

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

January 5, 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 Vice-President Grossman, seconded by Council Member Phillips, and carried by a vote of 7-0, to approve the agenda for the January 5, 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 that Borough Council met in Executive Session on January 5, 2021 prior to this evening's meeting in order to discuss matters pertaining to personnel.

c. Council President Finkbiner announced that Christmas tree collection will occur on January 9, 2021 and January 30, 2021.

d. Council President Finkbiner announced that Borough Hall will be closed on January 18, 2021 in recognition of the Martin Luther King, Jr. Day holiday.

4. MINUTES & REPORTS

a. APPROVAL OF MINUTES

A motion was made by Vice-President Grossman, seconded by Council Member Raynor, and carried by a vote of 7-0, to approve the minutes from the December 15, 2020 meeting of Borough Council as presented.

5. SPECIAL BUSINESS

a. RESOLUTION NO. 819 – SCHEDULE OF FEES

Council President Finkbiner stated that the proposed fee schedule is the same as in 2020, except for the addition of fees associated with the issuance of zoning certifications for tax parcels and adjustments to reflect the sewer rates approved as part of the 2021 budget process. Council President Finkbiner stated that the new fees are \$75.00 for a zoning certification and \$6.00/1,000 gallons of sewer usage over 5,000 per Ordinance No. 2020 – 7.

A motion was made by Vice-President Grossman, seconded by Council Member Bones, and carried by a vote of 7-0, to adopt Resolution No. 819, establishing fees for services of the Building/Zoning/Administration Departments of the Borough of Malvern.

b. Addendum #1 to trash & recycling collection contract

Council President Finkbiner stated that A.J. Blosenski, Inc. has acquired the municipal collection contracts currently in place with Charles Blosenski Disposal Co. There will

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be no change to the regular collection schedule. This addendum will modify the bulk collection provisions from two (2) collections per year to the collection of one (1) bulk item per collection property per week. Bulk items would be collected with the Friday collection. Council President Finkbinder stated that there would be no change to the regular trash and recycling collection schedule.

Borough Manager Bashore stated that the Borough is awaiting information from A.J. Blosenski, Inc. of the items not eligible for bulk collection. Information will be posted on the Borough website. Borough Manager Bashore stated that the Borough administration will monitor the service through the first quarter of 2021 and advise Borough Council accordingly when the decision for the next option in the contract is required.

Borough Solicitor McLean noted that the addendum will also recognize the change in service provider and acknowledge the continuation of the existing contract. Borough Solicitor McLean stated that the Borough is to receive new insurance certificates and performance bonds.

A motion was made by Vice-President Grossman, seconded by Council Member Bones, and carried by a vote of 7-0, to approve addendum #1 to the Borough's trash & recycling collection contract between the Borough of Malvern and A.J. Blosenski, Inc.

c. Settlement agreement in the matter of Vincent Hao To v. Malvern Borough

Council President Finkbinder stated that this case was result of violation of the Borough's Zoning Ordinance for operating a junk yard in the R3b zoning district. Council President Finkbinder stated that there were judgements in favor of the Borough and this agreement will outline a payment plan for the associated judgements.

A motion was made by Vice-President Grossman, seconded by Council Member Bones, and carried by a vote of 7-0, to approve the settlement agreement between the Borough of Malvern and Vincent Hao To.

d. Tax assessment settlement – 176 W. King Street (Malvern Crossing Apartments)

Council President Finkbinder stated that Great Valley School District appealed the assessment determination of the Chester County Board of Appeals for the property at 176 W. King Street (Malvern Crossing Apartments). Malvern Borough joined the process, but all work was undertaken by the School District. The School District and the property owner have reached an agreement on the assessment that will result in an increase for 2020 and 2021. Council President Finkbinder outlined the new assessment rates for the property.

A motion was made by Council Member Bones, seconded by Council Member Phillips, and carried by a vote of 7-0, to approve the tax assessment settlement agreement in the matter of Great Valley School District v. Chester County Board of Assessment Appeals for the property at 176 W. King Street.

6. UNFINISHED BUSINESS

a. Randolph Woods – Authorization for grant submissions

Council President Finkbiner stated that at the December 1, 2020 meeting, Borough Council discussed the content of potential grant applications associated with the Randolph Woods Master Plan. Representatives from Malvern Borough met with representatives from the Willistown Conservation Trust to discuss the best position for securing funding for Randolph Woods. Council President Finkbiner stated that a proposal has been provided from Simone-Collins Landscape Architecture to prepare the grant applications.

Council Member Phillips stated that the Willistown Conservation Trust recommended that the Borough approach these grant applications from a people-oriented aspect, focusing on such items as trails, ADA-accessible boardwalks, and the bridge improvements. Council Member Phillips noted that the Willistown Conservation Trust envisions the Borough focusing on several improvements and sees the potential for future funding. Council Member Phillips recommended approving the proposal from Simone-Collins Landscape Architecture to complete the grant applications.

Borough Manager Bashore stated that the Borough did discuss fencing and forest regeneration with the Willistown Conservation Trust. Borough Manager Bashore stated that the Willistown Conservation Trust recommended doing targeted plantings and deer fencing. Borough Manager Bashore noted that they did discuss a boundary fence on the eastern portion in order to combat encroachment. Borough Manager Bashore noted that this was recommended as part of the 2017 report. Council President Finkbiner asked if this should be included as part of this grant application. Borough Manager Bashore recommended that this be included as part of this application and the estimate from 2017 was approximately \$70,000.

Council Member Bones asked if the trail relocation was part of the priority list for projects in this application. Council Member Phillips stated that he believed that it was and he recommended pursuing this component, along with the ADA-accessible boardwalks.

Mark Niemiec, 118 Warrington Way and Chair of the Randolph Woods Master Plan Task Force, stated that he agreed with all the comments made and believes that the level of funding being discussed would accomplish a significant amount. Council President Finkbiner outlined the specifics of the proposed grant applications.

A motion was made by Council Member Bones, seconded by Council Member Raynor, and carried by a vote of 7-0, to approve the proposal from Simone-Collins Landscape Architects in the amount of \$6,250.00 to prepare grant applications to the PA Department of Conservation & Natural Resources and the PA Department of Community & Economic Development for the Randolph Woods Nature Preserve.

7. NEW BUSINESS

a. Zoning Hearing Board

Council President Finkbiner stated that there are no new applications before the Zoning Hearing Board.

8. PUBLIC FORUM

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

Vice-President Grossman raised concerns regarding dead trees at the Paoli Memorial Association and asked if this could be addressed with them. Borough Manager Bashore stated that concerns about the condition of the trees have been forwarded to the Paoli Memorial Association. Vice-President Grossman asked if any changes have been made to the flagpole lighting and noted the increase in brightness. Borough Manager Bashore stated that he was unsure if any changes have been made.

Kel Schmitt, 17 Channing Avenue, stated that it is his understanding that the trees are being addressed. Mr. Schmitt stated that the lighting was updated because the previous lights were being routinely vandalized and were in other states of disrepair. Mr. Schmitt stated that a new lighting fixture was installed and it is higher on the flagpole and are LED, which may explain the brightness. Mr. Schmitt noted that the brightness may be able to be addressed.

Council Member Meisel recommended that the Paoli Memorial Association evaluate the light level in order to preserve the night sky over the area due to its importance as a park and wild life area.

Vice-President Grossman thanked Mr. Schmitt for the clarification and if it can be adjusted, that may address the issue. Council President Finkbiner recommended that shielding be evaluated. Mr. Schmitt stated that they may also evaluate adjusting the color temperature of the lighting.

Council Member Bones commended the Paoli Memorial Association for the new stone wall around the monument area.

Council Member Meisel stated that he believes that the trees were last limbed the previous fall and he would be careful about exploring removing them.

Danny Fruchter, 234 Channing Avenue, stated that he sent a letter to all of Borough Council and asked for this to be part of the meeting minutes and asked for feedback from Borough Council. Borough Solicitor McLean advised against making Mr. Fruchter's letter an attachment to the minutes. Borough Solicitor McLean stated that Borough Council has the prerogative to engage in negotiations for the acquisition of real estate. Borough Solicitor McLean stated that she is concerned that including Mr. Fruchter's letter could imply support of the ideas expressed and

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pursuit of the ideas could open the Borough up to liability due to the language used. Borough Solicitor McLean stated that Borough Council may discuss options at Borough Council's pace without the unnecessary opinions from an individual who would not be impacted by the consequences from his advice.

Mr. Fruchter discussed his correspondence, noting that he made two (2) suggestions about the property at the intersection of Bridge Street and King Street. The first suggestion was that the Borough make use of the public right-of-way to enhance the streetscape, including the planting of street trees. Mr. Fruchter stated that this is entirely within the Borough's ability and would be more aesthetically pleasing for individuals approaching the intersection.

Mr. Fruchter stated that his second suggestion was that the owners of the property may be open to leasing the property to the Borough on a short term basis for a pop-up park. Mr. Fruchter stated that it is an unused piece of ground that the Borough would not need to spend a significant sum of money beautifying and would greatly enhance the look of the Borough from the intersection. Mr. Fruchter noted that this is the last major gateway to the community.

Council President Finkbinder stated that she would not opine on the access to the property, but noted that the idea of creating a park on this property was raised previously. Council President Finkbinder noted that she did not believe that a park was a good use for this property and did not believe that the public would use a park at this location.

Council Member Phillips asked if any of the items raised were a concern. Borough Solicitor McLean stated that the comments made were different than what was contained in the letter. Borough Solicitor McLean noted that the property owner could be justified feeling harassed given the history of the property and recommended approaching them from a cooperative perspective. Borough Solicitor McLean stated that the layout of King Street may change as a result of the COVID-19 pandemic. Council Member Phillips noted that he would like this to be a partnership with the property owner if anything were pursued.

Chief Marcelli recognized Corinne Badman, Executive Assistant to the Chief of Police/Emergency Management Coordinator, for all her efforts over the past year. Chief Marcelli stated that she has done an outstanding job during the COVID-19 pandemic and highlighted the funds reimbursed to the Borough.

9. ADJOURNMENT

All business having been discussed, a motion was made by Vice-President Grossman, seconded by Council Member Phillips, and carried by a vote of 7-0, to adjourn the meeting at 8:13 p.m.

Respectfully submitted,

Christopher Bashore
Borough Manager/Secretary