

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

August 17, 2021  
7:30 P.M.

PRESIDING: Jamie Grossman, Vice-President

INVOCATION: David B. Burton, Mayor

1. ROLL CALL

PRESENT

Council Vice-President Grossman  
Council Member Bones (attended remotely)  
Council Member Laney  
Council Member Meisel (attended remotely)  
Council Member Phillips  
Council Member Raynor  
David B. Burton, Mayor

ABSENT

Council President Finkbiner

Vice-President Grossman announced that this evening's meeting allows for a virtual meeting option via Zoom.

2. APPROVAL OF AGENDA

A motion was made by Council Member Laney, seconded by Council Member Phillips, and carried by a vote of 6-0, to approve the agenda for the August 17, 2021 meeting as presented.

3. ANNOUNCEMENTS

a. Recording of the Meeting

Vice-President Grossman asked in accordance with Resolution No. 787 if any member of the audience was recording the meeting. Vice-President Grossman noted that the meeting was not being recorded by the Borough.

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

b. Vice-President Grossman announced that Borough Council met in Executive Session on August 17, 2021 prior to this evening's meeting in order to discuss personnel matters.

c. Vice-President Grossman announced that Borough Manager Bashore has received a 10-year service award from the International City/County Manager's Association (ICMA). Borough Council congratulated Borough Manager Bashore on receipt of this award.

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### 4. MINUTES & REPORTS

#### a. APPROVAL OF MINUTES

A motion was made by Council Member Laney, seconded by Council Member Phillips, and carried by a vote of 6-0, to approve the minutes from the August 17, 2021 meeting of Borough Council as presented.

#### b. APPROVAL OF REPORTS:

A motion was made by Council Member Phillips, seconded by Council Member Laney, and carried by a vote of 6-0, 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 July 2021, as submitted.

#### c. BOROUGH COUNCIL COMMITTEE REPORTS

- Finance & Administration – Council Member Laney

Councilor Laney stated that the Finance & Administration Committee has not met since the July 20, 2021 meeting of Borough Council.

- Public Safety – Council Member Meisel

Council Member Meisel stated that the Public Safety Committee has not met since the July 20, 2021 meeting of Borough Council.

- Public Works – Council Member Bones

Council Member Bones stated that the Public Works Committee met on August 11, 2021. Items before the Committee included a meeting with representatives from the Malvern Library in order to discuss proposed renovations to their space, a review of a proposed Eagle Scout project, and streets for inclusion in the 2022 paving program.

Council Member Bones stated that the Malvern Library is interested in undertaking renovations to their space in order to modernize the area. The Committee is supportive of the undertaking and they will present the plan at a future meeting of Borough Council. Council Member Bones stated that the representatives from the Malvern Library also discussed the lease and are seeking a new 20 year lease. Borough Manager Bashore noted that the current lease expires on December 31, 2023.

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Council Member Bones stated that the Committee reviewed the Community Installation Application from Benjamin Lang for an Eagle Scout Project. Council Member Bones stated that Mr. Lang is before Borough Council this evening to present the proposed project.

Council Member Bones stated that the Committee discussed proposed paving projects for the Borough's 2022 paving program. The roads discussed for the 2022 paving program were:

- Quaker Lane
- S. Warren Avenue (from Roberts Lane to King Street)
- Raspberry Street
- Highland Avenue (from Malvern Avenue to Sugartown Road)

Council Member Bones stated that the Borough Engineer is preparing cost estimates for budget purposes and is going to provide a separate cost estimate to pave Highland Avenue to Crest Avenue.

### 5. SPECIAL BUSINESS

#### a. Community Installation Application – Benjamin Lang – Eagle Scout Project

Borough Manager Bashore stated that Benjamin Lang, a resident of Raffaella Drive, has submitted a Community Installation Application in order to install display boards in Burke Park and Rubino Park as his Eagle Scout project. The proposed project was reviewed by both the Public Works Committee and the Parks & Recreation Committee. Mr. Lang is seeking to complete this project by the end of October. A proposal has been provided for review.

Benjamin Lang, 26 Raffaella Drive, appeared before Borough Council in order to provide an overview of the project. Mr. Lang stated that he intends to model the proposed display boards off of the existing ones at the Paoli Battlefield. Mr. Lang stated that he was hoping to receive some assistance from the Public Works Department and his goal is to complete the project by October 1, 2021.

Vice-President Grossman asked about the roof materials, noting the shingles on the display board at the Paoli Battlefield. Mr. Lang stated that he intends to use asphalt shingles. Council Member Bones noted that he believed that the type of shingles used at the Paoli Battlefield were intended to be historical.

Council Member Bones thanked Mr. Lang for his presentation and recommended that he speak with the Superintendent of Public Works regarding the placement in Burke Park. Council Member Bones recommended that Mr. Lang research a pre-fabricated display case.

Borough Council discussed a possible contribution towards the project. Mr. Lang stated that he was hoping that the Borough would contribute \$375.00 towards the project, which represents 50% of the estimated project cost.

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Helise Bichefsky-Reilly, DO, 32 Raffaella Drive, asked what would occur if the cost exceeded \$750.00. Borough Manager Bashore recommended that the motion include 50% of the project cost as opposed to a specific dollar amount.

Joe Ranaudo, 175 W. King Street, stated that he would be willing to make a donation to the project.

Hugo Schmitt, 17 Channing Avenue, asked if the display boards will be two (2) sided and what materials will be utilized. Mr. Lang stated that the boards will be one sided, with the display side using plexiglass and the non-display side being wood.

A motion was made by Council Member Phillips, seconded by Council Member Laney, and carried by a vote of 6-0, to approve the Community Installation Application for Benjamin Lang to install two (2) boards, one in Burke Park and one in Rubino Park, with the Borough contributing 50% towards the project cost.

b. ORDINANCE NO. 2021 – 5: AMENDING THE MALVERN BOROUGH ZONING ORDINANCE TO ADD A DEFINITION FOR “PLANT MATERIALS LIST” AND REPLACE THE EXISTING LIST IN APPENDIX A

- PUBLIC HEARING: Vice-President Grossman announced that Borough Council will now open a public hearing to consider Ordinance No. 2021 – 5. This ordinance would section 220-201 of the Malvern Borough Zoning Ordinance in order to add a definition for “Plant Material List” and replace the approved plant material list in the Zoning Ordinance with a new list recommended by the Shade Tree Commission. The ordinance would also permit the Plant Material List to be amended by resolution based on the recommendation of the Shade Tree Commission.

Borough Manager Bashore stated that the proposed ordinance was reviewed by the Malvern Borough Planning Commission at their meeting on June 3, 2021, who recommended approval. Comments were also received from the Chester County Planning Commission as required. The Notice of Public Hearing was published in the July 29, 2021 and August 5, 2021 editions of the Daily Local News, as required, as well as posted on the Borough website.

Vice-President Grossman asked if there were any comments on the proposed ordinance from members of Borough Council. No comments were noted.

Vice-President Grossman asked if there were any comments on the proposed ordinance from members of the public. No comments were noted.

There being no further discussion, the public hearing for proposed Ordinance No. 2021 – 5 was closed.

- ADOPTION – ORDINANCE NO. 2021 – 5: AMENDING THE MALVERN BOROUGH ZONING ORDINANCE TO ADD A

DEFINITION FOR “PLANT MATERIALS LIST” AND REPLACE THE EXISTING LIST IN APPENDIX A

A motion was made by Council Member Laney, seconded by Council Member Phillips, and carried by a vote of 6-0, to adopt Ordinance No. 2021 – 5, amending sections 220-201 and Appendix A of the Malvern Borough Zoning Ordinance in order to add a definition for “Plant Materials List” and amend the Plant Materials List found in Appendix A.

c. ORDINANCE NO. 2021 – 6: AMENDING SECTION 181-525.C.(4)(J) OF THE MALVERN BOROUGH SUBDIVISION & LAND DEVELOPMENT ORDINANCE PERTAINING TO THE MATERIALS ACCEPTBLE FOR STREET TREES

- PUBLIC HEARING: Vice-President Grossman announced that Borough Council will now open a public hearing to consider Ordinance No. 2021 – 6. This ordinance would amend section 181-525.C.(4)(J) of the Malvern Borough Subdivision & Land Development Ordinance in order to revise the materials acceptable as street trees. The ordinance would also permit the street tree list to be amended by resolution based on the recommendation of the Shade Tree Commission.

Borough Manager Bashore stated that the proposed ordinance was reviewed by the Malvern Borough Planning Commission at their meeting on June 3, 2021, who recommended approval. Comments were also received from the Chester County Planning Commission as required. The Notice of Public Hearing was published in the July 29, 2021 and August 5, 2021 editions of the Daily Local News, as required, as well as posted on the Borough website.

Vice-President Grossman asked if there were any comments on the proposed ordinance from members of Borough Council. No comments were noted.

Vice-President Grossman asked if there were any comments on the proposed ordinance from members of the public. No comments were noted.

There being no further discussion, the public hearing for proposed Ordinance No. 2021 – 6 was closed.

- ADOPTION – ORDINANCE NO. 2021 – 6: AMENDING SECTION 181-525.C.(4)(J) OF THE MALVERN BOROUGH SUBDIVISION & LAND DEVELOPMENT ORDINANCE PERTAINING TO THE MATERIALS ACCEPTBLE FOR STREET TREES

A motion was made by Council Member Phillips, seconded by Council Member Laney, and carried by a vote of 6-0, to adopt Ordinance No. 2021 – 6, amending section 181-525.C.(4)(J) of the Malvern Subdivision & Land Development Ordinance.

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d. EXPANDED OUTDOOR DINING FORBEARANCE AGREEMENTS

- Restaurant Alba

Borough Manager Bashore stated that Restaurant Alba is requesting a 60-day extension of their existing agreement for outdoor dining. All existing conditions are proposed to remain in place. The extension would expire on October 17, 2021.

A motion was made by Council Member Raynor, seconded by Council Member Phillips, and carried by a vote of 6-0, to approve a 60-day extension for Restaurant Alba's agreement for expanded outdoor dining.

6. UNFINISHED BUSINESS

a. Proposed Ordinance Amendments – Zoning Ordinance – Outdoor Café

Borough Manager Bashore stated that this proposed amendment would revise the Borough's outdoor dining provisions in order to allow outdoor dining on private property as a use by right, while permitting outdoor dining in the public right-of-way permissible by Conditional Use. At the June 15, 2021 meeting, Borough Council requested that the Planning Commission review certain aspects of the proposed ordinance further. The proposed ordinance was reviewed at the August 5, 2021 meeting of the Planning Commission, where it was recommended for adoption.

A motion was made by Council Member Laney, seconded by Council Member Phillips, and carried by a vote of 6-0, to authorize the proposed Zoning Ordinance amendment pertaining to outdoor cafés to be sent to the Chester County Planning Commission for review and comment as required by the PA Municipalities Planning Code.

b. Ordinance No. 2021 – 3: Repealing Chapter 157, “Real Estate, Borough-Owned” of the Malvern Borough Code of Ordinances

Borough Solicitor McLean stated that Ordinance No. 2021 – 3 was on the agenda for discussion and enactment on August 3, 2021 after published notice. Notice was published in the July 23, 2021 edition of the Daily Local News and posted on the Borough website. The ordinance being repealed by Ordinance No. 2021 – 3 includes a provision requiring discussion at three (3) consecutive meetings of Borough Council. This is not a normal provision and may be invalid. However, Ordinance # 2021 – 3 is on the Agenda again for discussion at tonight's meeting and will be on the agenda again on September 7, 2021 to fulfill that requirement in case it is ever determined to have been necessary.

Vice-President Grossman asked about the properties owned by the Borough that would potentially be sold. Borough Solicitor McLean stated that most of the parcels owned by the Borough are deed restricted or have easements located on them.

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Borough Manager Bashore stated that the final action on this item will be taken at the September 7, 2021 meeting of Borough Council.

No action was taken.

7. NEW BUSINESS

a. Zoning Hearing Board

Borough Manager Bashore stated that there is one (1) application before the Zoning Hearing Board. The applicant is requesting relief from section 220-2401 of the Malvern Borough Zoning Ordinance as it pertains to the height requirements for residential accessory structures. The application was reviewed at the August 5, 2021 meeting of the Planning Commission. A hearing scheduled for August 23, 2021 at 7:00 pm.

Vice-President Grossman asked about the need for a height greater than 15 ft. for an accessory structure. Assistant Manager Loomis explained that two (2) floors are being proposed for the garage, with the first floor being used to store a vehicle and the second floor being used for storage.

Council Member Meisel asked for confirmation on the address for the application. Assistant Manager Loomis confirmed the address is 421 Monument Avenue.

Borough Solicitor McLean stated that no action is required from Borough Council unless they would like her to attend the hearing in objection to the application. Borough Manager Bashore noted that the Planning Commission did not find any planning issues with the application and do not believe that the Borough Solicitor needs to attend. Borough Council was in agreement with the recommendation of the Planning Commission.

No action was taken.

8. PUBLIC FORUM

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

Brian Walker, 205 Woodland Avenue, appeared before Borough Council in order to voice concern over the recent discussion regarding the potential installation of sidewalks on E. First Avenue. Mr. Walker presented a petition signed by 58 residents opposing sidewalks. Mr. Walker provided an overview of the opposition to sidewalks outlined in the petition.

Borough Manager Bashore provided an overview of the petition requirements outlined in the Borough's Home Rule Charter. Borough Solicitor McLean noted that those provisions would not be applicable since they are not requesting an ordinance amendment or initiative.

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Borough Manager Bashore stated that no decisions have been made on sidewalks on E. First Avenue and that the only discussion at this time was to have the Borough Engineer prepare a cost estimate for the Public Safety Committee to review.

Borough Council thanked Mr. Walker for his comments and stated that Borough Manager Bashore will circulate the petition for review.

9. ADJOURNMENT

All business having been discussed, a motion was made by Council Member Meisel, seconded by Council Member Phillips, and carried by a vote of 6-0, to adjourn the meeting at 8:29 p.m.

Respectfully submitted,

Christopher Bashore  
Borough Manager/Secretary