

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

February 2, 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 February 2, 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 Borough Council met in Executive Session on February 2, 2021 prior to this evening's meeting in order to discuss matters pertaining to personnel and real estate.

c. Council President Finkbiner announced that the community is encouraged to participate in the Comprehensive Plan public survey. A link to complete the survey is available on the Borough website and additional information on how to participate is being mailed to the community.

d. Council President Finkbiner announced that the Malvern Public Library will expand their evening hours to include Wednesdays and Thursdays. Information will be posted on the Borough website as to when this will begin.

e. Council President Finkbiner thanked the Public Works Department for the fantastic job they did clearing the roads from the most recent snow storm.

4. MINUTES & REPORTS

a. APPROVAL OF MINUTES

A motion was made by Council Member Laney, seconded by Vice-President Grossman, and carried by a vote of 7-0, to approve the minutes from the January 19, 2021 meeting of Borough Council as presented.

5. SPECIAL BUSINESS

a. Randolph Woods Master Plan – Pump Track

- RESOLUTION NO. 820: AUTHORIZING SUBMISSION OF AN APPLICATION TO THE CHESTER COUNTY MUNICIPAL GRANT PROGRAM

Council President Finkbiner stated that at the December 1, 2020 meeting, Borough Council authorized the Borough Engineer to prepare a design and cost estimate for a pump track on the northern portion of the Randolph Woods property per the Randolph Woods Master Plan not subject to the existing Conservation Easement. This was for consideration of the submission of a grant application for this project. A resolution is before Borough Council this evening to authorize

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the submission of a grant application for this project. Council President Finkbinder stated that the grant could potentially cover up to 50% of the proposed construction cost. Borough Manager Bashore stated that applications are due on February 26, 2021.

Council President Finkbinder summarized the history of the development of this proposal, noting that mountain biking is not a permitted use under the Borough's Conservation Easement with the Willistown Conservation Trust. Council President Finkbinder stated that this was discussed during the formation of the Randolph Woods Master Plan as a way to relocate this activity out of the easement area of Randolph Woods.

Council Member Phillips stated that he supports this project and that the Borough needs to provide opportunities for older children and adults to engage in outdoor activities. Council Member Phillips stated that he believes that this is a viable alternative in order to try to discourage mountain biking in Randolph Woods. Council Member Phillips noted the impact that this project could have on neighboring property owners.

Dan Daley, PE, Borough Engineer, summarized the proposed sketch plan for the project. Borough Engineer Daley noted that the sketch plan utilized past surveys of the property and the layout proposed in the Randolph Woods Master Plan. The plan proposes to install sidewalk along the fire company access driveway in order to access the site, construct two (2) pump track areas, install stormwater management facilities, and fencing around the perimeter of the property. Borough Engineer Daley stated that a 50-foot tree buffer is included and no paving of the proposed bicycle pump track. Borough Engineer Daley stated that the total cost estimate is approximately \$201,000 and a public bid would be required. Borough Engineer Daley noted the difficulty in estimating the cost and discussed potential cost reductions, including the ability to obtain soil at no cost and potentially eliminating some of the sidewalk components.

Vice-President Grossman asked if parking would be available or is this envisioned as a facility that individuals would bike or walk to. Council President Finkbinder stated that parking was not envisioned as part of this project and noted concerns of the Malvern Fire Company regarding parking on the access driveway. Council Member Phillips noted that the Randolph Woods Master Plan envisioned this being more for people in the community and did not see this as a facility people would drive to given its size.

Mayor Burton asked if the Malvern Police Department would enforce any parking restrictions. Chief Marcelli stated that this would be posted as a fire lane and could be adequately enforced by the Malvern Police Department.

Vice-President Grossman asked if there would be a potential hazard or issue with the Malvern Fire Company. Chief Marcelli stated that the Malvern Fire Company already exercises caution when responding, noting that there are a number of people who currently walk in this area. Council President Finkbinder noted that the proposed fence was outlined as a way to try to prevent people from crossing into the fire company access drive.

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Council Member Phillips asked if there would be any impediments to replanting trees in this area in the future if the Borough were to abandon the bicycle pump track. Borough Engineer Daley stated that he does not see anything that would prevent the Borough from restoring this area to a wooded area in the future. Borough Engineer Daley noted that potential grant fund may need to be returned in the event the project is abandoned. Borough Manager Bashore stated that a document would need to be executed with Chester County regarding the future uses of the property.

Council Member Bones outlined the costs associated with the proposed project and is concerned about the final costs. Council President Finkbinder stated that there are a number of grants available for this type of project. The costs were reviewed and potential cost reductions were outlined. Borough Manager Bashore noted that the funding through Chester County would need to factor out the external sidewalk components.

Council Member Phillips asked if the Borough would be held to the plan presented this evening. Borough Engineer Daley recommended determining any adjustments to the plan prior to submitting the grant application.

Council President Finkbinder opened up the floor to Public Comment.

David Campli, 338 E. King Street, asked if lighting would be installed as part of this project. Council President Finkbinder stated that lighting is not proposed as part of this project and noted that the Borough's park hours are currently dawn to dusk.

Shelley Georgopulos, 8 Remington Lane, stated that she believes that the preliminary design does not appear to make the best use of the space and outlined potential adjustments based on her experiences with similar facilities. Ms. Georgopulos stated that the cost seems high. Borough Engineer Daley stated that the final decision has not been completed, but welcomed the opportunity to receive feedback from individuals with more knowledge regarding these facilities. Borough Engineer Daley noted that he has not yet reached out to individuals with experience with these facilities, but stated that Borough Manager Bashore spoke with Doylestown Borough regarding their experience. Ms. Georgopulos stated that she had access to a number of people who would be happy to provide input.

Chris Buckley, 55 Ruthland Avenue, stated that he is a new homeowner that backs up to the proposed project location. Mr. Buckley stated that it appears that this project is being rushed due to the grant deadline and encourage Borough Council to do their due diligence. Mr. Buckley stated that he believes that there are many issues that need to be addressed and asked how his property is going to be protected. Mr. Buckley noted the impact the project could have on the Malvern Fire Company. Mr. Buckley stated that he is concerned over the cost, particularly given that only a small percentage of the community will be able to utilize the park. Mr. Buckley stated that he is not necessarily opposed to the project, but is opposed to the location and outlined an alternate location. Mr. Buckley discussed concerns about maintenance.

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John Buckley, 165 Church Street, asked if motorized vehicles would be prohibited. Council President Finkbinder stated that appropriate signage would need to be installed and policies established. Borough Manager Bashore noted that the Borough's Code of Ordinances prohibits the operation of motor vehicles.

Rebecca Stark, 51 Ruthland Avenue, stated that she is in favor of the park at a different location in the Borough. Ms. Stark noted concerns related to parking on Ruthland Avenue.

Madeline Clancy, no address provided, asked if individuals would be able to park in the existing parking area for Randolph Woods and walk to the proposed bicycle pump track. Ms. Clancy noted concerns over the cost and the level of people interested, stating that these could be a gathering place for families. Council President Finkbinder stated that the Randolph Woods Master Plan outlined a sidewalk to the parking area in Randolph Woods and this could be a route for pedestrian traffic.

Sam Song, no address provided, asked if an asphalt pump track had been considered. Council Member Phillips stated that this possibility was discussed, but there were several potential issues that resulted in that proposal being abandoned. Council Member Bones noted that stormwater management was a significant concern.

John Buckley, 165 Church Street, asked if Quann Park was considered as a possible location. Council President Finkbinder stated that this was not a viable location and reviewed issues associated with this location.

Council President Finkbinder discussed the proposed alternate location by the Public Works facilities and noted that the Public Works storage area would need to be relocated. Concerns with the environment and conflict with the Borough's vehicles were also discussed.

Chris Buckley, 55 Ruthland Avenue, stated that the Borough Council is responsible for this project and various factors must be considered. Mr. Buckley stated that he believes that there is plenty of space by the Public Works facilities for both uses and believes that this location could address a number of concerns.

Mayor Burton asked if the Borough Engineer had evaluated the proposed location from Mr. Buckley. Borough Engineer Daley stated that he provided feedback, but has not studied it in full. Borough Manager Bashore stated that he believed that the proposed alternate location posed a greater liability due to the potential conflict between individuals using the bicycle pump track and the Borough's vehicles. Borough Manager Bashore stated that he believed that the garage in this area would need to be relocated potentially to the area currently proposed by the Borough for the bicycle pump track.

Council Member Phillips outlined the research that the Borough did with other communities with similar facilities. Council Member Phillips noted that the Borough researched liability concerns and the intention is for it to be safe for all ages, as well as not include significant

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jumps. Council Member Phillips discussed that the Borough contacted other municipalities who constructed similar facilities in recent years, as well as to West Goshen Township to discuss their experience with their skate park. Council Member Phillips stated that West Goshen Township's facility has been open for 16 years and it is the Borough's understanding that no injury liability claims have been filed in that time period.

Borough Manager Bashore reviewed the proposed alternate location from Mr. Buckley, noting potential impacts. Council Member Bones noted the steep drop-offs in this location and that the Public Works Department has already been squeezed into a small footprint. Council Member Bones noted a number of wet areas on this section of the property.

Vice-President Grossman stated that the Borough is a small residential community with parks all over that are woven into the various neighborhoods. Vice-President Grossman outlined the locations of the various parks and noted that the charm of the Borough is having these facilities interconnected into the community. Vice-President Grossman stated that she does not believe that this is being rushed as the community has been requesting this type of facility for some time and the opportunity has now presented itself.

Mayor Burton stated that he believes that the concern about parking is legitimate. Mayor Burton asked if parking limits could be established and the permit parking program be expanded. Borough Manager Bashore stated that could be done.

Vice-President Grossman asked if the Borough could speak with Comcast about utilizing the parking area at their facility. Borough Manager Bashore stated that the Borough could speak with Comcast if we could utilize a portion of their parking area. Borough Solicitor McLean stated that they may have liability concerns.

Council President Finkbiner stated that the Public Works Committee could discuss certain aspects related to the plan and report back to Borough Council, noting that the Committee is scheduled to meet before the next Borough Council meeting.

Council Member Phillips stated that this is an investment for the community and could be something used by the Borough for a long time to come. Council Member Phillips noted that the Borough takes significant pride in its parks. Council Member Phillips stated that the only place for children to ride is on the street and this will locate them off of the street.

Council President Finkbiner outlined the options before Borough Council this evening. Borough Manager Bashore stated that this could be added to the work being undertaken by Simone-Collins Landscape Architecture if desired. Council Member Bones stated that he would like to separate this project from the other work being done in Randolph Woods. Borough Manager Bashore stated that if Borough Council desired to pursue a grant with Chester County, a decision was necessary this evening.

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Vice-President Grossman asked about the timeline related to grant funding. Borough Manager Bashore outlined the trajectory for the project based on previous grant applications the Borough has secured.

Discussion was had on the proposed plan as it related to the grant application. Borough Engineer Daley stated that a note could be added to the plan stating that this is not a final plan and modifications to the track layout could be done.

Borough Manager Bashore stated that Borough Council could authorize the submission of an application to Chester County, while having the Public Works Committee review the cost estimate to reduce the cost prior to submitting the application. The application would be submitted based on the recommendation of the Public Works Committee. Borough Council agreed with this recommendation.

Chris Buckley, 55 Ruthland Avenue, asked if applying for this grant would impact the ability to secure grant funding for other projects in Randolph Woods. Borough Manager Bashore stated that it would not as they are separate programs and entities.

A motion was made by Vice-President Grossman, seconded by Council Member Phillips, and carried by a vote of 7-0, to adopt Resolution No. 820, authorizing the submission of an application to the Chester County Municipal Grant Program in order to fund to the construction of bicycle pump track on the Randolph Woods property, with the Public Works Committee to review potential cost reduction efforts.

b. EXPANDED OUTDOOR DINING FORBEARANCE AGREEMENTS

- The Flying Pig Saloon – 60-day extension of time

Council President Finkbiner 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. Council President Finkbiner stated that the approval would expire on April 6, 2021.

A motion was made by Council Member Bones, seconded by Vice-President Grossman, and carried by a vote of 7-0, to approve the 60-day extension to the Outdoor Dining Forbearance Agreement for The Flying Pig Saloon.

6. UNFINISHED BUSINESS

Council President Finkbiner announced that there are no items of “Unfinished Business” before Borough Council this evening.

7. NEW BUSINESS

- a. Outdoor Café/Dining – Potential Zoning Ordinance Amendment

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Council President Finkbinder stated that the Malvern Borough Zoning Ordinance currently permits outdoor dining in commercial zoning districts by Conditional Use. In light of the COVID-19 pandemic, Borough Council may wish to make this a by right use subject to specific requirements. Research has been done pertaining to outdoor dining requirements in other municipalities. This matter could be referred to the Planning Commission for further evaluation and recommendation.

Borough Council directed that this matter be forwarded to the Planning Commission for review and recommendation.

b. 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.

David Campli, 338 E. King Street and President of the Malvern Business & Professional Association, stated that the businesses in the Borough are struggling due to the COVID-19 pandemic and some have closed along King Street. Mr. Campli recommended that the business community and the Borough develop a plan to revitalize the business district. Council President Finkbinder stated that this is included in the Borough's Comprehensive Plan update and that the scope of work was adjusted to include this due to the COVID-19 pandemic. Borough Manager Bashore stated that this topic is scheduled for the April Comprehensive Plan Task Force meeting. Council Member Bones asked if the businesses could come to Borough Council with suggestions. Mr. Campli stated that they could.

John Buckley, 165 Church Street, stated that the Public Works Department left a large pile of snow at his walkway and asked why the plows were angled in a certain way when clearing Church Street. Mr. Buckley stated that the plowing moves so fast that it leaves snow on the sidewalk. Council President Finkbinder stated that she was unsure about plowing to a certain side of the street and noted that the Public Works Department does the best job they can clearing the snow, but appreciated the comments.

Frank Ortner, Jr., 144 Griffith Avenue and President of the Paoli Memorial Association, stated that he received an email from Borough Manager Bashore concerning the new lights at the Paoli Memorial Association grounds. Mr. Ortner stated that he was unsure why people were saying that they were too bright considering the direction they are pointed. Mr. Ortner stated that he is working to obtain the information requested by Borough Manager Bashore. Vice-President Grossman stated that she has seen the new lights and objected to them due to the brightness. Council Member Bones stated that they are nice lights, but are too much for the area, noting issues

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related to light pollution. Council Member Bones complimented the new stone work around the monument area. Mr. Ortner stated that he will get the information requested to the Borough. Council President Finkbiner thanked Mr. Ortner for his work with the Paoli Memorial Association.

9. ADJOURNMENT

Council President Finkbiner stated that Borough Council will adjourn to Executive Session in order to discuss matters pertaining to personnel.

All business having been discussed, a motion was made by Vice-President Grossman, seconded by Council Member Raynor, and carried by a vote of 7-0, to adjourn the regular meeting and move into Executive Session in order to discuss personnel matters at 9:28 p.m.

Respectfully submitted,

Christopher Bashore
Borough Manager/Secretary