their meeting on September 5, 2019. David Knies, Ph.D., Chair of the Malvern Planning Commission, discussed the proposed revisions to the scope of work with Borough Council.

Council Member Finkbiner asked if there is an expected timeline for completing the update to the Borough's Comprehensive Plan. Borough Manager Bashore stated the project will be completed in twenty-four months (i.e. 2 years) as stipulated in the Vision Partnership Program guidelines.

A motion was made by Council Vice-President Uzman, second by Council Member Sinquett, and carried by a vote of 6-0, to authorize submission of the Vision Partnership Program grant application for updating the Malvern Comprehensive Plan, under the consultation of the Brandywine Conservancy and John Snook, professional consultant, at a total cost of \$53,190.00

7. NEW BUSINESS

a. Authorization to Advertise – Proposed ordinance amendments

i. Amendment to Ch. 177 (Stormwater Management) of the Borough's Code of Ordinances

Borough Manager Bashore stated the proposed ordinance to amend Chapter 177 - Stormwater Management of the Borough's Code of Ordinances. In April 2018, the Pennsylvania General Assembly passed Act 15 of 2018, which amended Act 167 to require all municipalities which have adopted an Act 167 ordinance to amend their ordinances to exempt "high tunnels" used in agricultural applications from ordinance regulations. A letter from Chester County was received in regards to this topic, as well as a model ordinance. This information was forwarded to the Borough Solicitor and Engineer for review.

A motion was made by Council Vice-President Uzman, second by Council Member Laney, and carried by a vote of 6-0, to advertise the draft amendment to Chapter 177 – Stormwater Management of the Borough's Code of Ordinances, with a public hearing to be scheduled for the Tuesday, October 15, 2019 meeting of the Malvern Borough Council.

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ii. Amendment to Ch. 25 (Administrative Code) and Ch. 48 (Shade Tree Commission) of the Borough's Code of Ordinances

Borough Manager Bashore stated the proposed ordinance would amend Chapters 25 - Administrative Code, and 48- Shade Tree Commission, of the Borough's Code of Ordinances. The proposed ordinance would amend the Administrative Code in order to move certain sections to the Shade Tree Commission chapter, as well as clarify and incorporate certain provisions from the Administrative Code into the Shade Tree Commission chapter. By way of background information, it was discovered that inconsistencies existed in these two (2) chapters. In addition, the Administrative Code contained certain enforcement provisions that are more appropriately codified in the Shade Tree Commission chapter. The Shade Tree Commission recently reviewed the proposed ordinance and is recommending its adoption.

Council Member Finkbinder recommended the Shade Tree Commission revisit the definitions contained within the amendment for Chapter 48 – Shade Tree Commission, to ensure consistency and clarity prior to Borough Council taking action to advertise the amend for adoption.

Borough Council was in agreement to table discussion, and for the Shade Tree Commission to revisit the amendment and address Council Member Finkbinder's comments.

b. Awarding of Bid – 1972 Ford Tractor & 1967 Static Roller

Borough Manger Bashore stated the winning bidders from the Municibid website for equipment from the Public Works Department were:

- 1972 Ford Tractor – Derek Knipe of Middleburg, PA in the amount of \$3,400.00
- 1967 Static Roller – Robert Carvajal of Reading, PA in the amount of \$725.00

A motion was made by Council Member Sinquett, seconded by Council Vice – President Uzman, and carried by a vote of 6-0, to award the 1972 Ford Series 3000 Tractor to Derek Knipe based on his bid dated, September 25, 2019, in the amount of \$3,400.00.

A motion was made by Council Vice-President Uzman, second by Council Member Sinquett, and carried by a vote of 6-0, to award the 1967 General Eager Beaver Static Roller to Robert Carvajal based on his bid dated September 25, 2019 in the amount of \$725.00.

c. Approval of lease agreement with Comcast of Pennsylvania, LLC

Borough Manager Bashore reviewed the proposed lease agreement with Comcast of Pennsylvania, LLC for the property owned by the Borough at 111 Ruthland Avenue. The proposed lease is based on the discussion in Executive Session. The initial term of the lease is five (5) years and includes a 2% escalator per year. In year one (1), the monthly rent will be

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\$6,000 per month. The lease also includes two (2) five (5) year renewal options with the rent being based on the fair market value for comparable ground leases.

The lease agreement was reviewed by the Finance & Administration Committee at their meeting on September 17, 2019 and it is recommending approval. If approved, the new lease would commence on November 28, 2019.

Joe Bones, 25 High Street, stated the Randolph Woods Ad Hoc Committee that he is a member of, has recommended that the Comcast Building should be considered as part of the entrance way to the Randolph Woods. Therefore, Borough Council may want to ensure the lease enables them to landscape the property in a way to 'Green' or beautify the entrance to Randolph Woods.

Borough Solicitor Yaw said the lease will not prohibit the Borough from landscaping the property as long as it does not interfere with the operations of Comcast.

Dave Knies, 114 Warrington Way, asked the Borough Council if the lease agreement renewal is unilateral for both Comcast, LLC and the Borough. Borough Manager Bashore stated that the renewal options are at the discretion of the tenant. Borough Solicitor Yaw stated that this is standard in commercial leases.

Joe Bones, 25 High Street, stated that the condensers outside for the central air conditioner at 111 Ruthland Avenue are louder than the surrounding ambient noise.

Council President Grossman said the proposed lease agreement that is before the Borough Council this evening has been scrutinized by both parties over the past several months. The lease agreement was vetted through the Finance and Administration Committee, and the Borough Council during executive sessions to the point that the Borough's best interests have been addressed in the agreement.

Council Vice-President Uzman recommended that the Shade Tree Commission work with the Randolph Woods Ad Hoc Committee to design a greenway/landscape entry to Randolph Woods for the Borough Council to consider in 2020.

Borough Manager Bashore pointed out that the large cell tower is owned and operated by the County Emergency Services and not by Comcast.

A motion was made by Council Vice-President Uzman, second by Council Member Laney, and carried by a vote of 6-0, to approve with Comcast of Pennsylvania, LLC for the property owned by the Borough at 111 Ruthland Avenue.

#### d. Escrow Release Request – St. Patrick's Church (Release Request #1)

Borough Manager Bashore stated escrow release request No. 1, in the amount of \$95,264.13 for the land development project under construction by St. Patrick's Church. In a letter dated September 25, 2019, the Borough Engineer is recommending release of \$83,603.75,

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based on retaining: 1) \$1,600.00 for Re-Spread of Topsoil, 2) \$1,400.00 for Rake/Seed, and 3) \$8,660.38 for Contingency for a total adjustment of \$11,660.38. If approved, the remaining escrow balance will be \$68,710.88.

A motion was made by Council Vice-President Uzman, second by Council Member Laney, and carried by a vote of 6-0, to approval of escrow release request #1 for the land development project under construction by St. Patrick's Church in the amount of \$83,603.75 based on the Borough Engineer's letter dated September 25, 2019.

### e. Zoning Hearing Board

Borough Manager Bashore stated that there are no new applications before the Zoning Hearing Board.

## 8. PUBLIC FORUM

Council President Grossman stated that Borough Council will now take comment from the public on any item not on the agenda.

Joe Bones, 25 High Street, stated that the Paoli Battlefield Historic Park held a cleanup event on Saturday, September 28, 2019 from 10:00 a.m. to 1:00 p.m. and was a huge success thanks to the 30 cadets from the Valley Forge Military College. The 30 cadets dedicated a total of 76 hours of volunteer time to clean up the historic park. Mr. Bones stated only 6 other volunteers were present for the event, therefore a majority of the work would not have been completed if it was not for the cadets. Efforts need to be made by the Borough to recruit volunteers outside of the Borough and through other organizations with a larger pool of volunteers, such as the Chester, Ridley, and Crum Watersheds Association.

Kel Schmitt, 17 Channing Avenue, as a member of the Paoli Battlefield Preservation Fund, the organization is aware of the need to coordinate with outside agencies and has begun discussions with the local Boy Scout Troops.

Council Member Laney recommended that Borough Manager Bashore draft a 'Thank you' to the cadets for their service. After a brief discussion, the Borough Council was in agreement.

Kel Schmitt, 17 Channing Avenue, announced the 2019 Paranormal Tour of the Paoli Battlefield will take place on Saturday, October 12, 2019 from 6:00 p.m. to 11:00 p.m. and tickets are available for purchase at the Paoli Battlefield Preservation Fund website ([www.pbpfinc.org](http://www.pbpfinc.org)).

Kel Schmitt, 17 Channing Avenue, announced the 2019 Pizzas and Pumpkins in Burke Park will take place on Sunday, October 13, 2019 from 4:00 p.m. to 6:00 p.m. The event is sponsored by the Malvern Parks & Recreation Committee and is providing free pizza, pumpkins for decorating, and music.

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Police Chief Marcelli announced that the Malvern Police Officers will be wearing pink ribbon pins in honor of Breast Cancer Awareness. In September, the officers wore blue ribbon pins in honor of Pancreatic Cancer Awareness.

Police Chief Marcelli announced that the Malvern police officers, along with surrounding police departments, will be participating in the “No Shave” growing of beards as a larger charitable effort to raise funds for “Unite for Her” and “Beards for Buc.” The Malvern Police Department previously participated in this fundraising effort in 2018. Both male and female officers have participated by donating funds to the charitable organizations.

9. ADJOURNMENT

All business having been discussed, a motion was made by Council Vice-President Uzman, seconded by Council Member Raynor, and carried by a vote of 6-0, to adjourn the meeting at 8:24 p.m.

Respectfully submitted,

Neil G. Lovekin  
Assistant Borough Manager/Asst. Secretary