

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

November 1, 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 (Absent)
Council Member Meisel (Absent)
Council Member Siquett
Mayor Burton

2. RECORDING OF MEETING:

Council President Bramwell 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. 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 to bring any issues/concerns before Council that are not on the agenda.

- a. Christopher Gastwirth, Fire Chief of the Malvern Fire Company stated the Company will be hosting a Block Party on Saturday, November 12, 2016 from 10:00 a.m. to 4:00 p.m. with free admission to carnival rides by Houghton, fire truck rides, vendors and food. A benefit will follow from 6:00 p.m. to 11:00 p.m. for a Beef and Beer to support a fellow firefighter that has been serving the Malvern Community for 36 years that was recently diagnosed with colon cancer.

A motion was made by Council Vice-President Uzman, seconded by Council Member Arena and carried by a vote of 5-0 to authorize Borough Manager Bashore to draft a letter on behalf of the Malvern Fire Company, addressed to the Pennsylvania Liquor Control Board, to support the dispensing of alcohol on the Malvern Fire Company premises during the Beef and Beer benefit to be held on Saturday, November 12, 2016.

4. PRESENTATION – PRACTICAL ENERGY SOLUTIONS – BOROUGH HALL ENERGY AUDIT REPORT:

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Dianne Herrin and Ben Pressman of Practical Energy Solutions performed an energy assessment of the Malvern Borough administration building to quantify energy performance and identify opportunities to improve efficiency. Mrs. Herrin and Mr. Pressman visited the site on June 27, 2016 and met with Chris Bashore, Borough Manager and Ira Dutter, Public Works Director. Practical Energy Solutions previously performed an energy assessment of this building in October 2010 as part of a County-funded municipal energy audit program. The assessment included a survey of energy-consuming systems including HVAC, lighting, receptacle loads, domestic hot water, and the building envelope. Practical Energy Solutions focused on lighting and HVAC system upgrades, with an emphasis on known HVAC concerns such as aging equipment, rising repair costs, uneven space conditioning, and the Borough's desire to eliminate reliance on costly fuel oil.

Council was in agreement that next steps are for the Finance and Administration Committee to review Option No. 2 in the Assessment, which focuses on replacing the existing HVAC system with a hydronic system.

5. RESOLUTION No. 721 – PARTICIPATION IN THE DELAWARE VALLEY REGIONAL PLANNING COMMISSION'S CLASSIC TOWNS PROGRAM:

Borough Manager Bashore provided a summary of proposed Resolution No. 721. This resolution authorizes participation in the Delaware Valley Regional Planning Commission's (DVRPC) Classic Towns Program. At the meeting on October 18th, Borough Council approved the action plan for participation in this program and authorized participation for a two (2) year period. In speaking with Karen Cilurso, the program coordinator at DVRPC, each participant municipality is required to adopt a resolution for participation. This resolution formalizes the action taken by Borough Council at the October 18, 2016 public meeting.

A motion was made by Council Vice-President Uzman, seconded by Council Member Sinquett and carried by a vote of 5-0 to adopt Resolution No. 721, authorizing participation in the Delaware Valley Regional Planning Commission's Classic Towns Program.

6. PUBLIC HEARING – ORDINANCE AMENDMENT – COLLECTION OF INTEREST ON MUNICIPAL LIEN CLAIMS:

Council Vice-President Bramwell announced that Borough Council will open a Public Hearing to consider an ordinance to amend Chapter 101, Article II of the Malvern Borough Code of Ordinances in order to establish the rate and provide for the imposition and collection of interest for municipal lien claims.

The Notice of Public Hearing was published in the October 20, 2016 edition of the Daily Local newspaper as required.

Borough Manager Bashore provided a summary of the proposed Ordinance No. 2016-15, which would establish the rate of interest for outstanding municipal liens filed by the Borough. This ordinance would amend chapter 101, article II of the Malvern Borough Code of Ordinances. The Borough is permitted to apply such interest per the Municipal Claims and Tax Liens Law

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(the "MCTLL"), but must do so via ordinance. The rate of interest specified in the MCTLL varies from one type of claim to another (as low as 5% to as much as 12%), but Ordinance No. 2016-15 would set the rate at the maximum rate permitted under the MCTLL, or 10% if no rate is specified in the MCTLL.

Frank Ortner, 144 Griffith Avenue, stated the 10% rate seems high for homeowners on fixed income. Council President Bramwell stated the ordinance amendment is to address repeat offenders and focuses on a small percentage of homeowners.

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

7. ORDINANCE NO. 2016-15:

A motion was made by Council Vice-President Uzman, seconded by Council Member Arena and carried by a vote of 5-0 to adopt Ordinance No. 2016-15, amending Chapter 101, Article II of the Malvern Borough Code of Ordinances to establish the rate and provide for the imposition and collection of interest for municipal lien claims.

8. OLD BUSINESS:

a. Ordinance 2016-2: Issuance of Non-Electoral Debt

Council President Bramwell stated this item was tabled.

b. Proposed 2017 Budget - Update

Borough Manager Bashore stated the Finance and Administration Committee met prior to the Borough Council Meeting to review the revised 2017 Budget that will not include a tax increase. The 2017 Budget will be on the November 15, 2016 Borough Council Agenda for authorization to advertise the budget in the Daily Local, with an adoption date slated for Tuesday, December 20, 2016 at the Borough Council Meeting.

c. Zoning Hearing Board

Borough Manager Bashore stated the Zoning Hearing Board met on Monday, October 24, 2016 in order to hear the following applications: 1) 203 E. Broad Street: This application was for a variance from Article IX, Section 902.F. of the Zoning Ordinance, pertaining to lot coverage, in order to add a deck to an existing building and install a shed; 2) 210 2nd Avenue: The application was for a Special Exception to conduct a major home occupation at 210 2nd Avenue (one on one art instruction) pursuant to section 2412 of the Borough's Zoning Ordinance; and 3) Malvern Prep – 418 S. Warren Ave: This application was for a variance from section 1602.B. of the Borough's Zoning Ordinance pertaining to separation between buildings and separation between a building and a drive aisle. This is in advance of a future land development application. On August 4, 2016, the Planning Commission held a pre-application discussion with Malvern Prep to discuss their proposed land development in anticipation of this application.

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All three (3) requests were granted by the Zoning Hearing Board. Written decisions are being prepared by the Zoning Hearing Board Solicitor.

9. NEW BUSINESS:

- a. Announcement – Community Revitalization Program Award for the Woodland Avenue Streetscape Project

Borough Manager Bashore stated he received a letter from the County Commissioners notifying the Borough of a grant award in the amount of \$490,000 for the Woodland Avenue Streetscape Project. The grant award is funded by the Chester County Commissioners through their Community Revitalization Program. Construction is anticipated to commence late spring/early summer of 2017 and should be completed in approximately 12 weeks, depending on weather and other outlining factors.

- b. Petition – Private Road off of Old Lincoln Highway

Borough Manager Bashore stated a new petition was submitted on October 7, 2016 by Mr. Phillip Mellusi, 343 Old Lincoln Highway for the Borough to engineer and construct a private road, as well as, to accept dedication of it at the end of construction. Upon review of the petition, Borough Manager Bashore identified deficiencies in the revised petition, including: 1) The necessary number of signatures is not contained on the petition. There must be a minimum of 112 signatures per the Borough's Home Rule Charter; 2) In order to accept the private street for dedication, Borough Council would need to adopt an ordinance; 3) The roadway does not meet the minimum cartway width requirements for a local road as outlined in the Borough's Subdivision & Land Development Ordinance; 4) There is not an adequate turnaround area at the north-end of the private street; and 5) The private road does not meet the minimum requirements to be accepted for liquid fuels funding through PennDOT.

Borough Council encouraged the owners on the private road to agree to what step(s) they may want to pursue, including the hiring of a professional engineer to evaluate existing road conditions and possible roadway improvements as outlined in Section 503 of the Borough's 2006 Subdivision & Land Development Ordinance, as well as, the PennDOT requirements for liquid fuels roads. Upon completion of the roadway improvements, the Borough Council could then considering accepting dedication.

- c. Announcement - Master Planner Program Completion

Borough Manager Bashore stated Lynne Hockenbury, Malvern Planning Commission Member and Neil Lovekin, Assistant Borough Manager/Secretary completed the 3-course program offered by the Pennsylvania Municipal Planning Education Institute.

- d. Announcement – Home Rule Charter, Section 205 Amendment

Borough Manager Bashore stated on Election Day, Tuesday, November 8, 2016 there

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will be a ballot question for Malvern residents, which if approved by the voters, would amend Section 205 of the Home Rule Charter of the Borough of Malvern. Section 205 relates to term limits for the Borough Council members. The current text could be read several different ways with different interpretations. The current text is also outdated because it refers to members of Borough Council who were elected before the adoption of the Home Rule Charter in 2008 and no such members of Borough Council remain on the Borough Council.

There are two ways that a citizen of the Borough can become a member of the Borough Council. The first way is to be elected. The second way is to be appointed by the Borough Council to fill the remaining part of the term for a member of the Borough Council who dies or becomes ineligible to serve (for example, by moving out of the Borough) while on Borough Council, or who resigns from Borough Council for some other reason.

The proposed revision would prohibit any person from running for Borough Council for more than two consecutive terms. After serving two elected terms, a person would not be eligible for reelection to a third term. It would also prohibit any person from being appointed to two consecutive unexpired terms or serving any part of three consecutive terms by appointment or election.

These provisions would apply to both the current and future members of Borough Council.

e. Announcement – Halloween Parade Coverage by Fire Police

Police Chief Marcelli thanked the Malvern Fire Company's Fire Police and other agencies involved in insuring the Annual Halloween was conducted in a safe and professional manner.

10. ADJOURNMENT:

At 8:54 p.m. Council President Bramwell stated Council will adjourn to Executive Session to discuss personnel and real estate matters.

Council President Bramwell reconvened the public meeting at 9:16 p.m.

All business having been discussed, a motion was made by Council Vice-President Uzman, seconded by Council Member Sinquett and carried by a vote of 5-0 to adjourn the meeting at 9:18 p.m.

Respectfully submitted,

Neil G. Lovekin
Assistant Secretary