

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

August 3, 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 (attended remotely)
Council Member Laney
Council Member Phillips
Council Member Raynor (attended remotely)

ABSENT

Council Member Meisel
David B. Burton, Mayor

Council President Finkbiner announced that this evening's meeting allowed for a virtual meeting option via Zoom

2. APPROVAL OF AGENDA

A motion was made by Council Member Laney, seconded by Vice-President Grossman, and carried by a vote of 6-0, to approve the agenda for the August 3, 2021 meeting as presented.

3. ANNOUNCEMENTS

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.

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

4. MINUTES & REPORTS

a. APPROVAL OF MINUTES

A motion was made by Council Member Phillips, seconded by Vice-President Grossman, and carried by a vote of 6-0, to approve the minutes from the July 20, 2021 meeting of Borough Council as amended.

5. SPECIAL BUSINESS

a. PRESENTATION – SCOTT NELSON, PHD – OFFICE OF U.S. REPRESENTATIVE CHRISSEY HOULAHAN (PA-06)

Council President Finkbinder stated that Scott Nelson, PhD, from the office of U.S. Representative Chrissy Houlahan (PA-06) is before Borough Council this evening in order to provide a legislative update from the United States Congress, as well as provide an overview of the services provided by U.S. Representative Houlahan’s office.

Dr. Nelson provided an overview of the work that the office of U.S. Representative Houlahan has undertaken, highlighting that U.S. Representative Houlahan is actively working to advocate for southeastern Pennsylvania. Dr. Nelson noted that the U.S. House of Representatives will be addressing the infrastructure bill after it returns from its current break. Dr. Nelson reviewed programs and funding secured, outlining the federal funds that have been brought to the district. Dr. Nelson highlighted that the majority of the work completed by their office involves casework with federal agencies and constituent services. Dr. Nelson discussed the opportunity to write letters of support for grant applications being sought for projects in the district.

Council President Finkbinder asked about letters of support for grant applications and if this was for state and federal grants. Dr. Nelson stated that their office is happy to write letters of support for any application, but noted that their support carries more weight in regards to federal grant applications.

Borough Manager Bashore thanked U.S. Representative Houlahan’s office for their assistance with the Borough’s SAM.gov registration for the funds available through the American Rescue Plan Act of 2021.

Borough Council thanked Dr. Nelson for his presentation.

b. ORDINANCE NO. 2021 – 3: REPEALING CHAPTER 157, “REAL ESTATE, BOROUGH-OWNED” OF MALVERN BOROUGH CODE OF ORDINANCES

• PUBLIC HEARING

Council President Finkbinder announced that Borough Council will now open a public hearing to consider Ordinance No. 2021 – 3. This ordinance would repeal chapter 157 of the Malvern Borough Code of Ordinances pertaining to Borough-owned real estate.

The Notice of Public Hearing was published in the July 23, 2021 edition of the Daily Local News, as required, as well as posted on the Borough website.

Council President Finkbinder opened the floor to comments or questions on the proposed ordinance from the members of Borough Council. There were no comments or questions on the proposed ordinance from the members of Borough Council.

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Council President Finkbinder opened the floor to comments or questions on the proposed ordinance from the members of the public. There were no comments or questions on the proposed ordinance from the members of the public.

There being no further discussion, Council President Finkbinder closed the public hearing on proposed Ordinance No. 2021 – 3.

- ADOPTION – ORDINANCE NO. 2021 – 3: REPEALING CHAPTER 157 (REAL ESTATE, BOROUGH-OWNED) OF THE MALVERN BOROUGH CODE OF ORDINANCES

A motion was made by Council Member Laney, seconded by Vice-President Grossman, and carried by a vote of 6-0, to adopt Ordinance No. 2021 – 3, repealing chapter 157 of the Malvern Borough Code of Ordinances pertaining to Borough-owned real estate.

c. ORDINANCE NO. 2021 – 4: AMENDMENTS TO CHAPTER 162 (RENTAL PROPERTY)

- PUBLIC HEARING

Council President Finkbinder announced that Borough Council will now open a public hearing to consider Ordinance No. 2021 – 4. This ordinance would amend chapter 162 of the Malvern Borough Code of Ordinances pertaining to rental properties.

The Notice of Public Hearing was published in the July 23, 2021 edition of the Daily Local News, as required, as well as posted on the Borough website.

Council President Finkbinder opened the floor to comments or questions on the proposed ordinance from the members of Borough Council. There were no comments or questions on the proposed ordinance from the members of Borough Council.

Council President Finkbinder opened the floor to comments or questions on the proposed ordinance from the members of the public. There were no comments or questions on the proposed ordinance from the members of the public.

There being no further discussion, Council President Finkbinder closed the public hearing on proposed Ordinance No. 2021 – 4.

- ADOPTION – ORDINANCE NO. 2021 – 4: AMENDMENTS TO CHAPTER 162 (RENTAL PROPERTY)

A motion was made by Council Member Phillips, seconded by Vice-President Grossman, and carried by a vote of 6-0, to adopt Ordinance No. 2021 – 4, amending chapter 162 of the Malvern Borough Code of Ordinances pertaining to regulations governing rental properties.

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d. 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 October 3, 2021. Council President Finkbinder noted that the business owner has applied to the PA Liquor Control Board for an expansion of their Liquor License to include the outdoor area on a permanent basis, but no action is required by the Borough at this time.

Borough Manager Bashore stated that the Planning Commission is scheduled to review the final version of the proposed Zoning Ordinance amendments pertaining to outdoor dining at their meeting on August 5, 2021.

A motion was made by Council Member Laney, seconded by Vice-President Grossman, and carried by a vote of 6-0, to approve a 60 day extension to The Flying Pig Saloon's expanded outdoor dining forbearance agreement.

6. UNFINISHED BUSINESS

Council President Finkbinder stated that there are no items of "Unfinished Business" for discussion at this evening's meeting.

7. NEW BUSINESS

- a. Discussion – Funds received through the American Rescue Plan Act of 2021

Council President Finkbinder stated that Malvern Borough received the first deposit of funds allocated under the American Rescue Plan Act of 2021 on June 29, 2021. The Borough is scheduled to receive \$361,632.12. A determination on the use of these funds must be made by December 31, 2024 and the funds must be expended by December 31, 2026. The Committees of Borough Council have discussed potential uses for these funds as permitted under the Act.

Borough Manager Bashore outlined some of the potential uses of the funds and provided an overview of the requirements pertaining to recordkeeping and publication as outlined in the Act. Council President Finkbinder recommended outlining a list of potential projects and soliciting public input, noting that this could be an opportunity to use the funding other than what it would normally be utilized for. Council President Finkbinder recommended forming a task force in order to outline potential uses and stated that she spoke with the following individuals who are interested in participating in this endeavor:

- Vice-President Grossman, representing the Finance & Administration Committee of Borough Council

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- Council Member Meisel, representing the Public Safety Committee of Borough Council
- Council Member Bones, representing the Public Works Committee of Borough Council
- Lynne Frederick, representing the Malvern Borough business community and the Malvern Borough Historical Commission
- Mark Niemiec, representing the Malvern Borough Planning Commission

The members of Borough Council were in agreement with this approach and the list of recommended task force members.

David Knies, PhD, 114 Warrington Way, stated that he believed that this would be a good opportunity to recruit a Main Street Manager to assist the businesses in the Borough. Borough Manager Bashore stated this is currently being discussed by both the Comprehensive Plan Task Force and the Finance & Administration Committee. Borough Manager Bashore stated that members of the Borough administration have been in contact with West Chester Borough in order to understand how their program operates.

Borough Manager Bashore reviewed the procedures for establishing ad hoc committees outlined in the Administrative Code. Borough Manager Bashore stated that Borough Council has traditionally adopted a resolution establishing an ad hoc committee; however, Borough Manager Bashore noted that this is not required by the Administrative Code and the use of these funds is already outlined in federal law, so a resolution does not appear to be necessary.

A motion was made by Vice-President Grossman, seconded by Council Member Raynor, and carried by a vote of 6-0, establishing the ARPA 2021 Task Force to recommend the use of funds received through the American Rescue Plan Act of 2021 and consisting of Vice-President Grossman, Council Member Meisel, Council Member Bones, Lynne Frederick, and Mark Niemiec.

b. Zoning Hearing Board

Council President Finkbinder stated that there is one (1) application before the Zoning Hearing Board. The applicant is requesting a variance from section 220-2401 of the Malvern Borough Zoning Ordinance in order to construct an accessory structure taller than permitted by code. Council President Finkbinder stated that the Planning Commission is scheduled to review the application at their meeting on August 5, 2021 and recommendation on whether or not to send the Borough Solicitor to the hearing will be reviewed at the August 17, 2021 meeting of Borough Council. The hearing is tentatively scheduled for August 23, 2021.

No action was taken.

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8. PUBLIC FORUM

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

Council President Finkbinder stated that Borough Council was in receipt of correspondence from Danny Fruchter, 234 Channing Avenue, regarding the Sunshine Act. Council Member Raynor stated that she was struck by the language used during the discussion of the funds received through the American Rescue Plan Act of 2021 in regards to building community. Council Member Raynor questioned why someone from the Borough would choose to undermine the faith that the community has placed in its elected officials having failed to win the public confidence himself. Council Member Raynor noted that these comments may be derived from a desire for power, retaliation, or their own self-interest.

Joe Ranaudo, 175 W. King Street, stated that he supported the idea of hiring a Main Street Manager to assist the Borough's business community.

9. ADJOURNMENT

All business having been discussed, a motion was made by Council Member Laney, seconded by Vice-President Grossman, and carried by a vote of 6-0, to adjourn the meeting at 8:09 p.m.

Respectfully submitted,

Christopher Bashore
Borough Manager/Secretary