

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

September 21, 2021
7:30 P.M.

PRESIDING: Amy Finkbiner, Ph.D., President

INVOCATION: Council Member Laney

1. ROLL CALL

PRESENT

Council President Finkbiner
Council Vice-President Grossman
Council Member Bones
Council Member Laney
Council Member Phillips
Council Member Raynor
David B. Burton, Mayor (attended remotely)

ABSENT

N/A

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 6-0, to approve the agenda for the September 21, 2021 meeting as presented.

3. ANNOUNCEMENTS

a. Recording of the Meeting

Council President Finkbiner noted that the Borough was recording tonight's meeting for minute-taking purposes. She asked in accordance with Resolution No. 787 if any member of the audience was recording the meeting.

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

b. Council President Finkbiner stated that Borough Council met in Executive Session on September 21, 2021, prior to this evening's meeting, in order to discuss personnel matters and measures pertaining to emergency preparedness.

c. Council President Finkbiner stated that the Paoli Battlefield will host "Paoli Battlefield Heritage Day" on September 25, 2021 from 6:00 pm to 10:00 pm at the Paoli Battlefield.

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d. Council President Finkbiner stated the Upper Main Line Memorial Association will host their annual Malvern Parade on Sunday, September 26, 2021 at 1:30 pm.

4. MINUTES & REPORTS

a. APPROVAL OF MINUTES

A motion was made by Council Member Laney and seconded by Council Member Raynor to approve the minutes from the September 7, 2021 meeting of Borough Council as presented. There being no further discussion, the motion approving the minutes passed by a vote of 6-0.

b. APPROVAL OF REPORTS

A motion was made by Council Member Laney, seconded by Council Member Raynor, and carried by a vote of 6-0, 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 August 2021, as submitted.

c. BOROUGH COUNCIL COMMITTEE REPORTS

a. Finance & Administration – Council Member Laney

Councilor Laney stated that the Finance & Administration Committee has not met since the August 17, 2021 meeting of Borough Council.

b. Public Safety – Council Member Raynor

Council Member Raynor stated that the Public Safety Committee has not met since the August 17, 2021 meeting of Borough Council and committee items are in a holding pattern.

c. Public Works – Council Member Bones

Council Member Bones stated that the Public Works Committee met on August 17, 2021. Items before the Committee included the paving of Malvern Avenue and Karen Drive scheduled for completion in October 2021.

Council President Finkbiner called for questions from the public.

Ms. Cathy Raymond asked why the Public Safety items are in a holding pattern.

Council Member Raynor explained that the Public Safety items are in a holding pattern due to the last meeting being held on May 10, 2021. A meeting will be scheduled to discuss all items in the near future.

5. SPECIAL BUSINESS

a. SWEARING IN CEREMONY OF FULL-TIME POLICE OFFICER – JOSEPH CAPUANO

Council President Finkbinder stated that Officer Joseph Capuano was appointed as a full-time patrol officer with the Malvern Police Department on September 7, 2021. Officer Capuano has been a sworn Police Officer with the Malvern Police Department since 2019. A swearing-in ceremony for Officer Capuano was held presented by the Police Chief, and Officer Capuano was sworn in by Honorable District Justice Tartaglio.

b. MALVERN HISTORICAL COMMISSION - 8th ANNUAL HISTORIC PRESERVATION STEWARDSHIP AWARDS

Council President Finkbinder stated the Malvern Historical Commission will recognize various properties in the Borough that have made a positive contribution to the fabric of the community and are maintained in good repair by the owners. The following properties were presented and honored this evening by Hugo Schmitt, Barbara Rutz, Lynne Frederick, and Cathy Raymond:

- 109 East King Street
- 121-123 East King Street
- 116 East King Street
- 145 Woodland Avenue
- 336 West First Avenue
- 17 Powelton Avenue
- 19 Powelton Avenue
- 24 Warren Avenue - Rear

c. RESOLUTION NO. 824 DECLARATION OF DISASTER EMERGENCY FOR HURRICANE IDA

Council President Finkbinder stated that Hurricane Ida impacted the northeastern part of the country on September 1, 2021. The Borough's Emergency Management Coordinator, Corinne Badman, has prepared a Declaration of Disaster Emergency for the damage caused by this storm in order to assist Borough residents seeking support from PEMA or FEMA. The proposed resolution is before Borough Council.

A motion was made by Council Member Raynor, seconded by Council Member Phillips, and carried by a vote of 6-0, adopt Resolution No. 824, issuing a Declaration of Disaster Emergency for Hurricane Ida.

d. DOMESTIC VIOLENCE CENTER OF CHESTER COUNTY – PAINT THE TOWN PURPLE

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Council President Finkbinder stated that The Domestic Violence Center of Chester County (DVCCC) contacted Malvern Borough regarding the Borough's participation in their "Painting the Town Purple" initiative to raise awareness about domestic violence. This would occur in October. The Borough has participated in this effort in the past.

Police Chief Marcelli is in support the program and this program is initiated throughout Chester County.

A motion was made by Council Member Grossman, seconded by Council Member Phillips, and carried by a vote of 6-0, to approve Malvern Borough's participation in the Domestic Violence Center of Chester County's "Paint the Town Purple" awareness effort.

e. EXPANDED OUTDOOR DINING FORBEARENCE AGREEMENTS

Council President Finkbinder stated that Malvern Pizza 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 November 17, 2021.

A motion was made by Council Member Raynor, seconded by Council Member Grossman, and carried by a 6-0, to approve the 60-day extension of Malvern Pizza's existing agreement for outdoor dining to expire on November 17, 2021.

6. UNFINISHED BUSINESS

a. Proposed Ordinance Amendments – Zoning Ordinance – Outdoor Cafe

Council President Finkbinder stated that this proposed amendment would revise the Borough's outdoor dining provisions in order to allow outdoor dining on private property as a use by right, while permitting outdoor dining in the public right-of-way permissible by Conditional Use. At the June 15, 2021 meeting, Borough Council requested that the Planning Commission review certain aspects of the proposed ordinance further. The proposed ordinance was reviewed at the August 5, 2021 meeting of the Planning Commission, where it was recommended for adoption. Borough Council authorized the proposed ordinance to be sent to the Chester County Planning Commission for review on August 17, 2021. Comments have been received and are before Borough Council this evening. Based on the comments received, Borough Council may refer this matter back to the Planning Commission for further review.

A motion was made by Council Member Bones, seconded by Council Member Grossman, and carried by a vote of 6-0, to refer this matter back to the Planning Commission for further review.

7. NEW BUSINESS

a. Volunteer Board & Committee Appointment Considerations

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Council President Finkbiner stated there is currently a vacancy on the Parks & Recreation Committee. The Parks & Recreation Committee has recommended Emalie Zinni to fill this vacancy. If appointed, Ms. Zinni would complete a term that expires on January 1, 2026.

A motion was made by Council Member Phillips, seconded by Council Member Bones, and carried by a vote of 6-0, to approve the appointment of Emalie Zinni to fill the Parks & Recreation Committee vacancy with a term expiring on January 1, 2026.

b. Parks & Recreation Committee – Storybook Walk

Council President Finkbiner stated the Parks & Recreation Committee is planning an event entitled the “StoryBook Walk.” The activity involves temporary posters in different parks and participants will have to read, answer questions, and find clues. This would involve a partnership with Imaginatium, who would produce the materials for the activity. Per the Borough’s Administrative Code, the Parks & Recreation Committee is prohibited from entering into contracts. Due to this, approval from Borough Council is required.

Borough Solicitor McLean explained the requirements for a waiver being needed.

Mr. Stephen Sciacchitano, Manager of Imaginatium, further explained the scavenger hunt and was available for any further questions.

The Parks and Recreation Committee is finalizing a liability waiver with the Borough Solicitor to hold this event. This matter will be finalized with Borough Council upon the event being scheduled at a future meeting.

c. Escrow Release Request – 155 Channing Avenue – Release Request #2

Council President Finkbiner stated an escrow release for the approved subdivision and land development project at 155 Channing Avenue is before Borough Council.

Interim Borough Manager Loomis stated the amount requested for release is \$2,599.20. This would be the final escrow release for this project. A recommendation from the Borough Engineer for this project, Michael Conrad, P.E. of Yerkes Associates, is before Borough Council.

A motion was made by Council Member Grossman, seconded by Council Member Phillips, and carried by a vote of 6-0, to approve the escrow release in the amount of \$2,599.20 related to the land development project located at 155 Channing Avenue.

d. Zoning Hearing Board

Council President Finkbiner stated that there are no there are no new applications before the Zoning Hearing Board. The hearing for 421 Monument Avenue was held on September 20, 2021, and approval was granted.

8. BOROUGH COUNCIL VACANCY – NOMINATIONS TO FILL VACANCY

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Council President Finkbiner stated Borough Council will accept nominations to the fill the vacancy that currently exists. Borough Council will then appoint one of the nominated candidates at its October 5th, 2021 or October 19th, 2021 meeting, pursuant to the Borough's Home Rule Charter. The individual appointed will complete a term that expires in January, 2024. The notice of vacancy was published in the September 10th, 2021 edition of the Daily Local News, as required, as well as on the Borough website.

Council President Finkbiner stated that the Borough has received written interest from three (3) candidates in writing. All candidates will be afforded the opportunity to present their interest this evening, beginning with those three in the order the applications were received.

Council President Finkbiner requested that comment be taken prior to the presentations.

Council Member Bones asked that Council President Finkbiner explain the procedure and if whether all nominations will be completed this evening. Council President Finkbiner asked Borough Solicitor McLean whether Borough Council may continue to accept nominations on October 5, 2021 and vote by no later than October 19, 2021.

Borough Solicitor McLean explained the process of filling the vacancy. The position is required to be appointed within a 60-day time frame or a different legal process is required to be followed which involves the Court of Common Pleas. Nominations are due this evening to be voted upon at the October 5, 2021 Borough Council meeting.

Cathy Raymond asked Borough Council to verify the Home Rule Charter rules.

Borough Solicitor McLean explained the relevant section of the Home Rule Charter.

Council President Finkbiner stated that Helise Bichefsky expressed interest and was not in attendance.

Council Member Phillips explained that Helise Bichefsky has decided to withdraw her nomination after Mark Niemiec expressed interest in filling the vacancy on Borough Council with her support.

Council President Finkbiner introduced Mark Niemiec. Mr. Niemiec stated that he has served three (3) terms on the Planning Commission, served on the Randolph Woods Committee, and is serving on the Comprehensive Plan Committee. He is interested in giving back to his Community through being a Borough Council member and making sure the next generation is included in the process. Mark Niemiec has an extensive background in business in running his own business, consulting for various companies, and having been in executive management for a majority of his career.

Council President Finkbiner introduced Carroll Sinquett. Mr. Sinquett expressed interest and presented his qualifications for being appointed to Borough Council to include being a former member of Borough Council and the current Chairman of the Planning Commission.

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He has been a member of the Planning Commission since 2010 and lived in the Borough since 1992. During his tenure as a Borough Council member he was involved in appointing the previous Manager, Chris Bashore, which was one of his proudest moments due to Manager Bashore serving the Community so well.

Council Member Bones asked if Mr. Siquett would remain Planning Commission Chairman if appointed to Borough Council.

Carroll Siquett responded that he discussed the question with two (2) senior members of the Planning Commission and would step down as Chairman if there was a conflict.

Council Member Grossman asked Carroll Siquett if he would remain in both positions if appointed to Borough Council.

Carroll Siquett responded that he would like to do so as he had during his previous tenure.

Borough Solicitor McLean explained the nomination process includes self-nominations.

Cassandra Doughty, 145 Woodland Avenue, in attendance asked whether she could nominate someone without their knowledge.

Borough Solicitor McLean & Council President Finkbiner stated yes.

Cassandra Doughty, 145 Woodland Avenue, then nominated Kurt Leininger for Borough Council.

Council President Finkbiner stated that Borough Council would now take comment from the public.

Danny Fruchter asked whether he could question the nominees.

Council President Finkbiner explained that per Resolution No. 787, public comment must be directed to Borough Council. She stated that members of the public could suggest questions to Borough Council, who would consider asking the nominees those questions if appropriate.

Council Member Grossman stated that the Borough Council may not ask all questions submitted.

Council President Finkbiner called for any further nominations. None were announced and she closed the nomination process.

9. PUBLIC FORUM

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Council President Finkbiner stated that Borough Council would take comment from the public on any item not on the agenda. She announced Porch Fest for the coming weekend starting at noon. No other comments were made.

10. ADJOURNMENT

All business having been discussed, a motion was made by Council Member Raynor, seconded by Council Member Grossman, and carried by a vote of 6-0, to adjourn the meeting at 8:23 p.m.

Respectfully submitted,

Tiffany M. Loomis
Interim Borough Manager/Secretary