

AGENDA

REGULAR MEETING
BOROUGH COUNCIL
MALVERN BOROUGH

October 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 Niemiec
Council Member Phillips
Council Member Riccetti
Council Member Warner
Mayor Uzman

1. 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 with its legal counsel in Executive Session on Tuesday, October 3, 2023, to discuss the collective bargaining agreement.
- d. Porchfest is scheduled for Saturday, October 7, 2023 from 12PM to 6PM. The rain date for Porchfest is Sunday, October 8, 2023 from 12PM to 6PM.
- e. Oktoberfest is scheduled for Saturday, October 7, 2023 from 6PM to 9PM located at the Malvern Memorial Cabin.
- f. Bulk trash pick-up is scheduled for Saturday, October 7, 2023 to begin at 6AM. Please place your items out the evening prior. Instructions have been posted on the Borough Website.

g. The History Center is open to the public on Saturday, October 14, 2023 from 2PM to 4PM.

2. APPROVAL OF AGENDA:

- a. **MOTION:** To approve the agenda for the October 3, 2023 meeting of Borough Council as presented.

3. MINUTES & REPORTS

a. APPROVAL OF MINUTES

MOTION: To approve the minutes of the regular meeting held on Tuesday, September 19, 2023 as presented.

b. BOROUGH COUNCIL SUB-COMMITTEE REPORTS

- Finance & Administration
- Public Safety
- Public Works

The Finance & Administration Sub-Committee met on Thursday, September 21, 2023 the Comcast lease renewal, five (5) year capital plan for years 2024 through 2028, year 2024 budget, and the paving of the post office area that recently had stormwater repair work completed. The next meeting is scheduled for Tuesday, October 10, 2023 @ 1:30PM.

The Public Safety Sub-Committee met on Monday, September 25, 2023 to discuss the management plan for Borough Hall regarding restroom security, tree safety regarding the Randolph Woods Nature Preserve Annex Parcel, and five (5) year capital plan for years 2024 through 2028. The next meeting is scheduled for Monday, October 30, 2023 @ 10AM.

The Public Works Sub-Committee met on Tuesday, September 26, 2023 to discuss the five (5) year capital plan for years 2024 through 2028. The next meeting is scheduled for Tuesday, October 17, 2023 @ 9AM.

4. SPECIAL BUSINESS

a. PRESENTATION – 2022 FINANCIAL REPORT AND AUDIT FOR THE BOROUGH OF MALVERN

The Borough Auditor, Anthony Gilani, CPA, will present the Borough's 2022 Financial Report and Audit. Borough Council may consider action at the conclusion of the presentation to approve the 2022 Financial Report and Audit for the Borough of Malvern.

b. BUDGET STRUCTURE DISCUSSION FOR YEAR 2024

Borough Council will discuss the current structure of the budget and potential changes to be made in Year 2024's budget for transparency and ease of reading the budget document.

c. CIVIC ORGANIZATION REQUESTS FOR YEAR 2024

All civic organizations that receive funding from the Borough have been invited to attend the 10/3 or 10/17 Borough Council meeting to present and discuss their funding request with Borough Council.

5. UNFINISHED BUSINESS

a. OLD LINCOLN HIGHWAY CAPITAL IMPROVEMENT INFRASTRUCTURE PROJECT

The Borough Engineer will give a status update on the Old Lincoln Highway capital improvement infrastructure project to repair the roadway.

b. MALVERN LIBRARY FLOORING REQUEST – AMERICAN RESCUE PLAN ACT FUNDS

MOTION: To authorize release of American Rescue Plan Act funds, totaling \$37,670.47, to assist with the Malvern Borough Library’s renovation project, specifically related to flooring for COSTARS vendor Commercial Flooring Professionals, Inc, as presented.

The Malvern Borough Library is moving forward with their renovation plans, starting with the flooring. Three quotes have been obtained and they have requested to move forward with the COSTARS vendor, Commercial Flooring Professionals, totaling \$37,670.47 to complete the flooring renovation accordingly utilizing the American Rescue Plan Act funding allocated for their use. COSTARS Vendors are exempt from the public bidding process by virtue of being in the Pennsylvania Department of General Services Cooperative Purchasing Program. Borough Council will further discuss and may consider authorizing this work to be completed this evening.

c. ORDINANCE NO. 2023–03: AMENDMENT TO CHAPTER 139 (PARKS AND RECREATION)

PUBLIC HEARING: Council President Finkbinder announces that Borough Council will now open a public hearing to consider Ordinance No. 2023–03 This ordinance amends Chapter 139 of the Code of Ordinances of the Borough of Malvern, Pennsylvania, entitled "Parks and Recreation" to prohibit certain activities and actions in certain Borough parks. Ordinance No: 2023-03 prohibits bicycle riding in Randolph Woods Nature Preserve and the Paoli Battlefield. The proposed ordinance was advertised for public review in the September 25, 2023 edition of the Daily Local News.

ADOPTION: ORDINANCE NO. 2023–03: AMENDMENT TO CHAPTER 139 (PARKS AND RECREATION).

MOTION: To adopt Ordinance No. 2023–03 prohibiting certain activities and actions in certain Borough parks, as presented.

d. ORDINANCE NO. 2023–06: AMENDMENT TO THE BOROUGH’S ADMINSTRATIVE CODE

PUBLIC HEARING: Council President Finkbinder announces that Borough Council will now open a public hearing to consider Ordinance No. 2023–06. This ordinance proposes to amend Chapter 25, Section 25-29, of the code of ordinances of the Borough of Malvern, being the Administrative Code, providing for associate members for the Malvern Borough Environmental Advisory Council. The proposed ordinance was advertised for public review in the September 26, 2023 edition of the Daily Local News.

ADOPTION: ORDINANCE NO. 2023–06: AMENDMENT TO THE BOROUGH’S ADMINSTRATIVE CODE.

MOTION: To adopt Ordinance No. 2023–06 providing for associate members for the Malvern Borough Environmental Advisory Council, as presented.

e. ZONING HEARING BOARD

There are no new 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

REGULAR MEETING

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MALVERN BOROUGH
1 East First Avenue
Malvern, PA 19355

September 19, 2023
7:30 PM

PRESIDING: President Finkbiner

INVOCATION: Mayor Uzman

PLEDGE OF ALLEGIANCE TO THE FLAG

ROLL CALL

PRESENT

Council President Finkbiner
Council Vice President Bones
Council Member Frederick
Council Member Phillips
Council Member Niemiec
Council Member Riccetti
Council Member Warner
Zeyn B. Uzman, Mayor via ZOOM

ABSENT:

1. ANNOUNCEMENTS

Council President Finkbiner asked in accordance with Resolution No. 840 if any member of the audience was recording the meeting. Mr. Danny Fruchter 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 requested that the Community check the Borough's website calendar regularly for all up and coming events located throughout the Community.

Council President Finkbiner announced that the Craft & Mercantile event held on Friday, September 15, 2023 was a major success. Many thanks to the Malvern Borough Professional Association, Malvern Borough Police Department, Public Works, and Borough staff for all their hard work to make this event a success.

Council President Finkbiner announced that the Year End 2023 Budget Projections have been posted on the Borough Website as of Tuesday, September 19, 2023 by close of business

Council President Finkbiner announced that the bulk trash pick-up is scheduled for Saturday, October 7, 2023 to begin at 6AM. Please place your items out the evening prior. Instructions will be sent out this week via Constant Contact and placed on the Borough website of what is included and prohibited in this service.

Council President Finkbiner announced that the Porchfest and Oktoberfest will take place on Saturday, October 7, 2023.

2. APPROVAL OF AGENDA

A motion was made by Council Member Phillips, seconded by Council Vice President Bones, carried by a vote of 7-0, to approve the agenda for the September 19, 2023 meeting as presented.

3. MINTUES & REPORTS

a. APPROVAL OF MINUTES

A motion was made by Council Member Phillips, seconded by Council Member Niemiec, and carried by a vote of 7-0, to approve the minutes from the Tuesday, September 5, 2023 as presented.

b. BOROUGH COUNCIL SUB-COMMITTEE REPORTS

The Finance & Administration Sub-Committee met on Thursday, September 14, 2023 to discuss the Malvern Borough Police Department's 2023 year-end projections with Mayor Uzman.

The Public Safety Sub-Committee is scheduled to meet Monday, September 25, 2023.

The Public Works Sub-Committee is scheduled to meet on Tuesday, September 26, 2023.

4. SPECIAL BUSINESS

a. MALVERN HISTORICAL COMMISSION – 10th ANNUAL HISTORIC PRESERVATION STEWARDSHIP AWARDS

Mr. Hugo Schmitt presented on behalf of the Malvern Historic Commission recognizing various properties in the Borough that have made a positive contribution to the fabric of the Community and are maintained in good repair by the owners.

b. COMCAST FRANCHISE RENEWAL RESOLUTION NO. 849

Council President Finkbiner explained that Comcast of Pennsylvania, LLC ("Comcast"), currently holds a cable franchise from the Borough by virtue of a cable franchise agreement, which expires on July 31, 2024; and has requested that the Borough renew Comcast's franchise to maintain, construct, and operate its Cable System over, under, and along public rights-of-way.

Borough Solicitor Yaw clarified the agreement is through year 2034.

Borough Council discussed removing non-operable wires (i.e. Verizon, Comcast, etc.)

A motion was made by Council Vice President Bones, seconded by Council Member Phillips, and carried by a vote of 7-0, to approve Resolution No. 849 as presented.

c. AUTHORIZE ADVERTISEMENT OF ORDINANCE NO. 2023-05 TO MAKE PERMANENT PARKING AREA ON WOODLAND AVENUE FOR ST. PAT'S CHURCH

Council President Finkbiner explained Ordinance 2023-05 which proposes to amend Chapter 200

of the code of Ordinances of the Borough of Malvern, entitled “Vehicles and Traffic, at Article III Parking Regulations, to prohibit parking at certain times on part of Woodland Avenue. From Monday through Friday, 7AM to 4PM, parking is proposed to be prohibited on Woodland Avenue at the intersection of Roberts Lane to the Southward corner of parcel UPI No. 2-4- 244.1; also known as 130 Woodland Avenue. This proposed parking restriction is to service the St. Pat’s School operation of morning and evening drop-off and pick-up.

The Police Chief commented that this Ordinance is best to match Roberts Lane’s current parking restrictions.

Borough Council inquired if the parking lot that is used as a playground is being used for parking?

The Police Chief will look into this matter.

Borough Council directed for this matter to be tabled.

A motion was made by Council Member Niemiec, seconded by Council Member Phillips, and carried by a vote of 7-0, to table this matter directing the Borough Solicitor to make appropriate revisions.

d. AUTHORIZE ADVERTISEMENT OF ORDINANCE NO. 2023-06 TO ALLOW FOR ENVIRONMENTAL ADVSORY COUNCIL ALTERNATE MEMBERS

Council President Finkbiner explained that Ordinance 2023-05 proposes to amend Chapter 25, Section 25-29, of the code of ordinances of the Borough of Malvern, being the Administrative Code, providing for associate members for the Malvern Borough Environmental Advisory Council.

A motion was made by Council Member Niemiec, seconded by Council Member Phillips, and carried by a vote of 7-0, to authorize advertisement of Ordinance No. 2023-06.

e. AWARD JENNINGS LANE STORM SEWER CAPTIAL IMPROVEMENT PROJECT

Borough Engineer Daley explained that the pipe located on Jennings Lane is in need of serious repair. The Chapter 105 General Permit required by the Department of Environmental Protection has been issued. Construction bids were received on Thursday, September 14, 2023 totaling ten (10) received.

Jurich, Inc. of Glen Mills, PA, was the low bid received and has submitted all the required documentation. The Borough Engineer has reviewed the submitted bid documentation and found it to be adequate. Additionally, Edward B. Walsh & Associates, Inc. has worked with Jurich, Inc. in the past, and found them to be a quality contractor with excellent quality of work.

The Borough Engineer is recommending that the project be awarded to o Jurich, Inc. in the amount of One Hundred and Eighteen Thousand, Seven Hundred and Seventy-Three dollars and 00/100 cents (\$118,773.00).

Borough Council discussed funding this project with American Rescue Plan Act funds designated for Capital Stormwater infrastructure improvements, the size of the pipe being installed, and the stomrwater master plan.

Ms. Cathy Raymond commented on the stormwater issues on Jennings Lane suggesting that all issues be resolved as soon as possible

Mr. John Buckley commented on economies of scale.

Borough Council thanked Borough Engineer Daley for all his hard work on this project.

A motion was made by Council Vice President Bones, seconded by Council Member Niemiec, and carried by a vote of 7-0, to authorize Jurich, Inc., of Glen Mills, PA to complete the Jennings Lane storm sewer repair in the amount of \$118,773 with \$72,100 of American Rescue Planning Act funds to be utilized towards the final payment.

f. PROCESSING AND MARKETING CONTRACT FOR RECYCLABLES

Council President Finkbiner explained that Chester County is interested in extending its Agreement with Solid Waste Services, Inc. d/b/a J.P. Mascaro and Sons as the "designated facility" for Process and Marketing Service for Recycling Materials for a second year, extending the current contract pricing through September 24, 2024.

A motion was made by Council Member Phillips, seconded by Council Vice President Bones, and carried by a vote of 7-0, to authorize extending Malvern Borough's agreement with Solid Waste Services, Inc. for Process and Marketing Service for Materials for a second year as presented.

5. UNFINISHED BUSINESS

a. RANDOLPH WOODS NATURE PRESERVE – STATUS UPDATE REGARDING MALVERN HISTORICAL COMMISSION'S RECOMMENDATION REGARDING PUMP HOUSE

Mr. Hugo Schmitt explained the Historical Commission met on Tuesday, August 22, 2023, and discussed this project with the five (5) members in attendance. The following has been formally recommended to Borough Council for consideration.

1. The Historical Commission does wish that something be done to preserve and reuse the pump house structure.
2. An architectural historian should be brought in to give the correct steps on how to accomplish this. Seth Hinshaw is an architectural historian the MHC is aware of that has done work in Chester County and through CCHPN.
3. Based on the four suggestions already provided in the Randolph Woods Master Plan on page 42, the best suggestion is the "Interpretive Partial Demolition," where the newer brick is removed to create a pavilion and the original spring structure is maintained for educational purposes. It's likely the roof would have to be removed and replaced in this process. If it's best to do this process in stages, the spring room could be mothballed until the rest of the structure is updated. We do suggest a new fence after the chain-link one is removed, but our thought was a simple split rail fence would suffice for the open-air pavilion, more to denote that this building is not part of the conserved Randolph Woods. The Master Plan suggested a metal fence on page 42.

Borough Council discussed the fencing, the springhouse, how best to mark the site with informational plaques, and the historical architect approach.

Mr. John Buckley offered his services for roof repair.

A motion was made by Council Member Frederick, seconded by Council Vice President Bones, and carried by a vote of 7-0, to authorize Malvern Historical Commission to obtain quotes from historical architects by the end of October 2023.

b. 209 OLD LINCOLN HIGHWAY – STATUS

The Borough Manager gave brief update to Borough Council and the Community regarding Chester County's interest in developing 209 Old Lincoln Highway, a Borough owned parcel, located at UPI No.: 2-4-11.1. Chester County Habitat for Humanity may be interested in building the site for affordable house and Chester County is interested in affording Malvern Borough grants to accomplish this goal and establish this entry way to the Borough.

Borough Council discussed the surrounding properties and directed the Borough Manager reach out to Habitat for Humanity to provide further information at the November 8, 2023 Borough Council meeting.

ZONING HEARING BOARD

There are no new applications before the Zoning Hearing Board.

6. NEW BUSINESS

a. POLICE & NON-UNIFORM PENSION PLANS – MINIMAL MUNICIPAL OBLIGATIONS

Municipalities are required to certify the Minimum Municipal Obligation (MMO) for pension plans by the end of September each year. State aid is received annually to offset this cost. The Borough Treasurer has prepared the MMO that was presented by the Borough Manager.

Borough Council and the Mayor discussed the structure of the pension plans. The Borough Manager explained that the Borough meets with INR, who manages the Borough's pensions, later this year.

7. PUBLIC FORUM

Ms. Cynn timer Ercole commented on 209 Old Lincoln Highway requesting that this area be turned into a park and is in support of local government.

Mr. John Buckley commented on the ZOOM option the Borough offers and name identification.

8. ADJOURNMENT

All business having been discussed, a motion was made by Council Vice President Bones, seconded by Council Member Niemiec, and carried by a vote of 7-0, to adjourn the meeting at 9:12 PM.

Respectfully submitted,
Tiffany M. Loomis
Borough Manager/Secretary

DRAFT

BOROUGH OF MALVERN,
CHESTER COUNTY, PENNSYLVANIA

ORDINANCE NO. 2023-03

**AN ORDINANCE AMENDING CHAPTER 139 OF THE CODE OF
ORDINANCES OF THE BOROUGH OF MALVERN, PENNSYLVANIA,
ENTITLED "PARKS and RECREATION", TO PROHIBIT CERTAIN
ACTIVITIES AND ACTIONS IN CERTAIN BOROUGH PARKS.**

WHEREAS, the Borough of Malvern (“Borough”) is a municipality in the Commonwealth of Pennsylvania organized and governed according to its Home Rule Charter; and

WHEREAS, Article I, Section 103, of the Borough’s Home Rule Charter grants the Borough any power or function not denied it by the Constitution of the Commonwealth of Pennsylvania, by the Pennsylvania General Assembly, or by its own Home Rule Charter; and

WHEREAS, the Pennsylvania General Assembly has granted unto boroughs certain powers as enumerated under the Borough Code, 8 Pa. C. S. A. Section 101, et seq.; and

WHEREAS, the Borough Code authorizes Borough Council to regulate, among other things, the following: (1) recreation places [Section 2701(a)]; (2) the general regulation of nuisances and protections for health, safety, and general welfare of the public [Sections 1202 (4) and 1202(5)]; and (3) such other authority generally granted under the Borough Code, 8 Pa.C.S.A. Section 101, et seq.; and

WHEREAS, the Borough has been granted broad powers under its Home Rule Charter at Article I, Section 103.B, and under the Borough Code at Section 1202, 8 Pa. C.S.A. Section 1202, generally, to act for the benefit of the public welfare; and

WHEREAS, the Borough owns the following parks and recreation places, which constitute “Recreation places”, as defined in the Borough Code at 8 Pa. C.S.A. Section 2700: (1) that certain approximate 40.01 acre parcel located off South Warren Avenue, being Chester County UPI #2-7-34.1, and commonly known as the “Paoli Battlefield”; (2) that certain approximate 38.20 acre portion of Chester County UPI # 2-4-361, and which is subject to a conservation easement in favor of the Willistown Conservation Trust, Inc., recorded in the Office of Recorder of Deeds of Chester County, Pennsylvania, at Book 5068, Page 1278, *et seq.*, and known as “Randolph Woods”; and

WHEREAS, Borough Council has determined that, in order to protect the and promote the health, safety, and welfare of the citizens, and to protect the natural features of environmentally significant areas of the aforesaid places, certain activities and/or actions should be prohibited within the Paoli Battlefield, and Randolph Woods, as more fully set

forth within; and

WHEREAS, Article III, Section 301.A(8) of the Borough's Home Rule Charter requires that amendments to ordinances to promote, benefit, and protect the health, safety, and welfare of the citizens shall be by ordinance; and

WHEREAS, Borough Council has determined that the adoption of this Ordinance is necessary to further promote, benefit, and protect the public's health, safety, and welfare.

NOW THEREFORE, IT IS HEREBY ORDAINED AND ENACTED BY THE BOROUGH AS FOLLOWS:

Section 1. Chapter 139-2. *Unlawful acts*, of the Malvern Borough Code, is hereby amended to add the following subsections to section A thereof:

(27) In addition to the prohibitions set forth in subsection 139-2.A(11), to use and/or operate, within Randolph Woods or the Paoli Battlefield, a pedalcycle, as that term is defined in the Pennsylvania Vehicle Code, except use or operation, by a person with a mobility disability, of a device specifically designed for use by persons with mobility disabilities including motorized scooters and wheelchairs

Section 2. Severability. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts hereof. It is hereby declared the intent of Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included therein.

Section 3. Repealer. All ordinances or parts of ordinances conflicting with any provision(s) of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

Section 4. Effective Date. This Ordinance shall become effective upon enactment as provided by law and Article III, Section 304, of the Borough's Home Rule Charter.

ORDAINED by Borough Council

this 3rd day of **October**, 2023

Amy Finkbiner, PhD, President

APPROVED by the Mayor

this 3rd day of **October**, 2023

Zeyn Uzman, Mayor

ENACTED,

this 3rd day of **October**, 2023

Tiffany M/ Loomis,
Secretary/ Borough Manager

**BOROUGH OF MALVERN
CHESTER COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2023-06

AN ORDINANCE OF THE BOROUGH OF MALVERN, CHESTER COUNTY, PENNSYLVANIA, AMENDING CHAPTER 25, SECTION 25-29, OF THE CODE OF ORDINANCES OF THE BOROUGH OF MALVERN, PENNSYLVANIA, BEING THE ADMINISTRATIVE CODE, PROVIDING FOR ASSOCIATE MEMBERS FOR THE ENVIRONMENTAL ADVISORY COUNCIL.

WHEREAS, the Borough of Malvern (the “Borough”) is a borough located within the Commonwealth of Pennsylvania governed by its duly enacted Home Rule Charter, as amended; and

WHEREAS, the Borough has established an Environmental Advisory Council to provide guidance and support to Borough Council; and

WHEREAS, Borough Council deems it to be in the best interests of the Borough to provide for one or more associate members for the Environmental Advisory Council to assist it with its responsibilities and initiatives.

NOW, THEREFORE, IT IS HEREBY ORDAINED AND ENACTED BY THE BOROUGH OF MALVERN AS FOLLOWS:

Section 1. Amendment to Section 25-29. Chapter 25, Section 25-29. N (1) of the Code of Ordinances of the Borough of Malvern, Pennsylvania, being the **Administrative Code, Advisory commissions and committees**, is amended to add the following subsection:

- (1) (c) Borough Council may appoint one (1) and up to five (5) associate members of the Environmental Advisory Council. All associate members shall be residents of the Borough and serve without compensation. Associate members shall not have voting rights in the Environmental Advisory Council but otherwise may participate in all other activities and serve on special committees of the Environmental Advisory Council. Associate members shall serve at the discretion of Borough Council, and at no time shall there be more than five (5) associate members of the Environmental Advisory Council.

Section 2. This Ordinance shall become effective five (5) days from enactment.

PASSED by Borough Council,

this 3rd day of **October**, 2023

Amy Finkbiner, PhD, President

APPROVED by the Mayor,

this 3rd day of **October**, 2023

Zeyn B. Uzman, Mayor

ENACTED,

this 3rd day of **October**, 2023

Tiffany M. Loomis,
Borough Manager/Secretary