

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

April 17, 2018
7:30 P.M.

PRESIDING: Jamie S. Grossman, President

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 Meisel
Council Member Raynor
Council Member Sinquett
Mayor Burton

ABSENT:

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 Sinquett, seconded by Council Vice-President Uzman, and carried by a vote of 7-0, to approve the minutes of the meeting held on Tuesday, April 3, 2018, as submitted.

4. APPROVAL OF REPORTS:

A motion was made by Council Vice-President Uzman, seconded by Council Member Laney, and carried by a vote of 7-0, to approve the Treasurer's Report, the Committee Reports for Finance & Administration, Public Safety, Public Works and 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 2018, as submitted.

5. BOROUGH COUNCIL COMMITTEE REPORTS:

a. Financial & Administration

REGULAR MEETING

April 17, 2018

Page 2

Council Vice-President Uzman stated Finance & Administration Committee has not met since the April 3, 2018 meeting. The Committee reviewed via email: proposed guidelines for the use of Borough-issued email accounts and the use of social media by elected officials; updates on the encroachment issues related to Randolph Woods; and a revised draft of the Community Installation application. The PA Intergovernmental Risk Management Association, the Borough's property and liability insurance provider, announced they are adding enhanced \$250,000 of Cyber Liability Coverage to all existing policies, at no additional cost to its members.

b. Public Safety

Council Member Meisel stated the Public Safety Committee met prior to tonight's meeting of the Borough Council. Matters before the Committee included a review of the draft traffic study and recommendations being completed through the Vision Partnership Program grant received from Chester County and discussion of a pedestrian strike that occurred on Monument Avenue during a recent snow event.

c. Public Works

Council Member Sinquett stated the Public Works Committee met on April 12, 2018 and prior to tonight's meeting of Borough Council before the Public Safety Committee. Both meetings consisted of interviewing potential land planner consultants for the Borough. Land planning firms interviewed included: Theurkauf Planning & Design; Thomas Comitta Associates; and the Brandywine Conservancy.

6. PROPOSED RESOLUTION NO. 764 – PRELIMINARY/FINAL LAND DEVELOPMENT PLAN FOR 156 W. KING ST. – 203 MANAGEMENT, LLC:

A motion was made by Council Vice-President Uzman, seconded by Council Member Sinquett, and carried by a vote of 7-0, to approve, subject to conditions, the plan entitled "Land Development Plan of 156 West King Street for 203 Management, LLC," prepared by Bereck and Smith Engineering, LLC, dated September 22, 2017, last revised March 8, 2018, signed and sealed by Thomas F. Smith, II, P.E., Registered Professional Engineer, proposing the construction of two (2) building additions to an existing three (3) unit apartment building, pursuant to the Malvern Borough Land Development Ordinance of 2006, as amended ("Land Development Ordinance") for the development of certain property ("Property") located in the Borough of Malvern ("Borough"), Chester County, Pennsylvania, in the C2 – Adaptive Reuse Commercial zoning district.

7. PUBLIC HEARING – CONDITIONAL USE APPLICATION FOR OUTDOOR CAFÉ (400 EAST KING STREET PARTNERS, LLC) – 400 EAST KING STREET:

Borough Council conducted a Public Hearing to consider 400 East King Street Partners, LLC, Applicant, to create an outdoor café pursuant to section 220-1501.B.12 and in accordance with the Supplemental Use Regulations found in section 220-2418 of the Malvern Borough Zoning Ordinance. The subject property is located at 400 E. King Street. The Notice of Public

REGULAR MEETING

April 17, 2018

Page 3

Hearing was published in the March 27, 2018 and April 3, 2018 editions of the Daily Local News as required.

Vice-President Uzman recused himself from the Public Hearing, stating that his company has done business with Eli Kahn, property owner of 400 East King Street.

TO OBTAIN A COPY OF THE OFFICIAL TRANSCRIPT AS PREPARED BY THE COUNTY COURT REPORTER, PLEASE CONTACT BOROUGH ADMINISTRATION.

A motion was made by Council Member Sinquett, seconded by Council Member Laney, and carried by a vote of 5-1, Council Member Finkbiner opposed, to approve, subject to conditions, the application of your client, 400 East King Street Partners, LLC, (the “Applicant”) for a conditional use for an outdoor cafe use, pursuant to §220-1501.B(12) of the Borough’s Zoning Ordinance, at the Applicant’s property located at 400 East King Street (UPI No. 2-4-355, the “Property”) in the Borough’s C-4 – High Intensity Commercial District subject to the following conditions:

1. The restaurant and outdoor café will be constructed and operated in substantial conformity with the information presented at the hearing.
2. The kitchen will close with respect to the outdoor café use at or before 10:00 pm Monday through Thursday, 11:00 pm Friday and Saturday, and 9:00 pm on Sunday.
3. The outdoor café will close at or before 12:00 midnight Sunday night through Thursday night and 12:30 am Friday night and Saturday night.
4. There shall be no live musical performances within the outdoor café area.
5. The Applicant shall indemnify the Borough in writing prior to the issuances of any certificate of occupancy.

8. PUBLIC HEARING – ORDINANCE NO. 2018 – 2 – HOME RULE CHARTER AMENDMENT (SECTION 214 – MEETINGS):

Borough Council conducted a Public Hearing to consider an ordinance to initiate the amendment process of the Borough’s Home Rule Charter pertaining to section 214 (allowing for members of Borough Council to participate in meetings remotely). The amendment must be approved by the electors of the Borough via referendum. The Notice of Public Hearing was published in the April 6, 2018 edition of the Daily Local News as required.

Dave Knies, 114 Warrington Way, stated he is not in favor of the language in draft Ordinance No. 2018-2 that would enable a Borough Council Member to participate remotely and cast a vote but from a Roll Call perspective would be deemed absent.

Cathy Raymond, 6 Karen Drive, stated as an elector of the Borough she would prefer to know any cost increases associated with upgrading the meeting room audio/video equipment prior to voting on a referendum.

9. PROPOSED ORDINANCE NO. 2018 – 2 – INITIATING THE AMENDMENT OF

REGULAR MEETING

April 17, 2018

Page 4

SECTION 214 OF THE BOROUGH'S HOME RULE CHARTER TO PERMIT PARTICIPATION OF MEMBERS OF THE BOROUGH COUNCIL IN THE MEETINGS OF BOROUGH COUNCIL:

A motion was made by Council Vice-President Uzman, seconded by Council Member Laney, and carried by a vote of 5-2, Council President Grossman and Council Member Sinquett opposed to adopt Ordinance No. 2018 – 2, initiating the process of amending section 214 of Malvern Borough's Home Rule Charter in order to allow for remote participation of members of the Borough Council in the meetings of Borough Council.

10. UNFINISHED BUSINESS:

a. Backyard Poultry – Zoning Ordinance Discussion

Council Member Sinquett recused himself from discussions as he is a neighbor of a resident in violation of the Borough's Zoning Ordinance regarding the keeping of poultry.

Nancy Dimattia, 27 Channing Avenue, is in favor of the Borough's Zoning Ordinance being amended regarding the keeping of poultry and recalled that a former resident may have won a court appeal to keep poultry as they were determined to be pets rather than livestock.

Borough Council determined that the provisions of the Zoning Ordinance should be reviewed in regards to the keeping of backyard poultry. Any amendment to the Zoning Ordinance would need to be recommended by the Planning Commission and be reviewed by the Chester County Planning Commission.

b. Deed in Lieu of Condemnation – Additional Right-of-way on Pennsylvania Ave.

A motion was made by Council Vice-President Uzman, seconded by Council Member Sinquett, and carried by a vote of 7-0, to approve a Deed In Lieu of Condemnation for additional right-of-way on Pennsylvania Avenue with Jayne Aras and Aret Aras of 190 Pennsylvania Avenue.

11. NEW BUSINESS:

a. Trash & Recycling Contract – Invitation to Bid

A motion was made by Council Vice-President Uzman, seconded by Council Member Sinquett, and carried by a vote of 7-0, to authorize for the solicitation of bids for a base two (2) year contract to include collection of trash twice per week and the collection of recyclables once per week. The collection days would be Tuesdays and Fridays for trash and Tuesdays for recycling per section 173-4.A(2) of the Borough's Code of Ordinances. The base contract would also include two (2) bulk collection days, leaf collection, and Christmas tree collection. All items in the base bid represent a continuation of the current contract specifications. In addition to the base bid, the bids shall include three (3) one year options, which may be exercised at the discretion of the Borough.

REGULAR MEETING

April 17, 2018

Page 5

b. Alternate Borough Engineer – Discussion

A motion was made by Council Member Sinquett, seconded by Council Vice-President Uzman, and carried by a vote of 7-0, to authorize the Borough Manager to solicit proposals from firms to serve as an alternate Borough Engineer.

c. Zoning Hearing Board

Borough Manager Bashore stated that the application for 324/328 East King Street, owned by Renehan Realty, LLC., who was seeking a variance from section 220-2501.D.9.E., requiring aisles within parking lots separating rows of parking spaces to be 24 ft. wide was continued. The hearing on this application was held on February 26, 2018. During the hearing, numerous questions were raised on this application including the number of spaces being created, lighting of the parking lot, buffering requirements, and how the spaces would be assigned to the uses on the property. Due to the volume of information that was outstanding, the hearing was postponed so the applicant may revise and resubmit an application and plans in greater detail. The Applicant will be returning before the Zoning Hearing Board on April 30, 2018.

A motion was made by Council Vice-President Uzman, seconded by Council Member Laney, and carried by a vote of 7-0, to authorize the Borough Engineer and Conflict Counsel to attend the hearing for 324 & 328 East King Street, owned by Renehan Realty, LLC., for fact-finding regarding the three (3) variances requests.

12. 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.

John Buckley, 165 Church Street, stated his trash was not collected today. Borough Manager Bashore stated the hauler notified Borough Administration that the receptacles were too heavy for employees to safely empty.

13. ADJOURNMENT:

All business having been discussed, a motion was made by Council Vice-President Uzman, seconded by Council Member Laney, and carried by a vote of 7-0, to adjourn the meeting at 10:05 p.m.

Respectfully submitted,

Neil G. Lovekin
Assistant Secretary