

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

March 6, 2018
7:30 P.M.

PRESIDING: Jamie S. Grossman, President

INVOCATION: David B. Burton, Mayor

PLEDGE OF ALLEGIANCE TO THE FLAG

1. ROLL CALL: Council President Grossman
Council Vice-President Uzman
Council Member Finkbiner
Council Member Laney
Council Member Meisel
Council Member Raynor
Council Member Sinquett
Mayor Burton

2. RECORDING OF MEETING:

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

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

3. AMENDMENT OF MINUTES:

A motion was made by Council Vice-President Uzman, seconded by Council Member Sinquett, and carried by a vote of 7-0, to amend the minutes of the meeting held on Tuesday, January 16, 2018 and Tuesday, February 6, 2018 as submitted by Council President Grossman.

4. UNFINISHED BUSINESS:

a) 2017 Committee Reports – Shade Tree Commission

Borough Manager Bashore stated in 2017, the Shade Tree Commission completed six (6) land reviews for proposed development projects, which included: 217 South Warren Avenue, 346 East King Street, 100 Quaker Lane, 323 Old Lincoln Highway, 51 Ruthland Avenue, and 324/328 East King Street. The Commission assessed the viability of two (2) trees on Woodland Avenue in preparation for the upcoming streetscape project. The Commission revised the Shade Tree Ordinance by recommending changes to the approved species list of plantings. In the fall of 2017, the Commission delivered nine (9) trees to Borough residents as part of its annual bare-root plantings.

b) Update: Borough Council Initiatives – Proposed Zoning Ordinance Amendments

Borough Manager Bashore stated at the February 6, 2018 meeting, Borough Council

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discussed the proposed amendments, at which time these amendments were referred to the Planning Commission for its review. The Planning Commission recommended that the Borough obtain rate proposals and engage a land planning consultant in order to better define the scope of the project. Based on the Planning Commission's recommendation, Borough Council directed the Borough administration to obtain proposals from land planning consultants. Borough Administration reached out to four (4) land use consulting firms; 1) Theurkauf Planning & Design, LLC; 2) Gilmore & Associates, Inc.; 3) Thomas Comitta Associates, Inc.; and 4) Brandywine Conservancy.

Council President Grossman referred the review of the land planning proposals to the Public Works Committee.

c) Home Rule Charter Ad Hoc Committee

Borough Manager Bashore mentioned before Borough Council this evening is a proposed ordinance to initiate the amendment of section 903 of the Home Rule Charter pertaining to the operating budget. The proposed language would require that the annual budget be advertised in one or more newspapers of general circulation. Borough Manager Bashore emphasized that this ordinance has not been advertised and would need to be authorized for advertisement by Borough Council.

Council Member Raynor explained that reducing the number of advertisements from two (2) to (1) one will reduce the costs to the Borough taxpayers by more than half by only having to advertise in the Daily Local Newspaper.

Danny Fruchter asked what the specific language changes are in regards to Section 903 of the Home Rule Charter, regarding the advertising of the draft budget. Council Member Finkbiner read aloud the red-line changes to Section 903.

A motion was made by Council Vice-President Uzman, seconded by Council Member Laney, and carried by a vote of 7-0, to authorize for advertisement the proposed Public Hearing for amending section 903 of the Home Rule Charter pertaining to the advertisement requirements of the operating budget.

5. NEW BUSINESS:

a) Resolution No. 761 – Supporting Senate Bill No. 251 – Radar Enforcement

Borough Manager Bashore summarized the proposed Resolution that is before Borough Council this evening. Mayor Burton has become involved in the PA Mayors Association and the Chester County Mayor's Association. At a recent meeting of the Chester County Mayor's Association, Colonel Blocker of the PA State Police presented information on the use of radar. It was noted that approximately 1,700 municipalities use this equipment due to

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the fact that their sole means of police coverage is through the PA State Police. Senate Bill 251 is before the PA General Assembly to expand the use of motor vehicle speed-timing equipment to municipal departments.

Borough Manager Bashore stated the Chester County Mayor's Association is requesting that municipalities consider adoption of a resolution supporting Senate Bill 251. In addition to the draft resolution, Mayor Burton has provided an analysis of statistics provided by the National Highway Traffic Safety Administration that was included in Borough Council's packet.

Council Member Finkbiner stated Senate Bill No. 251 would enable municipalities to choose whether to employ radar for vehicle-timing or whether to continue using existing equipment.

Council Member Raynor stated, in 2015, Pennsylvania was 2nd in the Nation in vehicle fatalities.

A motion was made by Council Vice-President Uzman, seconded by Council Member Meisel, and carried by a vote of 7-0, to adopt Resolution No. 761, in support of Senate Bill 251 enabling all municipal police to use the same motor vehicle speed-timing equipment as the Pennsylvania State Police.

b) 190 Pennsylvania Avenue – Request for Extension

Borough Manager Bashore stated before Borough Council this evening is a request for an extension for the Aras land development plan at 190 Pennsylvania Ave. Their current extension will expire on March 16, 2018. They are requesting an additional 120-day extension of time in which to post financial security and record the approved land development plan. In a letter dated February 20, 2018, the Aras' attorney, Louis Colagreco, Jr., Esq., stated that the Aras' are considering a smaller building addition than originally approved and currently reviewing the feasibility of this new design.

Council Vice-President Uzman stated that a significant amount of the original plan that was approved years ago has changed and that the applicant should have to go back to the Planning Commission for its review.

Council Member Siquett stated that if the applicant changes the design of the proposed building, then the applicant should have to reappear before the Planning Commission for a formal review.

Jon-Jorge Aras, Esq., son of the Applicant, stated delays in construction have been compounded by various events over the years, including but not limited to, obtaining a variance from the Zoning Hearing Board, the 2008 Recession, family health issues, and changes among the customer base. Jon-Jorge Aras, Esq., stated he is securing an escrow through a financial institution for construction and Louis Colagreco, Jr., Esq., is drafting a deed of dedication for Pennsylvania Avenue.

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Borough Solicitor Christakis said the PA Municipal Planning Code provides leeway in regards to project completion, if the applicant shows a good faith effort in meeting their obligations. Borough Solicitor Christakis stated Borough Council has two (2) options: 1) Handle the building size changes administratively, or 2) Have the applicant reapply through the Subdivision & Land Development process.

Borough Manager Bashore suggested Borough Council impose a condition that makes the applicant make a good faith effort by having a Deed of Dedication for Pennsylvania Avenue completed and submitted to the Borough within thirty (30) days of the extension agreement.

Council Vice-President Uzman stated another reason to consider making the applicant go through the Subdivision & Land Development process is that the original plans that were approved were prior to new Borough Ordinances coming into effect. Therefore, the approved plans may not conform with the current ordinances.

Council Member Laney asked the applicant when they may decide to downsize its proposed addition. Jon-Jorge Aras, Esq., stated it is underway and is being coordinated with the assistance of the Borough Engineer.

Borough Solicitor Christakis stated that there are various options that existed based on (a) the applicant's decision in regards to the application and (b) if the Borough staff determines that the applicant's decision meets the criteria for an administrative change. The options outlined were as follows:

- 1) The applicant builds what was originally approved.
- 2) The applicant builds a smaller building, as an administrative change to the approved plans. This would be based on the determination that the administrative change would be permissible.
- 3) The applicant builds a smaller building, but must receive the necessary approval through the Subdivision and Land Development process to revise the approved plans. This would be based on the determination that the administrative change would not be permitted.
- 4) The applicant restarts the Subdivision and Land Development process with a new application.

Council Member Finkbinder recommended that, if the applicant must proceed through the Subdivision and Land Development process, it should be a new application, not a revision. After discussion, it was determined that the option of constructing a smaller building and receiving the necessary approval through the Subdivision and Land Development process to revise the approved plans was not feasible due to the timeline constraints.

A motion was made by Council Member Finkbinder, seconded by Council Member Sinquett, and carried by a vote of 5-2, with Council Vice-President Uzman and Council Member Sinquett voting in opposition, to grant a one-hundred and twenty (120) day extension to the Aras's Land Development Project, situated at 190 Pennsylvania Avenue, conditioned on

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submitting the Deed of Dedication for additional right-of-way along Pennsylvania Avenue within thirty (30) days.

c) Zoning Hearing Board

Borough Manager Bashore stated that the application for 324/328 East King Street, owned by Renehan Realty, LLC., who was seeking a variance from section 220-2501.D.9.E., requiring aisles within parking lots separating rows of parking spaces to be 24 ft. wide was continued. The hearing on this application was held on February 26, 2018. During the hearing, numerous questions were raised on this application including the number of spaces being created, lighting of the parking lot, buffering requirements, and how the spaces would be assigned to the uses on the property. Due to the volume of information that was outstanding, the hearing was postponed so the applicant may revised and resubmit an application and plans in greater detail. The Borough Engineer and Solicitor will be in attendance.

Borough Manager Bashore stated the second application was 11 Griffith Avenue, owned by Joseph Willis, who was seeking a variance from section 220-602.A.1., requiring a minimum lot area of 12,000 sq. ft. The hearing on this application was held on February 26, 2018. During the testimony, the applicant stated that only a reduction of 90 sq. ft. was necessary to create a buildable lot, while still maintaining the ultimate right-of-way requirements for King Street. The Board voted unanimously to grant the variance request from section 220-602.A.1. for the property at 11 Griffith Avenue.

d) Snow Emergency Declaration

Borough Manager Bashore stated that Mayor Burton has issued a Snow Emergency Declaration from March 6, 2018 at 9:00 pm until Thursday, March 8, 2018 at 7:00 pm.

6. PUBLIC FORUM:

Council President Grossman informed all present that Public Forum is the time to offer comments on any item not on the agenda and to bring any issues/concerns before Council.

a. John Buckley, 165 Church Street, asked for clarification as to where the street trees will be located along South Warren Avenue on First Baptist Church's cemetery. Borough Manager Bashore stated the Borough Engineer has not completed his assessment and is coordinating with representatives on the Church. John Buckley accused Borough employees of conducting personal matters on Borough time. Borough Solicitor Christakis instructed Mr. Buckley to submit a written complaint with specifics to the attention of the Borough Manager for review.

7. ADJOURNMENT:

All business having been discussed, a motion was made by Council Member Meisel, seconded by Council Vice-President Uzman, and carried by a vote of 7-0, to adjourn the meeting at 8:36 p.m.

Respectfully submitted,

Neil G. Lovekin
Assistant Secretary