

REGULAR MEETING
BOROUGH COUNCIL
MALVERN BOROUGH

June 18, 2013
7:30 P.M.

PRESIDING: Woody J. Van Sciver, President

PLEDGE OF ALLEGIANCE TO THE FLAG

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

2. PUBLIC FORUM:

Council President informed 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. John Buckley, 165 Church Street, stated that he does not appreciate letters that were not mailed being placed in his mailbox and he will be notifying the United States Postal Service.

- b. Sarah Peck, Progressive Housing Ventures, stated that she was at the meeting to update Council on what has been happening since her visit a few months ago. She reported that her interaction with the Planning Commission resulted in changes to her concept Plan. She stated that she has spoken to the Borough Solicitor to explain her project and the process for proceeding to a zoning change. Ms. Peck explained to the audience the location of her proposed project and reported that she has a handshake agreement with the owner of a sliver of property adjacent to the Malvern/East Whiteland Township line that is also zoned industrial and would be included in the rezoning request. This additional sliver of land would provide visitor parking for the proposed project. A defining feature of the site is very steep slopes that would require a variance from the Zoning Hearing Board. Following the Planning Commission meeting, they did spend a lot of time micro-grading. The concept was townhomes with a single entry in and out. The Planning Commission had concerns about safety. The Planning Commission requested that the proposed development be brought forward closer to No. Warren Avenue. The existing buildings on No. Warren Avenue are very close to the road with very little setback. She brought her proposed development forward but not as close as the industrial buildings. The existing 33' right-of-way will be expanded to a 50' right-of-way. The total setback from the edge of the cartway would be 22' and up. From the previous concept plan, the buildings are now shallower and are separated with the road in between. The two-car garages will be side by side. Ms. Peck

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reported that stormwater management is the most important consideration. The Valley Creek is a big issue. The creek is eroding because of the velocity of the water and she would like to work with the Borough and Trout Unlimited to try to slow down the water as she knows it can't be stopped.

Council Member Sponenbergh asked if the garage entrances would be off the driveway with nothing off of North Warren Avenue? Ms. Peck responded that that was correct. There would be no entrances off North Warren Avenue. The site is very challenging.

Mr. Craig Birchall, owner of the site, was introduced and he explained why he would like to see townhomes on this site rather than an industrial building.

Council Member Macaleer asked Mr. Birchall that if he wasn't able to overcome the zoning issue, what would be his plans for the property?

Mr. Birchall responded that he would stick to the original plan and build light industrial on it. When he purchased the property from PECO, he wanted to build townhomes on one side and light industrial where it was zoned LI-1. At the time he purchased this property, he was also interested in purchasing the property above it, so that he could expand the building area. But, he was unsuccessful in that endeavor. He stated that he purchased the property for an investment. He did offer it to the Borough twice to keep it nature-like. He has had people say that if you build garages on this site, the owners in the District stated that they will get people to fill it. He stated that he had some interested buyers for the residential piece, then Sarah came along with her Plan and suggested keeping the residential parcel open and just build on the light industrial site and put houses there. He believes that Sarah's Plan is the best of both worlds. He stated that he appreciates Council's time and support. Change is tough. This is a major challenge and he feels that Sarah does a job right.

Ronnie Pratt, 122 Church Street, asked how many homes were being proposed, what zoning would be requested and how many units would be permitted per total square feet?

Ms. Peck responded that 9 units would be permitted on the east side. Twenty-five townhouses are being considered for the west side.

Ms. Pratt asked what the square footage would be?

Ms. Peck responded that 4,000 s.f. per unit is permitted under the Code.

Ms. Pratt asked that if Ms. Peck was including the total area and developing one side, what is the amount of space per unit. Ms. Peck responded that it would be 3,700 s.f. per unit. Ms. Pratt asked if that would follow the residential zoning for R-6 as she is seeking a zoning change. She feels that even with the zoning change, it sounds like Ms. Peck won't meet the zoning she is requesting. Ms. Pratt further stated that she would not like to see that tract developed. She would like to see it retained the way it is. She feels that to put that amount of living space in that small area, it will not be attractive for Malvern.

Council President Van Sciver reported that what is currently going on, is a TOD Study is being done now for the area on the north side immediately surrounding the train station. A Market Study states what could be supported with development or redevelopment on the north side. No. Warren Avenue could be a target for redevelopment. The Market Analysis stated that 600 dwelling units could be developed in that area. There are currently a lot of heavy, industrial

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trucks that travel up Broad and Bridge Streets to the Industrial Park. The issue of truck traffic was a permanent agenda item for ten years. The Borough commissioned a study jointly with East Whiteland to determine if Pennsylvania Avenue in Malvern Borough could be extended to Malin Road in East Whiteland Township. The Malin Road Feasibility Study was completed about 3-4 years ago and there was a high price tag placed on this Malin Road extension. East Whiteland has been reluctant to improve No. Warren Avenue and the TOD study emanated out of what kind of development could occur to pay for Malin Road. In addition to that, it is a generally accepted good planning practice to support increased residential development. In some of the cases where we have talked to owners in the Industrial Park, they have indicated that they welcome the opportunity to support increased development. Council President Van Sciver stated that he is opposed to Ms. Peck's application until the Study is completed and the residents offer their input. It might take a year or longer to complete the Study and do whatever is required to create a TOD District.

A question was asked if the Study was done primarily to see what would be most profitable for the town or to appease the residents. Council President Van Sciver responded that Malvern is in good shape and we don't need development to fund something. We don't want to raise our taxes to pay for a road. We are definitely not looking for ratable.

c. Danny Fruchter, Channing Avenue, reported that he had placed illustrations in the lobby for the proposed development at 217 So. Warren Avenue. Mr. Fruchter provided a history of his time with People's Light & Theatre Co. He stated that the proposed Plan is crazy. Why it keeps getting pushed, he doesn't know even though the Planning Commission rejected it and we have Council people who had told the developer they support four houses instead of five. He stated that all they want is to talk to the developer and bring something together that would be acceptable to everyone. He made a request to Council that Council tell the developer to please come back with a four-house plan. There are a lot of advantages in doing that. He asked that Council take up the issue to tell the developer that if he insists on presenting five houses, that the Plan will be voted down and he will have to start all over again. However, we could grant the developer an extension on the current development, proposed that it be reduced to four houses and that we all get back to our business of living here rather than defending our way of life. Mr. Fruchter stated that two weeks ago he asked that Borough Council release to them the legal documents that relate to this development and asked Borough Council to consider asking the developer to provide copies of the Plans that are protected by copyright to be made available to the public and, if they are not made available to the public, to not grant any requests for waivers.

Council President Van Sciver stated that he would like to respond to the way that Mr. Fruchter is phrasing his comments as he is insinuating that Borough Council is doing something wrong. He explained that he has been involved in the Borough government as a member of the Planning Commission and Borough Council for the last twenty years. He has attended every meeting. Borough Council is paid a stipend and he has never taken one cent. He is the one who selected John Snook to work on the Comprehensive Plan and Council President Van Sciver helped craft the Zoning Ordinance that has been in effect over ten years. He stated that his

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interest is for nothing but the best that this community has to offer. If you think that we aren't looking out for the betterment of this Borough, then you are wrong. This is the first time I have seen Mr. Fruchter attend any Council meetings and it is because the land adjacent to his home is being proposed for development.

Cassandra Doughty, 145 Woodland Avenue, stated that she has been watching the property on Church Street being developed with four twin homes. She read an excerpt from the Zoning Ordinance regarding the R-4 Zoning District and stated that R-4 is supposed to look like medium-density single and two family dwelling units. She stated that she does not live next to the 217 So. Warren Avenue property but she is concerned and doesn't think this developer has our best interests at heart.

Mrs. Pratt stated that she used to serve on the Historical Commission and she's not questioning anyone's integrity but she wonders what kind of spin goes on. Why can't we stick to the Ordinance?

Council President Van Sciver responded that E. King Street was the most examined project that was ever done in this town. It went on for years. We amended the zoning and had several conditional use hearings. We have a plan for traffic calming and always considered it as an evolutionary plan with particular awareness for pedestrian safety, and it is evolutionary and we expect to respond as things come along. For the Gables tract, you say that five are too many and four is okay. The Borough cannot regulate the size of the houses. There are all kinds of bulk and area requirements.

Mr. Fruchter stated that he didn't mean to impugn the Council in any way and he apologizes from the bottom of his heart.

Andrew Currie, 135 Woodland Avenue, reported that he has lived in Malvern for most of his life and he hopes that everyone has the best interests of the town at heart.

Council President Van Sciver responded that there are multiple variables associated with this proposed development. If the land was reconfigured into a different shape, there wouldn't have been discussion about it.

Cindy Currie, 135 Woodland Avenue, stated that she moved to the Borough three years ago. She stated that she works three jobs, has cracked sidewalks in front of her home, and sees the old building on King Street across from Bridge Street. She is not sure why it appears that the developers seem to be the one whose opinion matters most.

Laurie Sweigard, 341 Old Lincoln Highway, stated that there has been lots of development around her property. Up until about 4-5 years ago, they used to receive in the mail notification if there was going to be something happening in their area. She reported that the old house owned by Jean Rubino was demolished and dust was in her house. She was not notified of the demolition.

Mrs. Leininger, Channing Avenue, reported that she was one of the people who didn't come to any of the E. King Street meetings. There are about five more empty lots next door to houses in this 4-5 block area. She thinks they are against this particular development, but not against development totally. Only if people pay attention and speak up will we be heard. She

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stated that she sees this as a character changing situation for future development. She asked what the trend was for the future of Malvern?

Council President Van Sciver responded that the largest purview that Council has as local government is land use regulations and police. The Zoning Ordinance defines all the bulk and area stuff of how a parcel can be developed. The Zoning Ordinance we have now was crafted with GIS information and we tried to duplicate what was already on the ground. It has to strike a balance with how you live and maybe construct an addition. If the whole idea is you don't necessarily want to have people burdened with paying \$750 to go to the Zoning Hearing Board, you strike a balance. No one has seen the size of the houses that are being proposed for 217 So. Warren Avenue. Council asked for a rendering that shows what they will look like and if Council sees them and they don't look too big, that is something that Council can require him to build.

Council Member Macaleer asked Mr. Fruchter if he didn't have a concern that four houses will actually be bigger than five houses?

Mr. Fruchter responded that he did not as he feels that TAG would still have to meet the standards of the Ordinance and he will have impervious coverage restrictions.

3. INTERVIEWS FOR BOROUGH COUNCIL VACANCY:

Council President Van Sciver asked that the candidates introduce themselves and tell Council why they want to be considered for appointment.

a) Judith Neeld – Judi stated that she lives at 130 So. Warren Avenue, has been in the Borough for six years and has grown to love the Borough and the history of it. She would like to be considered for Borough Council because she believes in community service and giving back to the community. She stated that she has no zoning or project management skills; however, she does have common sense and would work hard for the residents of Malvern.

As this is an interim appointment until the next election, she was asked what would happen in November?

Ms. Neeld responded that if she felt she was doing a good job, she would probably run for Borough Council.

b) Robert Coughlin – Mr. Coughlin stated that he is a candidate for Borough Council in November. He has been a resident of the Borough for 17 years and he grew up near General Wayne. He has been in the construction and landscape industry for 27 years and has a lot of experience in dealing with developers, subcontractors, and zoning, but he is not a developer. He stated that he is interested in giving time back to the community and giving his experience and knowledge and he's interested in doing the work that is needed. He feels this would be a great lead-in for November. He stated that he has no agenda in mind. He is proud of this town and wants to give back to it.

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Mr. Coughlin was asked, having heard today about the Gable property, could he summarize his view on the TAG project?

Mr. Coughlin responded that he hasn't seen the sketch, the layout, what exactly is going in and so he can't answer honestly but he will say that having 3, 4 or 5 houses will add to the value of this Borough but it doesn't mean he's for it.

Ms. Neeld was asked the same question and responded that she believes in compromise. She thinks the idea the residents have proposed is an excellent one for four houses. You aren't saying not to build, but you are saying we don't want five. She believes that she would vote for the four houses and that is compromising and that is important.

They were both asked if they would be available to attend the two nights a month that Council meets. They both responded that they would be available to attend both meetings per month.

c) Christopher Mongeau – Council President Van Sciver stated that there was one other applicant; the Chair of the Planning Commission. He read an e-mail that had been sent to the Manager as follows:

Unfortunately I will not be able to attend the meeting tonight for the interview regarding the open Borough Council seat. If it is possible, I would like to reschedule it for another meeting. If it is not possible, in lieu of the interview, I would like to state why I would like to be appointed to Borough Council for the remaining 6 months of Duane Mc Crory's seat.

Since the length of the current seat is approximately 6 months, it would be beneficial that the person filling the position have a working knowledge of some of the current issues and would require less time on getting "up to speed" on some of the other issues currently being addressed by the Borough Council. I believe that my unique position as Planning Commission chair gives me the knowledge on some of the important issues before the Council and I would require less time to become familiar with workings and other issues of Borough Council.

Since I am not running for the seat at this November election, I would be a truly "interim" council member until the voters decide who should be representing them on Borough Council this November. Because of my work on the Planning Commission, I believe I have a good working relationship with all the members currently on Borough Council.

I do regret that I cannot make the meeting tonight but because of the reasons stated above among others, I believe that I would make an excellent selection to fill the open seat.

Thank you for your consideration.

4. NOMINATIONS FROM COUNCIL:

Council President Van Sciver requested nominations from Borough Council to fill the unexpired vacancy. A replacement will be appointed at the next meeting of Borough Council.

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Council Vice President Raymond nominated Mr. Coughlin and seconded by Council Member Macaleer. Council Member Sponenbergh stated that he knows Chris Mongeau quite well and he is an outstanding Chair of the Planning Commission and Council Member Sponenbergh stated that he agrees with everything that he said in his e-mail. He stated that he also feels that Mrs. Neeld would be an excellent applicant here but thinks it would be impossible for her to continue as a permanent member since she is not currently on the ballot and feels it would be an uphill battle. He stated that if Mrs. Neeld is serious about this, the next time there is an opportunity to get on the ballot in the primary, she should do so. He stated that Mr. Coughlin is already on the ballot for November so he thinks he will support his nomination and that his background information and ability to attend meetings is a tremendous asset.

Council Member Macaleer stated that he agrees with Council Member Sponenbergh's comments and wishes we could take them all.

Council President Van Sciver closed the nominations and Mr. Coughlin will be sworn in at the July 16th meeting of Council.

5. APPROVAL OF MINUTES:

A motion was made by Council Member Macaleer, seconded by Council Vice President Raymond and unanimously carried by a vote of 4-0 to approve the minutes of the Special Meeting held on Monday, May 20, 2013 and the Regular Meeting held on Tuesday, May 21, 2013, as submitted.

6. APPROVAL OF REPORTS:

A motion was made by Council Vice President Raymond, seconded by Council Member Sponenbergh and unanimously carried by a vote of 4-0 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 May 2013, as submitted.

7. RESOLUTION NO. 665 – PREVAILING WAGE REFORM:

A motion was made by Council Member Sponenbergh, seconded by Council Member Macaleer and unanimously carried by a vote of 4-0 to adopt Resolution No. 665, a Resolution of the Borough of Malvern, Commonwealth of Pennsylvania, urging the Pennsylvania General Assembly to Amend the State Prevailing Wage Act (Act 442 of 1961).

8. APPOINTMENT – EMERGENCY MANAGEMENT COORDINATOR:

A motion was made by Council Member Macaleer, seconded by Council Member Sponenbergh and unanimously carried by a vote of 4-0 to appoint Ken Furlong, 221 Woodland Avenue, as Malvern Borough's Emergency Management Coordinator, effective immediately.

9. OTHER BUSINESS:

a. ARLE Funding Program Submission – the Manager reported that another round has been opened for the 2013 ARLE Funding Program and would like to re-submit the application that was completed at the last round. She explained that the Funding would modernize the 40 year old traffic signal equipment at the intersection of King Street and Warren Avenue that does not conform to current PennDOT standards and we would request Accessible Pedestrian Signals for visually impaired residents and riders at the Malvern Train Station who park on our streets and in our municipal parking lots. Ms. Kelley explained that this is a reimbursement program and not a grant program in that the Borough would have to pay the invoices and wait to be reimbursed.

A motion was made by Council Member Sponenbergh, seconded by Council Member Macaleer and unanimously carried by a vote of 4-0 to authorize the Manager to apply for the ARLE Funding as it relates to the traffic control equipment at King Street and Warren Avenue.

b. CRP Grant Submission for Channing Ave. and So. Warren Avenue – The Manager reported that the County Commissioners are expected to announce the grant awards for the CRP Applications at either their June 25th or July 9th Commissioners meeting.

10. ADJOURNMENT:

All business having been discussed, a motion was made by Council Vice President Raymond, seconded by Council Member Sponenbergh and unanimously carried by a vote of 4-0 to adjourn the meeting at 9:27 p.m.

Respectfully submitted,

Sandra L. Kelley
Secretary/Manager