

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

April 21, 2020
7:30 P.M.

PRESIDING: Amy Finkbiner, Ph.D., President

INVOCATION: David B. Burton, Mayor

1. ROLL CALL

PRESENT

Council President Finkbiner
Council Vice-President Grossman
Council Member Bones
Council Member Laney
Council Member Meisel
Council Member Phillips
Council Member Raynor
David B. Burton, Mayor

ABSENT

Council President Finkbiner announced that this evening's meeting was being held virtually due to the COVID-19 pandemic and as permitted under Act No. 15 of 2020. Council President Finkbiner announced the following guidelines for the meeting:

- Participants will be asked to identify themselves when being accepted into the meeting.
- The public will be muted during the meeting when the members of Borough Council are speaking.
- For each agenda item, the public will be unmuted and given an opportunity to comment and ask questions.
- Public Comment received via email will be read by the Borough Manager either during the topic on the agenda or the general "Public Forum" period.
- Participants wishing to comment must state their name and must speak one at a time.

2. APPROVAL OF AGENDA

A motion was made by Council Member Bones, seconded by Council Member Laney, and carried by a vote of 7-0, to approve the agenda for April 21, 2020 as presented.

3. ANNOUNCEMENTS

a. Recording of the Meeting

REGULAR MEETING

April 21, 2020

Page 2

Council President Finkbiner asked in accordance with Resolution No. 787 if any member of the audience was recording the meeting. Council President Finkbiner noted that the meeting was being recorded and would be posted on the Borough website.

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

b. Council President Finkbiner announced that an Executive Session was held on April 2, 2020 in order to discuss emergency preparedness and personnel.

c. Council President Finkbiner announced that the Borough has been awarded a Vision Partnership Program Grant from the Chester County Planning Commission to update the Malvern Borough Comprehensive Plan and Preservation Partnership Program Grant from the Chester County Commissioners for improvements to Quann Park.

d. Council President Finkbiner welcomed Tiffany Loomis as the new Assistant Borough Manager/Zoning Officer for Malvern Borough. Ms. Loomis' first official day was April 6, 2020.

e. Please watch the Malvern Borough website for updates pertaining to COVID-19 (e.g., community events, meetings, etc.). Council President Finkbiner announced that bulk trash collection will be held on April 25, 2020.

f. Borough Manager Bashore announced the donation drive for the Chester County Maskateers.

4. MINUTES & REPORTS

a. APPROVAL OF MINUTES

A motion was made by Council Member Raynor, seconded by Council Member Phillips, and carried by a vote of 7-0, to approve the minutes of the meeting held on Tuesday, March 3, 2020 as amended.

b. APPROVAL OF REPORTS

A motion was made by Council Member Phillips, seconded by Council Member Bones, and carried by a vote of 7-0, to approve the Treasurer's Report, the Committee Reports for Finance and Administration, Public Safety, Public Works, the Chief of Police Report, the Code Enforcement Department 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 March 2020, as submitted.

c. BOROUGH COUNCIL COMMITTEE REPORTS

- Finance & Administration

REGULAR MEETING

April 21, 2020

Page 3

Council Member Laney stated that the Committee has not met since the March 17, 2020 meeting of Borough Council, but is working to schedule a virtual meeting. The Committee did review information via email regarding the status of the Borough's pension funds and a proposal from Keystone Alliance Consulting. The Police and Nonuniform Pension Funds experienced a 13.60% decline in assets due to the volatility of the stock market. The Borough actuary has informed the Committee that the pension funding levels are 119% and 104%, respectively. A proposal from Keystone Alliance Consulting has been received. The Committee is reviewing the proposal and may refine the scope of work.

- Public Safety

Council Member Meisel stated that the Public Safety Committee has not met since the March 17, 2020 meeting, but will schedule a meeting once the current pandemic situation subsides.

- Public Works

Council President Finkbiner stated that the Public Works Committee has not met since the March 17, 2020 meeting of Borough Council. Bid results for the paving of E. King St. (from Warren Ave. to Bridge St.) and N. Warren Ave. (from Pennsylvania Ave. to the Borough boundary) are before Borough Council this evening for possible awarding.

5. SPECIAL BUSINESS

- a. RESOLUTION NO. 810: EXTENDING THE DEADLINE FOR 2020 REAL ESTATE TAX PAYMENTS PURSUANT TO ACT NO. 15 OF 2020

Council President Finkbiner stated that on April 20, 2020, Governor Tom Wolf signed into law Act No. 15 of 2020. This Act authorizes municipalities to extend the deadline for the payment of 2020 Real Estate Taxes, which must be done by resolution. The proposed resolution would extend the payment periods to August 31, 2020 for the discount period and December 31, 2020 for the face period.

Borough Manager Bashore stated that the budget is based on all payments being received during the discount period and that this may not result in a substantial impact to the 2020 budget.

A motion was made by Council Member Bones, seconded by Council Member Phillips, and carried by a vote of 7-0, to adopt Resolution No. 810, extending the deadline for 2020 Real Estate Tax payments to August 31, 2020 for the discount period and December 31, 2020 for the face period pursuant to Act No. 15 of 2020. All penalties are waived.

- b. RESOLUTION NO 811: AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE PARKS REHABILITATION AND DEVELOPMENT PROGRAM OVERSEEN BY THE PA DEPARTMENT OF CONSERVATION & NATURAL RESOURCES

REGULAR MEETING

April 21, 2020

Page 4

Council President Finkbiner stated that these funds are being sought to supplement the funding awarded by the Chester County Commissioners for the improvements to Quann Park. Borough Manager Bashore stated that the improvements include sidewalk, curbing, stormwater management, planting of additional trees, replacement of the steps, and replacement of the fencing around the baseball field. Borough Manager Bashore stated that the match requirement is 50% and the Borough's net cash outlay if awarded would be about \$71,000.

Council Member Meisel asked if the projected cost was before or after the parking area was removed from the plans. Borough Manager Bashore stated that the current cost estimate was after the removal of the parking area.

A motion was made by Vice-President Grossman, seconded by Council Member Meisel, and carried by a vote of 7-0, to adopt Resolution No. 811, authorizing the submission of an application to the PA Department of Conservation & Natural Resources' Parks Rehabilitation and Development Program to fund certain improvements to Horace J. Quann Memorial Park in the Borough of Malvern.

c. Ratification of Police Service Mutual Aid Agreements

- Malvern Police Department and Willistown Township Police Department Mutual Aid Agreement

Chief Marcelli stated that this agreement is being established in order to memorialize the existing relationship with the Willistown Township Police Department. The agreement would provide both municipalities with jurisdiction in the event that the respective agencies are impacted due to the COVID-19 pandemic.

Mayor Burton noted the initiatives taken by Chief Marcelli in order to keep the Police Officers safe during the COVID-19 pandemic.

Council Member Bones stated he thought that this agreement was beneficial.

Catherine Raymond, 7 Karen Drive, asked if the agreements would be posted on the Borough website. Borough Manager Bashore stated that they will not be, but the documents are accessible through a Right-to-Know request.

Council President Finkbiner stated that the financial responsibility of the officer's compensation will remain with the employing municipality.

Chief Marcelli stated that this will only go into effect if the respective agencies do not have officers that can fill their shifts. Council Member Laney asked if it was possible that an officer would need to cover multiple jurisdictions. Chief Marcelli stated that this is a possibility.

A motion was made by Council Member Laney, seconded by Council Member Raynor, and carried by a vote of 7-0, to approve the Mutual Aid Agreement between the Malvern Police Department and the Willistown Township Police Department dated March 30, 2020.

REGULAR MEETING

April 21, 2020

Page 5

- Chester County District Attorney's Office County-wide Mutual Aid Agreement

Chief Marcelli stated that this agreement was prepared by the Chester County District Attorney's office in order to allow for the agencies who signed the agreement in order to provide coverage in the respective municipalities.

A motion was made by Council Member Raynor, seconded by Council Member Laney, and carried by a vote of 7-0, to approve the Mutual Aid Agreement prepared by the Chester County District Attorney's Office dated April 2, 2020.

- d. Ratification of Agreement between the Borough of Malvern and the Malvern Borough Police Officers' Association for unused 2019 Chart Time

Council President Finkbiner stated that this agreement is before Borough Council due to the COVID-19 pandemic. Pursuant to the current Collective Bargaining Agreement, officers had until April 1, 2020 to utilize unused Chart Time from 2019. Due to the COVID-19/Coronavirus pandemic, certain officers had time that could not be used. This agreement permits either an extension of time to use or payment to the officer for unused Chart Time. Council President Finkbiner noted that one (1) officer will be paid for 57 hours of unused Chart Time and another officer will take a short extension in order to use seven (7) hours of available Chart Time. Council President Finkbiner noted that this is a one (1) time arrangement due to the COVID-19 pandemic.

A motion was made by Vice-President Grossman, seconded by Council Member Phillips, and carried by a vote of 7-0, to approve the side agreement between the Borough of Malvern and the Malvern Borough Police Officers' Association for unused 2019 Chart Time.

6. UNFINISHED BUSINESS

Council President Finkbiner stated that there are no items for discussion under "Unfinished Business."

7. NEW BUSINESS

- a. 2020 Paving Projects – Awarding of Bids

- E. King Street (from Warren Avenue to Bridge Street)

Borough Manager Bashore stated that this project involves the mill and overlay of E. King Street from Warren Avenue to Bridge Street. Costs for this project were allocated in the 2020 budget in the General Fund. A pre-bid conference call was held on March 26, 2020 and bids were received on April 2, 2020. There were five (5) bids received for the project.

REGULAR MEETING

April 21, 2020

Page 6

In a letter dated April 8, 2020, the Borough Engineer recommends awarding the project to John A. DiRocco General Contractors, Inc. in the amount of \$27,341.84 based on their bid dated April 2, 2020. Borough Manager Bashore stated that the bid was only for labor costs and the estimated material cost is \$16,200, bringing the total cost to \$43,541.84, which is approximately \$8,800 under what was budgeted for this project.

Borough Manager Bashore stated that an email public comment on this topic was received from Kel Schmitt, 17 Channing Avenue, asking if the lines on King Street would be repainted as part of this project. Borough Manager Bashore stated that the Borough will reset the striping as a separate project and it is not part of this contract.

Council Member Laney asked when this project will begin. Borough Manager Bashore stated that Governor Wolf is expected to announce provisions for the opening of construction in Pennsylvania and the contract requires substantial completion by September 1, 2020.

A motion was made by Vice-President Grossman, seconded by Council Member Meisel, and carried by a vote of 7-0, to award the contract for the paving of E. King Street from Warren Avenue to Bridge Street to John A. DiRocco Contractors, Inc. in the amount of \$27,341.84 based on their bid dated April 2, 2020.

- N. Warren Avenue (from Pennsylvania Avenue to the Borough boundary)

Borough Manager stated that this is a component of the 2020 paving program. A pre-bid conference call was held on April 9, 2020 and bids were received on April 16, 2020. There were four (4) bids received for the project.

In a letter dated April 16, 2020, the Borough Engineer recommends awarding the project to John A. DiRocco General Contractors, Inc. in the amount of \$28,217.16 based on their bid dated April 16, 2020. Please be advised that the bid was only for the labor. As with past projects, the Borough will purchase the material directly from the asphalt plant through the COSTARS program. The Borough Engineer estimates that the cost for material is approximately \$23,500, bringing the total project cost to \$51,717.16. Please be advised that this cost is below what was budgeted by approximately \$34,000. The primary reason for the discrepancy is due to the fact that there is less base repair required than originally projected.

Council President Finkbiner stated that this project is being paid out of the Highway Aid Fund, not the General Fund.

Vice-President Grossman asked if the Borough had contacted East Whiteland Township regarding paving their portion of Warren Avenue. Borough Manager Bashore stated that the Borough had not. Vice-President Grossman asked how long the section of Warren Avenue extends in East Whiteland Township. Borough Manager Bashore stated that runs from Spring Road to Old Lancaster Avenue. Vice-President Grossman asked if the streambank repairs had been completed and if paving would impact the Borough's ability to complete the streambank restoration. Borough Manager Bashore stated that the streambank restoration was a

REGULAR MEETING

April 21, 2020

Page 7

component of the Borough's pollution reduction plan submitted to the PA Department of Environmental Protection (DEP). Comments were recently received from DEP and the Borough Engineer is reviewing and responding to the comments that were received. Council President Finkbinder stated that it was her understanding that this paving project would not impact the streambank stabilization work. Council Member Meisel noted that it would be a coordinated effort in a best case scenario.

Council Member Meisel asked if DEP provided comments in a document. Borough Manager Bashore stated that DEP provided six (6) pages of comments that were received on March 2, 2020. Council Member Meisel asked if DEP performed a site visit. Borough Manager Bashore stated that he did not know if a site visit was conducted.

Borough Manager Bashore stated that he will speak with the Borough Engineer regarding this matter and report back to Borough Council. Council President Finkbinder noted that the bids are good for 60 days.

This matter was tabled. No action was taken.

b. Zoning Hearing Board

Council President Finkbinder stated that the Borough is in receipt of a Zoning Hearing Board application located at 418 E. King Street. Council President Finkbinder noted that the Planning Commission will review the application at their meeting on May 7, 2020 and that Borough Council may wish to defer the determination on sending the Borough Solicitor to the Planning Commission.

Assistant Borough Manager Loomis stated that the applicant is converting an existing auto repair facility into an office use and is seeking a variance from the Borough's parking requirements (15 spaces are required per the ordinance and the applicant is providing 11 spaces). The Borough Engineer has completed an extensive review of the Borough's ordinances regarding the zoning plan included with the application.

Assistant Borough Manager Loomis stated that the Borough Solicitor is currently reviewing the application to potential weigh-in further. Assistant Borough Manager Loomis stated that a revised plan is currently being prepared.

Dave Knies, 114 Warrington Way, asked if the Planning Commission would get a copy of the application. Borough Manager Bashore stated that hard copies were mailed to the Planning Commission this week.

Borough Council was in agreement to defer the decision on sending the Borough Solicitor to the Planning Commission and have their recommendation circulated.

c. Mountain Biking

REGULAR MEETING

April 21, 2020

Page 8

Council Member Meisel highlighted the images of trail damages that has occurred as a result of mountain biking at the on the Paoli Battlefield property and in Randolph Woods. Council Member Meisel stated that he has been spending time walking the trails at the Paoli Battlefield property and has notice a significant amount of activity. Council Member Meisel noted that he could not determine how fresh the damage was.

Vice-President Grossman stated that she has observed similar activity and noted that the fencing installed by the Public Works Department to restore an area that has been disturbed has been torn down.

Council Member Bones stated that the damage on the trails is approximately four (4) weeks old and he has informed people that biking is not permitted on the Paoli Battlefield property. Council Member Bones noted that the damage that has been created is difficult to correct. Council Member Bones does not believe that the Borough can turn its back to the situation.

Vice-President Grossman asked how this could be policed/enforced. Chief Marcelli stated that if individuals see individuals biking on the trails, they should call the non-emergency number for the Police Department. Chief Marcelli stated that there would be a progressive level of warnings and a citation may be issued after two (2) warnings are issued. Chief Marcelli noted that this is a voluntary compliance matter and the police would try to identify who is engaging in this activity.

Council Member Bones noted that this is primarily a parental issue and noted that they were clearly told that this is not permitted in either park.

Council President Finkbiner suggested that ideas on curbing this issue be sent to Borough Manager Bashore. Council Member Bones recommended additional signage with a pictures outlining "No Biking."

Council President Finkbiner stated that this should be a future agenda item, but posting additional signage did not seem difficult as long as Borough Council was in agreement. The balance of Borough Council was in agreement. Borough Manager Bashore stated that he will have the Public Works Department install additional signage.

d. Discussion – Format and schedule of upcoming meetings

Council President Finkbiner opened the discussion up to everyone on the format of this evening's meeting. Council Member Raynor noted that continuing with remote meetings sets a good example for following social distancing guidelines. Council President Finkbiner noted that outdoor meetings could be considered if the federal guidelines for gathers are adjusted. Borough Manager Bashore noted that Act No. 15 allows the Borough to continue with remote meetings as long as the Governor's emergency declaration is in place.

REGULAR MEETING

April 21, 2020

Page 9

Council President Finkbinder asked if Borough Council would like to consider moving to one (1) meeting per month. Borough Council was in agreement to move to one (1) meeting per month unless there was an item that needed to be addressed.

Council Member Bones asked if the Borough was required to post the recording of the meeting. Borough Manager Bashore stated that the Borough was not required to post the recording.

Council President Finkbinder asked for Borough Council's opinion on posting recordings. Borough Council was in agreement with posting only the minutes.

Vice-President Grossman commended Council President Finkbinder, Borough Manager Bashore, Chief Marcelli, and Corinne Badman for their work during this situation.

8. PUBLIC FORUM

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

Pat Marcozzi, 221 Channing Avenue, asked for clarification on the date of bulk trash collection. Council President Finkbinder stated that it is April 25, 2020.

Lynne Frederick, 227 E. Broad Street, thanked all of Borough Council and the staff for everything that has been done during this situation and welcomed Tiffany Loomis.

Kel Schmitt, 17 Channing Avenue, noted that the Malvern Farmers Market is continuing with social distancing measures and it is going well. Mr. Schmitt made an announcement about mail-in voting. Vice-President Grossman asked if a decision on the Memorial Parade has been made. Mr. Schmitt stated that a decision has not yet been made, but will be issued in early May.

Borough Manager Bashore stated that Kel Schmitt, 17 Channing Avenue, asking if an additional bench will be installed to replace the one that was removed, but not reinstalled. Borough Manager Bashore stated that this bench will be replaced as part of the 2021 budget.

Council President Finkbinder thanked everyone for their participation.

9. ADJOURNMENT

All business having been discussed, a motion was made by Council Member Raynor, seconded by Council Member Bones, and carried by a vote of 7-0, to adjourn the meeting at 8:48 p.m.

Respectfully submitted,
Christopher Bashore
Borough Manager/Secretary