

AGENDA

REGULAR MEETING
BOROUGH COUNCIL
MALVERN BOROUGH

January 3, 2023
7:30 PM

Virtual Meeting Participation Option

This evening's meeting of Malvern Borough Council allows for a virtual meeting option via Zoom. The information on how to participate virtually via telephone or video conferencing is provided below.

Borough Council Meeting Dial-In Information: 1-877-853-5247 (toll-free)

Meeting link: <https://us02web.zoom.us/j/84197019623>

When prompted, enter the following meeting ID, followed by the “#” symbol: 841 9701 9623. You will be placed in the waiting room and admitted by the host.

To unmute if using audio via telephone, please enter *6.

Malvern Borough is not liable for any computer security problems that participants may experience.

PRESIDING: Amy Finkbiner, Ph.D., President

INVOCATION: Zeyn B. Uzman, Mayor

PLEDGE OF ALLEGIANCE TO THE FLAG

ROLL CALL:
Council President Finkbiner
Council Vice-President Bones
Council Member Frederick
Council Member Laney
Council Member Niemiec
Council Member Phillips
Council Member Riccetti
Mayor Uzman

1. APPROVAL OF AGENDA:

MOTION: To approve the agenda for the January 3, 2023 meeting of Borough Council as presented.

2. ANNOUNCEMENTS

- a. Anyone present who is recording the meeting is asked to announce so at this time, in accordance with Resolution No. 840.
- b. As a courtesy, if you are participating via Zoom, please turn your camera on while speaking.

- c. Borough Council met in executive session on January 3, 2023 prior to this evening's meeting, with the Borough Solicitor, to discuss pending litigation and legal matters of the Borough.
- d. Brian Walker of the Environmental Advisory Council submitted his resignation in an email dated Wednesday, December 28, 2022 due to his work and travel schedule. The vacancy will be advertised on the Malvern Borough Website and the individual appointed shall fill a term set to expire on January 1, 2026.
- e. The Borough Office is closed on Monday, January 16, 2023 in recognition of the Martin Luther King, Jr. Day Holiday.

3. MINUTES & REPORTS

a. APPROVAL OF MINUTES

MOTION: To approve the minutes of the regular meeting held on Tuesday, December 20, 2022 as presented.

b. BOROUGH COUNCIL SUB-COMMITTEE REPORTS

- Finance & Administration
- Public Safety
- Public Works

The Finance & Administration, Public Safety, and Public Works Sub-Committees have not met since the last Borough Council meeting.

4. SPECIAL BUSINESS

a. SCHEDULE OF FEES – RESOLUTION NO. 842

MOTION: To adopt Resolution No. 842, establishing fees for services for Malvern Borough for Year 2023.

The proposed fee schedule is the same as Year 2022, with the exception of McMahon Associates, Inc. regarding their hourly rates for traffic engineering. The hourly rate has been raised by five dollars (\$5). The Borough Manager, Building Code Official, and staff will be researching surrounding municipalities in year 2023 to evaluate the Borough's Fee schedule for year 2024 providing recommendations accordingly.

b. REQUEST FOR PROPOSAL FOR INDEPENDENT AUDITING SERVICES FOR FISCAL YEARS 2022 AND 2023

MOTION: To authorize the Borough Manager to request proposals for independent auditing services for fiscal years 2022 and 2023, with the selection to be made by Borough Council on February 7 pursuant to Section 25-22 of the Administrative Code of the Borough. .

George Fieo, CPA of Peterson, Fieo, & Co. LLP will no longer be offering auditing services for fiscal years 2022 and 2023.

c. CITIZEN COMMITTEE APPOINTMENT CONSIDERATIONS

MOTION: To reappoint the following member to the Park and Recreation Committee for a (five) 5 year term to expire on January 1, 2028:

- Angela Riccetti

MOTION: To reappoint the following member to the Environmental Advisory Council for a three (3) year term to expire on January 1, 2026:

- Zoe Warner, Ph.D.

5. UNFINISHED BUSINESS

a. COMPOSTING PILOT PROGRAM PROPOSAL BY THE MALVERN BOROUGH ENVIRONMENTAL ADVISORY COUNCIL (EAC) – BACK TO EARTH COMPOST CREW CONTRACT

Mrs. Tiffany Brouillet, a member of the Malvern Borough EAC, presented a composting program proposal to Borough Council on October 4, 2022, to consider implementing and approving a composting pilot program for consideration to include in the Borough's Trash Program. The American Rescue Plan Act Committee recommended on April 22, 2022 that ten thousand dollars (\$10,000) be authorized by Borough Council towards a composting pilot program for the Borough. Back to Earth Compost Crew has made a proposal for fifty (50) residents to take part in the initiative starting as of January 1, 2023 for a one (1) year program costing eighteen dollars (\$18) a month for a total cost of ten thousand eight hundred dollars (\$10,800).

MOTION: To authorize ten thousand dollars eight hundred dollars (\$10,800) in American Rescue Plan Act funds to implement a pilot composting program as presented.

b. FIRST AVENUE BIKE TRAIL PARK STATUS UPDATE

The Borough Manager and Borough Engineer will give an update on the First Avenue Bike Trail Park regarding the stakeholder meeting that was held with the Malvern Fire Company and a presentation will be given of the revised plan.

c. ORDINANCE NO. 2022-3: ENACTMENT OF ORDINANCE FOR CONSERVATION EASEMENT CONCERNING RANDOLPH WOODS FOR PARCEL 2-4-361

A petition was filed with Malvern Borough on October 20, 2022 proposing an ordinance for a conservation easement on property that is planned for a Bike Trail owned by Malvern Borough, parcel 2-4-361. 322 petition signatures were obtained and 280 petition signatures were accepted as permissible. Section 1103 of the Home Rule Charter permits registered voters of the Borough to file a petition to propose legislation to Borough Council.

Borough Council held a public hearing on December 6, 2022 and took this matter under advisement by the Borough Solicitor. Borough Council has sixty (60) days from the time of the Borough Manager's determination to render a decision on the proposed ordinance. The Borough Manager accepted the petition on November 9, 2022 and a decision is required by January 8, 2023 from Borough Council.

Borough Council will consider this evening a potential motion to approve and/or deny proposed Ordinance No. 2022-3.

d. ZONING HEARING BOARD

There are no new Zoning Hearing Board applications before the Zoning Hearing Board.

6. NEW BUSINESS

7. PUBLIC FORUM

Citizens/taxpayers are invited to bring before Borough Council any item not on the agenda.

8. ADJOURNMENT

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MALVERN BOROUGH
1 East First Avenue
Malvern, PA 19355

December 20, 2022
7:30 PM

PRESIDING: Amy Finkbiner, Ph.D., President

INVOCATION: Zeyn B. Uzman, Mayor

1. ROLL CALL

PRESENT

Council President Finkbiner
Council Vice-President Bones
Council Member Laney
Council Member Niemiec
Council Member Phillips
Council Member Riccetti
Zeyn B. Uzman, Mayor

ABSENT:

2. APPROVAL OF AGENDA

A motion was made by Council Member Laney, seconded by Council Member Niemiec, carried by a vote of 7-0, to approve the agenda for the December 20, 2022 meeting as presented.

3. ANNOUNCEMENTS

Council President Finkbiner asked in accordance with Resolution No. 840 if any member of the audience was recording the meeting. Several people recorded the meeting.

Council President Finkbiner requested as a courtesy, if you are participating via ZOOM, please turn on your camera while speaking.

Council President Finkbiner announced that Borough Council met in executive session prior to this evening's meeting to discuss pending litigation and legal matters of the Borough.

Council President Finkbiner announced that the Borough Offices will be closed on Monday, December 26, 2022 and January 2, 2023 in observance of the Holiday.

4. MINUTES & REPORTS

a. APPROVAL OF MINUTES

A motion was made by Council Vice President Bones, seconded by Council Member Laney, and carried by a vote of 7-0, to approve the minutes from the Tuesday, December 6, 2022 regular meeting of Borough Council as presented.

b. APPROVAL OF REPORTS

A motion was made by Council Member Laney, seconded by Council Vice President Bones, and carried by a vote of 7-0, to approve the Treasurer's Report, the Sub-Committee Reports for Finance and Administration, Public Safety, Public Works, the Chief of Police Report, the Code Enforcement Department Reports, the Superintendent of Public Works Report, the Assistant Manager's Report, and the Manager's Report for the month of November 2022, as submitted.

c. BOROUGH COUNCIL SUB-COMMITTEE REPORTS

Council Member Laney stated that the Finance & Administration Committee met on Thursday December 15, 2022 and discussed the following:

- Review five (5) year Capital Plan
- Review Final 2023 Budget
- Temporary Randolph Woods Signage proposed by the Parks & Recreation Committee
- Craft & Mercantile Event for Year 2023; and
- Compost Pilot Program for Year 2023

Council Member Phillips stated that the Public Safety Committee met on Thursday, November 15, 2022 and discussed the following:

- SEPTA – Continuing Service Discussion to West Chester
- Sidewalk Plan and Wayfinding Signage Project – Status Update
- Review five (5) year Capital Plan from 2023 thru 2027
- Temporary Randolph Woods Signage proposed by the Parks & Recreation Commission

Council Vice President Bones stated that the Public Works Committee has not met since the last Borough Council meeting.

5. SPECIAL BUSINESS

a. 2023 ADOPTION OF PROPOSED BUDGET

President Finkbinder explained that the proposed budget was advertised in the November 25, 2022 edition of the Daily Local News and posted on the Borough Website for public review as required. A public hearing was conducted on December 6, 2022 and there is no tax increase proposed for Year 2023.

Borough Manager Loomis gave a presentation on the changes that occurred to the budget since the last presentation given on December 6, 2022.

Borough Manager Loomis read a statement from Mr. Andrew Willis regarding the Malvern Borough Police Department pertaining to the 2023 proposed budget. He requested that the Borough study the costs and benefits of using the State Police to service its community

President Finkbinder stated that it takes approximately 45 minutes for the State Police to service Charlestown Township when responding to calls.

Borough Council and the Mayor discussed the statement submitted and is in support of the current structure in place. The services provided by the Malvern Borough Police Department provide the Community safety and have an excellent response time.

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Borough Manager Loomis explained that revenue projections are kept conservative but are projected higher than last year's projections for this line item.

Mrs. Jen Chomko inquired why the Right-to-Know general fund line item was a large balance and who is filing the Right-to-Know requests.

Borough Manager Loomis explained that there are numerous appeals to Right-to-Know requests that have been filed with the Office of Open Records and Ms. Chomko may file a Right-to-Know request to obtain the report of all individuals that have filed requests with the Borough.

Mr. Frank Ortner requested that Borough Council consider contributing an additional \$5,000 to the Paoli Memorial Association to subsidize the lighting correction that is underway regarding the flagpole lighting. He reviewed the Borough's contribution from 2016 through 2022. The total contribution from the Borough to the Paoli Memorial Association would total \$13,000.

Mr. Danny Fruchter commented that the proposed 2023 budget is clear and transparent commending Borough Council. He inquired why the earned income tax under revenue was projected lower than \$1.8 million.

Mr. Joe John Donato commented that he was on Council in Year 2012 and is in support of the Malvern Borough Police Department.

Ms. Joyce Pettitt commented on that she researched the utilizing the State Police versus a Borough Police Department and that this will negatively affect the Malvern Borough Community and offer less quality service to the Community.

Mr. Al Resh commented on the Malvern Borough Police Department's and Council's diversity.

Ms. Angela Riccetti commented on her diversity status.

Borough Council was in agreement that this is a reasonable request made by the Paoli Memorial Association.

A motion was made by Council Member Laney, seconded by Council Vice President Bones, and carried by a vote of 7-0, to adopt the proposed budget for the Borough of Malvern for fiscal year 2023, as amended to include a \$13,000 civic contribution to the Paoli Memorial Association.

b. ORDINANCE NO. 2022-4: FIXING THE TAX RATE FOR 2023

President Finkbiner opened the hearing to consider Ordinance No. 2022-4. This ordinance fixes the tax rate for 2023 as required by the Malvern Borough Home Rule Charter. The proposed rate is the same as 2022 at 4.6700 Mills, 46.700 Cents. The Notice of Public Hearing was published in the December 14, 2022 edition of the Daily Local News.

A motion was made by Council Member Niemiec, seconded by Council Member Laney, and carried by a vote of 7-0, to adopt Ordinance No. 2022-4, fixing the tax rate for the Borough of Malvern for Year 2023 as presented.

c. FIVE (5) YEAR CAPITAL IMPROVEMENT PLAN FOR THE BOROUGH OF MALVERN

Council President Finkbinder explained that pursuant to the Borough's Administrative Code, the Malvern Borough five (5) year capital improvement plan has been prepared as of part of the 2023 budgeting process. This document is utilized as a budgeting tool and may be revised as Council sees fit. The Capital Improvement plan was reviewed by all three (3) sub-committees.

A motion was made by Council Member Laney, seconded by Council Member Phillips, and carried by a vote of 7-0, to adopt the five year (2023 – 2027) Capital Improvement program for the Borough of Malvern as presented.

Mr. Joe Rubino inquired about the Old Lincoln Highway improvement project.

Council Vice President Bones explained that the project is related to stormwater issues.

d. REQUEST FOR QUALIFICATIONS & BID PROCESS TO APPOINT A CPA FOR YEAR 2023

President Finkbinder explained that George Fieo, CPA of Peterson, Fieo, & Co., LLP will no longer be offering auditing services in Year 2023 to Malvern Borough.

A motion was made by Council Member Niemiec, seconded by Council Member Phillips, and carried by a vote of 7-0, to authorize the request for qualifications and bid process to appoint a CPA for Year 2023.

6. UNFINISHED BUSINESS

a. ZONING HEARING BOARD

There are no new Zoning Hearing Board applications before the Zoning Hearing Board.

7. NEW BUSINESS

a. ASSESSMENT APPEAL FOR 156 W. KING STREET

Council President Finkbinder explained that the Borough Solicitor has historically entered an appearance on behalf of Malvern Borough regarding assessment appeals pertaining commercial property. This property is a multi-unit rental that is located within Malvern Borough.

The Borough Solicitor explained that the school district initiated the appeal.

A motion was made by Council Member Phillips, seconded by Council Member Riccetti, and carried by a vote of 7-0, to appoint the Borough Solicitor to enter an appearance on behalf of Malvern Borough regarding the assessment appeal for 156 W. King Street.

b. THIRD QUARTER SEWER BILL LATE FEES

Council President Finkbinder explained that numerous residents that pay their sewer bill on-time were received late due to an issue with the post office/mail system. Borough Council has waived the sewer payment late fee in past years when this issue has occurred. Residents are requesting that

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the late fee be waived and formal action is required as a formality of the Borough Code.

A motion was made by Council Member Niemiec, seconded by Council Member Phillips, and carried by a vote of 6-0, Council President Finkbiner abstained, to waive the later fees associated with the third quarter sewer bill payments that were received late as a result of the mail system until January 31, 2023.

8. PUBLIC FORUM

Mr. Al Resh commented on policy clarity, the process of elections, and requested that the body camera footage be released regarding the May 19, 2022 police matter that occurred at Charleston Green.

Mr. Charles Hofmann read a statement regarding releasing the body camera footage.

Ms. Rebecca Hoffman read a statement regarding releasing the body camera footage and commented on transparency.

Ms. Catherine Smith requested that the body camera footage be released and commented about police accountability.

Mr. Woody Van Sciver inquired as to who completed the investigation of the May 19, 2022 police matter.

The Mayor explained that the District Attorney's office completed the investigation.

Mr. Danny Fruchter inquired why the Malvern Borough Police Department cannot release the body camera footage that is being requested. He additionally had comments regarding Option B pertaining to the First Avenue Bike Trail Park and the Malvern Borough Mayor's response to his statement read at the December 6, 2022 Borough Council meeting.

Council President Finkbiner read a statement in regards to the May 19, 2022 police matter.

Police Chief Marcelli informed the Community about the Blue Beards initiative that is in support of various charitable organization sponsored by the Malvern Borough Police Department.

9. ADJOURNMENT

All business having been discussed, a motion was made by Council Member Niemiec, seconded by Council Member Phillips, and carried by a vote of 7-0, to adjourn the meeting at 9:07PM

Respectfully submitted,
Tiffany M. Loomis
Borough Manager/Secretary