

*Text of an email sent by Ed Johnson, Treasurer of Malvern Club, Inc., to the members of the Board of Supervisors prior to public hearing held February 9, 2010:*

This Tuesday, at the request of the Malvern Board and membership, you are scheduled to consider adopting an ordinance designating the roads within our subdivision as highways for law enforcement purposes.

Writing on behalf of the Malvern Board and membership, I ask you to consider the following in making your decision:

1. Our request is simple: extend the law enforcement capability of your police officers to include the private roads within Malvern Subdivision during the normal course of their duties.
2. There will be no additional cost to County residents once you adopt the ordinance.
3. You will enhance the health, safety and welfare of your constituents within Malvern.

Background information for Malvern:

1. Malvern is a subdivision containing 234 lots of which about 190 are occupied.
2. Unlike the majority of other roads in Madison County, Malvern's roads are not included within the State highway system
3. The residents of Malvern maintain about 8 miles of privately owned, paved roads.
4. Many residents have a safety concern related to speeding and similar vehicle related offenses.
5. Law enforcement officers are currently prevented from issuing a routine traffic violation they may observe within the subdivision.
6. State code §46.2-1307 allows law enforcement to occur in subdivisions such as Malvern if the governing body adopts an appropriate ordinance.
7. The maintenance responsibility for the private roads will not change if you adopt the ordinance.
8. Our request is solely to allow your officers to enforce traffic laws within the subdivision during the course of their normal and periodic travels within the subdivision – in other words, the request is not for additional patrols

within the subdivision but rather the same law enforcement capability most other Madison County residents are afforded.

With regard to the speed limit in Malvern:

1. The speed limit along all roads is 25 miles per hour.
2. It is reasonable to conclude that Malvern is a “residence district” according to the definition contained in State code §46.2-100.
3. State code §46.2-874 specifies the maximum speed shall be 25 miles per hour on highways in business or “residence districts”.
4. The Department of Motor Vehicles driver’s manual specifies a maximum speed limit for passenger vehicles and motorcycles (unless otherwise posted) of 25 miles per hour in school, business and residential zones.
5. From written information provided by the Sheriff’s office, at the request of the Board of Supervisors, Sheriff Weaver contacted Steve Black, a VDOT traffic engineer, on July 13, 2005. Mr. Black confirmed the residential speed limit to be 25 miles per hour.
6. Over the past year, all stop signs and speed limit signs were upgraded to meet the requirements specified in the Manual of Uniform Traffic Control Devices (MUTCD). The 2003 MUTCD is now the standard for maintenance, operations and construction of traffic control devices for all highways under the Virginia Department of Transportation’s (VDOT) jurisdiction. (reference: <http://www.virginiadot.org>)
7. On August 18, 2009, Martin J. Wells, a Virginia licensed professional engineer and president of Wells & Associates, at the request of Malvern, provided a letter certifying that the roadway signs and speed limits established for the Malvern Subdivision have been installed in conformance with the criteria developed by the Commonwealth Transportation Commission. Wells & Associates is a Virginia licensed firm providing traffic engineering and transportation planning services.

With regard to past Malvern membership actions and authorization:

1. On May 12, 1995, Malvern recorded an amendment to the deed of protective covenants which, among other things, incorporated all statutes and laws regulating the use of highways, rights of way, and vehicles of any type of the Code of Virginia, 1950, as amended. The same deed granted the ability for any law enforcement officer to patrol the streets and roads within the subdivision and enforce the provisions of the Code. (reference

Deed Book 237 at page 685 recorded in the land records of Madison County, Virginia)

2. At a normally scheduled membership meeting held April 30, 2005, after requisite notice provisions of Malvern's bylaws, the membership approved a resolution by a vote of 62 to 8 to change our roads to be designated as "highways" for the purpose of patrolling and ticketing speeders.
3. Subsequent to the April 30, 2005 membership meeting and in accordance with guidelines specified by the County Attorney (V. R. Shackelford, III), Malvern's attorney recorded an instrument affirming the desire that the private roads of Malvern be designated "highways" for law enforcement purposes pursuant to Virginia Code §46.2-100 (1950, as amended). (reference Instrument 050001497 recorded among the above stated land records)
4. At a normally scheduled membership meeting held October 17, 2009, after requisite notice provisions of Malvern's bylaws, the membership approved a resolution by a vote of 61 to 5 authorizing the Board of Directors to request that the Board of Supervisors of Madison County consider enactment of an ordinance designating roads within Malvern as "highways" for law enforcement purposes.

I have previously provided the County Administrator copies of all materials referenced above. Even so, I would be happy to forward any backup material you would like.

After your consideration of the above information and justification, I respectfully request, on behalf of the Malvern Board of Directors and of the Malvern membership, that you adopt the requested ordinance.