

REGULAR MEETING
BOROUGH COUNCIL
MALVERN BOROUGH

MARCH 4, 2014
7:30 P.M.

PRESIDING: David G. Bramwell, President

INVOCATION: David B. Burton, Mayor

PLEDGE OF ALLEGIANCE TO THE FLAG

1. ROLL CALL: Council President Bramwell
Council Vice-President Raymond
Council Member Lexer
Council Member Meisel
Council Member Radano
Council Member Van Sciver
Mayor Burton

2. PROCLAMATION – PATRICK J. MC GUIGAN:

A motion was made by Council Member Radano, seconded by Council Vice President Raymond and unanimously carried by a vote of 6-0 to present a Proclamation to Patrick J. McGuigan who is being recognized as the St. Patrick's Church Knights of Columbus 2014 Man of the Year.

3. APPOINTMENT – MEMBER OF BOROUGH COUNCIL:

Council President Bramwell stated that Council has struggled with the decision as to who to appoint to the Borough Council vacancy. In their decision making process, all members of Council agreed that all candidates would make excellent members of Council and would hope that those not appointed to this position would consider serving in another capacity. Council members voted as follows: Council Member Lexer voted for Scott Oswald; Council Member Van Sciver voted for John Kohler; Council Vice-President Raymond voted for Zeyn Uzman; Council President Bramwell voted for Scott Oswald; Council Member Radano voted for John Kohler and Council Member Meisel voted for Scott Oswald.

Because no vote was unanimous, a re-vote was held between the two candidates who received the most votes – Scott Oswald and John Kohler. Following the second vote, there were five votes for Scott Oswald and one vote for John Kohler.

A motion was made, seconded and carried to appoint Scott Oswald as a member of Borough Council, to replace the unexpired term of Joseph Giandonato. The vote was 5-1.

4. OATH OF OFFICE – NEWLY APPOINTED MEMBER OF BOROUGH COUNCIL:

Mayor Burton administered the Oath of Office to Scott Oswald, newly appointed member of Borough Council to fill the unexpired term of Joseph Giandonato. Said term to expire 1/1/16.

5. 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

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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?

Council President Bramwell stated that, in the consideration of time, Council will be glad to answer any questions from the citizens. Dan Daley, P.E., will be making two presentations. There has been a lot of public comment regarding the Channing Avenue streetscape project and Council President Bramwell asked that any questions or comments regarding this project be deferred until Mr. Daley completes his presentation. This will be the first time that Council has heard the presentation and Council would like to listen without interruption to the presentation. Council will not take questions unrelated to these two topics.

a. Danny Fruchter, 234 Channing Avenue, congratulated Council on the process he just witnessed but was sorry that the citizens did not have an opportunity to properly comment on the nominees but he understands that Council has the decision to process. He stated that it was a good thing that Mr. Giandonato stepped down, given his future conflicts in attending the meetings. He stated that he wants it noted for the record that as of August 21, 2012, Mr. Giandonato was in violation of the Home Rule Charter's procedures on attendance and it was at that time that the President of Council should have called for a hearing.

Council President Bramwell closed the public comment period related to that issue.

Council President Bramwell stated that he would request of Mr. Fruchter that he agree that it is only his opinion that Mr. Giandonato did not attend appropriately and he does not think that Council would want to sling mud. He would like to soften Mr. Fruchter's comments.

b. Act 167 Stormwater Management Ordinance Presentation (Dan Daley) – Mr. Daley reported that the Borough is required to update the Stormwater Management Ordinance to comply with current regulations. All Counties in Pennsylvania were required to conduct watershed studies in their counties. In 2013 the County Commissioners adopted the Watershed Study within Chester County. DEP approved the Study in July 2013. The County has just completed a new Act 167 Model Ordinance and the municipalities are being required to adopt a new Ordinance to include the new regulations. The municipalities were required to adopt by January 2014 but only half of the municipalities in Chester County have gone through the adoption process. The Model Ordinance included mandatory language but there was some room within the Ordinance to allow language specific to a municipality; i.e., the County document allows 1,000 sq. ft. of impervious coverage before requiring stormwater management vs. Malvern Borough's impervious coverage threshold of 400 sq.ft. We would like to move this process forward as we will need to advertise and send it to the Chester County Planning Commission for an Act 247 Review, then will need to advertise seven days before adoption.

Dan will provide a red-lined track changes copy to Council for review.

Council must determine whether decks and swimming pools will be considered impervious coverage. Our Planning Commission feels that decks are not considered impervious coverage but swimming pools are considered impervious coverage as they do not allow stormwater to infiltrate into the ground.

Dan was asked to prepare a memorandum on the key issues and Staff will develop a timeline for adoption.

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Sean O'Neill, Esq., reported that most municipalities governing bodies expect their Planning Commission's to do the work. The Planning Commissions have been deliberating this document and providing recommendations to their governing bodies.

Council Member Oswald stated that the planners did their work and made a recommendation. If there is stuff for Council to do, there is a disconnect with the planners.

Council President Bramwell stated that he has no interest in re-vetting the Planning Commission process.

Council Member Meisel stated that he doesn't want to re-invent what the Planning Commission has done. His question for Dan is, do you feel this version of the Ordinance incorporates as much as we can with the most recent trends in stormwater management to more natural solutions from hardscaping. Are we getting away from detention basins of the past? Dan responded that yes, this version includes more natural solutions as stormwater is an evolutionary process to get where it is at. This ordinance brings up all the Best Management Practices for what the state wants to promote. It is a regulatory tool. It states that you must meet this criteria but this document allows options for the individual constraints of the municipalities.

Dan will provide a Memorandum of choices that the Borough can make; will provide the proposed document with red-lined track changes; will come back and make a recommendation to move forward for the County Act 247 Review and the Borough will schedule a public hearing for adoption of the Ordinance.

c. Channing Avenue Streetscape Project (Dan Daley) – Council discussed the Channing Avenue streetscape project and possible intersection improvements at First Avenue and Warren Avenue. Council also discussed the possibility of pedestrian improvements at Roberts Lane and Warren Avenue to provide a more pedestrian safe way to cross from the west side of Warren Avenue to the west side of Roberts Lane to promote resident and walker safety. Many ideas were discussed and Dan Daley was asked to check site distance requirements and warrants for that area and report back to Council. It is possible that we may not meet all warrants. Also discussed was school crossing lights for the Montessori School and St. Patrick's School.

Rumble strips were discussed but the problem with them is the noise in a residential area. A different kind of rumble strip will be looked into other than the ones embedded in the street.

The streetscape plan for Warren Avenue includes a six foot sidewalk and a two foot grass strip from Roberts Lane to First Avenue. The cartway will be narrowed by painting a white line three feet from the curb.

Channing Avenue will have four foot wide sidewalks on both sides of the street and we will retain an Arborist to insure that Mr. Fruchter's Magnolia tree will be protected.

Mr. Daley asked for guidance in order to proceed with this project. Items discussed included traffic calming, stop signs, school considerations for the Montessori School and St. Patrick's School, option for Warren Avenue, option for First Avenue intersection, option for First Baptist Church parking lot, child safety, impact of sidewalks on the tree issues and rough cost estimates for each item.

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6. PUBLIC HEARING – ALLEYS & DRIVEWAYS:

Council President Bramwell announced that Borough Council will now open a public hearing to consider an Ordinance to amend the Subdivision and Land Development Ordinance of 2006, as amended, to correct a typographical error regarding alleys and to clarify provisions relating to the location of driveways on corner lots in relation to intersections.

The proposed Ordinance was advertised in the Daily Local News on February 23, 2014, as required.

As this ordinance had previously been discussed, there was no additional public comment and the hearing was closed.

ORDINANCE NO. 2014-3 – ALLEYS & DRIVEWAYS:

A motion was made by Council Member Lexer, seconded by Council Member Radano and carried by a vote of 6-1 to adopt Ordinance No. 2014-3, an Ordinance amending the Borough of Malvern Subdivision and Land development Ordinance of 2006, as amended, to correct a typographical error regarding alleys and to clarify provisions relating to the location of driveways on corner lots in relation to intersections. Council Member Oswald abstained.

7. PUBLIC HEARING – ALCOHOLIC BEVERAGES:

Council President Bramwell announced that Borough Council will now open a public hearing to consider an Ordinance to permit the possession and consumption of alcoholic beverages in public places that have been approved as outdoor cafes.

The proposed Ordinance was advertised in the Daily Local News on February 23, 2014, as required.

The time limits for outdoor seating was discussed.

As this ordinance had previously been discussed, there was no additional public comment and the hearing was closed.

ORDINANCE NO. 2014-4 – ALCOHOLIC BEVERAGES:

A motion was made by Council Vice President Raymond, seconded by Council Member Radano and carried by a vote of 6-1 to adopt Ordinance No. 2014-4, an Ordinance amending Chapter 65 of the Malvern Borough Code of Ordinances entitled “Alcoholic Beverages” to permit the possession and consumption of alcoholic beverages in public places that have been approved as Outdoor Cafes. Council Member Oswald abstained.

8. OTHER BUSINESS:

a. Announcement – A public meeting will be held on Tuesday, March 18, 2014, to discuss a streetscape project for Woodland Avenue. The engineering fees for this project are included in the 2014 Budget and the project would not be completed until 2015.

Council Member Oswald asked where, in the list of priorities, this project fell.

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Zeyn Uzman, 305 Charleston Greene, stated that he thinks that Council should proceed with the Woodland Avenue streetscape project as we are able to get resurfacing, new sidewalks, etc., and who cares about the priority. We are eligible to receive \$0.25 on the \$1.00.

Council President Bramwell stated that he thinks we should do whatever we can to get the money so we will submit the grant.

9. ADJOURNMENT:

All business having been discussed, a motion was made by Council Member Radano, seconded by Council Member Lexer and unanimously carried by a vote of 7-0 to adjourn the meeting at 10:00 p.m.

COUNCIL PRESIDENT BRAMWELL ANNOUNCED THAT COUNCIL WILL ADJOURN TO EXECUTIVE SESSION TO DISCUSS A LEGAL MATTER

Respectfully submitted,

Sandra L. Kelley
Secretary/Manager