

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

June 7, 2016  
7:30 P.M.

PRESIDING: David G. Bramwell, President

INVOCATION: David B. Burton, Mayor

PLEDGE OF ALLEGIANCE TO THE FLAG

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

2. PUBLIC FORUM:

Council President Bramwell 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 not on the agenda to bring any issues/concerns before Council. Comments for any agenda item should be made as the items are discussed.

- a) Borough Council Minutes

Michael Martinez, 142 West First Avenue, requested clarification of the May 3<sup>rd</sup> Meeting Minutes regarding agenda item #5.e Traffic Calming Improvement Installation.

3. PRESENTATION- CHRIS GASTWIRTH, CHIEF (MALVERN FIRE COMPANY):

Chris Gastwirth, Fire Chief of the Malvern Fire Company presented an overview of a new piece of training apparatus called a "Smoke Room" enabling firefighters to experience low-visibility situations, and to determine if and when flashover may occur. The apparatus is a modified shipping container that will burn wood pallets. It will be located in the rear of the fire company's property to be used by Malvern Fire Company and other local fire companies.

Chief Gastwirth presented a video of how newer furniture verses older furniture have different flash points. Newer furniture is quicker to catch fire making response and proper training more prevalent than years past.

4. PRESENTATION BY GEORGE FIEO, CPA – 2015 FINANCIAL REPORT & AUDIT:

Mr. Fieo provided an overview of his accounting firm's findings regarding the 2015 Audited Financials, citing three "Non-Significant Issues": 1) Recommend that the Borough establish an ethics or "fraud hotline" or other clearly defined and displayed mechanism by which suspected fraud or violation of the Borough's policies or other laws & statutes may be reported

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without fear of retribution; 2) Consider updating & codifying a code of conduct that would formally communicate expected ethical behavior to all Borough employees; and 3) Consider establishing an audit committee; general duties could include reviewing the scope of the audit, reviewing the audited financial report and reviewing internal accounting procedures and controls with the Borough's financial and accounting staff.

Council Member Arena asked for clarification of who should be on the Audit Committee. Council President Bramwell stated the Finance and Administration Committee has acted as the Audit Committee since his tenure. Mr. Fieo stated his firm has no concerns with such a setup, however, the year-end closeouts should be evaluated by more than just the members of Council on the Administration and Finance Committee. Borough Manager Bashore stated he will look into the matter further and report back to Council with possible actions.

### 5. PUBLIC HEARING – ORDINANCE No. 2016-9 PEDDLING & SOLICITING:

Council President Bramwell announced that Borough Council will open a Public Hearing to consider an ordinance to amend Chapter 142 of the Malvern Borough Code of Ordinances related to requirements for peddling and soliciting within the Borough's boundaries.

The Notice of Public Hearing was published in the May 23, 2016 edition of the Daily Local newspaper as required.

Borough Manager Bashore stated the proposed ordinance will amend Chapter 142 (Peddling & Soliciting) of the Malvern Borough Code of Ordinances in its entirety. The proposed ordinance will repeal and replace the existing provisions of chapter 142. Major provisions included in this ordinance are: 1) Requirements for receiving a license from the Malvern Police Department for conducting peddling and soliciting activities in the Borough, as well as provisions for associated license and application fees; 2) Rules of conduct for individuals/businesses to conduct peddling and soliciting activities, including time limitations; 3) Certain exemptions due to age or the nature of the solicitation (e.g., religious organizations, political candidates).

Kelley Schmitt, 133 Church Street, questioned if the ordinance addresses minors. Borough Manager Bashore stated the ordinance does address minors' rights and legal protection.

There being no further public comment, Council President Bramwell closed the hearing.

### 6. ORDINANCE NO. 2016-9 – PEDDLING & SOLICITING:

A motion was made by Council Vice-President Uzman, seconded by Council Member Grossman and carried by a vote of 7-0, to adopt Ordinance No. 2016-9, amending Chapter 142 of the Malvern Borough Code of Ordinances related to requirements for peddling and soliciting within the Borough's boundaries.

### 7. RESOLUTION NO. 713 – FEE SCHEDULE:

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Borough Manager Bashore stated the resolution amends the Borough's fee schedule in order to include costs for the issuance of peddling and soliciting applications and licenses.

A motion was made by Council Vice-President Uzman, seconded by Council Member Grossman and carried by a vote of 7-0 to adopt Resolution No. 713, establishing fees charged for services of the Building/Zoning/Administration Departments of the Borough of Malvern.

8. OLD BUSINESS:

a) Goals & Objectives

i. Capital Improvement Program

Borough Manager Bashore provided an overview of the 5-Year Capital Improvement Program (CIP) and stated projects are prioritized and divided into categories: 1) Existing debt/projects; 2) Projects contingent on grant funding; 3) Public Works; 4) Sewer Projects; 5) Building/Vehicle Enhancements; 6) Paving & Roadway Infrastructure; 7) Pedestrian Enhancements; 8) Public Safety; and 9) Planning, Administration, & Finance. Prioritizing the projects assists with future budgeting and in determining how certain projects will be financed (e.g. Grants and Debt Incurrence).

Council unanimously agreed to commit to the current CIP draft for 2017 budgeting purposes.

b) Installation of Traffic Calming Improvements – Monument Avenue

Council Member Lexer provided background information on the project, including the nature of the traffic study that was commissioned for the following locations: Monument Ave. (at the intersections of Monument and Malvern Avenues, Monument and Griffith Avenues, and Monument and South Warren Avenues), South Warren Avenue (at the intersections of South Warren and Monument Avenues and South Warren Avenue and Roberts Lane), and Old Lincoln Highway (at the intersection of Old Lincoln Highway and East Broad Street/Raffaella Drive). The recommendations from the traffic study were discussed. John Yurick, P.E., Borough Traffic Engineer, was present to discuss the study and its recommendations. Members of Borough Council discussed the traffic calming improvements on Monument Avenue.

i. The following residents addressed Borough Council:

Joan Cummins, 1307 Raintree, stated she has lived in Malvern for 55 years and believes there are more important issues to address than installing speed humps on Monument Avenue.

Ralph Bitsko, 336 West First Avenue, stated he sees many vehicles speeding in the Borough and questions where all the speeding traffic is coming from.

Jerry Peters, 222 Woodland Avenue, stated he is a full-time paramedic and believes the 11 speed humps on Monument Avenue will significantly affect response times to residents in need of medical attention.

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Bob Chambers, 346 East King Street, asked Police Chief Marcelli how fast vehicles must be traveling over the posted speed limit for Police Officers to issue citations.

Police Chief Marcelli stated vehicles have to be traveling 10 mph over the posted speed limit for speeding citations to be issued and upheld in district court.

Jack Weikert, 137 Monument Avenue, questioned how many calls for medical assistance the Malvern Fire Company has had to make on Monument Avenue over the past year.

Fire Chief Gastwirth did not have the statistics to report, as he has not been involved in the data collection.

Joe Bones, 25 High Street, asked if the traffic studies that have recently been completed have been done in similar fashion to studies prepared previous years.

Council Member Meisel stated traffic studies have a specific format that are followed, including overview, statics and recommendation.

Joe Bones, 25 High Street, asked if Council members who reside on Monument Avenue would recuse themselves from voting on this project. This request was noted.

Gerald Brown, 19 Monument Avenue, stated he believes a more thorough plan is necessary to insure the Borough addresses traffic while considering the businesses in the Borough that rely on patrons driving in.

Larry Rossi, 307 Monument Avenue, stated Monument Avenue will become an obstacle course and questioned what type of image non-borough residents will have of Malvern. He questioned if Borough Council considered the amount of possible insurance claims from travelers whose vehicles may get damaged by the speed humps.

Lynne Hockenbury, 227 East Broad Street, questioned if the traffic study for Monument Avenue considered the vehicles of residents on Monument Avenue and how each vehicle would be counted twice, one time for leaving the home and another time for returning home.

John Yurick of McMahon & Associates stated the study did not factor in the vehicles that reside on Monument Avenue, rather there were counting stripes on the road.

Larry Rossi, 307 Monument Avenue, asked Police Chief Marcelli if the speed limit on Borough roads could be reduced to 15 mph.

Police Chief Marcelli stated the lowest enforceable speed limit is 25 mph, according to PennDOT regulations.

Barbara Tower, 8 Monument Avenue, stated she does not want the speed humps installed on Monument Avenue and believes there are more important areas in the Borough to focus on,

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such as the intersection of Bridge and King Streets. She asked Council if they factored in Monument Avenue being an Emergency Route prior to agreeing to install the speed humps. She is concerned about the costs that could be associated with repairing the snowplows and how emergency vehicles could be delayed during snow events.

Henry Briggs, 132 West First Avenue, questioned why Monument Avenue was selected as the first location to address traffic issues, when the traffic study focused on other areas. He stated that he believes the reason why Monument Avenue was selected first is for the reason that 3 Councilors reside on Monument Avenue.

Andrew Willis, 215 West First Avenue, asked Borough Council to take a step back to insure they are looking out for all of the residents in the Borough, not just a specific area.

John Giannone, 26 Karen Drive, suggested that Council walk the Borough with concerned residents to get a 'Big Picture' of what issues should be addressed and how to better prioritize. He believes King Street, as the downtown business district, may be where all future traffic studies should focus from, then out to the surrounding neighborhood roads.

Council Members made the following statements, questions and positions:

Council Vice-President Uzman had the following questions: 1) Is the type of speed hump proposed appropriate for identified traffic problem(s); 2) Method for calculating Average Daily Traffic flows; 3) Delay of emergency response vehicles; 4) Height of speed humps; and 5) Additional methods of traffic calming evaluated (e.g. On-Street parking and wayfinding signage).

Council Member Lexer stated "Stop" Signs did not meet the warrants for installation at the intersections along Monument Avenue, therefore, the most cost-effective traffic calming measure would be speed humps. Speed humps are PennDOT-authorized means of slowing down vehicles. Additionally, in 2015, Borough Council had the Borough Engineer draft a detailed plan for on-street parking, which was approved by Borough Council and properly delineated with signage and roadway stripping.

Council Member Arena suggested that if a borough-wide traffic study is conducted, than the borough may need to be divided into quadrants to address specific issues in those areas.

Council President Bramwell called for each Council Member to state their position regarding the Installation of Traffic Calming Improvements (i.e. Speed Humps) on Monument Avenue. Council Member Lexer noted the request that was made for Council members residing on Monument Avenue to recuse themselves during voting and stated that, due to this request, his vote would not count in this matter.

Council President Bramwell called for positions to begin with Council Member Sinquett and to proceed in order of Council Members at the dais:

Council Member Sinquett:

Re-Evaluate, Conduct Borough-Wide Study

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|                               |   |
|-------------------------------|---|
| Council Member Lexer:         | Re-Evaluate, Conduct Borough-Wide Study |
| Council Member Meisel:        | Re-Evaluate, Conduct Borough-Wide Study |
| Council Member Grossman:      | Re-Evaluate, Conduct Borough-Wide Study |
| Council Member Arena:         | Re-Evaluate, Conduct Borough-Wide Study |
| Council Vice-President Uzman: | Re-Evaluate, Conduct Borough-Wide Study |

Council President stated he was concerned that by re-evaluating traffic calming measures from a borough-wide perspective this may lead to delays in implementing traffic calming measures on Monument Avenue and other significant areas of the borough while the study is conducted. It was noted that this would be discussed further by the Public Safety Committee.

Council Member Lexer noted that he was ok with tabling this matter for the moment and examining options further.

Council Member Grossman stated her gratitude to all of Council, specifically those Council Members that have spent the past two (2) years addressing public safety issues in the Borough. She believes a borough-wide traffic study will enable Council to better address areas of concern and insure residents have a chance to provide feedback, and for Council to promote transparency of all future traffic calming measures.

c) Code of Conduct Resolution

Borough Manager Bashore provided a summary of the proposed resolution changes made with the input of Council Member Grossman. The purpose of establishing this policy is to set a minimum level of civility and decorum at public meetings, while still recognizing the intention of the Home Rule Charter to provide for citizen involvement and the provisions of the Sunshine Law.

Frank Ortner, 144 Griffith Avenue, asked if the proposed resolution may be posted on the Borough's website. Council President Bramwell directed Borough Manager Bashore to have the resolution posted to the website prior to the June 21, 2016 Meeting. Borough Manager Bashore stated the resolution will be posted on Tuesday, June 14<sup>th</sup>, 1 week prior to the meeting.

Council Vice-President Uzman recommended to Council to make a public vote at the June 21, 2016 Meeting. Council was unanimously in agreement with the recommendation.

9. NEW BUSINESS:

a) 361 Old Lincoln Highway Escrow Release Request #1

A motion was made by Council Vice-President Uzman, seconded by Council Member Arena and carried by a vote of 7-0 to release escrow funds in the amount of \$32,709.00 for 361 Old Lincoln Highway, Renahan Building Group per the Borough Engineer's letter dated, May 19, 2016.

b) Proposed Ordinance – Solid Waste Amendment

Borough Manager Bashore stated before Council this evening is a proposed ordinance to

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amend the Borough's solid waste regulations, Chapter 173 of the Malvern Borough Code of Ordinances. Amendments to chapter 173 are necessary at this time in order to bring the code into line with the Borough's recent bid specifications. The proposed ordinance would accomplish: 1) Amend the definition of "Licensed Refuse Collection Contractor" in section 173-2; 2) Amend section 173-4 in order to increase the maximum number of receptacles to four (4), the maximum number of bags to six (6), and the maximum combination of bags and receptacles to six (6); 3) Amend section 173-5 for licensing requirements for collection contractors; and 4) Remove section 173-6 for reporting requirements for licensed refuse collection contractors.

If Council authorizes its advertisement, it may be placed on the agenda for the June 21, 2016 meeting for a Public Hearing and possible adoption.

Council unanimously agreed to authorize Borough Manager Bashore to advertise the Solid Waste Amendment for adoption at the June 21, 2016 Meeting.

### c) Zoning Hearing Board

#### i. Opening on the Zoning Hearing Board

Borough Manager Bashore stated at the May 17, 2016 Meeting, Borough Council accepted the resignation of Louis Thomas from the Zoning Hearing Board, effective June 1, 2016. The Borough administration posted the opening on the Borough's website. To date, Borough Administration has not received an application for the opening.

Danny Fruchter, 234 Channing Avenue, asked when the deadline is interested residents to submit an application. Borough Manager Bashore stated the deadline is Friday, June 17<sup>th</sup>.

Council Vice-President Uzman recommended Council consider appointing an Alternate to the Zoning Hearing Board to insure timely hearings are maintained within the required timeframe.

#### ii. Applications

Borough Manager Bashore stated on May 24, 2016, the Zoning Hearing Board conducted hearings for variance applications for properties at 225 Roberts Lane and 346 E. King Street.

225 Roberts Lane: This application was for a variance to Article VIII, Sections 802.D, rear yard setback to accommodate an addition to the side and rear of the existing rear building. The Borough did not send representation to the Zoning Hearing Board in regards to this application. The Zoning Hearing Board granted this variance request and will be issuing a written decision.

346 E. King Street: This application was for variances to Article XIV, Sections 1402.E, rear yard setback and 1402.H, maximum building height, to accommodate an addition to the rear building. The property was seeking construct apartments with a rooftop deck on an existing building. This application was reviewed by both the Planning Commission and Borough Council. There were several concerns noted. As a result of the concerns, the Borough Solicitor entered an appearance at the hearing on behalf of the Borough. There was no decision rendered

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at the conclusion of the hearing. The Zoning Hearing Board must issue a decision within 45 days of the hearing and will be scheduling a date for the subsequent meeting.

10. ADJOURNMENT:

All business having been discussed, a motion was made by Council Member Lexer, seconded by Council Vice-President Uzman and unanimously carried by a vote of 7-0 to adjourn the meeting at 9:57 p.m.

Respectfully submitted,

Neil G. Lovekin  
Assistant Secretary