

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

September 7, 2021
7:30 P.M.

PRESIDING: Amy Finkbiner, Ph.D., President

INVOCATION: Council Member Laney

1. ROLL CALL

PRESENT

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

ABSENT

Council Vice-President Grossman

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 5-0, to approve the agenda for the September 7, 2021 meeting as presented.

3. ANNOUNCEMENTS

a. Recording of the Meeting

Council President Finkbiner 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 August 31, 2021 in order to discuss personnel matters.

c. Council President Finkbiner stated that Borough Council met in Executive Session on September 7, 2021, prior to this evening's meeting, in order to review litigation matters with the Borough Solicitor.

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d. Council President Finkbinder stated that the Malvern Parks & Recreation Committee will be hosting “Movie Night in the Park” on Friday, September 10, 2021. The movie to be shown is “FernGully: The Last Rain Forest” and is scheduled to begin at 8:00 pm in Burke Park.

e. Borough Council thanked all the members of the Police, Fire/EMS, and Public Works Departments who worked diligently throughout the storm on September 1, 2021. Their work before, during, and after the storm is greatly appreciated. Borough Council recognized Officers Capuano, Keating, and Walker from the Malvern Police Department, who were in attendance, for their efforts during the storm.

4. MINUTES & REPORTS

a. APPROVAL OF MINUTES

A motion was made by Council Member Laney and seconded by Council Member Phillips to approve the minutes from the August 17, 2021 meeting of Borough Council as presented. Council President Finkbinder abstained due to her absence from the meeting. There being no further discussion, the motion approving the minutes passed by a vote of 4-0-1, with one (1) abstention.

5. SPECIAL BUSINESS

a. APPOINTMENT OF FULL-TIME POLICE OFFICER – JOSEPH CAPUANO

Council President Finkbinder stated that Joseph Capuano is currently a sworn part-time police officer with Malvern Police Department. He is the recommended candidate to fill the full-time police officer position open with the Malvern Police Department. Council President Finkbinder noted that Borough Council will hold a swearing in ceremony for Officer Capuano at the September 21, 2021 meeting. Borough Manager Bashore stated that the effective date reflects the start of the next pay period and this has been the Borough’s practice.

A motion was made by Council Member Phillips, seconded by Council Member Laney, and carried by a vote of 5-0, to appoint Joseph Capuano as a full-time officer with the Malvern Police Department effective September 10, 2021.

b. ACCEPTING THE RESIGNATION OF CHRISTOPHER BASHORE FROM THE POSITION OF BOROUGH MANAGER EFFECTIVE SEPTEMBER 17, 2021

Council President Finkbinder stated that Christopher Bashore, Borough Manager, has submitted his resignation effective September 17, 2021 as he has accepted a position with another municipality. Council President Finkbinder stated that Mr. Bashore has served as Borough Manager since January 2016, noting his 5 ½ years of dutiful service to the Borough. Borough Manager Bashore thanked the members of Borough Council, the volunteer boards, and the community for everything over the past 5 ½ years. Borough Council thanked Borough Manager Bashore for his service to the community. Mayor Burton thanked Borough Manager Bashore for his service and noted he believed that Borough services were improved during his tenure.

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Zeyn Uzman, 305 Charleston Greene, thanked Borough Manager Bashore for his service and stated that he will miss him.

Hugo Schmitt, 17 Channing Avenue, thanked Borough Manager Bashore for everything he was able to accomplish during his tenure.

Cathy Raymond, 7 Karen Drive, wished Borough Manager Bashore good luck in his new endeavor.

A motion was made by Council Member Bones, seconded by Council Member Phillips, and carried by a vote of 5-0, to accept Christopher Bashore's resignation from the position of Borough Manager for the Borough of Malvern effective September 17, 2021.

c. APPOINTMENT OF INTERIM BOROUGH MANAGER/SECRETARY

Council President Finkbinder stated that Christopher Bashore, Borough Manager, has submitted his resignation effective September 17, 2021. Tiffany Loomis currently serves as the Assistant Borough Manager and it has been recommended that she be appointed as the Interim Borough Manager until a permanent replacement is selected.

Cathy Raymond, 7 Karen Drive, recommended that the effective date be amended to September 18, 2021 in the event a situation arises that needs the Borough Manager's attention. Borough Council was in agreement with this recommendation.

A motion was made by Council Member Laney, seconded by Council Member Phillips, and carried by a vote of 5-0, to appoint Tiffany Loomis, Assistant Borough Manager/Zoning Officer, as Interim Borough Manager/Secretary for Malvern Borough effective September 18, 2021.

d. APPOINTMENT OF CONSULTANT FOR BOROUGH MANAGER SEARCH

Council President Finkbinder stated that proposals were received from consultants to perform a search to find the next Borough Manager. The Finance & Administration Committee reviewed the proposals and are recommending that Roseann J. McGrath be retained.

A motion was made by Council Member Raynor, seconded by Council Member Laney, and carried by a vote of 5-0, to appoint Roseann J. McGrath to conduct the search for a new Borough Manager for Malvern Borough based on her proposal dated August 29, 2021.

e. RESIGNATION FROM BOROUGH COUNCIL – JOHN MEISEL

Council President Finkbinder stated that John Meisel has submitted his resignation from Malvern Borough Council. Mr. Meisel has served on Borough Council since 2014 and we thank him for his service to the community. Pursuant to the Malvern Borough Home Rule Charter, the

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vacancy will be advertised and Borough Council will begin accepting nominations on September 21, 2021. The individual appointed will complete a term that expires on January 1, 2024.

Council President Finkbiner read Mr. Meisel's letter of resignation to the public, noting that Mr. Meisel had approved this action.

Council Member Bones thanked Mr. Meisel for his service on Borough Council and noted that his presence on Borough Council will be missed.

Council Member Phillips thanked Mr. Meisel for his service on Borough Council and highlighted the other areas where he served the community during his tenure.

A motion was made by Council Member Laney, seconded by Council Member Raynor, and carried by a 5-0, to accept the resignation of John Meisel from Malvern Borough Council.

f. Jennings Lane – Stormwater Management

Council President Finkbiner stated that the Borough has continued to monitor a stormwater issue on Jennings Lane, which have included reviews by the Borough Engineer and meetings with contractors. The Borough Engineer has noted that it is difficult to determine a cost estimate to complete the remediation without plans and a defined scope of work. The Borough Engineer has recommended that a field survey be performed and design plans be prepared in order to develop a corrective action plan. A proposal has been provided from the Borough Engineer to complete this work and has been reviewed by the Public Works Committee. Council President Finkbiner stated that the estimated cost is approximately \$5,750.00.

Council Member Bones stated that he supports proceeding forward with the work, noting that it is an important area for the Borough to address stormwater management. Council Member Bones noted that he has been to the site and is amazed at the volume of water that funnels through the area.

Council Member Phillips noted the discussions on stormwater management currently with the Environmental Advisory Council (EAC) and that this is a significant concern for the EAC.

Steven Stuckynski, 515 W. King Street, discussed the water damage that has occurred at his home over the years. Mr. Stuckynski noted his home is historic. Mr. Stuckynski stated that he believes work needs to be done in the area of Malvern Avenue. Borough Manager Bashore stated that this area was reviewed previously and the estimated cost to install storm sewer in this area was approximately \$200,000.00. Borough Manager Bashore stated that this would only address a portion of the issue and easements on private property were necessary.

Gary Kochinsky, 202 Jennings Lane, stated that he has incurred approximately \$27,000.00 in costs to address water damage over the years and has been discussing this issue with the Borough over the years. Mr. Kochinsky noted that he has videos of water coming through his

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property. Council President Finkbiner requested that Mr. Kochinsky provide the information on the damage he has to date to the Borough for review. Council Member Laney provided information on disaster remediation through Chester County.

A motion was made by Council Member Bones, seconded by Council Member Phillips, and carried by a vote of 5-0, to authorize the Borough Engineer, Dan Daley, P.E. with Edward B. Walsh & Associates, to complete a field survey, design plans, and coordinate bidding activities for stormwater remediation work on Jennings Lane based on the proposal dated September 1, 2021 as recommended by the Public Works Committee.

g. EXPANDED OUTDOOR DINING FORBEARANCE AGREEMENTS

- Anthony's Pizza & Italian Restaurant

Council President Finkbiner stated that Anthony's Pizza & Italian Restaurant 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 October 31, 2021.

A motion was made by Council Member Phillips, seconded by Council Member Raynor, and carried by a vote of 5-0, to approve a 60 day extension to Anthony's Pizza & Italian Restaurant's expanded outdoor dining forbearance agreement.

6. UNFINISHED BUSINESS

- a. Ordinance No. 2021 – 3: Repealing Chapter 157, “Real Estate, Borough-Owned” of the Malvern Borough Code of Ordinances

Council President Finkbiner stated that Ordinance No. 2021 – 3 was on the agenda for discussion and enactment on August 3, 2021 after published notice. Notice was published in the July 23, 2021 edition of the Daily Local News and posted on the Borough website. The ordinance being repealed by Ordinance No. 2021 – 3 includes a provision requiring discussion at three (3) consecutive meetings of Borough Council. This is not a normal provision and may be invalid. However, Ordinance # 2021 – 3 is on the Agenda again for discussion at tonight's meeting to fulfill that requirement in case it is ever determined to have been necessary. Discussion was also held at the August 17, 2021 meeting.

A motion was made by Council Member Phillips, seconded by Council Member Raynor, and carried by a vote of 5-0, to ratify the adoption of Ordinance No. 2021 – 3.

- b. Update – Benjamin Lang – Eagle Scout Project

Borough Manager Bashore stated that Borough Council approved the Community Installation Application for Benjamin Lang on August 17, 2021. At the advice of Borough Council, Mr. Lang undertook some additional research into costs. Borough Manager Bashore stated that Mr. Lang researched materials, including the cost of a pre-fabricated board that locks

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and the cost for one (1) board will be approximately \$1,400.00. As such, the total estimated project cost of the project for two (2) boards is approximately four (4) times more than previously anticipated. Borough Manager Bashore stated that Mr. Lang has offered to only install one (1) board at Rubino Park.

Council Member Bones stated that it is important for the Board to be secure.

Zeyn Uzman, 305 Charleston Greene, offered to have Mr. Lang contact him and he will provide financing for the full project.

Borough Council agreed to maintain their approval to cover 50% of the project cost based on how Mr. Lang proceeds forward based on his ability to secure funds.

No action was required.

7. NEW BUSINESS

a. Malvern Parks & Recreation Committee – Randolph Woods Campout

Council President Finkbinder stated that the Malvern Parks & Recreation is seeking to hold a campout in Randolph Woods. This event was previously held in 2019 and is supported by the Willistown Conservation Trust. Due to provisions in Chapter 139 of the Malvern Borough Code of Ordinances, approval from Borough Council is required. Borough Manager Bashore stated that there were no issues in 2019 and that he spoke with Council Member Phillips and he confirmed that the event will be identical.

Council Member Phillips noted that the Willistown Conservation Trust is once again supporting this activity in Randolph Woods.

A motion was made by Council Member Raynor, seconded by Council Member Laney, and carried by a vote of 5-0, to approve the campout in Randolph Woods

b. Police & Nonuniform Pension Plans – Minimum Municipal Obligations

Council President Finkbinder stated that municipalities are required to certify the Minimum Municipal Obligation (MMO) for pension plans by the end of September each year. State aid is received annually to offset this cost. The Borough Treasurer has prepared the MMO that is before Borough Council this evening.

Borough Manager Bashore stated that the MMO for the Nonuniform Pension Plan in 2022 is \$23,394.06 and that there is no MMO for the Police Pension Plan in 2022.

A motion was made by Council Member Phillips, seconded by Council Member Laney, and carried by a vote of 5-0, to approve the Minimum Municipal Obligations for the Police and Nonuniform Pension Plans for 2022.

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c. Volunteer Board & Committee Appointment Considerations – Zoning Hearing Board

Council President Finkbiner stated that there is currently a vacancy for the second alternate member on the Zoning Hearing Board. Robert Barrett has submitted an application to fill this vacancy and is being recommended for appointment. If appointed, Mr. Barrett would complete a term that expires on January 1, 2022. Council President Finkbiner thanked Mr. Barrett for volunteering.

A motion was made by Council Member Raynor, seconded by Council Member Phillips, and carried by a vote of 5-0, to appoint Robert Barrett as the second alternate member of the Zoning Hearing Board to complete a term that expires on January 1, 2022.

d. Zoning Hearing Board

Council President Finkbiner stated that there are no new applications before the Zoning Hearing Board. The application for 421 Monument Avenue will be heard by the Zoning Hearing Board on September 20, 2021 at 7:00 pm.

8. PUBLIC FORUM

Council President Finkbiner stated that Borough Council will now take comment from the public on any item not on the agenda.

Matthew Cyronak, 136 Carters Grove Lane, appeared before Borough Council in order to discuss the flooding that occurred in the Tidewater development as a result of Hurricane Ida. Mr. Cyronak stated that four (4) homes were flooded during this event and he would like to know how to get on the agenda to discuss this matter in the future. Mr. Cyronak discussed the work done in 2008 to address stormwater runoff and believes that this may need to be revisited. Borough Manager Bashore stated that he will speak with the Borough Engineer regarding these records.

Tom Burns, 135 Carters Grove Lane, appeared before Borough Council to also discuss the flooding in the Tidewater development. Mr. Burns stated that mulch washed from the playground at the Memorial Grounds and this clogged the drains. Mr. Burns noted that significant flooding occurred two (2) weeks in a row and that there were 31 inches of water in some basements. Mr. Burns noted that the representatives from the Tidewater development met with an engineer to discuss options. Borough Solicitor McLean stated that the Borough does not have jurisdiction since the Memorial Grounds are private property. Council President Finkbiner noted that the Paoli Memorial Association makes budget requests to the Borough and this could be part of that request. Borough Manager Bashore recommended that the Tidewater homeowners association speak with the Paoli Memorial Association and then the Borough can bring both sides together to determine a path forward.

Jeffrey Wymard, 133 Carters Grove Lane, stated that he moved into the Borough three (3) weeks ago and the flooding resulted in numerous items in his basement being destroyed. Borough Manager Bashore recommended that he stay in touch with the Borough's Emergency

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Management Coordinator, Corinne Badman, regarding reporting damage. Mr. Wymard thanked Borough Council for listening to their concerns.

9. ADJOURNMENT

All business having been discussed, a motion was made by Council Member Laney, seconded by Council Member Phillips, and carried by a vote of 5-0, to adjourn the meeting at 8:43 p.m.

Respectfully submitted,

Christopher Bashore
Borough Manager/Secretary