

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

July 20, 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 (attended remotely)
Council Member Laney
Council Member Meisel (attended remotely)
Council Member Phillips
Council Member Raynor
David B. Burton, Mayor

ABSENT

Council President Finkbiner announced that this evening's meeting allowed for a virtual meeting option via Zoom.

2. APPROVAL OF AGENDA

A motion was made by Council Member Laney, seconded by Council Member Raynor, and carried by a vote of 7-0, to approve the agenda for the July 20, 2021 meeting as presented.

3. ANNOUNCEMENTS

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 not being recorded by the Borough.

No member of the audience identified themselves as recording the meeting.

b. Council President Finkbiner announced that Borough Council met in Executive Session on Tuesday, July 20, 2021, prior to this evening's meeting, in order to discuss matters of personnel and litigation with the Borough Solicitor.

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c. Council President Finkbiner announced that the Daughters of the American Revolution have selected the Paoli Battlefield to receive a dedication marker. The dedication ceremony will be held on Saturday, July 24, 2021 at 11:00 am. Information on the event is available on the Borough website.

d. Council President Finkbiner announced that John Butow has resigned from the Environmental Advisory Council as he has moved out of the Borough. Borough Council thanked Mr. Butow from his service to the community.

e. Council President Finkbiner congratulated Borough Manager Bashore on his appointment as Vice-President of the Chester County Municipal Managers Consortium.

4. MINUTES & REPORTS

a. APPROVAL OF MINUTES

A motion was made by Council Member Laney, seconded by Council Member Raynor, and carried by a vote of 7-0, to approve the minutes from the June 15, 2021 meeting of Borough Council as amended.

b. APPROVAL OF REPORTS:

A motion was made by Council Member Laney, seconded by Council Member Raynor, and carried by a vote of 7-0, to approve the Treasurer's Report, the Committee Reports for Finance and Administration, Public Safety, Public Works, the Chief of Police Report, the Code Enforcement Department 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 2021, as submitted.

c. BOROUGH COUNCIL COMMITTEE REPORTS

- Finance & Administration – Council Member Laney

Council Member Laney stated that the Finance & Administration Committee met on June 30, 2021. Topics before the Committee included a review of two (2) proposed ordinance amendments, a discussion on the allocation of funds received through the American Rescue Plan Act of 2021, a policy pertaining to the selection of professional services, a policy pertaining to remote work, and a Main Street Manager program. Council Member Laney stated that the proposed ordinances are before Borough Council this evening to consider authorization to advertise and the proposed policy pertaining to the selection of professional services is also before Borough Council this evening.

- Public Safety – Council Member Meisel

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Council Member Meisel stated that the Public Safety Committee has not met since the June 15, 2021 meeting of Borough Council.

Sidne Baglini, 203 Channing Avenue, appeared before Borough Council in order to discuss the conversation occurring regarding the possibility of installing sidewalks on E. First Avenue. Ms. Baglini stated that she recently sent a letter to Borough Council regarding this matter and noted her opposition to the installation of sidewalks on outlying streets in the Borough. Ms. Baglini stated that she conducted an informal survey of approximately ten (10) walkers along First Avenue and they were in agreement with her position. Ms. Baglini recommended that Borough Council look at other destination communities as an example for pedestrian mobility.

Council Member Meisel stated that he respectfully disagrees with Ms. Baglini's opinion and noted that people need to feel safe where they are walking. Council Member Meisel noted increases in traffic volume and a need to provide a safe pedestrian area.

Ms. Baglini noted a recent trip and injury she sustained on sidewalk in the Borough.

John Buckley, 165 Church Street, stated that he supports sidewalk on E. First Avenue due to heavy traffic and people traveling this area by foot.

Council President Finkbiner stated that this matter is still being reviewed by the Public Safety Committee and may be discussed further when the Committee finalizes their evaluation.

- Public Works – Council Member Bones

Council Member Bones asked Borough Manager Bashore to provide the report from the Public Works Committee on his behalf. Borough Manager Bashore stated that the Public Works Committee conducted a site walk on June 16, 2021 in order to determine an appropriate connection to the Malvern Preparatory School pedestrian access. Borough Manager Bashore stated that the bid results for Malvern Avenue and Karen Drive are before Borough Council for consideration of award.

5. SPECIAL BUSINESS

- a. Community Installation Application – Bench Dedication in Burke Park

Council President Finkbiner stated that Zachary Menta has submitted a Community Installation Application in order to have a bench installed and dedicated in memory of his mother, Stephanie Menta. Ms. Menta was a resident of Woodland Avenue who recently passed away. The Public Works Committee reviewed this request and recommend its approval. Council President Finkbiner stated that there is a location near the gazebo in Burke Park where the bench may be installed.

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Council Member Bones stated that he supported this project and thought that it was a good opportunity.

A motion was made by Council Member Laney, seconded by Council Member Raynor, and carried by a vote of 7-0, to approve the Community Installation Application of Zachary Menta for the installation of a bench dedicated to the memory of his mother, Stephanie Menta.

b. Act 44 of 2009 Policies & Procedures – Professional services contract provisions

Council President Finkbinder stated that during a recent audit of the Borough's pension plans completed by the PA Auditor General's office, it was determined that the Borough did not have a written policy as it pertains to the selection of professional services to manage the Borough's pension funds. Council President Finkbinder stated that this policy would apply to professional services for the Borough. The policy was reviewed by the Finance & Administration Committee, who recommended that it be presented to Borough Council.

A motion was made by Council Member Laney, seconded by Council Member Raynor, and carried by a vote of 7-0, to adopt the policy and procedures for professional services contracts for the Borough of Malvern.

c. EXPANDED OUTDOOR DINING FORBEARANCE AGREEMENTS

- Anthony's Pizza & Italian Restaurant

Council President Finkbinder stated that Anthony's Pizza & Italian Restaurant is requesting a 60-day extension of their existing agreement for outdoor dining. All existing conditions are proposed to remain in place. The extension would expire on September 1, 2021.

A motion was made by Council Member Laney, seconded by Council Member Raynor, and carried by a vote of 7-0, to approve a 60 day extension to Anthony's Pizza & Italian Restaurant's expanded outdoor dining forbearance agreement.

- Malvern Pizza

Council President Finkbinder stated that Malvern Pizza desires to enter into a new agreement for outdoor dining. The original agreement expired on January 3, 2021. This new agreement is identical to the previous one approved in 2020.

A motion was made by Council Member Laney, seconded by Council Member Phillips, and carried by a vote of 7-0, to approve the Expanded Outdoor Dining Forbearance Agreement between the Borough of Malvern and Malvern Pizza.

6. UNFINISHED BUSINESS

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a. Proposed Ordinance Amendments – Zoning and Subdivision & Land Development Ordinances

Council President Finkbiner stated that before Borough Council are proposed ordinance amendments pertaining to plant material requirements found in the Borough's Zoning and Subdivision & Land Development Ordinances. Council President Finkbiner stated that comments on the proposed ordinances have been received from the Chester County Planning Commission.

Borough Manager Bashore recommended proceeding forwarding with advertising the proposed ordinances as outlined due to the work that has gone into preparing them. Borough Manager Bashore noted that a key provision is to provide the Borough with greater flexibility in amending the Plant Materials List and that the Borough work to address the comments from the Chester County Planning Commission through that process.

Council Member Bones stated that recommended changes will be forth coming from the Shade Tree Commission as these items continually evolve. Council Member Bones noted that the Shade Tree Commission will review the comments from the Chester County Planning Commission on both ordinances accordingly and noted potentially working with the Environmental Advisory Council during this process.

- Zoning Ordinance Amendment – Plant Materials List

Council President Finkbiner stated that this proposed amendment would be to revise the Borough's Plant Materials List as recommended by the Malvern Shade Tree Commission and permit this to be updated by resolution of Borough Council. The proposed ordinance was reviewed by the Chester County Planning Commission as required. If authorized for advertisement, the required public hearing could be scheduled for the August 17, 2021 meeting of Borough Council.

A motion was made by Council Member Phillips, seconded by Council Member Raynor, and carried by a vote of 7-0, to authorize the advertisement of the proposed ordinance to amend the Plant Materials List contained in the Malvern Borough Zoning Ordinance.

- Subdivision & Land Development Ordinance Amendment – Plant Materials Acceptable for Street Trees

Council President Finkbiner stated that this proposed amendment would revise the Subdivision & Land Development Ordinance in order to amend the provisions for street trees as recommended by the Malvern Shade Tree Commission and permit this to be updated by resolution of Borough Council. The proposed ordinance was reviewed by the Chester County Planning Commission as required. If authorized for advertisement, the required public hearing could be scheduled for the August 17, 2021 meeting of Borough Council.

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A motion was made by Council Member Phillips, seconded by Council Member Bones, and carried by a vote of 7-0, to authorize the advertisement of the proposed ordinance to amend the street tree requirements contained in the Malvern Borough Subdivision & Land Development Ordinance.

7. NEW BUSINESS

a. Proposed Ordinance Amendments

Council President Finkbiner stated that before Borough Council are two (2) proposed ordinance amendments pertaining to regulations related to the sale of Borough-owned real estate and rental properties. Borough Council may consider action to authorize the advertisement of the proposed ordinances.

- Chapter 157 – Real Estate, Borough-owned

Council President Finkbiner stated that this proposed ordinance would repeal chapter 157, Real Estate, Borough-Owned, of the Borough's Code of Ordinances due to the amendments to the PA Borough Code through Act No. 43 of 2012 and Act No. 4 of 2020. The proposed ordinance was reviewed by the Finance & Administration Committee, who recommended it proceed to Borough Council. If authorized for advertisement, the required public hearing could be scheduled for the August 3, 2021 meeting of Borough Council.

Council Member Bones asked about applicable parcels that would be subject to the provisions for properties valued at greater than \$6,000 and those valued at less than \$6,000. It was noted that there are 17 parcels currently owned by the Borough. Borough Manager Bashore stated that, to the best of his knowledge, there is only one (1) parcel the Borough owns that if it were to be sold would be valued at less than \$6,000. Borough Solicitor Yaw stated that there are different processes for the sale of parcels valued at more than \$6,000.

A motion was made by Council Member Phillips, seconded by Council Member Raynor, and carried by a vote of 7-0, to authorize the advertisement of the proposed ordinance to repeal chapter 157 of the Malvern Borough Code of Ordinances.

- Chapter 162 – Rental Property

Council President Finkbiner stated that this proposed ordinance would amend chapter 162, Rental Property, of the Borough's Code of Ordinances. The proposed amendment would amend the definition of "Rental Unit," establish a deadline for when payment is due, and outline a penalty for a late payment. The proposed ordinance was reviewed by the Finance & Administration Committee, who recommended it proceed to Borough Council. If authorized for advertisement, the required public hearing could be scheduled for the August 3, 2021 meeting of Borough Council.

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A motion was made by Council Member Phillips, seconded by Council Member Raynor, and carried by a vote of 7-0, to authorize the advertisement of the proposed ordinance to amend chapter 162 of the Malvern Borough Code of Ordinances.

b. 2021 Paving Program

- Awarding of Bid – Malvern Avenue & Karen Drive

Borough Manager Bashore stated that these projects involve the mill and overlay of Malvern Avenue from Highland Avenue to King Street and Karen Drive. The costs for these projects have been allocated in the 2021 budget in the Capital Reserve Fund. Bids were received on July 1, 2021 and the apparent low-bidder is Long's Asphalt, Inc. in the amount of \$54,077.60. Borough Manager Bashore noted that this bid was only for labor and that the material would be purchased through a COSTARS vendor. Borough Manager Bashore stated that the Borough Engineer estimates that the material cost will be \$40,359.02, bringing the total project cost to \$94,436.62, which is less than the amount included in the budget for these two (2) roads.

A motion was made by Council Member Laney, seconded by Council Member Phillips, and carried by a vote of 7-0, to award the contract for the paving of Malvern Avenue and Karen Drive to Long's Asphalt, Inc. in the amount of \$54,077.60 based on the recommendation of the Borough Engineer dated July 1, 2021.

- Update – 2021 Paving Program – Green Street

Borough Manager Bashore stated that on June 16, 2021, the Borough Engineer notified him of certain emergency repairs required to Green Street as testing showed significant movement in the roadway. In order to stabilize the roadway and ensure that the completed project is sound, the Borough Engineer advised that additional work was necessary. This additional work involved removing 389 sq. yards of material at a 6" depth, installing new stone, and placing a geogrid reinforcement material on the roadway in order to stabilize it.

Borough Manager Bashore stated that a proposal for the work in the amount of \$16,172.75 was provided from John A. DiRocco General Contractors, Inc. and the Borough Engineer estimated the additional material cost to be \$3,745.00. Borough Manager Bashore noted that the final cost is projected to be \$16,904.00 based on discussions with the Borough Engineer, bringing the total estimated cost of the project to \$75,786.22.

Borough Manager Bashore stated that he notified Council President Finkbiner regarding this matter upon receipt of this information from the Borough Engineer as required by the Borough's Administrative Code. Council Member Bones was also notified as the Chair of the Public Works Committee. The balance of Borough Council was notified on June 17, 2021 via email. Borough Manager Bashore stated that not performing the additional work would have been detrimental to the Borough.

Council Member Bones thanked Borough Manager Bashore and the Borough Engineer for their quick action to address these emergency repairs.

No further action was taken or required.

c. 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.

John Buckley, 165 Church Street, stated that sidewalks are needed throughout the Borough. Mr. Buckley stated that the intersection of Bridge Street and King Street is a safety issue when crossing the street. Council Member Meisel stated that the Public Safety Committee will review this matter.

Mr. Buckley discussed the property at 128-142 E. King Street and stated that the bricks on site should be removed as they present a safety issue. Mr. Buckley stated that code enforcement should be taken against the property owner. Borough Manager Bashore stated that it is inappropriate to discuss matters of code enforcement at a public meeting.

Mr. Buckley requested that curbing be installed on E. First Avenue to direct water away from his property. Borough Manager Bashore stated that a letter was sent to him outlining the evaluation completed by the Borough Engineer. Council President Finkbinder stated that she can provide a copy of the letter if Mr. Buckley does not have one.

Cathy Raymond, 6 Karen Drive, asked if increased rainfall has resulted in additional runoff and the Borough Engineer may wish to re-evaluate this matter. Council President Finkbinder stated that a berm was also suggested as a possibility to address this issue as opposed to curbing.

Council Member Bones complimented the Borough Engineer for having the foresight to install a bollard at the intersection of Warren Avenue and King Street, noting the recent accident that occurred at this location.

Vice-President Grossman discussed teenagers riding electronic skateboards in the middle of the street throughout the community in a dangerous manner and if these are legal. Mayor Burton stated that he would speak with Chief Marcelli regarding this matter.

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 8:28 p.m.

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Respectfully submitted,

Christopher Bashore
Borough Manager/Secretary