

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

July 19, 2016  
7:30 P.M.

PRESIDING: Zeyn Uzman, Vice-President

INVOCATION: Todd Lexer, Council Member

PLEDGE OF ALLEGIANCE TO THE FLAG

1. ROLL CALL: Council President Bramwell (Absent)  
Council Vice-President Uzman  
Council Member Arena  
Council Member Grossman  
Council Member Lexer  
Council Member Meisel (Absent)  
Council Member Sinquett  
Mayor Burton (Absent)

2. RECORDING OF MEETING:

Council Vice-President Uzman asked in accordance with Resolution No. 714 if any member of the audience was recording the meeting.

No audience member identified themselves as recording the meeting.

3. APPOINTMENT AND SWEARING IN OF FULL-TIME POLICE OFFICER – STEPHEN WALKER:

Borough Manager Bashore administered the Oath of Office for Officer Walker.

A motion was made by Council Member Lexer, seconded by Council Member Sinquett and carried by a vote of 5-0, to appoint Stephen Walker as a full-time officer with the Malvern Police Department, effective July 22, 2016.

4. PART-TIME POLICE OFFICER SWEARING IN – WILLIAM VERIKAKIS:

Borough Manager Bashore administered the Oath of Office for Officer Verikakis.

5. PUBLIC FORUM:

Council Vice-President Uzman 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. Kelley Schmitt, 133 Church Street, asked Council to coordinate with Mayor Burton and Police Chief Marcelli to insure vehicles do not park too close to stop signs.

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6. APPROVAL OF MINUTES:

A motion was made by Council Member Lexer, seconded by Council Member Sinquett and carried by a vote of 5-0 to approve the minutes of Tuesday, June 21, 2016 and Tuesday, July 5, 2016 as submitted.

7. APPROVAL OF REPORTS:

A motion was made by Council Member Arena, seconded by Council Member Lexer and 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 June 2016 as submitted.

8. INTERVIEWS FOR THE ZONING HEARING BOARD:

a. Kas Jaunzemis, 306 West First Avenue, stated he has been a resident and homeowner in Malvern Borough for more than 20 years, and welcomes the opportunity to serve his community. He stated along with his commitment to the Borough of Malvern he brings more than 35 years of experience in construction and building industry.

Council Vice-President Uzman asked Mr. Jaunzemis how many hearings he has attended since residing in Malvern Borough.

Mr. Jaunzemis stated he may have attended one hearing.

Council Member Arena asked Mr. Jaunzemis if he has every disagreed with the Board's final determination?

Mr. Jaunzemis stated he has not disagreed with a decision the Board has made.

b. John Kohler, 225 Paoli Pike, stated if selected his goal would be to insure that the future of Malvern is managed in accordance with current zoning laws while maintaining a core focus on the long-term impact on any decisions that need to made. He believes Malvern Borough must have a vision that preserves the fabric of a closely knit community. He stated his family has reside at 225 Paoli Pike for the past 11 years. His section of Paoli Pike is the only R1 zoned district in the borough. Mr. Kohler stated living adjacent to the Institutional Districts, in some ways makes him feel as though he is in an annex of the Borough.

Council Member Grossman asked Mr. Kohler what vision he has for the Borough.

Mr. Kohler stated he would like to see the Borough remain on its current path and sees no need for change.

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Council Member Lexer asked Mr. Kohler if would be willing to serve in the Alternate position.

Mr. Kohler stated he would serve in the capacity of an Alternate.

Council Member Sinquett asked Mr. Kohler if would be willing to attend the Zoning Course offered through the Chester County 2020 Foundation.

Mr. Kohler stated he would attend training(s).

Council Member Sinquett asked Mr. Kohler if he could approve a Zoning Hearing Board application that meets the Zoning Ordinance, but may not be popular with public perception and/or align with his personal views.

Mr. Kohler stated he would make his decision on the facts and not let public or personal views be a factor.

Council Member Arena asked Mr. Kohler what positions him as the best candidate for the position.

Mr. Kohler stated he has youth and professional experience that he thinks sets him apart from the other candidates.

c. Joseph Rubino, 1 Raffaella Drive, returned to the Borough earlier in July 2016, prior to that he resided in East Whiteland Township. He lived in Malvern for 20 years prior to moving to East Whiteland in 1969 and owning property on Old Lincoln Highway, in Malvern Borough, for over 48 years. Mr. Rubino stated that he served on the East Whiteland Township Zoning Hearing Board since 1988, as a board member and for several years as Chairman. His final zoning board meeting in East Whiteland Township was on June 27, 2016. He has been active and continues to serve on Oilier Boards and Organizations: Member of the Downingtown National Bank First Advisory Board; Member of Chester County Central and Western Industrial Development Authority Member; Willistown Troop 78 Boy Scouts of America, Director Emeritus; Board Chairman, East Whiteland Township Volunteer Fire Association; as well as, Member of Friends of East Whiteland Township Fire and Ambulance. While serving on the East Whiteland Township Zoning Hearing Board the Pennsylvania Court System did not overturn any decision rendered by the Board during his term.

Council Member Grossman asked Mr. Rubino what he is most proud of during his tenure on the various boards and committees he has served on.

Mr. Rubino stated he would select a regional planning initiative, known as the Churchill project that addressed traffic flow.

Council Member Grossman asked Mr. Rubino if he can explain how a Variance request is determined.

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Mr. Rubino stated a variance is based on a property's lot dimensions, not on its use.

Council Vice-President Uzman thanked the applicants and stated that the Council will make its final decision at its Tuesday, August 2, 2016 Meeting.

9. 2015 FINANCIAL AUDIT:

A motion was made by Council Member Arena, seconded by Council Member Sinquett and unanimously carried by a vote of 5-0 to approve the 2015 Financial Audit for Malvern Borough as prepared by Peterson, Fieo, & Co. LLP as submitted.

10. RESOLUTION NO. 715 – 2016 PRELIMINARY/FINAL MAJOR LAND DEVELOPMENT PLAN APPROVAL FOR 183 PENNSYLVANIA AVENUE

A motion was made by Council Member Sinquett, seconded by Council Member Lexer and unanimously carried by a vote of 5-0 to adopt Resolution No. 715, to approve, subject to conditions, the plan entitled "2016 Preliminary/Final Major Land Development Plan prepared for 183 Pennsylvania Avenue, LLC" prepared by G.D. Houtman & Sons, Inc., dated March 31, 2016, last revised June 21, 2016 as a preliminary/final plan ("Plan"), submitted by Mark DeRita ("Applicant") pursuant to the Malvern Borough Subdivision and Land Development Regulations of 2006, as amended ("Land Development Ordinance") for the development of certain property located in the Borough of Malvern ("Borough"), Chester County, Pennsylvania, in the LI zoning district.

Recommendation for Preliminary/Final Land Development Approval is contingent upon four (4) waivers requested by the Applicant, with borough conditions and one exclusion:

1. A waiver of the four-step design process and submission of a Preliminary Plan (SALDO Section 300.B.2 & C and 301). No conditions imposed.
2. A waiver of the requirement to provide curbs on all parking areas (SALDO Section 514.B). No conditions imposed.
3. A waiver of the requirement that sidewalks be provided on existing streets (SALDO Section 515.A and B). One (1) condition proposed: Applicant pay a fee-in-lieu for the cost to install sidewalks on both Pennsylvania Avenue and Quaker Lane.
4. A waiver of the requirement to provide street trees on Pennsylvania Avenue and Quaker Lane (SALDO Section 525.C). One (1) condition proposed: Applicant plant one tree on the property at a location of his choosing. The tree is to conform to SALDO Section 525 and the list of acceptable trees in Appendix A of the Borough Zoning Ordinance.
5. An exclusion from Engineering Review Letter #2, Item 16.b. SALDO Section

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525.D.5.a and b deals with replacement trees. One (1) exclusion proposed: One tree required to be removed on the property was confirmed as 'dead' during the MPC site visit conducted May 9, 2016. Therefore, the tree should not be replaced as it was identified as being 'dead' prior to land development.

### 11. OLD BUSINESS:

- a. Ordinance No. 2016-2: Issuance of Non-Electoral Debt  
Council agreed to table discussion for a later meeting date.

### 12. NEW BUSINESS:

- a. Proposed Zoning Ordinance Amendment – Upper Level Dwelling units  
Borough Manager Bashore provided an overview of the proposed amendment to the Borough's Zoning Ordinance. This ordinance would amend Article XXIV, section 2423 of the Borough's Zoning Ordinance pertaining to Upper Floor Dwelling Units. In the Opinion and Order for the variance application for 346 E. King St., the Zoning Hearing Board determined 2016, determined that the inclusion of the term "Residential Conversion" in the language of several of the incorporated provisions of Section 2422 made those sections inapplicable to Upper Floor Dwelling Units, or created an ambiguity which is required to be solved. The proposed amendments were discussed by the Malvern Planning Commission at their meeting on July 7, 2016. The Planning Commission has recommended that this ordinance be sent to the Chester County Planning Commission for review and comment pursuant to the requirements of the Municipalities Planning Code.

Council authorized Borough Manager Bashore to send the ordinance amendment to the Chester County Planning Commission for review and comment.

- b. Zoning & Subdivision and Land Development Ordinance – General Code  
Codification Proposal

Borough Manager Bashore provided a summary of the current codification state of the Borough's Zoning and Subdivision and Land Development Ordinances. Over the last several years, there have been many amendments to these ordinances. Currently, the Zoning and Subdivision and Land Development Ordinances are not fully codified; the stand alone codes exist, but the amendments that have been adopted have not been incorporated into the respective ordinances to create a single document. In order to avoid potential challenges and reduce the level of concern over the existing state of these codes, the Borough should undertake codifying these documents into the Borough's Code of Ordinances.

A motion was made by Council Member Sinquett, seconded by Council Member Arena and unanimously carried by a vote of 5-0 to authorize the Borough Manager to allocate funds to General Code for Borough Codification.

- c. Zoning Hearing Board  
Borough Manager Bashore stated there is one application pending for the Zoning

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Hearing Board for a property located at 203 E. Broad St. This application is for a variance from Article IX, Section 902.F. of the Zoning Ordinance, lot coverage in order to add a deck to an existing building. He recommended that Borough Council direct the Borough Solicitor to attend the hearing. A hearing date has not been scheduled at this time.

Borough Council agreed to direct the Borough Solicitor to attend the hearing.

d. Resolution No. 716 – Amendment to the Sterling Act

Borough Manager Bashore reviewed a proposed resolution to request that the Pennsylvania Legislature amend the Sterling Act to allow the home municipality to collect up to 1% of the tax revenue generated by non-resident wage taxes in the City of Philadelphia.

A motion was made by Council Member Siquett, seconded by Council Member Lexer and unanimously carried by a vote of 5-0 to adopt Resolution No. 716, a resolution of the Malvern Borough Council requesting an amendment to the Sterling Act to require that up to 1% of Philadelphia Wage Tax paid by non-residents of Philadelphia be remitted to the municipality in which the taxpayer resides.

e. Herzak Park Dedication

Council Member Lexer stated that former Council Member Radano should be invited to the dedication ceremony as he was instrumental in the acquisition of the park. Borough Manager Bashore will reach out to Matthew Radano to insure he is invited to the dedication ceremony.

13. ADJOURNMENT:

At 9:05 p.m. Council Vice-President Uzman stated Council will adjourn to Executive Session to discuss legal matters.

Council Vice-President Uzman reconvened the public meeting at 9:26 p.m.

All business having been discussed, a motion was made by Council Member Lexer, seconded by Council Member Siquett and unanimously carried by a vote of 5-0 to adjourn the meeting at 9:28 p.m.

Respectfully submitted,

Neil G. Lovekin  
Assistant Secretary