

REGULAR MEETING
BOROUGH COUNCIL
MALVERN BOROUGH

November 19, 2013
7:30 P.M.

PRESIDING: Woody J. Van Sciver, President

INVOCATION: Gerard J. McGlone, Mayor

PLEDGE OF ALLEGIANCE TO THE FLAG

1. ROLL CALL: Council President Van Sciver
Council Vice President Raymond
Council Member Coughlin
Council Member Giandonato - ABSENT
Council Member Macaleer
Council Member Uzman
Mayor McGlone

2. PUBLIC FORUM:

Council President informs all present that copies of the agenda are available at the front desk. This is a Public Session of Council. Should any citizen/taxpayer wish to offer comments on any item on the agenda, now is the time to bring those comments before Council. Are there any citizens/taxpayers who wish to bring before Council any item not on the agenda?

- a. Lynne Hockenbury, 7 Raffaella Drive, asked that in light of our earlier meeting [for the TOD study] and the TAG project on So. Warren Avenue, is it time to start looking at the SALDO and Zoning Ordinance now? She stated that it seems to her that the ordinances weren't written correctly and the way they are slicing the properties up does not seem to fit into the rest of the neighborhood.

- b. Sid Baglini, Channing Avenue, asked Council to revisit the particular ordinance that our solicitor mentioned some months ago that needed to be tightened up where it used the term "generally" properties.... She feels that would be a good place to start.

Council President Van Sciver stated that he thinks that the Planning Commission has asked for some GIS information from the County for length to width options. The Chester County Planning Commission is the group that was hired as the consultant for the Zoning Ordinance and they presented the GIS package to us.

- c. Carroll Sinquett, 223 Green Street, questioned the pending expansion at the Valley Forge Sewer Authority and asked if we should expect a rate increase from that expansion. The Manager responded that the Borough has already contributed to the expansion costs.

Council President Van Sciver responded that Council had already anticipated those capital improvements and we had incrementally increased rates to accommodate those costs.

Mr. Sinquett stated that the expansion actually expands the plant.

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d. Frank Ortner, 144 Griffith Avenue, raised some questions regarding estimated Earned Income Tax revenues in the 2014 Proposed Budget and questioned why this number was not increased in anticipation of revenues from Eastside Flats. He asked why the Borough would not raise the number and lower the estimated tax increase.

Council Member Macaleer responded that we have taken a bit of a conservative approach. We have made assumptions on both sides of the revenues and expenditures.

Council President Van Sciver stated that we have set up a target for a rainy day fund with a two percent contribution for each year. We will have a one-time projected sale revenue, so the tax increase is balanced out once that goes away.

Council Member Uzman stated that the E. King Street development taxes will not come in until 2015 after the new residents move in. He believes that we will need to make an adjustment in the following year. It is always better to be conservative for the budget.

Ms. Baglini stated that the problem is that at the same time we have the full realization of the four-story E. King Street complex, and it was sold as a real benefit to the community, it is almost a perception thing. That got built and now there will be a tax increase.

Council Vice President Raymond replied that we don't know yet exactly what the benefit will be in terms of dollars. Once people have moved in, we will know more for next year's budget.

Henry Briggs, W. First Avenue, stated that he thinks this Borough Council has done a fantastic job in managing money. It is a lot worse to find yourself short at the end of the year than finding yourself flush.

e. Ann Donovan Hall, 30 Raffaella Drive, questioned the prospect for improved travel flow. She stated that she has always waited to cross the bridge on Bridge Street but has never had to wait twenty minutes to come up the hill at Bridge Street. She stated that if we are talking about increasing the number of families moving into the Borough, we need to talk about how to move those families around.

Council President Van Sciver responded that this is an item that comes up all the time. Most of the traffic in the Borough in peak hours is pass-through traffic. In East Whiteland, there is currently 5M square feet of new development that has been approved but not yet built. The north side will increase and we are just in the path.

Mrs. Hall stated that we know that it is coming but we don't want to let it be like a tsunami and be left unaware.

Council President Van Sciver explained that if we make improvements, we will increase the volume of traffic going through town but your delay won't be decreased, it will really be increased. It would dramatically change the town if we created dedicated turning lanes. The plan so far has been to not approve those turning lanes.

Mrs. Hall asked about changing from a stop sign at Bridge & King to a traffic light.

Council President Van Sciver responded that we believe it would delay it further. With a traffic light, the traffic would queue up further.

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Council Member Uzman stated that we have Bridge Street and Warren Avenue. To open up Warren Avenue and replace that tunnel would be more expensive than the Malin Road extension. Council Member Uzman stated that he works on Pennsylvania Avenue at Warren Avenue and you can't get out onto Warren Avenue at 5:00 p.m.

Mrs. Hall asked if there might be other ways to handle the traffic such as one-way one time of the day and the other way another time of the day. She would like to expedite the traffic to get it through town more quickly.

Council President Van Sciver stated that the problem is, if the traffic moves faster, more traffic will come.

Linda Burton asked if there have ever been discussions with Willistown about a left turn at Route 30 and King Street?

Council President Van Sciver responded that it is a conversation that we could have with them but that we have not had to date.

Joe Bones, 25 High Street, asked if there has been any progress on the No. Warren Avenue tunnel and asked if they found additional damage?

Chief Marcelli responded that they found more significant damage and had to pour more concrete. They were supposed to be pouring today and taking the forms down tomorrow then the road should be opened.

f. Todd Lexer, 242 Monument Avenue, questioned a resignation letter that was received from a Council Member.

Council President Van Sciver reported that he had received a resignation letter from Dick Sponenbergh on November 7th. Council President Van Sciver announced that if anyone is interested in filling this vacancy, please submit your resumes to the Manager.

Danny Fruchter, Channing Avenue, stated that Borough Council has 60 days to fill the vacancy. He would like this Council to resolve possibly to not appoint a new Borough Council member until the new Council is seated. He stated that he would like this Council to take up a resolution until the new Council is seated on January 6, 2014.

Carroll Sinquett, Green Street, stated that he thinks it is unfair to the new Councilors since they won't have time to deliberate.

Mr. Fruchter responded that he thinks the current Council should invite the new Councilors into the interview process. There was a real sense in the TOD meeting that this town wants to move forward, particularly in the spirit of openness and communication. The town felt there was something going on that they didn't know about. Mr. Fruchter stated that there were Councilors and the Mayor that were not at the TOD meeting and asked that Woody report on it for the public.

Mr. Fruchter reported that on 1/1/14 one term on the Planning Commission would expire. He suggested that Borough Council appoint a committee to solicit volunteers to fill those positions on the Planning Commission and Zoning Hearing Board for the expired terms. He also suggested that the Planning Commission membership be increased from five members to seven members. There is a desire for the town to re-examine the Comprehensive Plan, the Subdivision

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and Land Development Plan and the Zoning Ordinance so it is a good time to expand the Planning Commission membership to seven members. We should include a lot of the new energy to look at Planning, and we should have a serious look at solicitation from those who feel that Commission and the new Borough Council would appoint those members.

Henry Briggs stated that he would like to ask Borough Council to say who wants to see the appointment of another Councilor to fill the vacancy created by Dick Sponenbergh delayed until the new Council is seated.

Council Member Uzman responded that he would wait. He would like us to have the new Council work with the new appointee. He feels that it is imperative that if we want to coalesce the community that we delay it for another 30 days.

Council President Van Sciver stated that he doesn't think there will be a lack of opportunities for the new Council to select a candidate. He stated that he is a little concerned as he feels the tone of the election spread from innuendo and he hasn't heard about other issues. For instance, he's perplexed by one of the candidates who received the same kind of waiver considerations that fermented this discussion. He believes there are other considerations to consider.

Todd Lexer, Monument Avenue, stated that he lives in the house that Woody is referring to and he doesn't see what his house has to do with anything.

Danny Fruchter responded that the electors were not told. It is quite clear to the community that Council President Van Sciver is suggesting that the election was overturned because the electorate was ill informed. He stated that the election was about the functioning of Borough Council and management in a closed system that does not include the citizens. We can reasonably disagree. We can have an honest disagreement about that. The problem is when the citizens think something is happening that we don't see. The electorates believed that something was happening out of sight. What's been happening here is a failure to take into consideration the notion that the citizens are participating in their own democracy. Most of the residents were not aware that anything was going on.

Council Member Macaleer responded that Borough Council holds open public meetings and no one comes to the meetings.

Discussion ensued over the TOD Study and individual letters regarding the Study not being mailed to the public to inform them of the Study.

A motion was made by Council Member Uzman and seconded by Council Vice President Raymond to adopt a Resolution to waive the sixty-day requirement to appoint a new Councilor following the vacancy and make it ninety-days and put off the appointment until the next Borough Council is seated. The resolution was amended to allow the new Borough Council to make the appointment to fill the vacancy.

Council Vice President Raymond stated that it is never an issue she thought about before. Borough Council has always made a practice of filling vacancies as quickly as possible. As Council President Van Sciver stated, we have an obligation to act in sixty days. She stated that she would not want to force the new Borough Councilors to have to vote on any application

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under the gun. If it is going to convince people that we are not trying to hide what's going on, then I would be willing to agree to wait.

Council Member Uzman stated that he looks at this as a change in government. They can be involved in the process and be included in the process now.

Council President Van Sciver stated that he talked to some of his neighbors about the write-in candidates and he was assured the new Borough Councilors were good people and they were concerned that someone was trying to tear the town apart. I think everyone up here loves this town so much and I don't think anyone's ultimate goal is to screw it up. For him, personally, and as his mentor Tom Randolph always told him, we need informed opinions up here about changes. I think there is going to be an opportunity for this future Borough Council to have their purview up there. The President only sets an Agenda. He stated that he is not prepared to agree to the proposed Resolution. He might change his opinion after talking to the newly-elected Councilors.

Council President Van Sciver called a five-minute recess.

Following the recess, Council President Van Sciver stated that he thinks everybody in the room wants to keep the town the best it can be. At this point, he personally cannot make a decision since he has not talked to the new Councilors-elect. He is trying to be honest with the citizens and tell them his thought process. His personal opinion may change.

The proposed Resolution failed by a vote of 2-3 with Council Members Van Sciver, Coughlin and Macaleer voting No.

g. Barbara Rutz, 212 Monument Avenue, stated that she was wondering what the procedure would be that since Monument Avenue has now become an adjunct Septa parking lot, is there any possibility that the curb near Prospect Avenue can be painted yellow for a car length or two because as you try to look right or left, you can't see the traffic.

Council Vice President Raymond responded that the Public Safety Committee has not met about this concern recently because Council Member Sponenbergh was the Chair of the Committee. The Committee will meet again to discuss this concern.

Mayor McGlone stated that we did look at parking changes so we don't have people coming to Town and parking all day long just to take the train.

Ms. Rutz stated that the parking right up to the corner and there being no sight distance is what is dangerous and bothers her.

h. Planning Commission Chairman Chris Mongeau invited everyone to the next Planning Commission meeting this Thursday evening as they will begin a review of the SALDO and Zoning Ordinance. They will welcome suggestions for improvements to these ordinances. He hopes to see quite a few people in attendance at that meeting.

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i. Mayor McGlone apologized for not being at the TOD meeting and stated that it was because of the homicide in the Borough. He stated that we are very fortunate to have Lou as our Chief and he doesn't want that forgotten as our Borough Council changes. What happens is between Lou and the District Attorney's Office but within 24-hours we had the case solved. It is a sad day for the community as we lost a borough resident and the person who took the life was also a borough resident.

3. APPROVAL OF MINUTES:

A motion was made by Council Vice President Raymond, seconded by Council Member Uzman and unanimously carried by a vote of 5-0 to approve the minutes of the Regular Meetings held on Tuesday, October 1, and Tuesday, October 15, 2013, as submitted.

4. APPROVAL OF REPORTS:

A motion was made by Council Member Uzman, seconded by Council Member Macaleer and unanimously carried by a vote of 5-0 to approve the Treasurer's Report, the Committee Reports for Finance and Administration, Public Safety, Public Works and the Chief of Police Report, the Code Enforcement Officer's 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 October 2013, as submitted.

5. ESCROW RELEASE – 237 KING PARTNERS, LLC:

A motion was made by Council Member Uzman, seconded by Council Vice President Raymond and unanimously carried by a vote of 5-0 to authorize the request for Escrow Release #4 to 237 King Partners, LLC, in the amount of \$307,764.33 as recommended by the Borough Engineer.

6. OTHER BUSINESS:

a. Appraisal for Woodland Avenue Lot Owned by the Borough – Council President Van Sciver reported that the 2014 Proposed Budget assumes we will sell a lot on Woodland Avenue. We also discussed selling another parcel the borough owns but the new Council can grapple with that issue. If the new Council is against the sale of the Woodland Avenue lot, it would have to be reversed and the new Council will have the option to reopen the budget. We will do as much as we can to make sure that we involve the new Council in that process.

b. EEB Hub Grant – The EEB Hub folks reached out to the building owners and requested that they get involved with the advanced energy retrofit project. HVAC conditions in

the Borough building have been uncomfortable. We were approved for the grant and they will come in and make recommendations for a retrofit project in the borough hall.

c. TOD Overview – Mr. Fruchter presented an overview of the TOD meeting for the Borough Council members not in attendance. He stated that he was grateful for the information generated by the TOD study regarding parking suggestions, use of buildings on King Street and other suggestions that were made. It was clearly the sense of the people present that they did not wish to entertain any thought of additional residential infill in that location at this time. He believes it was understood by the consultant that the vast majority of Malvern had been left out of the planning process with regard to their opinions and it was that feeling of being left out that made people so upset as opposed to where the actual process was at this particular point. Was it improper to do a Study? Probably not. Was it improper to do a Study without public input? Probably so. He believes it was also the sense of the meeting that there be a re-examination of the Comprehensive Plan and the citizens to be involved in that process and to consider a Plan that is acceptable to the town. There was nothing on the floor for immediate action. Communication needed to be much greater; citizen involvement needs to be much greater and the election might have proved to be a wake-up call to all of us. Make sure that Borough Council gets us here. The big failure of going forward would be if we don't find a way to come together in openness. The issue was the way the Borough Council and management has gradually, over time, retreated from the population in the decision making process without anyone noticing it.

COUNCIL PRESIDENT VAN SCIVER ANNOUNCED THAT COUNCIL WOULD
ADJOURN TO EXECUTIVE SESSION TO DISCUSS A PERSONNEL MATTER.

7. ADJOURNMENT:

A motion was made by Council Vice President Raymond, seconded by Council Member Uzman and unanimously carried by a vote of 5-0 to adjourn the meeting at 9:00 p.m.

Respectfully submitted,

Sandra L. Kelley
Secretary/Manager