

AGENDA

REGULAR MEETING  
BOROUGH COUNCIL  
MALVERN BOROUGH

August 17, 2021  
7:30 P.M.

**As Chester County has been defined by the Centers for Disease Control & Prevention (CDC) as a county with substantial transmission of COVID-19, masks are required for all in-person attendees.**

**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/83618387731>**

**When prompted, enter the following meeting ID, followed by the “#” symbol: 836 1838 7731. 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: David B. Burton, Mayor

PLEDGE OF ALLEGIANCE TO THE FLAG

- ROLL CALL:**  
Council President Finkbiner  
Council Vice-President Grossman  
Council Member Bones  
Council Member Laney  
Council Member Meisel  
Council Member Phillips  
Council Member Raynor  
Mayor Burton

- APPROVAL OF AGENDA:**

**MOTION:** To approve the agenda for the August 17, 2021 meeting of Borough Council as presented.

- ANNOUNCEMENTS**

a. RECORDING OF MEETING

*Anyone present who is recording the meeting shall announce so at this time, in accordance with Resolution No. 787.*

- b. Borough Council met in Executive Session on August 17, 2021 prior to this evening's meeting in order to discuss personnel matters.

4. MINUTES & REPORTS

a. APPROVAL OF MINUTES

MOTION: To approve the minutes of the meeting held on Tuesday, August 3, 2021 as presented.

b. APPROVAL OF REPORTS:

MOTION: To approve the Treasurer's Report, the Committee Reports for Finance and Administration, Public Safety, Public Works, the Chief of Police Report, the Code Enforcement Department 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 July 2021, as submitted.

c. BOROUGH COUNCIL COMMITTEE REPORTS

- Finance & Administration
- Public Safety
- Public Works

5. SPECIAL BUSINESS

- a. Community Installation Application – Benjamin Lang – Eagle Scout Project

MOTION: To approve the Community Installation Application for Benjamin Lang, in order to install two (2) display boards in Burke Park and Rubino Park as part of a project to earn his Eagle Scout designation.

*Benjamin Lang, a resident of Raffaella Drive, has submitted a Community Installation Application in order to install display boards in Burke Park and Rubino Park as his Eagle Scout project. The proposed project was reviewed by both the Public Works Committee and the Parks & Recreation Committee. Mr. Lang is seeking to complete this project by the end of October. A proposal has been provided for review.*

b. ORDINANCE NO. 2021 – 5: AMENDING THE MALVERN BOROUGH ZONING ORDINANCE TO ADD A DEFINITION FOR “PLANT MATERIALS LIST” AND REPLACE THE EXISTING LIST IN APPENDIX A

- PUBLIC HEARING: Borough Council will now open a public hearing to consider Ordinance No. 2021 – 5. This ordinance would section 220-201 of the Malvern Borough Zoning Ordinance in order to add a definition for “Plant

Material List” and replace the approved plant material list in the Zoning Ordinance with a new list recommended by the Shade Tree Commission. The ordinance would also permit the Plant Material List to be amended by resolution based on the recommendation of the Shade Tree Commission.

The proposed ordinance was reviewed by the Malvern Borough Planning Commission at their meeting on June 3, 2021, who recommended approval. Comments were also received from the Chester County Planning Commission as required. The Notice of Public Hearing was published in the July 29, 2021 and August 5, 2021 editions of the Daily Local News, as required, as well as posted on the Borough website.

- ADOPTION – ORDINANCE NO. 2021 – 5: AMENDING THE MALVERN BOROUGH ZONING ORDINANCE TO ADD A DEFINITION FOR “PLANT MATERIALS LIST” AND REPLACE THE EXISTING LIST IN APPENDIX A

MOTION: To adopt Ordinance No. 2021 – 5, amending sections 220-201 and Appendix A of the Malvern Borough Zoning Ordinance in order to add a definition for “Plant Materials List” and amend the Plant Materials List found in Appendix A.

- c. ORDINANCE NO. 2021 – 6: AMENDING SECTION 181-525.C.(4)(J) OF THE MALVERN BOROUGH SUBDIVISION & LAND DEVELOPMENT ORDINANCE PERTAINING TO THE MATERIALS ACCEPTBLE FOR STREET TREES

- PUBLIC HEARING: Borough Council will now open a public hearing to consider Ordinance No. 2021 – 6. This ordinance would amend section 181-525.C.(4)(J) of the Malvern Borough Subdivision & Land Development Ordinance in order to revise the materials acceptable as street trees. The ordinance would also permit the street tree list to be amended by resolution based on the recommendation of the Shade Tree Commission.

The proposed ordinance was reviewed by the Malvern Borough Planning Commission at their meeting on June 3, 2021, who recommended approval. Comments were also received from the Chester County Planning Commission as required. The Notice of Public Hearing was published in the July 29, 2021 and August 5, 2021 editions of the Daily Local News, as required, as well as posted on the Borough website.

- ADOPTION – ORDINANCE NO. 2021 – 6: AMENDING SECTION 181-525.C.(4)(J) OF THE MALVERN BOROUGH SUBDIVISION & LAND DEVELOPMENT ORDINANCE PERTAINING TO THE MATERIALS ACCEPTBLE FOR STREET TREES

MOTION: To adopt Ordinance No. 2021 – 6, amending section 181-525.C.(4)(J) of the Malvern Subdivision & Land Development Ordinance.

- d. EXPANDED OUTDOOR DINING FORBEARANCE AGREEMENTS

- Restaurant Alba

*Restaurant Alba is requesting a 60-day extension of their existing agreement for outdoor dining. All existing conditions are proposed to remain in place. The extension would expire on October 17, 2021.*

6. UNFINISHED BUSINESS

a. Proposed Ordinance Amendments – Zoning Ordinance – Outdoor Café

*This proposed amendment would revise the Borough's outdoor dining provisions in order to allow outdoor dining on private property as a use by right, while permitting outdoor dining in the public right-of-way permissible by Conditional Use. At the June 15, 2021 meeting, Borough Council requested that the Planning Commission review certain aspects of the proposed ordinance further. The proposed ordinance was reviewed at the August 5, 2021 meeting of the Planning Commission, where it was recommended for adoption. Borough Council may consider action to authorize the ordinance to be sent to the Chester County Planning Commission for review as required.*

b. Ordinance No. 2021 – 3: Repealing Chapter 157, “Real Estate, Borough-Owned” of the Malvern Borough Code of Ordinances

MOTION: To ratify the adoption of Ordinance No. 2021 – 3.

*Ordinance No. 2021 – 3 was on the agenda for discussion and enactment on August 3, 2021 after published notice. Notice was published in the July 23, 2021 edition of the Daily Local News and posted on the Borough website. The ordinance being repealed by Ordinance No. 2021 – 3 includes a provision requiring discussion at three (3) consecutive meetings of Borough Council. This is not a normal provision and may be invalid. However, Ordinance #2021 – 3 is on the Agenda again for discussion at tonight's meeting and will be on the agenda again on September 7, 2021 to fulfill that requirement in case it is ever determined to have been necessary.*

7. NEW BUSINESS

a. Zoning Hearing Board

*There is one (1) application before the Zoning Hearing Board. The applicant is requesting relief from section 220-2401 of the Malvern Borough Zoning Ordinance as it pertains to the height requirements for residential accessory structures. The application was reviewed at the August 5, 2021 meeting of the Planning Commission. A hearing scheduled for September 20, 2021 at 7:00 pm.*

8. PUBLIC FORUM

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

9. ADJOURNMENT