

REGULAR MEETING
BOROUGH COUNCIL
MALVERN BOROUGH

September 18, 2012
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 Giandonato - ABSENT
 - Council Member Macaleer
 - Council Member McCrory
 - Council Member Sponenbergh
 - Council Member Uzman
 - Mayor McGlone

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. Lisa O'Neill and Donna Levitsky, Malvern Farmers Market – Lisa explained that she and Donna attended tonight to introduce themselves and entertain any questions that Council may have regarding the Farmers Market in Burke Park. She stated that they are very excited about the opportunity, the location is perfect, and Malvern is ready for a Saturday morning Farmer's Market. Lisa stated that parking will be best on a Saturday and that this is a win/win situation all the way around. She feels the Market will draw a lot of people into town on a Saturday morning and it is expected that other businesses will benefit, as well.

Council Vice President Raymond stated that she would like to know how they qualify as a 501©(3). The organizers responded that they will be establishing through the Chester County Community Foundation. They are approaching it as an educational venue with possibly a program being conducted at the Library, they bring in a nutritionist, they have a children's activity and these are all community events.

Lisa explained that the Market season begins in May and goes through November. If they have some capacity to have a winter market, it would only be two hours with fewer vendors. They would have to determine if that was acceptable for Malvern.

Lisa requested that they be permitted to put signs out at various locations. They would be sandwich board-type signs as they serve the purpose and look much better than the political type signs. Donna stated that if they hung a banner, it would go up at the beginning of the Market and would be removed after the Market.

Frank Ortnier reported that the business association was not opposed to the Market.

Council Member McCrory asked about the residential parking around the Market area as this may impact them. Council President Van Sciver responded that we would look at that as it occurs and address any issues at that time.

Frank Ortner asked if the Business Owners could hand out coupons or other literature at the Market. Donna responded that the Market has a table where these kinds of items could be distributed.

Council was very much in favor of the Malvern Farmers Market coming to Burke Park in May 2013.

b. Frank Ortner, Griffith Avenue, congratulated Council and the Engineer, Manager, etc., for the Powelton Avenue project. He stated that it looks great and the contractor did a super job.

Regarding the 2013 Bicycle Race, the Chesco Grand Prix wants to come back again. They would like to change their course by going down to Church Street then up to Roberts, Warren and Monument. This would add 1/10th of a mile to the course and decrease the number of laps. The time-frame would be Monday, July 8th. Frank reported that for this year's race, the MBPA had to reimburse the Borough for the extra police and there was an insurance issue that they had to pick up. Since this event is more of a community event, Frank asked if the Borough could provide any assistance in helping back up the costs involved for the police and putting a Rider on the Borough's insurance policy. The cost of insurance for them was roughly \$1,000. The cost to the Borough should be much less.

Frank also questioned whether a pole could be placed on King Street near Bridge Street in order to hang banners advertising events. This would make people more aware of the events in town.

Council Member Uzman suggested that a location farther east near the E. King Street project may be better. One pole may already be there with the new poles being hung and another pole could be installed across the street. Our engineer should be consulted on the logistics of where the poles go and how a banner would affect the electrical poles. We should explore prices for the poles and get an idea. Also, we might consider something to dress up the light poles, such as flags, banners, flower baskets, etc.

Frank responded that hanging flower baskets have already been discussed and Ira has agreed that his crew could water them.

Council President Van Sciver suggested that we might want to consider some kind of gateway signage. Frank agreed that that would make it more inviting to come into town. Woody suggested that we get a design and then a price.

Frank stated that the flower baskets would cost approx. \$100 each plus the cost of the flowers and labor for a total cost of approx. \$200 per flower basket. The Borough's Public Works would hang the baskets on the poles and would keep the flowers watered.

Regarding banners for events, Council Member McCrory felt a better location would be at Old Lincoln Highway and Bridge Street as he thinks this area gets more traffic. Other Council members felt that a banner along King Street would inform the train people of our events. It was suggested that a couple of locations might be considered.

Mr. Ortner reported that within the next five years, the Paoli Memorial Association will have to replace the whole driveway around the "bowl". It is being used a lot more often. He

stated that they have received prices and are looking at \$38,000 depending on the price of oil. Frank distributed a copy of the Treasurer's Report that will be distributed at the Annual Meeting of the Paoli Memorial Association. He stated that the PMA appreciates everything that the Borough has done over the years and continues to do for them.

Council Member Macaleer asked if they were looking for any grant money. Mr. Ortner responded that when they met with Rep. Duane Milne, they were told that there are no grants available from the State but he will continue to look. Frank stated that he also met with the event planners who run Malvern Blooms and the Fall Festival, and they are looking to possibly promote a gala event that might be a dinner for which the proceeds would go to the Park – maybe to be held at the General Warren Inn or consider another event at the Park where the proceeds would go to the Park.

Council Member Uzman asked Frank how long they were looking to put off the repaving as the longer they wait, the more it will cost. He recommended the PMA have someone come out and give them an evaluation of how long it will last. Mr. Ortner responded that someone did come out and told them they would have to replace it within 3-5 years. Council Member Uzman suggested that they talk to whoever does the Borough work and, while they have their equipment there, they could ask if they would give them a cost break if they repave their road at the same time.

Council President Van Sciver stated that the Borough budget straits are as perilous to navigate as the State's budget. The PMA deserves to be standing at the front of the line, though. Perhaps there is some way we can look at it for some opportunities for joining together and buying insurance, etc.

John Buckley, 165 Church Street, reported that last year the Memorial Services were moved from the flagpole to closer to Monument Avenue. He feels the event is about Memorial Day and not the function afterwards. Mr. Ortner responded that they moved it closer to Monument Avenue this year because that is where the people were and they can't get them to move up to the flagpole. They found that it didn't work as well as they wanted and they will probably not move it down to Monument Avenue again next year.

Frank reported that Josh Hibberd died recently. There will be an event for him at the PMA on Saturday, October 20th. It will be a brown bag lunch event as that was his style.

Council Member Sponenbergh referred to the letter that was received from Anthony's Restaurant following the 2012 Chesco Grand Prix. It seemed that we should have realized that Anthony's was busy on a Friday night. Frank responded that they understood Anthony's concern. Frank stated that he has spoken to the people at Anthony's, Alba, Malvern Pizza and Worrell's because it affected people getting into the Shopping Center. The road should have been open. We were able to get the road open by 6:00 p.m. But, Anthony's lost a lot of money because people placed orders but couldn't get in to pick them up.

Chief Ercole stated that East Whiteland was supposed to bring a sign board saying the Shopping Center was open, but they did not bring it. The Chief stated that he has spoken to Frank about the police budget. This should be something that the MBPA should pay for the additional manpower. When this year's event comes around, it will be more time consuming in a couple of different ways. In 2012, we had an intern and a man on light duty. They did a lot of the prior to event set-up activities. This year, we will have to purchase 200 more signs because the bike race is Monday night and Tuesday is the first night of the Malvern Fire Company Fair.

More officers will be needed as well as more signs to accommodate both events. As the activities expand, so does the price.

Frank responded that this year they expect to have more volunteers—maybe 25 or so. They will work with the police for whatever is needed to be done. Chief Ercole stated that parking will be the biggest issue.

Council Vice President Raymond asked about the trash that would be out on the street for Tuesday's pick-up. That is something that will have to be addressed closer to the event.

3. APPROVAL OF MINUTES:

A motion was made by Council Member Uzman, seconded by Council Member Sponenbergh and unanimously carried by a vote of 6-0 to approve the minutes of the Regular Meeting held on Tuesday, August 7 and Tuesday, August 21, 2012, as submitted.

4. APPROVAL OF REPORTS:

A motion was made by Council Vice President Raymond, seconded by Council Member Uzman and unanimously carried by a vote of 6-0 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 August 2012, as submitted.

5. ESCROW RELEASE – APPLIED ENERGY SYSTEMS:

A motion was made by Council Member McCrory, seconded by Council Member Uzman and unanimously carried by a vote of 6-0 to authorize the request for Escrow Release #1 to Applied Energy Systems, 176 Quaker Lane, in the amount of \$126,461.34, as recommended by the Borough Engineer.

6. RESOLUTION NO. 659 – ELIMINATE CONTRIBUTIONS TO THE POLICE PENSION PLAN FOR CALENDAR YEAR 2013:

A motion was made by Council Member Sponenbergh, seconded by Council Vice President Raymond and unanimously carried by a vote of 6-0 to approve Resolution No. 659, a Resolution to eliminate for the Calendar Year 2013 members contributions to the Police Pension Plan.

7. MINIMUM MUNICIPAL OBLIGATION – PENSION PLANS:

A motion was made by Council Member Uzman, seconded by Council Member Sponenbergh and unanimously carried by a vote of 6-0 to enter into the 2013 Budget the

Minimum Municipal Obligation for the Uniformed Pension Plan the amount of \$0 and for the Non-Uniformed Pension Plan the amount of \$74,995.

Council Member Sponenbergh explained the increase is based on the new mortality tables.

8. LANDSCAPE BUFFER PLAN – ARAS, 190 PENNSYLVANIA AVENUE:

A motion was made by Council Member Macaleer, seconded by Council Member Uzman and unanimously carried by a vote of 6-0 to approve the landscape buffer plan of Jayne & Angelo Aras for 190 Pennsylvania Avenue, as recommended by the Planning Commission. The Planning Commission has required one modification and one monitoring requirement. The buffer requires the addition of tree plantings in addition to the fencing, at the frequency and type required in Section 2309.C.4 and Appendix A. The Planning Commission further recommends that the Zoning Officer perform a site visit in January 2013 to determine whether or not the existing deciduous tree line provides adequate screening during the winter months.

Ron Agulnick, Esq., attorney for the applicant, stated that the applicant concurs with the motion.

9. OTHER BUSINESS:

a. Recommendation of Borough Engineer re. Paving of Everett's Alley at TAG Builders, 144 Church Street – Following discussion, it was determined by Council that no paving would be required in Everett's Alley for this subdivision project. Council agreed that if only a section of the alley was paved, it could become a maintenance issue and if we weren't going to pave the entire alley, why should we require or take on the responsibility of paving any part of the alley.

Carroll Sinquett, a member of the Planning Commission, stated that the applicant was required to pave it by Ordinance and they didn't have the authority to waive that requirement. Only Borough Council can waive this requirement.

A motion was made by Council Member Sponenbergh, seconded by Council Member Uzman and unanimously carried by a vote of 6-0 to recommend that we don't have any paving in Everett's Alley in and around the 144 Church Street subdivision or any other part of Everett's Alley.

b. Recommendation of Public Safety Committee for No Parking Distances on Monument Avenue (Council Member Sponenbergh) – Council President Van Sciver stated that the issue of the site distances was discussed a long time ago. We talked about it with the overflow parking from the train station but the improvements made at that time did not correct the line of sight. The suggestions marked with the cones solve the sight problems.

Council Member Sponenbergh stated that it is the recommendation of the Public Safety Committee that we adopt those distances as outlined by the cones and the No Parking signs. Council Member Sponenbergh stated that he has Council Member Giandonato's proxy to approve this recommendation. Council Vice President Raymond stated that she is generally in agreement.

Chief Ercole stated that one neighbor called to push parking away from her driveway and no other calls were received.

A motion was made by Council Member Sponenbergh, seconded by Council Member Uzman and unanimously carried by a vote of 6-0 to adopt the No Parking distances on Monument Avenue as recommended by the Police Department and the Public Safety Committee.

The No Parking Here to Corner signs will be relocated and the curb will be painted yellow.

The Parking Ordinance will be amended.

c. Announce Public Meeting on September 25th from 4:00-7:00 p.m. for the Malvern Transit Oriented Development Plan – Council President Van Sciver announced the Public Meeting on September 25th to hear public comments on the study for the transit oriented development around the train station.

d. Historical Ordinance Draft – Council President Van Sciver stated that he had met with the Historical Commission and provided them with some feedback on the extent of their proposed ordinance.

Council Member McCrory stated the Council Member Uzman brought up the point that it seems we are putting burdens on the property owners without giving them any relief and he feels there almost should be some kind of property tax break, or some goodwill with fees associated with inspections to help them offset the fact that there will be more requirements on them.

Council Member Uzman felt that announcements should be sent to the people in the designated historical areas specifically to let them know their homes could be affected and invite them to a public meeting where this proposed ordinance will be discussed. The seventeen people who attended the public meetings are not representative of all the people who would be affected.

There are a large number of properties that will be affected by this Ordinance. Following a public meeting, the Planning Commission would meet and a recommendation would be sent to Borough Council. There will be more than the minimal public hearings about this as people are very interested in this topic.

Council Member Uzman stated that he does not want to change the historical nature of some of these structures, but, on the other hand, he's concerned about the burden that we are putting on the residents.

It was also suggested that the review process is long as any permit would first have to be submitted to the Borough, then the application goes to the Historical Commission for review and if you add up the numbers, it could be a very long process.

Council Member Uzman asked what are the qualifications of the people on the Historical Commission to make these recommendations. He asked if the Historical Commission members have historical background or understand the historical integrity of the buildings.

Lynne Hockenbury, Member of the Historical Commission, stated that she's not sure anything in the ordinance would require that form of expertise. The Historical Commission would be considering items such as removing a piece of something vs. a half a house or the whole structure. For the most part, you're not really looking at changing the architecture so much as removing the building entirely. Lynne stated that they are hoping Tom Scofield, who is a resident of the Borough and a Historic Preservation Planner who wrote the proposed Ordinance

for the Historical Commission, will join the Commission. Tom has a lot of expertise. Also, the Commission will have a list of people who do historical renovations that they can hand to the residents. When we receive an application, we would expect to bring people in and ask them if they have thought about other alternatives and offer suggestions. If the proposed improvement is a window, and the window can be fixed and it is cheaper to fix than to replace, and the property owner hasn't thought it through, they might be happy to keep the windows rather than replace them. This would help to let them know there is another option available.

Council Member Sponenbergh asked if the motivation for the ordinance is that we have lost a lot of historical buildings in the Borough and we wish we hadn't, or is the motivation that we think we want to be pro-active.

Lynne responded that she thinks it is a little bit of both. There are some buildings that are unique to the County. They are the only ones in the entire County. It is borne out of a history in town and knowing you are in Malvern.

Council Member McCrory stated that there are a lot of houses in the residential area.

Lynne stated that it is a fabric of how the town looks. We would hope there would be a penalty for allowing trees to grow in a historical building.

Council Member McCrory stated that he thinks he could identify 25-30 buildings that are unique in architecture and potential historical structures and 25 years from now he would want to see them.

Council Member Uzman stated that one thing he likes about the tight boundary is not necessarily the buildings; but now you have set up a district. Everything that you want done in these districts, you don't want radical change.

Lynne responded that there was conversation about the regulations. For the most part, this is a group of people who will be affected while their neighbor may not be affected.

Council President Van Sciver stated that, on the other hand, the extent about the fabric of the neighborhood is really regulated by the bulk and area requirements of the Zoning Ordinance. When our Zoning Ordinance was revamped, it was zoned according to what was on the ground. The whole premise behind that was to restore and retain the neighborhood as you walk down the street. The education part of this ordinance is very important. This would send people who are going to re-roof, which could change from a shake roof to an asphalt roof, to the Historical Commission. I don't know if it is governments business to tell people they can't change their roof.

Council Member McCrory stated that he absolutely loves the intent of this ordinance and he thinks there may be the need for a historical overlay area. If you live in this area you need special permission to demolish. Within that area certain properties have to be identified as being ultra special to the point where it may overlap onto the adjacent properties that aren't so special. I'm not for treating them all the same. I think there are some things in an area that we should stay on top of.

Council Member Uzman stated one of the things that we could do is grandfather people in. If you owned this property when this ordinance was adopted, and we want you to do this, but we won't look as strictly.

Lynne suggested that maybe we could be more lenient for a transitional period of time. Maybe it is just the maintenance piece where it is just an exercise where we give them the knowledge and contacts.

Council Vice President Raymond referred to Section 1, Definitions, Contributing Resource, (1) of the proposed ordinance and questioned the language “it was present during the {period of significance established} for the Borough”. She believes this will need further clarification. She also asked how much change would harm the integrity and what source.

Council President Van Sciver referred to Bill Wilfong’s (Codes and Zoning Officer) comments. Bill wants to make sure we understand that some of the time periods are too short. The requirements noted above will be in addition to the current duties of the Codes Department – the review period should increase from 5 to 10 days. Given the number of properties that are shown in the Public Meeting Summary, this could result in a significant number of applications just to go before the Historical Commission. Bill also noted that additional time will be required where designated historic properties that are undergoing renovation must comply not only with the Borough’s building code but also with any additional requirements directed by the Historical Commission and/or Borough Council, during the applicable demolition review process. The demolition process that will require the most time and resources of the Codes Officer will be Demolition by Neglect, as a number of inspections and remedy options are listed, including additional time pursuing civil enforcement. The actual impact of this ordinance will not be realized until the ordinance has been in force for a period of time and its requirements, together with the current building and zoning program have been integrated and coordinated.

Council Vice President Raymond believes the draft ordinance needs to make it more clear why we are preserving the sorts of things we are trying to preserve. What do we think is significant and how are we getting to our list of what we think is significant.

Lynne responded that they looked at properties before 1941 because they were pre-war. They designated the structures as either cherries, plums or raisins. There were about 25 cherries that were in pristine condition; many plums that had not been altered; and more raisins that had been altered in some way.

Council Member McCrory stated that he wouldn’t mind the bigger tract. He wouldn’t exclude the fact that even if you are not in the special tract now, it doesn’t mean in ten years from now there is something really special about your place and you qualify for the special tract, and we would reserve the right to make you part of the historical fabric of Malvern and we wouldn’t want that house to change.

Council President Van Sciver asked if we are saying as a Borough Council that we like the idea of regulating what we aren’t regulating now. The responses were as follows:

Council Member Macaleer – Yes

Council Member McCrory – I’m in favor of the cherries and in favor of a yearly review

Council Vice President Raymond – In favor of the cherries

Council Member Sponenbergh – Not ready to declare. I’m still thinking about impairing an E. King Street sort of development.

Council Member Uzman – I’m for limited participation. Don’t want to slap this on existing homeowners.

Council President Van Sciver – I’m leaning towards not so much regulation. I see it as a burden.

Lynne stated that the building on E. King Street that is “Up Home”, when the County Historian saw that building, she got very excited. It is almost in pristine condition (over 90%).

Council Member Sponenbergh stated that he agreed with Council President Van Sciver. He also understands Lynne's point that there are buildings and houses that we don't want to lose.

Council President Van Sciver stated that he sees a market force issue as well. For somebody to alter the Weikert property on Monument Avenue would detract so much economically. Owners would not want to detract from the value of the property. If you have a raisin, you might want to get rid of the chimney by replacing the furnace. Lynne responded that it might be cheaper to cap the chimney than remove it.

Council President Van Sciver asked Lynne to put together photographs of the buildings that would show what they want to keep. If the Historical Commission needs more money to do that, you go to the Manager and say we want to send letters, etc., to the properties affected by the ordinance, and that will happen.

Council Member Macaleer asked what is the look that Borough Council wants for Malvern. Are we Victorian? It becomes a question of how far do you want to go to achieve a conformity.

Council Vice President Raymond feels we should preserve the evidence of how the town has evolved as importance over time. A degree of regulation is okay but we still have to scope that out.

Council President Van Sciver stated that he is not sure a physical boundary works as well as a general overlay district. Properties on this list could encompass an overlay district.

Council would like more public feedback and suggested an information gathering meeting that could be done at a future Council meeting. A special meeting could be coordinated with the Planning Commission, Historical Commission and Borough Council.

It was suggested that the Historical Commission look at other ordinances. This could be a component of our website and point to resources. Maybe if there is a link as an education piece to the general homeowners, if you have these kinds of things, you might want to look at or consider these things.

e. Mural - The Manager reported that Kristin Thomas is still interested in pursuing a Mural along King Street and stated that Malvern Pizza would support a mural on their building. Also, the Malvern Business & Professional Association is supportive of the project. Kristin is pursuing grant opportunities for this project. It was suggested by Borough Council that Wolfe's Baldwin Brass may be a better location for the mural.

f. 205 Jennings Lane – Regarding the drainage ditch on this property, it was asked if this drainage ditch was on the owner's property. The answer was that it was not. It is on Borough property.

Council President Van Sciver stated that he wasn't around when Jennings Lane was developed. That is a cul de sac and the area in question is part of the very deep valley that extends through the Aikens property. He speculates that the developer had that whole parcel of ground and he couldn't build on it so he gave it to the Borough. Ultimately, Council President Van Sciver thinks the issue with that should be a barrier that people don't go in there. We aren't solving the deep grade. A planting of prickly ivy or a fence can be considered. A fence may be considered from the cartway along the periphery of the property or just install it so far away from the public cartway.

Council Member Sponenbergh stated that he is very familiar with the situation. There is a homeowner at 205 Jennings and another neighbor on the west side. This drainage ditch has been there a long time and the kids play in the cul de sac. This new family who just moved in has small children. Multiple solutions might work here.

ADJOURNMENT:

All business having been discussed, a motion was made by Council Member Uzman, seconded by Council Member Sponenbergh and unanimously carried by a vote of 6-0 to adjourn the meeting at 10:20 p.m.

Respectfully submitted,

Sandra L. Kelley
Secretary/Manager