

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

April 6, 2021
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 Laney, seconded by Vice-President Grossman, and carried by a vote of 7-0, to approve the agenda for the April 6, 2021 meeting as presented.

3. ANNOUNCEMENTS

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a. Recording of the Meeting

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 for minute taking purposes, but the recording would not be posted on the Borough website.

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

b. Council President Finkbiner announced that Borough Council met in Executive Session on Tuesday, April 6, 2021 prior to this evening's meeting in order to discuss personnel matters.

c. Council President Finkbiner announced that Erin Sheffield and Lloyd Stackhouse have resigned from the Parks & Recreation Committee and Zoning Hearing Board, respectively. Borough Council thanked them for their service to the community. Information on how to apply for these vacancies will be posted on the Borough website.

d. Council President Finkbiner announced that Malvern Borough will host a Community Visioning Session in May as part of the update currently underway to the Comprehensive Plan. Information on the date, time, and location will be announced on the Borough's website.

e. Council President Finkbiner announced that Chester County will host a Household Hazardous Waste Collection Event on April 10, 2021 at the Government Services Center (601 Westtown Road, West Chester, PA 19380). Pre-registration is required. Information is available on the Borough website.

f. Council President Finkbiner announced that the Malvern Public Library will host a book sale on Friday, April 30, 2021 and Saturday, May 1, 2021.

g. Borough Manager Bashore congratulated Assistant Borough Manager Loomis for one (1) year of service with the Borough of Malvern and commended her on her work with the Borough.

4. MINUTES & REPORTS

a. APPROVAL OF MINUTES

A motion was made by Council Vice-President Grossman, seconded by Council Member Laney, and carried by a vote of 7-0, to approve the minutes from the March 16, 2021 meeting of Borough Council as amended.

5. SPECIAL BUSINESS

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- a. Retirement Agreement and General Release between the Borough of Malvern and Sgt. Lloyd Douglas

Council President Finkbinder stated that Sgt. Lloyd Douglas has retired from the Malvern Borough Police Department effective April 1, 2021 after 34 years of service. Borough Council would like to thank Sgt. Douglas for his service to Malvern Borough during his tenure and wish him luck in his future endeavors. Council President Finkbinder stated that a retirement agreement and general release is before Borough Council in order to finalize certain matters.

A motion was made by Council Member Laney to approve the Retirement Agreement and General Release between the Borough of Malvern and Sgt. Lloyd Douglas. Vice-President Grossman seconded the motion.

Council President Finkbinder opened the floor to comments from Borough Council or the members of the public.

John Buckley, 165 Church Street, asked about the appeal for the three (3) day suspension that was before the Civil Service Commission. Council President Finkbinder stated that the matter is closed as part of the agreement.

There being no further comment, Council President Finkbinder called the vote. The motion approving the Retirement Agreement and General Release between the Borough of Malvern and Sgt. Lloyd Douglas passed by a vote of 7-0.

- b. 2021 Cub Scout Day Camp

Council President Finkbinder stated that the Chester County Council of the Boy Scouts of America are requesting to host day camp at the Malvern Memorial Scout Cabin from June 21, 2021 to June 25, 2021. This event would include BB shooting and archery. Pursuant Chapter 104 of the Borough's Code of Ordinances, approval by Borough Council is required. Borough Council had previously approved this event for 2020; however, it was cancelled due to the COVID-19 pandemic. Council President Finkbinder stated that she understands that the proposal is consistent with the discussion in 2020.

Jake Segal from the Chester County Council of the Boy Scouts of America was before Borough Council to discuss the camp. Mr. Segal noted that there will be more personnel for the shooting activities than previously discussed.

Council Member Bones stated he supported this activity so long as the events are found to be acceptable to Chief Marcelli.

Vice-President Grossman asked about provisions being implemented due to the COVID-19 pandemic. Mr. Segal stated that they are working directly with the Chester County Health Department and the Boy Scouts of America, noting that their insurance policy requires

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adherence to local COVID-19 policies. Mr. Segal noted that permits are required from the state in order to run their programs.

Council Member Laney noted that she is uncomfortable with the use of guns given the current climate. Chief Marcelli stated that he previously met with Mr. Segal and noted that everything will be enclosed and no guns will be seen in public. Chief Marcelli stated that the bb guns being used are very low-powered and do not make noise. Mr. Segal stated that all camps are managed by the American Camp Association.

Borough Manager Bashore reviewed the conditions included in the 2020 approval and asked if a location for the archery activities had been determined. Mr. Segal stated that it had not been determined, but noted the archery activities may not occur due to the new requirements.

Chief Marcelli stated that all COVID-19 requirements must be adhered to and recommended this as a condition of approval. Mr. Segal stated that they are following the COVID-19 guidelines of the PA Department of Education.

A motion was made by Vice-President Grossman to approve the 2021 Cub Scout Day Camp for June 21, 2021 to June 25, 2021 on the grounds of the Malvern Memorial Scout Camp subject to the following conditions:

1. The Chester County Council of the Boy Scouts of America shall provide evidence of an insurance policy with a limit of \$1 million per occurrence and a \$10 million aggregate.
2. The Borough of Malvern shall be named as an “Additional Insured” for the above-referenced insurance policy.
3. The final location of the archery location shall be subject to the review and approval of the Chief of Police of the Malvern Police Department.
4. The Chester County Council of the Boy Scouts of America shall adhere to all guidelines pertaining to the COVID-19 pandemic. This includes, but is not limited to, guidance from the Centers for Disease Control, the PA Department of Health, and the Chester County Health Department.

Council Member Phillips seconded the motion. Council President Finkbiner noted that she would like to see them come back before Borough Council for future approvals at least for the time being.

There being no further discussion, Council President Finkbiner called the vote. The motion approving the 2021 Cub Scout Day Camp subject to conditions passed by a vote of 7-0.

- c. Chester-Ridley-Crum Watersheds Association – Riparian Planting Habitat Restoration Agreement

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Council President Finkbinder stated that the Chester-Ridley-Crum Watersheds Association recently completed an invasive species removal project along Massacre Run in the woods of the Paoli Battlefield. As follow-up, they have outlined a plan to replant the riparian buffer. The proposed plan was reviewed by the Shade Tree Commission and the Environmental Advisory Council. Council President Finkbinder stated that this is being completed through a grant and that the Borough would be responsible for maintaining them for 25 years.

Council Member Bones asked about the 25 year maintenance requirement. Borough Solicitor McLean stated that the Borough is not required to replace the trees if they die or are damaged through a natural occurrence. Council Member Bones outlined the proposed location for the plantings and noted that this will be an improvement over what was previously in this area.

A motion was made by Vice-President Grossman, seconded by Council Member Phillips, and carried by a vote of 7-0, to approve the Riparian Planting Habitat Restoration Agreement between the Borough of Malvern and the Chester-Ridley-Crum Watershed Association.

- d. Proposed resolutions authorizing the submission of grant applications to fund certain improvements to the Randolph Woods Nature Preserve
- Resolution No. 822: Authorizing the submission of a grant application to the PA Department of Conservation & Natural Resources (DCNR) to fund improvements to the Randolph Woods Nature Preserve

Council President Finkbinder stated that Borough Council authorized Simone-Collins Landscape Architecture to prepare a grant application to DCNR in order fund certain improvements outlined in the Randolph Woods Master Plan. This application would seek funding for the completion of trail improvements, the installation of boardwalks, and improvements to the foot bridges in the park. The requested funding amount is \$250,000. Council President Finkbinder noted that funding would be requested for the proposed sidewalk along Ruthland Avenue entering into Randolph Woods.

A motion was made by Council Member Bones, seconded by Vice-President Grossman, and carried by a vote of 7-0, to approve Resolution No. 822, authorizing the submission of a grant application to the PA Department of Conservation & Natural Resources to fund improvements to the Randolph Woods Nature Preserve.

- Resolution No. 823: Authorizing the submission of a grant application to the PA Department of Community & Economic Development (DCED) to fund improvements to the Randolph Woods Nature Preserve

Council President Finkbinder stated that Borough Council authorized Simone-Collins Landscape Architecture to prepare a grant application to DCED in order fund certain improvements outlined in the Randolph Woods Master Plan. This application would seek funding for the completion of trail improvements, the installation of boardwalks, and improvements to the

foot bridges in the park. The requested funding amount is \$250,000 and is intended to provide the match to the application being submitted to DCNR.

A motion was made by Council Member Bones, seconded by Vice-President Grossman, and carried by a vote of 7-0, to approve Resolution No. 823, authorizing the submission of a Greenways, Trails, and Recreation Program grant application to the PA Department of Community & Economic Development to fund improvements to the Randolph Woods Nature Preserve.

e. Resolution No. 824: Disposition of Public Records

Council President Finkbinder stated that pursuant to the PA Municipal Records Manual, which has been adopted by the Borough of Malvern, a resolution is required to dispose of certain Borough records. This manual sets forth the time period for which the Borough must maintain certain records. Council President Finkbinder outlined the records being considered for destruction.

Council Member Bones asked if this follows the guidelines outlined by the state for destruction. Borough Manager Bashore stated that it does and that records are marked for when they may be discarded in accordance with the PA Municipal Records Manual.

A motion was made by Council Member Laney, seconded by Council Member Bones and carried by a vote of 7-0, to adopt Resolution No. 824, authorizing the disposition of records of the Borough of Malvern Pursuant to the Municipal Records Manual.

f. EXPANDED OUTDOOR DINING FORBEARANCE AGREEMENTS

- The Flying Pig Saloon

Council President Finkbinder stated that the Flying Pig Saloon is requesting a 60-day extension of their existing agreement for outdoor dining during the COVID-19 pandemic. All existing conditions are proposed to remain in place. The extension would expire on June 5, 2021.

Vice-President Grossman asked if this is something that should be considered on a more permanent basis. Borough Solicitor McLean stated that an amendment to the Zoning Ordinance is being prepared based on discussion by the Planning Commission and summarized the provisions. Borough Solicitor McLean summarized the current action being taken to allow expanded outdoor dining during the COVID-19 pandemic.

John Buckley, 165 Church Street, noted that the Flying Pig recently installed hardscape on the side of building. Council President Finkbinder stated that this matter would be reviewed by the Borough's Code Enforcement Officer and noted that she was not sure of the coverage requirements.

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A motion was made by Vice-President Grossman, seconded by Council Member Bones, and carried by a vote of 7-0, to approve the extension to the expanded outdoor dining forbearance agreement with the Flying Pig Saloon.

6. UNFINISHED BUSINESS

Council President Finkbinder stated that there were no items of “Unfinished Business” before Borough Council this evening.

7. NEW BUSINESS

a. Travelers Insurance – Enhanced Cybersecurity Insurance Coverage

Council President Finkbinder stated that Malvern Borough added enhanced cybersecurity coverage as part of its liability insurance in 2020. The premium through the PA Intergovernmental Risk Management Association (PIRMA) has increased significantly and the policy was marketed. Travelers Insurance provided a premium quote of \$4,900.00 for the coverage. This would provide the Borough with increased coverage in the event of a breach. The proposal has been reviewed and recommended by the Finance & Administration Committee. Council President Finkbinder stated that this would provide \$1 million in coverage, with an additional \$250,000 from PIRMA as secondary coverage.

Council Member Bones stated that he believes that this important coverage for the Borough to have.

Council Member Phillips noted his experience working in information technology and that he believes that this coverage is critical.

Borough Manager Bashore outlined the savings witnessed in the Borough’s liability coverage for the upcoming coverage year and noted that the cost will be comparable to the previous coverage period.

A motion was made by Vice-President Grossman, seconded by Council Member Phillips, and carried by a vote of 7-0, to approve the proposal from Travelers Insurance in the amount of \$4,900.00 for enhanced cybersecurity coverage.

b. Proposed Ordinance Amendment – Chapter 200 (Vehicles & Traffic) – Authorization to Advertise

Council President Finkbinder stated that an ordinance is before Borough Council this evening to amend Chapter 200 of the Borough’s Code of Ordinances. This ordinance is being recommended by the Public Safety Committee. The proposed ordinance would amend the Borough’s loading/unloading regulations on Bridge Street and prohibit parking on the west side of Channing Avenue between First Avenue and the driveway to the Malvern Police Department.

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If authorized for advertisement, a public hearing on the proposed ordinance would be held at the April 20, 2021 meeting of Borough Council.

John Buckley, 165 Church Street, asked if parking would be eliminated on the bridge on Bridge Street. Council President Finkbinder stated that loading and unloading would be prohibited during certain hours. Borough Manager Bashore reviewed the hours outlined in the proposed ordinance.

Chief Marcelli noted that he has spoken with the owner of the Flying Pig Saloon regarding this proposed ordinance and he understands the change.

A motion was made by Council Member Meisel, seconded by Vice-President Grossman, and carried by a vote of 7-0, to authorize the advertisement of the proposed ordinance to amend chapter 200 of the Borough's Code of Ordinances.

c. Zoning Hearing Board

Council President Finkbinder stated that there are no new applications before the Zoning Hearing Board.

8. PUBLIC FORUM

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

John Buckley, 165 Church Street, discussed his desire for a curb on First Avenue and Green Street and associated drainage issues, believing that a curb would solve the drainage concerns. Mr. Buckley stated that he believes that a sidewalk should be considered for First Avenue as part of the improvements to Randolph Woods. Mr. Buckley noted concerns with site visibility at the intersection of First Avenue and Church Street.

Council Member Bones noted that he has viewed the area where drainage issues are occurring and believes that there may be something that could be considered to address the water issues on First Avenue. Borough Manager Bashore stated that he has spoken to the Borough Engineer regarding this matter and any recommendations will be referred to the Public Works Committee.

9. ADJOURNMENT TO EXECUTIVE SESSION

At 8:20 pm, Council President Finkbinder announced that Borough Council will adjourn to Executive Session in order to discuss personnel matters.

A motion was made Vice-President Grossman, seconded by Council Member Phillips, and carried by a 7-0, to adjourn the meeting to Executive Session to discuss personnel matters.

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10. ADJOURNMENT

Borough Council reconvened into the public session at 8:45 pm.

All business having been discussed, a motion was made by Vice-President Grossman, seconded by Council Member Bones, and carried by a vote of 7-0, to adjourn the meeting at 8:45 p.m.

Respectfully submitted,

Christopher Bashore
Borough Manager/Secretary