REGULAR MEETING
BOROUGH COUNCIL
MALVERN BOROUGH
1 East First Avenue
Malvern, PA  19355

PRESIDING:    Amy Finkbiner, Ph.D., President

INVOCATION:   Mayor David B. Burton

1. ROLL CALL

   PRESENT:       ABSENT
   Council President Finkbiner       N/A
   Council Vice-President Grossman
   Council Member Bones
   Council Member Laney
   Council Member Niemiec
   Council Member Phillips
   Council Member Raynor
   David B. Burton, Mayor

   Council President Finkbiner announced that this evening’s meeting allowed for a virtual meeting option via Zoom.

2. APPROVAL OF AGENDA

   A motion was made by Council Member Laney, seconded by Council Member Grossman, and carried by a vote of 7-0, to approve the agenda for the November 16, 2021 meeting as presented.

3. ANNOUNCEMENTS

   a. Recording of the Meeting

      Council President Finkbiner noted that the Borough was not recording tonight’s meeting. She asked in accordance with Resolution No. 787 if any member of the audience was recording the meeting.

      No member of the audience identified themselves as recording the meeting.

   b. Council President Finkbiner stated that Borough Council met in Executive Session on October 24, 2021 and November 7, 2021 in order to discuss personnel matters.

   c. Council President Finkbiner stated that Borough Hall will be closed on November 25, 2021 and November 26, 2021 in recognition of the Thanksgiving holiday.

   d. Council President Finkbiner stated Christmas on King (Evening Event) is scheduled for Friday, November 26, 2021 at 5:30PM for the lighting of the tree.
e. Council President Finkbiner stated that Christmas on King (Daytime Event) is scheduled for Saturday, December 4, 2021 from 12pm to 4pm to encourage shopping along King Street.

f. Council President Finkbiner stated that Wreaths Across America wreath laying ceremony, sponsored by Paoli Battlefield, will take place on Saturday, December 18, 2021 at 11AM.

Council President Finkbiner stated that Danny Fruchter’s grievances were received and there will be no further comments on this matter this evening.

Mr. Danny Fruchter asked Borough Council to define personnel matters pertaining to the executive session that was held. Council President Finkbiner clarified that it personnel matters were regarding the managers search.

4. MINUTES & REPORTS

a. APPROVAL OF MINUTES

A motion was made by Council Member Laney and seconded by Council Member Grossman to approve the minutes from the October 19, 2021 meeting of Borough Council as presented. There being no further discussion, the motion approving the minutes passed by a vote of 7-0.

b. APPROVAL OF REPORTS

A motion was made by Council Member Laney, seconded by Council Member Grossman, and carried by a vote of 7-0, 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 October 2021, as submitted.

c. BOROUGH COUNCIL COMMITTEE REPORTS

a. Finance & Administration – Council Member Laney

Councilor Laney stated that the Finance & Administration Committee met on October 28, 2021 in order to continue discussion on the proposed 2022 budget. The Interim Manager will provide an overview of the first draft of the budget at tonight’s meeting of Borough Council. The proposed 2022 budget is before Borough Council this evening for authorization to advertise and will be placed on the Borough Website upon authorization.

b. Public Safety – Council Member Raynor

Council Member Raynor stated that The Public Safety Committee met on November 8, 2021. Topics of discussion included a proposed pedestrian crossing at King Street and the SEPTA driveway, panic buttons to be installed at Borough Hall, and plans for an exhibit illustrating completed and
The Committee reviewed the engineered plans presented by Dean Kaiser, P.E., the Borough Traffic Engineer, for the proposed pedestrian crossing located at King Street & the SEPTA Driveway. The estimated cost for this project is $22,675.00. Please be advised that the installation of the crosswalk at this location is recommended in the 2018 Malvern Borough-wide Multimodal Transportation Study. $100,000 has been allocated in the Capital Reserve Fund in the 2021 budget for traffic safety improvements. The Borough Engineer, Dan Daley, P.E., provided initial comments to the plans. The Borough Traffic Engineer is revising the plans per the Borough Engineer’s comments and will forward the finalized plans within the next few weeks. The Committee is in support of the project and recommends forwarding to Borough Council for approval upon plan finalization.

The Committee reviewed a cost estimate presented by the Chief of Police, Lou Marcelli to install panic buttons in the administration office, police office and library in the Borough Hall building. The quote to install the three (3) panic buttons totals $3,609.00. The Borough Interim Manager confirmed that there is money in this year’s budget to install the panic buttons and that the project is not required to go out for bid since the cost is below the ten-thousand dollar threshold. The Police Chief explained in detail the operation of the panic buttons and recommended that the Committee authorize the Administration to move forward with this project. The Committee authorized the project to be completed in Year 2021 as soon as possible.

The Committee discussed the proposed sidewalk project map exhibit for the main meeting room in Borough Hall illustrating existing sidewalks, sidewalks projects that have been completed, and proposed sidewalk projects. Mapping will be provided by the Brandywine Conservancy. Sidewalk project data sources include the 2012 Comprehensive Plan, the 2015 Planning Commission Walkability Study, the 2018 Multimodal Transportation Study as well as public survey comments.

c. Public Works – Council Member Bones

Council Member Bones had Interim Manager Loomis state that the Public Works Committee met on October 27, 2021 in order to discuss Quann Park sidewalk & parking project, Randolph Woods Pump Track installation, Jennings Lane stormwater/catch basin repairs, Old Lincoln Highway stormwater repairs, stormwater management issues located throughout the Borough, Karen Drive overage for paving project, and paving projects for Year 2022.

The Borough Engineer confirmed the plans for Quann Park are 95% complete. A sidewalk, wood step replacement, 2.5’ feet retaining wall, and a rain garden are planned to be installed. Mr. Dan Daley, P.E., met with the Chester Valley Little League and is tweaking the plans to account for their requests. The finalized plans are planned to be presented to Borough Council in December 2021. Plans are being finalized by the Dan Daley, P.E with ground breaking expected to take place spring 2022.

The Borough Engineer completed the base survey plan and has discussed the project with the County. The County commented on placing a privacy fence versus a berm for adjacent property owners. The next step after the plans are completed is to hold stakeholder meetings on site. A meeting
with neighboring property owners will be scheduled to review features such as the privacy berm, fencing and or landscaping.

The Borough Engineer is in the process of designing solutions to solve the Jennings Lane stormwater issues. The design was estimated to cost $96k at one point in time. Catch basin repairs are required and the Borough Engineer will present an engineering wish list at the next Public Works meeting that will improve the stormwater issues at this location.

Old Lincoln Highway is a long term budget item that needs to be resolved. The Borough Engineer is currently working on a design.

There are various areas in Malvern Borough that have severe stormwater issues that were recently identified due to severe storms. The Public Works Committee directed the Interim Manager to create a list of all known properties that have complained or are known to have serious stormwater issues. A meeting will be scheduled with the Malvern Post Office in the near future regarding their lobby flooding out twice for the purpose to solve the stormwater issues that exist to retain their tenancy in Malvern Borough.

The Karen Drive paving project that was recently completed had a $2,600 overage in unexpected cost due to having to install a skim-coat on the road for stability purposes.

The Borough Engineer recently submitted quotes for the Interim Manager and Superintendent to review regarding roads to be paved in Malvern Borough in Year 2022. The Interim Manager will forward this information to the Public Works Committee after discussing the order of importance for the roads to be paved with Ira Dutter. The final list of streets recommended for repaving will be finalized at the next Public Works next meeting.

The Public Works Committee directed the Interim Manager look into replacing the map in the main meeting room with updated mapping and to work with the Comprehensive Plan Task Force to have a map exhibit Borough owned land with the percentage shown on the map.

5. SPECIAL BUSINESS

a. MALVERN BOROUGH POLICE DEPARTMENT PROCLAMATION IN HONOR OF POLICE CHIEF MARCELLI AND THE MALVERN POLICE DEPARTMENT - ADMINISTERED BY MAYOR DAVE BURTON

Council President Finkbiner stated that Borough Council would like to recognize the strides that the Malvern Borough Police Department has made over the past nine years. In 2012, Borough Council determined that the department needed new leadership. That leadership has been provided by Chief Lou Marcelli, who joined us in March 2013, and Mayor Dave Burton, who took office in January 2014. Their close working relationship has been the foundation for building a professional, respected, trusted police department. She introduced the Malvern Borough Mayor and thanked both him and the Police for their efforts.
Mayor Burton read the proclamation and presented Chief Marcelli with an honorary plaque for his service. He thanked the Malvern Police Department and its leadership for their exemplary service to the Community.

Police Chief Marcelli thanked this team and stated the Malvern Police Department is the best in Chester County.

In coming Mayor Uzman presented Mayor Burton with a plaque for his dedication and outstanding service to the community.

The Malvern Police Department had a standing ovation from the crowd of a completely full meeting room in honor for their service.

b. **CHRISTMAS ON KING SCHEDULED FOR DECEMBER 4, 2021 from 12PM TO 4PM**

– **REQUEST FOR APPROVAL FOR YARD BAR TO BE LOCATED ON MALVERN BOROUGH PROPERTY AS HELD IN PREVIOUS YEARS**

David Campli, on behalf of the Malvern Business & Professional Association, is requesting to have a Yard Bar manned by the local brewery Locust Lane located in the Borough Parking Lot adjacent to Wolfe’s Brass.

Interim Manager Loomis outlined conditions requiring a fenced in area, separate ingress and egress, a hold harmless indemnity agreement be executed, and the PLBD to be notified and sign off accordingly prior to the operation of the Yard Bar.

A motion was made by Council Member Niemiec, seconded by Council Member Phillips, and carried by a vote of 7-0, to approve the Yard Bar location per the requirements outlined, associated with Christmas on King scheduled for December 4, 2021 from 12PM to 4PM, manned by the local brewery Locust Lane located in the Borough Parking Lot adjacent to Wolfe’s Brass.

c. **ORDINANCE NO. 2021-9: AN ORDINANCE TO AMEND CHAPTER 220, ZONING, SECTIONS 220-201, 220-1201, 220-1301, 220-1401 AND 220-1501 OF THE CODE OF THE BOROUGH OF MALVERN IN ORDER TO PERMIT OUTDOOR DINING NOT WITHIN A PUBLIC RIGHT-OF-WAY AS A USE BY RIGHT IN ALL COMMERCIAL DISTRICTS AND TO PERMIT OUTDOOR DINING WITHIN A PUBLIC RIGHT-OF-WAY BY CONDITIONAL USE IN ALL COMMERCIAL DISTRICTS.**

Council President Finkbiner presented Ordinance No. 2021-9 and opened the hearing. She stated there were no additional comments or recommendations made by the Malvern Planning Commission.

Council Member Joe Bones stated that Malvern Borough has learned the value of outdoor dining over the past 2 years of outdoor dining.

No public comment was made and Council President Finkbiner closed the hearing.

A motion was made by Council Member Laney, seconded by Council Member
Phillips, and carried by a vote of 7-0, to adopt Ordinance No. 2021 – 9. This ordinance amends Chapter 220 of the Malvern Borough Zoning Code to permit outdoor dining not within a public right-of-way as a use by right in all commercial districts and to permit outdoor dining within a public right-of-way by conditional use in all commercial districts.

d. 2022 BUDGET FOR THE BOROUGH OF MALVERN – AUTHORIZATION TO ADVERTISE

Council President Finkbiner introduced Interim Manager Loomis to present the 2022 Budget.

Interim Manager Loomis provided a presentation on the proposed 2022 budget for the Borough of Malvern. The proposed 2022 budget proposes a quarter mill (.25) tax increase, totaling 4.92 mills, as well as proposing an increase to the variable sewer charge. A public hearing on the 2022 budget will be held at the December 7, 2021 meeting and the final budget will be considered at the December 21, 2021 meeting.

Council President Finkbiner reviewed sewer costs regarding raising the variable raise $2 versus $3.

Council Member Niemiec stated that it’s prudent and acceptable to raise the variable rate by $3. Council Member Bones is in agreement, however there will still be a deficit.

Council Member Niemiec stated that long term debt is being paid off at the end of 2022 and beginning of 2023.

Council President Finkbiner explained that this cannot go towards sewer fees.

Council Member Laney addressed that Aqua is going to ask for a huge rate increase. Borough Council as a whole was in agreement with this statement.

Council President Finkbiner stated that Real Estate taxes have not been increased for 4 years successfully under her leadership. She encouraged the Borough Council to build up the capital reserve fund.

Council Member Phillips asked about a real estate transfer tax increase versus a millage rate increase. He stated that this is more palatable given this is a one-time fee and diffused over 30 years to the homeowners through the mortgage process. He does not believe an annual increase is the way to approach this issue and it’s best to increase the transfer tax.

Council Member Laney addressed there is not a lot of room from growth. Revenue has to come somewhere other than growth and overall there is a lot objection to growth. The future is still an issue to pay for community services and expenses.

President Council Finkbiner wants to take a look at the 5 year capital plan.
Council Member Niemiec stated it’s important to address infrastructure including stormwater. The Malvern Planning Commission has addressed this issue for new projects but there is older infrastructure that needs to be addressed. The economics needs to be addressed.

Council Member Bones stated there are other things that can be done to address stormwater and raise funds. If we don’t need to raise taxes then we shouldn’t if the budget can be balanced.

Borough Solicitor McLean explained that the transfer tax rate in Chester County is pretty standard across the Board versus Montgomery County. Different municipalities have solved the puzzle to raise funds in different ways. At one point the real estate market was stagnant in Malvern Borough and this is no longer the case.

Council Member Grossman agrees with both Council Member Bones and Council Member Phillips. Her only concerns about the transfer tax is that there really may not be the inventory.

President Council Finkbiner stated there is merit to this approach with raising the transfer tax.

Council Member Niemiec addressed that builders have no issues selling homes in Malvern Borough.

Council Member Laney discussed the difference between turnovers that exists versus actual growth that is available.

Borough Solicitor McLean stated that we did not receive enough taxes from Eastside Flats in some people’s opinion. Some properties have been re-assessed in the industrial park but are under assessed overall.

President Council Finkbiner asked for any additional comments from Borough Council.

Council Member Niemiec asked about liquid fuels and stated this fund will become less and less. He further stated that money will need to come from somewhere else for the roads.

Borough Solicitor McLean referenced there is legislation to amend this issue to address such.

Council Member Niemiec stated that every state has the issue.

Council Member Bones stated the budget was crafted carefully and there is not a lot of fat in the budget. He foresees a property tax at some point but not in the same year as a sewer increase. He asked if the tax raises has to be tied to the budget.

Borough Solicitor responded yes for the millage. She explained that other taxes are on a different schedule and sewer rates can be changed at any time.

Council Member Grossman does not know if now if this is the best time to take on all these capital reserve projects and has an issue with vehicle purchases. She stated that not all the projected capital projects are necessary.
Council Member Bones explained the public works vehicle is necessary due to the pick-up truck being rusted out.

Council Member Raynor addressed that the pedestrian walk way at Septa and King could be held off totaling is $22,000.

Council Member Laney asked about the school district budget.

Council Member Niemiec asked if the formulation could be changed in the future.

Borough Solicitor McLean explained that the School District can ask for a waiver to go above the percentage cap and will look into this matter. She assumes there is a small increase in Great Valley.

Council President Finkbiner open up the floor for public comment regarding the 2022 Budget.

Anthony Massini Jr, Highland Avenue resident, stated it’s a lot of money when you don’t have kids in school to live in Malvern Borough and that the quarterly sewer payments is lot of money to have to pay.

The purchase of the police vehicle was discussed by Borough Council.

Council Member Raynor does not remember this being discussed at the Public Safety Committee meeting.

Council Member Niemiec stated that the ARPA funds could offset the Police budget.

Council Member Grossman explained that stormwater and sewer projects can be used for ARPA funding, however these funds may not be used to balance a budget.

Mayor Burton spoke on behalf of the Police and stated it is important to have quality equipment. The vehicle is necessary and he is for the transfer tax.

Borough Solicitor McLean recommended to take the vehicle out for now and if there is funds later on down the line then purchase the vehicle.

Council Member Grossman and Council Member Phillips are for the realty transfer tax increase from 1% to 1.5%. Council Member Niemiec and Council Member Bones are in agreement.

Council Member Phillips is for the police vehicle being put on the back burner.

Council Member Grossman wants to hold off on the tax increases of any kind.

Council Member Raynor brought up that the last mill increase was 4 years ago.

A motion was made by Council Member Phillips, seconded by Council Member
Bones, carried by a vote of 7-0, to authorize the advertisement of the proposed 2022 budget for the Borough of Malvern for public review, contingent upon the 0.25 mill real estate tax increase, and increasing the transfer tax from 1% to 1.5%.

Borough Council instructed to leave the police vehicle in the budget, but to monitor when it is best to be purchased in Year 2022.

A motion was made by Council Member Niemiec, seconded by Council Member Bones, carried by a vote of 7-0, to authorize the advertisement of the proposed 2022 budget for the Borough of Malvern for public review, contingent upon increasing the variable rate to $9 for the sewer variable rate as in the proposed budget.

6. UNFINISHED BUSINESS

None.

7. NEW BUSINESS

a. Zoning Hearing Board

Council President Finkbiner stated that there was one (1) application before the Zoning Hearing Board as of recent. The hearing for 128-142 E. King Street, appealing the Zoning Officer’s Notice of Violation regarding the junk yard use of the property, has been rescheduled for Monday, November 22, 2021.

8. PUBLIC FORUM

Council Member Niemiec asked if the grants for Randolph Woods have been awarded yet.

Interim Manager Loomis responded not as of yet.

Mr. John Buckley, Church Street resident, stated that Police Chief is the best police chief ever, the officers are the best department, Alicia Marziani is the best receptionist, MaryLou Whitcomb does a great job, and Tiffany Loomis has been doing a lot of work as of lately and is doing a good job.

9. ADJOURNMENT

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

Respectfully submitted,

Tiffany M. Loomis
Interim Borough Manager/Secretary