

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

December 3, 2019
7:30 P.M.

PRESIDING: Council President Grossman

INVOCATION: Mayor Burton

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
David B. Burton, Mayor

ABSENT

2. RECORDING OF MEETING

Council President Grossman asked in accordance with Resolution No. 787 if any member of the audience was recording the meeting.

Kel Schmitt, 17 Channing Avenue, stated he was audio recording the meeting.

3. APPROVAL OF AGENDA

A motion was made by Council Vice-President Uzman, second by Council Member Laney, and carried by a vote of 7-0, to approve the agenda for December 3, 2019 as presented.

4. APPROVAL OF MINUTES

A motion was made by Council Vice-President Uzman, second by Council Member Sinquett, and carried by a vote of 6-0, to approve the minutes of the meeting held on Tuesday, November 19, 2019 as amended. Council President Grossman abstained since she was absent from the meeting.

5. PUBLIC HEARING – 2020 PRELIMINARY BUDGET

Council President Grossman announced that Borough Council will now open a Public Hearing on the Borough's 2020 Preliminary Budget. The budget was advertised for public review in the November 21, 2019 edition of the Daily Local newspaper and on the Borough website.

Borough Manager presented an overview and information on the proposed 2020 budget.

REGULAR MEETING

December 3, 2019

Page 2

Frank Ortner, 144 Griffith Avenue, asked for a breakdown of what the \$150,000 for Quann Park Improvements would include. Borough Manager Bashore said the improvements include installation of sidewalks on a portion of South Warren Avenue and on First Avenue, construction of an ADA compliant ramp, and replacing the baseball field fencing.

Frank Ortner, 144 Griffith Avenue, asked Mr. Bashore if the EIT projections for the fourth quarter are on target. Mr. Bashore stated the Borough receives the largest portion of its EIT in the third and fourth quarters and in the month of November, the Borough received around \$250,000 and is comfortable with the projections

There being no additional comments by the audience, Council President Grossman closed the public hearing.

6. 2020 PRELIMINARY BUDGET

A motion was made by Council Vice-President Uzman, seconded by Council Member Sinquett, and carried by a vote of 7-0, to adopt the 2020 preliminary budget for the Borough of Malvern as presented.

7. PRESENTATION – HORACE J. QUANN PARK

Dan Daley, P.E., Borough Engineer reviewed the plan for the installation of sidewalk and parking at Horace J. Quann Park at the intersection of First Avenue and Warren Avenue. The installation of sidewalk was reviewed in 2018 during the discussion about the installation of the handicapped ramp for an Eagle Scout project. The plan proposes the installation of sidewalk to connect the existing sidewalk network to the ramp, as well as extend the existing sidewalk on the south side of West First Avenue to Powelton Avenue. A small parking area is outlined behind the baseball field.

Council President Grossman disclosed that she is a resident on West First Avenue and lives in close proximity to Quann Park. Council President Grossman asked Mr. Daley to explain the decision to replace the existing wood steps that lead to the ballfield with concrete steps. Mr. Daley stated the request originated from the Public Works Department and the Public Works Committee was in agreement to make the change for the reason that concrete steps require less maintenance, thereby being more cost effective.

Council President Grossman stated the primary reason for the decision to undertake this project in 2020, is for the safety of the pedestrians, specifically the children that play on the ballfield and the Willistown Country Day School.

Council President Grossman asked Mr. Daley why the grass parking area, located behind the left field is proposed to be paved. Mr. Daley stated the justification made to him by the Public Works Committee was to improve the parking accommodations with designed stalls, turning radius and to add stormwater management controls.

REGULAR MEETING

December 3, 2019

Page 3

Council President Grossman asked Mr. Daley if the gravel driveway is creating additional stormwater runoff. Mr. Daley stated he is not aware of additional stormwater runoff being created, rather the stormwater that infiltrates into the ground is likely contaminated by leaking vehicles. The proposed pavement and stormwater controls would help mitigate contamination.

Council Member Raynor asked Mr. Daley approximately how much money it would cost to install a stormwater management system that addresses the infiltration of contaminated stormwater and capture debris before it enters the adjacent creek. Mr. Daley estimated that he would advise the Borough Council to budget \$10,000 to implement stormwater controls.

Council President Grossman asked for clarification of where the sidewalk where the proposed sidewalk will be installed. Mr. Daley stated sidewalk is being proposed on South Warren Avenue, starting at the handicap ramp installed as part of an Eagle Scout project, then turn and go down the south-side of West First Avenue to terminate at the proposed paved/existing gravel area. The curb will match existing sidewalks that have been recently installed for other projects, consisting of a four (4) foot wide concrete walk, two (2) foot wide grass strip that goes to the curb.

Joe Bones, 25 High Street, a member of the Shade Tree Commission, stated that the Commission has reviewed that plan and recommended replacement trees along West First Avenue. He noted that he is always saddened to see mature trees removed.

Council Vice-President Uzman recommended against widening West First Avenue, since it naturally creates a funneling effect of the vehicles causing traffic to slow down.

Sid Baglini, 203 Channing Avenue, does not want the gravel area to be paved as the stream that flows adjacent to it is classified as an, 'Exceptional Value Stream' to the Crum Creek watershed.

Frank Ortner, 144 Griffith Avenue, said the gravel area should remain since grass on it will grow back. Mr. Ortner sees no economic or environmental benefit to pave the gravel area.

A motion was made by Council Member Finkbiner, seconded by Council Vice-President Uzman, and carried by a vote of 7-0, to authorize the Borough Engineer to begin final designs for the planned improvements at Horace J. Quann Park as presented, with the following modifications:

- i) Eliminate the paved parking area and add a standalone stormwater management control system.
- ii) Provide cost estimates for wood vs. concrete steps leading from First Avenue down to the ballfield.
- iii) Address comments made by the Parks & Recreation Committee and the Shade Tree Committee.

8. UNFINISHED BUSINESS

- a. Borough Council Initiatives – Proposed Amendments to the Malvern Borough Zoning Ordinance

Borough Manager Bashore said in 2018, Borough Council appointed the Brandywine Conservancy in order to provide professional guidance in revisions to the Borough Zoning Ordinance, with specific attention paid to the area and bulk regulations in all the residential zoning districts, with the exception of the R-7 zoning district. An ad hoc committee of Borough Council consisting of Councilor Finkbiner and Councilor Sinquett worked with Borough administration and the Brandywine Conservancy to craft these recommendations. When reviewing the proposed changes, the group worked to maintain an 80% by-right conformity rate in each zoning district. At the June 18, 2019 meeting, Borough Council authorized the proposed changes to be forwarded to the Planning Commission for review. The Planning Commission reviewed these items over a series of four (4) meetings. In addition, the Borough’s Zoning Officer, Neil Lovekin, conducted field work with the Brandywine Conservancy as part of the analysis.

Meredith Mayer, Associate Planner, Brandywine Conservancy, reviewed a PowerPoint presentation that summarized the Malvern Planning Commission’s recommendation for the proposed amendments to the Borough’s Zoning Ordinance. The following is a summary:

- 1) Building coverage reductions for “By Right” (BR) and limits subject to Conditional Use (CU) approval as outlined in Table A

Table A - Building Coverage

Zone	Current	Proposed
R1	10% BR	7.5% BR
R2	20% BR	15% BR, 17.5% CU
R3a/b	25% BR	20% BR, 25% CU
R4	30% BR	25% BR, 30% CU
R5	35% BR	27.5% BR, 32.5% CU
R6	35% BR	27.5% BR, 32.5% CU

- 2) Application Submission Standards for Conditional Use approval to increase building coverage:
 - a. Site Plan
 - b. Architectural plans
 - c. Architectural renderings showing general design of new construction, focused on mass, scale, proportions, and roof height and form.
 - d. Applicants shall demonstrate to the satisfaction of the Borough that building mass, scale, proportions, and form of new construction including rooflines reflect that generally characteristic of Malvern, even if contemporary architectural design.

- e. Applicants shall specifically demonstrate to the satisfaction of the Borough that building height shall not impose uncharacteristically upon, or out of scale with buildings, on adjacent properties.
- 3) The Planning Commission recommends that any variance request for yard area setback, building coverage, or building height require the same submission standards, and be considered by the Zoning Hearing Board.
 - 4) The Planning Commission recommends requiring new homes/structures in the Reduced Height Zone (RHZ) to be stepped back five (5) feet from the front build-to line, only allowing the RHZ on one side, and requiring Conditional Use (CU) for use of the RHZ. The MPC recommends the following “Reduced Height Zones” (RHZ) and limits subject to Conditional Use (CU) approval as outlined in Table B.

Table B – Reduced Height Zone

Zone	Current Single Family		Current Twin (each side)		Proposed RHZ
	Lot Width	Side Yard	Lot Width	Side Yard	
R1	150ft	30ft each	--	--	--
R2	80ft	10ft each, 25ft total	--	--	15ft
R3a/b	60ft	5ft each, 15ft total	35ft	5ft	12.5ft
R4	45ft	5ft each	25ft	5ft	10ft
R5	35ft	5ft each	20ft	5ft	--
R6	35ft	5ft each	20ft	5ft	--

Council Vice-President Uzman questioned if requiring residents to go through the Condition Use process for increased building coverage and increased height is appropriate since the regulations are in the Zoning Ordinance. Therefore, should the Zoning Hearing Board be the correct forum for these requests.

Borough Solicitor McLean said the Brandywine Conservancy, with input from the Planning Commission will establish clear, objective criteria for residents to meet in order for the Borough Council to grant approval by Conditional Use, with the possibility of imposing conditions. Ms. McLean said that West Chester Borough has enacted similar measures in its Zoning Ordinance that Malvern Borough may be able to replicate.

Council Member Laney asked if residents in other municipalities that have enacted similar amendments to their Zoning Ordinances, have experienced validity challenges. Borough Solicitor McLean said she is not aware any such court cases.

Cathy Raymond, 6 Karen Drive, asked if the proposed amendments would be effective in reducing the size of new homes that replaced smaller homes on existing lots.

REGULAR MEETING

December 3, 2019

Page 6

Meredith Mayer said that similar Zoning Ordinance amendments have worked in West Chester Borough.

Council Member Finkbinder added that Neil Lovekin, Assistant Borough Manager/Zoning Officer, reviewed five (5) years' worth of building permits for new homes and summarized his findings into a spreadsheet. That spreadsheet was referenced by Meredith Mayer, John Snook, and Mr. Lovekin when they completed their field trip to identify how the proposed amendments would've impacted construction.

b. Second Avenue –Public Safety Committee Recommendation

Borough Manager Bashore reviewed a recommendation from the Public Safety Committee for improvements to Second Avenue. Borough Engineer Dan Daley presented the proposed project. The project would involve the widening of Second Avenue to twenty-four (24) feet from the intersection with Warren Avenue to past the access alley way for the Gables development, with the width tapering back to the original cartway width slightly past the drive access. Additionally, the project could involve softening the curve on the southeast corner to accommodate the turning movements of large vehicles such as buses and SUVs. No further improvements on the south side are recommended due to utility conflicts.

The plan proposes the installation of curbing, but not sidewalks. All work is proposed within the existing public right-of-way, which is fifty (50) feet. The current cartway width is approximately seventeen (17) feet and is off-center in the right-of-way, shifted towards the south.

Council Vice-President Uzman asked Dan Daley if widening the intersection of Second Avenue and Warren Avenue would aid in snow removal. Mr. Daley stated the Public Work vehicles would be able to navigate the turn better due to the increased radius.

Brendan Phillips, 218 Church Street, would prefer if the Borough Council undertook a less costly project, such as making Second Avenue a one-way street. Mr. Phillips referenced a survey conducted by McMahon and Associates, the Borough's Traffic Engineering Firm that identified Second Avenue as a candidate for being turned into a one-way street.

Kurt Leininger, 211 Channing Avenue, agreed with Mr. Phillips' position that Borough Council should consider a less expensive such as making Second Avenue a one-way road that could have a trial period to see how effective it is, then decide if widening is necessary.

Council Member Meisel asked Mr. Daley how much time would be sufficient to conduct a trial period for making Second Avenue one-way. Mr. Daley said he has not been involved in trial periods for street improvements, however he would estimate that one (1) year would be sufficient as that would cover the four seasons and an entire school year.

Cathy Raymond, 6 Karen Drive, asked how much of the public right-of-way will be necessary to make the widening improvements. Borough Engineer Daley said an average of seven (7) feet of right-of-way would be needed to allow for two (2) vehicles to safely travel in

REGULAR MEETING

December 3, 2019

Page 7

opposite directions. Mr. Daley clarified that there is no encroachment onto any resident's private property.

Council Vice-President Uzman said the Public Works Committee spent time reviewing improvement options with the Borough's professional consultants and determined that widening Second Avenue was the correct decision. While prior members of Borough Council did not approve the widening of Second Avenue when the Gables project was approved, Council Vice-President Uzman did want to widen the road.

Sid Baglini, 203 Channing Avenue, said the widening of Second Avenue should have been done as part of the approval process for the Gables project. Council President Grossman stated the developer, TAG Builders, Inc., has placed funds in an escrow in lieu of completing the widening of Second Avenue.

Marie Lasota, 227 South Warren Avenue, handed the Borough Council a two-page letter that she drafted earlier in the day. Mrs. Lasota is opposed to the widening of Second Avenue and views the improvements as a misuse of funds and interfering with her property rights, specifically the landscaping she intends to have planted along Second Avenue.

Council President Grossman said to Mrs. Lasota that it is unfair to ask the Borough Council to address all her comments in the letter that they have just been handed. Rather she would recommend to the rest of the Borough Council that Mrs. Lasota's letter be reviewed in its entirety by the Public Safety Committee and report back to the Borough Council. Council President Grossman told Mrs. Lasota to avoid accusing Borough staff and the Borough Council in matters that are not fact-based.

Alda Cortese, 234 Channing Avenue, asked if Lot No. 5 of the Gables project would be impacted by the proposed widening of Second Avenue. Borough Engineer Daley stated that Lot No. 5 would not have any portion of its property impacted that is not in the public right-of-way. Council Member Sinquett noted that Lot No. 5 for the Gables project extends along Second Avenue out to Warren Avenue in order to allow for a water service line to be installed for Lot No. 5.

Joe Bones, 25 High Street, is against the widening of Second Avenue for the reason that the line of sight distances are too short, thereby not improving pedestrian and vehicle safety. Mr. Bones thinks widening the road may lead to more accidents.

Kel Schmitt, 17 Channing Avenue, has a friend that is a school bus driver and when she found out about the proposed widening of Second Avenue, she was in favor of it because school buses have to make wide turns. By widening Second Avenue, the school bus routes will be made safer for the students on the bus, as well as vehicles traveling in the opposing lane of traffic.

Borough Council was in agreement to table discussion and to have the Public Safety Committee review Marie Lasota's letter dated, December 3, 2019, and re-evaluate all options for improving Second Avenue.

9. NEW BUSINESS

a. Authorization to Advertise – Proposed 2020 Tax Levy Ordinance

Borough Manager Bashore stated that before Borough Council is a proposed ordinance to establish the tax rate for Malvern Borough for fiscal year 2020. Pursuant to section 301(A)(1) of the Borough's Home Rule Charter, the levying of taxes requires the adoption of an ordinance. The proposed tax rate for 2020 per the 2020 preliminary budget is 4.67 mills. This represents no change in the tax rate from 2019. The proposed ordinance will need to be authorized for advertisement prior to adoption.

A motion was made by Council Vice-President Uzman, second by Council Member Laney, and carried by a vote of 7-0, to authorize for advertisement of the proposed tax levy ordinance as to be considered for adoption at the December 17, 2019 meeting of the Borough Council.

b. Employee Gift Cards

Borough Manager Bashore requested that the Borough Council authorize him to purchase gift cards for borough employees at the same rate as in 2018.

A motion was made by Council Vice-President Uzman, seconded by Council Member Laney, and carried by a vote of 7-0, to authorized Borough Manager Bashore to provide full-time employees with \$100 gift cards and part-time employees with \$50 gift cards from a local business.

c. Zoning Hearing Board

Borough Manager Bashore stated that there is one (1) new application before the Zoning Hearing Board. The application is for a property located at 33 Daisey Lane. The applicant is seeking a Special Exception pursuant to sections 220-601.B.(3) and 220-2412.B. of the Borough's Zoning Ordinance in order to operate a major home occupation at the residence. Per the Borough Zoning Ordinance, a minor home-based business is not permitted to have employees. Since an employee would be coming to the residence, a Special Exception from the Zoning Hearing Board is required.

Borough Manage Bashore said the Malvern Planning Commission reviewed the application at its meeting on November 21, 2019. The Planning Commission has no planning concerns and does not recommend sending the Borough Solicitor in opposition or for fact-finding.

Borough Council was in agreement with the Planning Commission to not send the Borough Solicitor.

10. PUBLIC FORUM

REGULAR MEETING

December 3, 2019

Page 9

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

Kel Schmitt, 17 Channing Avenue, said the new crosswalk signals at the intersection of East King Street and Church Street are a welcomed relief, however, he suggested the Borough send a notification that people must push the button in order to activate the signals. Council President Grossman noted that the motion-activated sensors were cost-prohibitive.

Council Member Finkbiner announced that the 'Christmas on King' is scheduled for Saturday, December 7, 2019, with the tree lighting ceremony to take place at 5:00 p.m.

11. ADJOURNMENT

All business having been discussed, a motion was made by Council Vice-President Uzman, seconded by Council Member Siquett, and carried by a vote of 7-0, to adjourn the meeting at 9:50 p.m.

Respectfully submitted,

Neil G. Lovekin
Assistant Borough Manager/Asst. Secretary