

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

May 19, 2020
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
Council Member Laney
Council Member Meisel
Council Member Phillips
Council Member Raynor
David B. Burton, Mayor

ABSENT

Council President Finkbiner announced that this evening's meeting was being held virtually due to the COVID-19 pandemic and as permitted under Act No. 15 of 2020. Council President Finkbiner announced the following guidelines for the meeting:

- Participants will be asked to identify themselves when being accepted into the meeting.
- The public will be muted during the meeting when the members of Borough Council are speaking.
- For each agenda item, the public will be unmuted and given an opportunity to comment and ask questions.
- Public Comment received via email will be read by the Borough Manager either during the topic on the agenda or the general "Public Forum" period.
- Participants wishing to comment must state their name and must speak one at a time.

2. APPROVAL OF AGENDA

A motion was made by Council Member Laney, seconded by Council Member Bones, and carried by a vote of 7-0, to approve the agenda for May 19, 2020 as presented.

3. ANNOUNCEMENTS

a. Recording of the Meeting

REGULAR MEETING

May 19, 2020

Page 2

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 being recorded for minute taking purposes, but the recording would not be posted on the Borough website.

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

b. Council President Finkbiner announced that Borough Council held an Executive Session on April 28, 2020 in order to discuss matters pertaining to emergency preparedness.

c. Council President Finkbiner announced that the Malvern Police Department and the Malvern Fire Company will honor the class of 2020 with a Graduation Celebration Parade on June 5, 2020 at 4:30 pm. Route information is available on the Malvern Borough website.

d. Council President Finkbiner announced that the annual Malvern Memorial Parade has been postponed to September 20, 2020.

e. Council President Finkbiner announced that the Malvern Fire Company Golf Outings and Annual Fair have been cancelled.

f. Please watch the Malvern Borough website for updates pertaining to COVID-19 (e.g., community events, meetings, etc.).

4. MINUTES & REPORTS

a. APPROVAL OF MINUTES

A motion was made by Council Member Phillips, seconded by Council Member Bones, and carried by a vote of 7-0, to approve the minutes of the meeting held on Tuesday, April 21, 2020 as amended.

b. APPROVAL OF REPORTS

A motion was made by Council Member Bones, seconded by Council Member Laney, 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 April 2020, as submitted.

Borough Manager Bashore provided a summary on the Borough's financial standing as it relates to the COVID-19 pandemic. The following items were noted:

- Expenditures are down 9% across all Borough funds, including 6% lower in the General Fund, comparable in the Sewer Fund, and 38% in the Capital Reserve Fund.

REGULAR MEETING

May 19, 2020

Page 3

- Overtime costs in the Public Works Department are down 66%, part-time Police officer costs are down 24%, and professional expenditures are down compared to last year (10% for legal expenditures and engineering costs are down 43%).
- The following cost control measures are being implemented:
 - Certain paving projects will not be bid out, including W. King Street (budgeted at \$125,000) and Malvern Avenue (budgeted at \$101,000).
 - Part-time positions allocated in the budget are not being filled at this time.
 - Chief Marcelli has implemented a reduction in the use of part-time patrol officers and overtime.
 - Community events from the Parks & Recreation Committee are expected to be reduced.
- Revenue is approximately 20%. The Borough has experienced a slower pace of processing real estate tax payments due to employees working remotely.
- Act 511 taxes are down 7%. Real Estate Transfer Tax revenue is tracking higher than in 2019. Earned Income Tax are down 7%, primarily due to the suspension of delinquent tax collection, which was down 67%.
 - Earned Income Tax collection thru April 30, 2020 was 2% lower compared to April 30, 2019.
 - Distributions thru May 18, 2020 are 92% of what was distributed the entire month of May 2019.
- Building permit revenue is down 20%, but the Borough has witnessed an increase in permit activity in May.

Borough Manager Bashore stated that the Borough's financial position will continue to be monitored and the appropriate controls will be put in place.

c. BOROUGH COUNCIL COMMITTEE REPORTS

- Finance & Administration

Council Member Laney stated that the Finance & Administration Committee met on April 28, 2020. Items before the Committee included a review of the Borough's pension funds, discussion on a proposal to complete a study of the Borough's sewer rate, and a review of Borough investments.

The Committee met with Michael Glackin and Brad Warner of INR Advisors to review the first quarter statements for the Borough's pension funds. Both funds sustained a 13.60% decline during the first quarter due to market volatility. However, as of April 27, 2020, both funds have witnessed a 6% recovery.

The Committee reviewed a sewer rate study proposal from Keystone Alliance Consulting. The directed the Borough Manager to speak with Keystone Alliance Consulting about scaling back the scope of work. The Borough Engineer, through their sub-contractor, Hydraterra, is going to evaluate the scope of work and provide guidance.

Information regarding the investment of Borough funds will be discussed this evening. Two (2) CDs with the National Bank of Malvern will be maturing on May 29, 2020.

- Public Safety

Council Member Meisel stated that the Public Safety Committee has not met since the April 21, 2020 meeting of Borough Council.

Council Member Meisel stated that a plan for pavement markings prepared by the Borough Traffic Engineer was reviewed via email. These will replace the delineators removed from the intersection. The estimated cost is \$190.50. This work may be factored into the Borough's annual line painting program.

- Public Works

Council President Finkbiner stated that the Public Works Committee has not met since the April 21, 2020 meeting of Borough Council.

Council President Finkbiner stated that bid results for the paving of N. Warren Ave. (from Pennsylvania Ave. to the Borough boundary) are before Borough Council this evening for possible awarding. This was tabled at the April 21, 2020 meeting. Additional information has been provided.

5. SPECIAL BUSINESS

- a. RESOLUTION NO. 812: ELIMINATING LATE CHARGES FOR THE 2020 Q1 SEWER USAGE CHARGES

Borough Manager Bashore stated that Before Borough Council this evening is proposed Resolution No. 812. This resolution would eliminate the charges for late sewer payments imposed by section 168-9.(D). of the Malvern Borough Code of Ordinances. This is comparable to the real estate tax deadline changes that were approved by Borough Council at the April 21, 2020 meeting.

In accordance with section 168-9.(D)., any payment received after 30 days of the date of the bill is assessed a 10% penalty charge. This resolution would only eliminate that charge for the first quarter billing period of 2020 (January through March usage that is billed in April). Please be advised that the interest charges outlined in the aforementioned section would continue.

REGULAR MEETING

May 19, 2020

Page 5

John Buckley, 165 Church Street, asked how long the late charges would be suspended. Borough Manager Bashore stated that it would only apply to the first quarter 2020 sewer charges. Council President Finkbiner stated that interest charges would continue to accrue.

A motion was made by Council Member Bones, seconded by Council Member Laney, and carried by a vote of 7-0, to adopt Resolution No. 812, eliminating the 10% late charge outlining in Section 168-9.D. of the Malvern Borough Code of Ordinances for the 2020 first quarter charges. Interest charges will still apply as outlined.

6. UNFINISHED BUSINESS

a. 2020 Paving Projects – Awarding of Bids

- N. Warren Avenue (from Pennsylvania Avenue to the Borough boundary)

Council President Finkbiner stated that this project involves the mill and overlay of N. Warren Avenue from Pennsylvania Avenue to the Borough boundary. Costs for this project were allocated in the 2020 budget in the Highway Aid Fund.

Borough Manager Bashore noted that at the April 21, 2020 meeting, additional information was requested from the Borough Engineer, specifically pertaining to the proposed streambank stabilization work along N. Warren Avenue. This information was reviewed. Borough Manager Bashore noted that the segment of N. Warren Avenue in East Whiteland Township appears to be in good condition based on the Borough Engineer's review of GIS information. Borough Manager Bashore stated that he is concerned that the road will be more expensive to repair given its condition if the region experiences a harsh winter.

A motion was made by Council Member Phillips, seconded by Council Member Laney, and carried by a vote of 7-0, to award the contract for the paving of N. Warren Avenue from Pennsylvania Avenue to the Borough boundary to John A. DiRocco Contractors based on their bid dated April 16, 2020 in the amount of \$28,217.16 based on the recommendation of the Borough Engineer.

b. Discussion – Zoning Ordinance Amendments – Chester County Planning Commission Comments

Council President Finkbiner stated that the Malvern Planning Commission has recommended adoption of the proposed amendments to the Borough's Zoning Ordinance based on the work with the Brandywine Conservancy. At the March 3, 2020 meeting of Borough Council, the proposed amendments were authorized to be forwarded to the Chester County Planning Commission for review pursuant to the Municipalities Planning Code. Comments have been received from the Chester County Planning Commission. Council President Finkbiner stated that based on the comments received, the following options are before Borough Council for consideration:

REGULAR MEETING

May 19, 2020

Page 6

1. Borough Council could send the proposed ordinance back to the Planning Commission for further review based on the comments that were received.
2. Borough Council could authorize the proposed ordinance for advertisement for a public hearing and possible adoption. If authorized, the public hearing could be held at the June 16, 2020 meeting due to the advertising requirements.

Council President Finkbinder noted that the comments included to quantify the number of nonconformities that would be created and review the standards for the minor expansion of existing nonconforming properties.

Dave Knies, Ph.D., Malvern Planning Commission, stated that he did not believe that the ordinance needed to return to the Planning Commission based on the review from the Chester County Planning Commission.

Vice-President Grossman stated that she would like to see the proposed ordinance proceed forward, noting that the proposed ordinance has been reviewed publicly during the course of its development. Borough Council agreed. Borough Manager Bashore stated that the necessary public hearing could be held via video conferencing methods. Vice-President Grossman asked if any input was required from the Borough Solicitor in regards to a public hearing. Borough Manager Bashore stated that he would speak with the Borough Solicitor prior to advertising the proposed ordinance.

A motion was made by Vice-President Grossman, seconded by Council Member Raynor, and carried by a vote of 7-0, to authorize the proposed amendments to the Borough's zoning ordinance for a public hearing.

7. NEW BUSINESS

a. Chester County Vision Partnership Program – Consultant Selection

Council President Finkbinder stated that Malvern Borough has been awarded a \$31,890 Vision Partnership Program Grant from Chester County for the update to the Borough's Comprehensive Plan. The next step is to consider the selection of a consultant to complete the plan. Council President Finkbinder stated that there is normally a 120 timeline to select a consultant, but the County is not enforcing that due to the current circumstances. Once a consultant is selected, a two (2) year completion timeline begins. Council President Finkbinder noted that the Brandywine Conservancy is on the County's list of approved contractors.

Borough Manager Bashore noted that he spoke with Meredith Mayer from the Brandywine Conservancy and they are interested in working on this project.

Council Member Bones asked about the Borough's experience with the Brandywine Conservancy. Council President Finkbinder noted that it was a positive experience. Borough Manager Bashore reviewed the list of approved firms provided by the County.

REGULAR MEETING

May 19, 2020

Page 7

Borough Manager Bashore noted that three (3) of the five (5) firms have been interviewed by the Borough in the past. Council Member Bones asked if the Brandywine Conservancy worked primarily with the Planning Commission on the Zoning Ordinance updates. Borough Manager Bashore stated that it started as a sub-committee of Borough Council and was then forwarded to the Planning Commission.

Dave Knies, Ph.D., Malvern Planning Commission, stated that the Brandywine Conservancy was flexible to work with.

Council Member Laney recommended postponing a decision to the late summer or fall due to the current situation.

Vice-President Grossman stated that there is value to working with the organization familiar with the Borough and she would feel comfortable with working with the Brandywine Conservancy again. Vice-President Grossman noted that it may be difficult to begin this work given the current situation. Borough Manager Bashore noted that the 120 day clock would be August 8, 2020 and that the County would consider extensions to complete the project.

Council Member Meisel stated that a two (2) year timeframe to complete this work would be sufficient. Borough Manager Bashore noted that the grant application outlined an 18 month timeline.

Borough Council directed Borough Manager Bashore to speak with the County regarding extensions and notify the Brandywine Conservancy of the Borough's interest in working with them on this project.

No action was taken.

b. Investment of Borough Funds

Borough Manager Bashore stated that Before Borough Council this evening is information regarding the investment of Borough Funds with the National Bank of Malvern, an approved depository for the Borough. The specific funds are the Borough's General and Sewer Fund Contingency Accounts. These funds were placed into a 12-month CD with the National Bank of Malvern, both of which will mature on May 29, 2020. The rate for both CDs was 2.50%.

Due to the reduction in interest rates from the Federal Reserve and the existing economic climate, Mary Lou Whitcomb, Borough Treasurer, and I have been discussing options for when these CDs mature. It is our recommendation that these funds not be locked into another CD given the low interest rates and instead be moved into a money market account.

This information was reviewed with the Finance & Administration Committee on April 28, 2020, who were in agreement with moving these funds into a money market account.

REGULAR MEETING

May 19, 2020

Page 8

As the National Bank of Malvern is an approved depository for Borough funds, no action is required.

Borough Council was in agreement with the determination of the Finance & Administration Committee.

c. Zoning Hearing Board

Council President Finkbiner stated that there are two (2) applications before the Zoning Hearing Board. The applicant for 418 E. King Street desires to convert an existing auto repair facility into an office and is seeking a variance from section 220-2501.B.(5) of the Malvern Borough Zoning Ordinance. The applicant for 128-142 King Street is seeking variances from sections 220-1402.H. and 220-2501.B.(5) of the Malvern Borough Zoning Ordinance.

Borough Manager Bashore stated that the application for 418 E. King Street was reviewed by the Planning Commission at their May 7, 2020 meeting. The Planning Commission recommended that the Borough Solicitor be sent to the hearing. Council President Finkbiner asked if land development would be required. Borough Manager Bashore stated that has not yet been determined. Borough Manager Bashore noted that the applicant will be extending sidewalk and curb to the Borough boundary. Assistant Borough Manager Loomis noted that the applicant is seeking parking resolutions in order to avoid going to the Zoning Hearing Board.

Borough Manager Bashore stated that the application for 128-142 E. King Street is scheduled to be reviewed by the Planning Commission on May 21, 2020. Borough Manager Bashore stated that the applicant is seeking variances for building height and parking.

On motion of Vice-President Grossman, seconded by Council Member Laney, and carried by a vote of 7-0, to authorize the Borough Solicitor to attend the Zoning Hearing Board meeting on June 22, 2020 for the application of 418 E. King Street.

8. PUBLIC FORUM

Council President Finkbiner 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 he does not own a computer and it is difficult for him to follow along when plans and other images are being discussed. Council President Finkbiner noted that she will try to provide more detail on items being reviewed due to the current format. Borough Manager Bashore stated that he is happy to meet with Mr. Buckley outside of Borough Hall.

Council President Finkbiner stated that Borough Council will look to cancel the June 2, 2020 unless pressing matters require a meeting.

Chief Marcelli provided an update on the COVID-19 pandemic, noting that Chester County is still in the red zone and that Governor Wolf's Stay-at-Home order remains in effect.

REGULAR MEETING

May 19, 2020

Page 9

9. ADJOURNMENT

All business having been discussed, a motion was made by Vice-President Grossman, seconded by Council Member Bones, and carried by a vote of 7-0, to adjourn the meeting at 8:33 p.m.

Respectfully submitted,

Christopher Bashore
Borough Manager/Secretary