

REGULAR MEETING  
BOROUGH COUNCIL  
MALVERN BOROUGH  
First Baptist Church of Malvern  
146 Channing Avenue  
Malvern, PA 19355

January 20, 2015  
7:30 P.M.

PRESIDING: Catherine Raymond, Vice-President

INVOCATION: David B. Burton, Mayor

PLEDGE OF ALLEGIANCE TO THE FLAG

1. ROLL CALL: Council President Bramwell (Absent)  
Council Vice-President Raymond  
Council Member Lexer  
Council Member Meisel (Absent)  
Council Member Oswald  
Council Member Radano  
Council Member Van Sciver  
Mayor Burton

2. PUBLIC FORUM:

Council Vice-President Raymond informed all present that copies of the agenda are available at the front entrance. Citizens/taxpayers were advised that Public Forum is the time to offer comments on any item on the agenda to bring any issues/concerns before Council.

a. John Buckley, 165 Church Street, commented on eleven (11) items not on the agenda and not discussed with either the Borough Manager nor the Police Chief prior to tonight's meeting. 1) How much did the audio and video services cost for tonight's meeting? Borough Hall is not set up like this; 2) Channing Avenue – cone placed by resident for reserving an on-street parking spot; 3) Paint markings for vendors on King Street during the festivals are still present; 4) Dog feces left on sidewalks on King Street; 5) Condition of sidewalks are responsibility of homeowners; 6) Crosswalk should be installed at the intersection of Bridge & Broad Streets; 7) "No Parking" signs should be placed in front of Malvern Fire Company garage door bays; 8) Vehicle on King Street that does not have a current registration sticker; 9) Purpose of unoccupied police vehicle in Malvern Shopping Center parking lot; 10) Borough should not consider building a Dog Park; and 11) Responsibility of property owners to remove snow off sidewalks after a snow storm.

Louis Marcelli, Borough Police Chief stated that the owner on Channing Avenue that placed the cone in the road has been notified of the recently adopted Ordinance and she stated that she will comply. Chief Marcelli stated he will draft a memo and address it to the part-time police officers of the recently enacted ordinance and enforcement procedures.

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### 3. APPROVAL OF MINUTES:

A motion was made by Council Member Van Sciver, seconded by Council Member Lexer and carried by a vote of 5-0 to approve the minutes of Tuesday, December 16, 2014, as submitted.

### 4. APPROVAL OF REPORTS:

A motion was made by Council Member Radano, seconded by Council Member Oswald and unanimously carried by a vote of 5-0 to approve the Treasurer's Report, the Committee Reports for Finance & Administration, Public Safety, Public Works and the Chief of Police Report, the Code Enforcement and Zoning Officer's 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 December 2014, as submitted.

### 5. CITIZEN COMMITTEE – APPOINTMENTS & REAPPOINTMENTS:

A motion was made by Council Member Van Sciver, seconded by Council Member Radano and unanimously carried by a vote of 5-0 to reappoint the following citizens to the positions indicated: William Dodge, as a member of the Zoning Heard Board. Term to expire 1/1/2018. Lori Coyle, as a member of the Civil Service Commission. Term to expire 1/1/2021. David Knies, as a member of the Planning Commission. Term to expire 1/1/2019. Geoffrey Rubino, as a member of the Planning Commission. Term to expire 1/1/2019. Sally Donohue, as a member of the Parks & Recreation Committee. Term to expire 1/1/20. Neil Vaughn, as Fire Marshall for the year 2015.

### 6. OLD BUSINESS:

a) Historic Ordinance Presentation by Zeyn Uzman, Chair, Malvern Historical Commission

Zeyn Uzman presented the draft ordinance as proposed by the Malvern Borough Historical Commission and reviewed by the Malvern Planning Commission. Primary regulation of the Ordinance reads, "Intentional demolition, in whole or in part, of the structural historic fabric of a significant historic resource shall not occur until the Applicant obtains a permit from the Borough" The definition of Structural Historic Fabric is the exterior form of a significant historic resource, consisting of exterior walls, front or side porches, and roof trusses. The definition of Significant Historic Resource is a building, structure, object, monument, landscape, or site that has been designated by the Malvern Borough Council for its historical, architectural, or archeological importance. Significant Historic Resources must be at least fifty years-old and meet two or more criteria relating to: 1) Significant cultural character; 2) Important persons or organizations; 3) Important events; 4) Distinct architectural characteristics; 5) Influential

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designers; 6) Innovative craftsmanship; 7) Areas with distinctive historic motif; 8) Unique visual landmarks; 9) Important archaeological information; and 10) The historical heritage of the community. The Official List of Significant Historic Resources was created by the Malvern Historical Commission, with the assistance of Tom Scofield, by evaluating each property's date of construction, deed research, architectural style, as well as current and past photos. The List contains approximately 250 properties that meet at least two criteria and of these, 130 properties meet at least three criteria. Additions or removals of properties from the Official List may be initiated by the property owner or the Historical Commission. Permit applications would be approved, approved with conditions, or denied. Subdivision plans would have to preserve the integrity of the historic setting and the effective use of significant historic resources. Within the proposed ordinance, there is a section that would allow the Borough to impose penalties for demolition by neglect. Four properties on the list have received Historical Commission Preservation Awards that have maintained historic character: 1) 24 West King Street (Residential Award) "Hoffman House" - this property was selected because the owner created a sign outlining the history of the building; 2) 2 West King Street (Commercial Award) National Bank of Malvern – this property was selected because of it being an independent bank, still owned by the descendents of the first cashier and for being managed by a woman, one of a limited number of banks known to do so in the country. The building was built specifically for the purpose of being a bank (3 years after it was founded) and has retained its original architectural design; 3) 101 Church Street (Adaptive Reuse Award) "The Olde Malvern Firehouse" – this property was selected because the architect who redesigned this building requested photos from the Historical Commission as to restore its original character, which over time was unrecognizable; concealed by multiple additions and renovations. While it was mainly torn down to the foundation, the reuse of the original stone in the new building is of honorable mention; and 4) 146 Channing Avenue (Institutional Award) The First Baptist Church of Malvern – this property was selected because the members of the church went to great lengths to research and document the church's history, earning the designation of Certified Chester County Historic Resource.

Andrea Cardamone, 210 East Broad Street, questioned how the proposed ordinance amendment would affect a property owner that wants to build an addition.

Mr. Uzman stated the Borough's Code and Zoning Officer would review the historical property list. If the property is not on the historical property list then the Borough's building permit process applies. If the property is listed, then the Code and Zoning Officer has to determine if three (3) or more criteria apply, if so the Historical Commission must review the permit application at its next public meeting to render a decision.

Alexander Dimattia, 27 Channing Avenue, asked if a property could be considered historic based on its date of construction. If so, does that mean a property that is currently not on the historic property list could be added at a later date?

Mr. Uzman stated that any property that is fifty (50) years old will be added to the list. The Historical Commission will update the list periodically.

Jeannie Fleck, 222 East Broad Street, asked what the timeframe may be for obtaining a building permit for a property that meets three (3) or more of the historical ordinance criteria.

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Mr. Uzman stated the Historical Commission has not finalized the process as the proposed amendment is in draft form.

Dale Levin, 115 Monument Avenue, asked if cutting a wall open to install a door or if demolition costing a set minimum would trigger a review by the Historical Commission.

Mr. Uzman stated installing a door would not trigger a review, unless the wall is significantly widened as to affect the exterior aesthetics. In regards to a minimum demolition fee triggering a review by the Historical Commission, Mr. Uzman stated that it will not be a factor in the proposed ordinance.

Richard Koschmeder, 192 West King Street, asked what the definition of a demolition is for purposes of the proposed ordinance.

Mr. Uzman stated the definition for demolition is the tear-down of any unoccupied structure to its foundation.

Gail Newman, 11 Landmark Drive, expressed her concern that the historical ordinance may be overly intrusive on property owners' rights to improve their properties as the Borough's Zoning Ordinance permits.

Joanne Starkey, 135 Green Street, questioned how the proposed ordinance amendment would affect a property owner that wants to demolish.

Mr. Uzman stated the application process for applying for a demolition permit will not change.

Marie Nadeau, 129 Church Street, asked how a property owner could get his or her property removed from the historic property list.

Mr. Uzman stated any property owner on the list may request to be removed by attending a Historical Commission Meeting justifying how the property does not meet at least three (3) of the criteria.

Nancy Dimattia, 27 Channing Avenue, asked if the proposed ordinance would have had an effect on the Eastside Flats development.

Mr. Uzman stated the ordinance would if the developed properties were determined to have historic significance. Zeyn stated it is unlikely the properties were historically significant; however, the Malvern Historical Commission would have performed an initial review to determine what, if any, criteria were met.

Joanne Starkey, 135 Green Street, questioned how the proposed ordinance amendment would affect a property owner that wants to replace windows.

Mr. Uzman stated replacing windows would not trigger the Historical Commission's review process.

Sidne Baglini, 203 Channing Avenue, stated she is pleased to see the proposed Historical Ordinance moving forward after years in the development phase. Having a historic ordinance will insure home values rise, as opposed to possibly being devalued by neighbors that alter their properties – reducing or eliminating the historic charm.

Ms. Baglini asked how the ordinance would affect emergency repairs to properties that sustained significant damage after a major disaster, such as a hurricane.

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Mr. Uzman stated the ordinance would not prohibit property owners from making emergency repairs to insure their homes are safe for inhabiting.

Mrs. Sidlick, 143 Channing Avenue, asked if handouts could be created that summarize the key points of the proposed ordinance and a list of the affected properties.

Mr. Uzman stated he will provide the Borough Manager with electronic versions of the PowerPoint presentation and the property listing for posting on the Borough's website

Michael McShane, 139 Church Street, asked if there will be financial incentives for property owners on the list that may not have the financial resources to properly maintain their property.

Mr. Uzman stated there are no proposed financial incentives.

Andrea Cardamone, 210 East Broad Street, asked how new property owners will be notified if their property is on the proposed ordinance.

Wendy McLean, Borough Solicitor stated disclosure for home buyers does not change; only zoning would have to be shared if a property has a specific clause, such as a conservation easement or on a national register.

Alexander Dimattia, 27 Channing Avenue, asked if the Borough has reviewed the proposed ordinance from a legal perspective, such as potential lawsuits.

Wendy McLean, Borough Solicitor stated she has reviewed the proposed ordinance from a legal stance, and, in her professional opinion, the Borough is taking appropriate steps. In addition, other municipalities with historical ordinances are more restrictive.

Barbara Leighton, 17 Powelton Avenue, was a member of the Malvern Historical Commission and recommended to those audience members with a property on the historical list to consider taking exterior photos and providing them to the Historical Commission for inclusion into their property file.

Gail Davis, 210 Woodland Avenue, asked if there will be financial incentives for property owners on the list that may be experiencing financial hardships to encourage property upkeep from a historical perspective.

Mr. Uzman stated there are no proposed financial incentives.

Gail Davis, 210 Woodland Avenue, asked if the affected homeowners will have a vote as to whether the proposed ordinance gets adopted.

Council Vice-President Raymond stated that Council is the voting entity; however, affected property owners are encouraged to voice their opinions at Council meetings.

Andrea Cardamone, 210 East Broad Street, asked if there will be more public meetings for the proposed historical ordinance.

Mr. Uzman stated tonight's meeting is for public comment only. If Borough Council decides to move forward with adopting the proposed ordinance, there will be a Public Notice with a public hearing.

Alexander Dimattia, 27 Channing Avenue, stated Council should insure that there is a public need for the proposed historical ordinance and not another public expense.

Council Member Lexer asked for clarification why three (3) criteria were determined to be the minimum standard for initiating the Historical Commission review process.

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Mr. Uzman stated the minimum requirement of 3 criteria was recommended by a professional consultant with expertise in drafting municipal historical ordinances.

Biondi Frances, 421 Woodland Avenue, stated that the proposed ordinance could preserve the historic look of the remaining structures as the look has changed drastically over the years.

Mr. Uzman concluded his presentation by encouraging residents to attend future Historical Commission Meetings and thanked the audience for their interest and attendance.

b) Malvern Retreat Update

Council Member Van Sciver inquired about the status of the proposed trail easement with the Malvern Retreat. Borough Manager Kelley stated the Malvern Retreat has expressed concern of allowing a 25- to 35-foot easement and may want to negotiate a less wide easement. In addition, Malvern Retreat wants to insure that granting an easement will not affect any future sale or development of its property or portion thereof.

c) Official Map Status

Council Member Van Sciver requested an update from Amy Finkbiner, Planning Commission Vice-Chair of the status of the Borough completing an Official Map. Amy Finkbiner stated the Planning Commission is awaiting a response from the Borough Solicitor regarding old drafts.

11. ADJOURNMENT:

All business having been discussed, a motion was made by Council Member Lexer, seconded by Council Member Radano, and unanimously carried by a vote of 5-0 to adjourn the meeting at 9:20 p.m.

Respectfully submitted,

Neil G. Lovekin  
Assistant Secretary