

**Yardley Borough Council Meeting
July 5th, 2016**

The meeting was held in Council Chambers with the following council members present:

Katherine Cadwallader	Mike Ruttle	Ryan Berry	Jef Buehler
Uri Feiner	Bryon Marshall	Rich Wayne	

Also in attendance were Mayor Chris Harding, Borough Manager John Boyle, Police Chief Kelly, Solicitor Jordan Yeager, and Borough Engineer Tom Beach. President Katherine Cadwallader called the meeting to order at 7:30 p.m., and led with the Pledge of Allegiance.

Minutes

Mr. Marshall makes a motion to approve the minutes of the June 21, 2016 Council meeting. Mr. Berry seconds the motion. Motion carries unanimously. Mr. Buehler abstains.

REPORTS

Progress Reports

Solicitor

No report.

Borough Manager

No report.

Mayor

Mayor Chris Harding states that next week July 15th and the following week the wcbc radio show will air

Police

Police Chief Kelly notes that for the month of June there were 605 calls for service, 12 parking tickets issues, 96 traffic citations, 14 traffic accidents investigated, 1 DUI issued and 5 arrests. He notes that this was a increase from last June by 50%.

Borough Engineer

Mr. Beach notes that bids are being taken for the 3 home elevations which will occur on Friday.

Council Vice President (Community & Economic Development Committee)

Mr. Ruttle notes that in the last Community and Economic Development meeting, Jerry and Susan Taylor, attended in relation to an appeal from the Zoning Hearing Boards granting commercial use of a property on Afton Avenue. He checked with Solicitor Yeager and the variances which were granted were specific to the owner and the applicant has agreed to the changes which will be enforced by the Zoning Officer. Susan Taylor, 35 Lookover Lane, states that issue is about if the property is sold down the road and the Board conditions will not follow a sale of the property due to PA law. Mr. Ruttle notes that this is a written agreement and the Solicitor did not feel it was appropriate to file for an appeal. Mr. Ruttle notes that there are ways to safeguard against this and he is going to recommend training to the Zoning Board as a best practice.

Council President

No report.

Council Committees

Community Outreach

Mr. Buehler notes that the Business Enhancement team met with 2 property owners and 5 business owners. He notes that Music on Main has held 5 events which has averaged 120-175 people. He also notes he did hear a concern from some of the Music on Main attendees in that they were being harassed with a TOD flyer and wanted to come and enjoy the event and not talk about local politics. Mr. Yeager comments the distribution of a leaflet is protected. Mr. John Bachalis, 181 Harper Avenue, notes he was the one distributing the leaflet which was done in a respectful way. Ms. Cadwallader notes that everyone has a different concept of harassment.

Public Safety

Mr. Marshall notes that Public Safety met this evening and thanks the Chief for the increase in Police response and that all is well and safe in the Borough.

Public Works

No report.

PFC

Mr. Berry notes that the survey for the playground is going out in the next edition of Community Connections as well as being hand distributed to residents. Mr. Buehler asks if it can be emailed to all residents in which Mr. Wayne notes that not everyone's email is on file and would like to bring up notification/communication in the next Borough Council meeting as an agenda item.

General Government

Mr. Feiner notes that he is still understanding live streaming communication for Borough Council meetings and is collaborating with the Harvest Day team in relation to a PA system. Mr. Feiner notes that he is proficient in technology and was a part of the website design. He would like to understand how we can provide notification to residents with little or no cost. He notes residents want better communication. Mr. Ruttle notes he agrees with Mr. Wayne and that this should be an agenda item.

Bill List

Mr. Feiner makes a motion to approve the bill list date dated July 5, 2016. Mr. Berry seconds the motion. Motion carries unanimously.

Correspondence

Ms. Cadwallader notes that there were 5 postcards sent to Council in relation to the opposition of the TOD. Mr. Feiner notes his correspondence to Council and the community in relation to the TOD and he suggests Council read the comments. He asked that this information be entered into the minutes and provides to Ms. Harvey. Mr. Feiner notes people are unclear about what a TOD is and we need transparency and community engagement which should not just be done in the Council meetings. He states that there needs to be another way people can become engaged with Council to gather their input and we should encourage that. Mr. Feiner really wants to focus on traffic calming and wants Council to put together a list of our priorities. He notes that residents, maternal and parental grandparents provided commentary into this documentation. He wants understand if there is a formal way to enter this into the minutes. Mr. Yeager states that they can work with Ms. Harvey to get the information entered however, the notes book is an archaic system. Mr. Ruttle notes that typically these type of items are addressed by discreet documents and we do not have a formal archive. Mr. Yeager notes he will work with Borough staff to preserve this information. Mr. Ruttle would like to re-introduce this topic in 2 weeks in relation to document archival as an agenda item. Mr. Bachalis notes that the petition contains 212 signatures with no duplications.

PUBLIC COMMENT

Carol Petty, 46 Cadwallader Court, asks about the Playground Survey and if they were delivered yet and that she thought it was only to go out in Community Connections. Mr. Wayne notes that Mr. Ruttle was speaking about communication in general.

Ann Heasley, 24 Cadwallader Court, is surprised that the Playground survey is being hand delivered and wants to know who decided to spend the expense for duplications. Ms. Petty wants to know if someone can override the decision to hand deliver. Mr. Boyle notes that the hand outs are being done. Ms. Heasley wants to discuss and states that the Borough Manager should not be making these decisions. Mr. Berry notes that he made the decision to hand deliver.

Ms. Heasley also looked at the appraisal for Reading Avenue and notes that the date was in 2013 which is more than 2 years old. She is extremely upset and wants to understand best practices. She is disappointed for undervaluing an asset within our community. Mr. Wayne asks if she thinks it is undervalued and asks if her property value has changed in the past 3 years and notes that the town did not spend money on a new appraisal.

Dave Wells, 99 Reading Avenue, believes that if someone passed away, they have 6 months to perform another appraisal. Mr. Yeager notes that there is not a state law which requires an appraisal but the Borough thought it was wise to get an appraisal. He notes that an appraisal is performed which requires the property to be sold at fair market value. Mr. Yeager notes that the Borough attempted to market the property and did not receive any offers for purchase. Last year the Borough then entered into an agreement with a realtor to sell the property which contained further verification of the price and then proceeded to market the property. Mr. Yeager notes that property cannot be sold under the appraisal value.

A resident from Ironhorse Drive, believes that the signage got the word out quickly and she thanks Council for the rejection of the TOD. She also respectfully requests to move these meetings to a larger venue.

William Trophy, 52 Breece Drive, states he was shocked at the last Council meeting, as Council is elected by the people and they did not seem to be representing the people. He states what bothered him the most was the disrespect and the way Council spoke to the people who elected them is unacceptable. He notes that the next time we pull the lever to vote, we should know who we are voting for.

Carol Such, 33 Cadwallader Court, states she has a hand delivered petition regarding the West Afton property with 111 signatures.

A resident, 106 North Main Street, states we need to focus on traffic which is horrendous and that she is committed to make herself more visible in town and devote her time and energy to resolving this.

John Bachalis, 181 Harper Avenue, states that now that the TOD is gone, there cannot be 6 homes built on the Reading Avenue property. He does not think anything should be built there anyway. He notes the property serves as barrier to ease noise and dust and control of rain water runoff. He does think it is good idea to sell and does not believe we can sell now without the TOD as it is zoned R-2 which limits a build to 4 units. He has been told that the developer will not build for less than 6 units. He believes an ordinance should be passed to preserve the woods and Council has the opportunity to do the right thing. He believes that the sale is short sided and Council should let this go.

Belinda Bright, Yardley Commons, asks about changing the speed limit sign as you enter the Borough to be 15 miles per hour. Police Chief Kelly notes that is done through the state. She states the orange sign should be 15 miles per hour or removed. Police Chief Kelly notes it cannot be changed arbitrarily and he will look into.

CERTIFICATES OF APPROPRIATENESS

None.

OLD BUSINESS

1. Motion to Table Indefinitely – The Proposed Zoning Ordinance Amendment (Transit Oriented Development (TOD) Overlay District.....Mr. Ruttle/Mr. Wayne

Mr. Ruttle states that this evening a hearing to pass the zoning changes which were advertised a month ago for the TOD was supposed to be held this evening however, the ordinance is dead and officially dead. Mr. Wayne makes a motion to reject the proposed ordinance, chapter 27 to provide for the changes to the I-1 and R-R district. Mr. Marshall seconds the motion.. Mr. Feiner notes his correspondence in the correspondence section and he appreciates the public and making their opinion known. Motion carries unanimously.

A resident notes that Council minutes are highly edited. She states it is nice that everyone changed their vote however; the town has been put through hell. She states last week for the first time a notice went up across the street from her home and she contacted the Zoning Officer who told her to contact the Borough Manager who then told her to contact Zoning. Her understanding is that the Tannery will allow stores and medical offices and her understanding is that she should have received notice. She also notes the open space property which was voted on to go through was based on the financial status of the town and she has been led to believe the town is in serious debt. Ms. Cadwallader notes that the town is not in debt and the funds are being used to replenish a fund. The resident, Dawn, has asked the Borough Manager for financial documents and he informed her he need to consult with legal. She does not understand why he needs to consult with legal. She states the TOD has caused a lot of unnecessary pain and that Council does not seem to be following procedure. She wants a traffic study to be performed prior to any new proposals and is concerned that this will manifest in some other way. She asks if the Tannery changes will go through the Zoning Board in which Ms. Cadwallader notes it will only go through Zoning if there is a variance. Mr. Wayne notes the Tannery is zoned light industrial and that it is a non conforming use. Mr. Yeager notes that there are 3 different categories, Special Exceptions, use give by right and a conditional use which is granted by Council. She notes that she wants this addressed and Ms. Cadwallader notes that the Zoning Officer does not grant special exception. Mr. Ruttle notes that people are notified once an application is received. Mr. Wayne notes that what happened with the Tannery can happen with any property. The resident asks Mayor Harding if he was informed during the last vote for the TOD that he could veto. Mayor Harding notes he was aware of that but a veto just delays the process. She wants to clarify what is happening with her home and she is getting resistance from the Borough Manager and she wants to request a forensic accountant come in to take a look at the books. Mr. Feiner asks if people just get the notices. Mr. Yeager notes that anyone who is required to receive a notice receives a notice. Mr. Ruttle notes if there is a variance or re-zoning notice is received. Mr. Yeager notes that the people affected by the TOD received notices and the people required to receive notices is driven by state law. The resident notes that Mr. Boyle makes \$80k a year as a part time employee however, Council cannot even afford a stamp. She also notes that Council has a Solicitor who lies to her face and that everyone should be notified.

Carol Petty, 46 Cadwallader Court, states there is a lack of transparency, specifically with the TOD and the playground and Council is not including tax payers in decisions. She notes if Buttonwood Park, the playground and the TOD had involved the citizens a more civilized discussion could have occurred before it came to this point. She notes that if we were included in the Reading Avenue discussion it would have helped she asks Council to include the tax payers. She states it is time to include tax payers, the Borough level, State level and citizens are realizing that they need to become more involved.

Ann Heasley, 24 Cadwallader Court, states notification is an issue, between the golf course, industrial and the TOD which covered 32% of the land area in the Borough and that the implications are large. She

states that the way the ordinance was written, it took her awhile to understand what was being considered for the I-1 and R-R district and she thinks people were confused. She asks if Council can decide that they want to notify more people. She asks if we notified Lower Makefield Township, and that if Council wants to do a substantial change we change the way we notify in the future.

Jeff Smith, 165 Riverview Avenue, states that Council did not tell us why you voted the way you voted, and that powers were handed off to the Solicitor and that Council has stated at least twice we did not need the money and then the newspaper said we need money for FitzGerald Field. He wants to know why people thought it was a good idea. Mr. Feiner notes that he does not have the answers for everyone but that the 157K spent on FitzGerald field needed to be replenished in the fund.

Susan Taylor, 35 Lookover Lane, states that there seems to be benefits that Council understands and will there be a new model. Mr. Wayne states that they will go back to the drawing board and a new model will be considered. Ms. Taylor asks if there is a plan for the 6 units on Reading Avenue and Mr. Yeager states that conditions of the plan may require Zoning.

A resident, 128 South Bell Avenue, is concerned about the railroad making changes and he hopes that the TOD does not come up again in the future. He notes he has lived here for 65 years, and that it is a beautiful town and if this happens they should change name to hardly rather than Yardley as it will hardly be what is was.

Anita Tiptone, 35 Penn Valley Drive, moved here before the 55 plus community was here, before Buttonwood Park and did not know anything about TOD until she received an orange memo, she states she brings this up as she feels so un-informed and if it was not for that memo she would still be unformed. She was glad that she was able to come here and it will be rejected. She is concerned about the businesses leaving and would like to have little businesses in town and we need to increase the walk ability of the town and remove some of the banks and realtors from town. She thinks our real estate is expensive and we need to bring some of those niche businesses here. Mr. Wayne notes that the orange flyer made reference to high rises and that in the Borough there is a 35 foot height restriction. Mr. Ruttle notes that if residents relied on the orange flyer they are misinformed.

John Bachalis, 181 Harper Avenue, states he is forced to defend the orange flyer, as he wrote it. He states that because we were not getting the message out, he and his family spent time walking the Borough and his wife ended up in hospital due to dehydration and he would do it again to see my neighbors and he blesses them for coming out. He notes that this was a big article in Levittown with 11 signatures and he has petition within over 200 signatures. He notes that the Reading Avenue should be protected as open space and that he wanted to get people involved and contact everyone in Yardley.

Tracey White, 147 Riverview Avenue, requests that the borough obtain all of our email addresses and that we are crying out to reach out to you and can we put this in the records as formal request. Mr. Wayne notes that we can take a look at this.

John Celentano, 136 North Main Street, asks if the comprehensive plan anticipated the TOD and Mr. Ruttle confirms. He states everything in comprehensive plan was reviewed by the Planning Commission and Council. He asks if Council accepts the motion to reject the TOD, will we ensure that the comprehensive plan is updated so that this issue will not occur again, Mr. Ruttle confirms.

Brian Welch, 22 Reading Avenue, thanks the public for their attendance. He states he has emailed the Solicitor in relation to Zoning Changes and whether an impact study is required. Mr. Yeager notes he understands his interpretation but the intent of that section is for property changes. Mr. Welch would like to formally understand future zoning changes and the impact study requirements. Mr. Marshall notes if residents are required to abide by the impact study than Council should do the same. Mr. Welch notes that

there are no details in the comprehensive plan about the TOD and there was not a lot thought put towards it.

Tim Mitchell, 22320 Stackhouse Drive, states we should be looking forward rather than backwards and the ordinance is one step in implementing the TOD. He assumes the TOD is comprehensive document and that we have that documentation in a separate form. Mr. Ruttle notes it is an overlay and it quite different than say what Newark, NJ has.

Belinda Bright, Yardley Commons, wants a show of hands in relation to who is voting to reject the TOD. Mr. Ruttle notes it is already dead. She wants to know about what the new construction will comprise on the railroad tracks. Mr. Ruttle notes they have not submitted plans, she question if Council can sell that land to us. Mr. Yeager states private residents could buy it and Mr. Ruttle notes it has been on the table since 2003 and no one has made an offer. Mr. Feiner asks if the sale does not go through can we consider selling the land for a dollar. Mr. Ruttle notes it can only be sold at fair market value. She asks if Council can delay the sale. Mr. Wayne notes that they have already entered into an agreement of sale. Ms. Cadwallader notes that it can only be sold for fair market value and Ms. Bright notes that it is worth millions and the developer can sell it. Mr. Yeager states there was an advertisement, an appraisals done and this was the best offer which is consistent with appraisal of the property.

Ms. Welsh, 22 Reading Avenue, states that the public needs to be involved with the developer and the zoning ordinance and that is where we need to be on top it. Mr. Ruttle notes that every adjacent property will be notified. Ms. Welch, states in the last 2 meetings she have asked about the notification and it has still not been received. Mr. Yeager notes a proof mailing was received for each notification and he also notes it was emailed to her as well. Mr. Ruttle notes that zoning variances require notification and it is impossible to suggest there is no transparency. Ms. Welch notes that Reading Avenue is important and that we fight with the developers and that she is willing to do the leg work and become involved. Mr. Ruttle notes that he has never heard Ms. Welch state she will become involved before. Ms. Welch states that Mr. Ruttle just took his frustration out on her and how could he say she is not willing to help. Mr. Ruttle notes that this was supposed to be wildflower preserve in 2006 and they dropped the ball.

Katherine Halland, 2314 Lakeview Drive, is very happy and pleased Council is voting yes to kill the ordinance as it has impact to others outside of the Borough. She states if there is an opportunity to buy this land that Council will find people like herself that are willing to purchase.

Rob Simms, 113 Longshore Drive, states that 6 years ago he and others came up with the idea to preserve the land and create a wildflower preserve and that it would not work with the ground. He states Silver Creek is a beautiful part of Borough and several years ago someone was killed on Reading Avenue and his mission has been to prevent these tragedies. He notes water is a danger and we should be thoughtful about how we develop in this town. He recommends planning and sales come with huge storm drains and he would like commitment to look into environmental assessment. He states Council needs to be mindful of flooding issues and that we need to go another step and preserve that .9 acres

Julie Bachalis, 181 Harper Avenue, notes that there is a problem here as people cannot hear anything and people have left and the issue is there is not enough room. Ms. Cadwallader notes they we will address in the future. Ms. Bachalis notes the notification of a change can be done in 24 hours and Mr. Yeager clarifies the notification requirements.

- 2. Final Approval (DeNovio Land Development).....Mr. Ruttle**
Mr. Ruttle states that this is the final approval of the land development plan submitted by Carol DeNovio which is a buy right development and that it is the determination of our engineer that the plans are in scope with .65 acres, across the street, with storm water management and that the underground system will be serviced with public water and sewer. He notes that the Zoning Hearing Board has provided the proper variances. Mr. Ruttle notes one item showed up in the plans in which all the development plans

are on the South side which should be sought to have an easement and would like to see this provisioned with right of ways which would reduce parking. Mr. Ruttle makes a motion to approve the final plans contingent to provide right of way with the easements and agreement with the Solicitor. Mr. Buehler seconds the motion. Mr. Yeager notes that the motion should also contain the engineers review letter and Mr. Ruttle amends the motion. Mr. DeNovio states that this has been in process for 5 years and he does not think it is fair. He questions if all the properties have easements and Mr. Ruttle notes that the McCullen property has an easement on 85 South Main Street. Mr. Wayne notes that it will not work unless everyone does it. Mr. DeNovio notes his parking will be reduced with the easement and questions how large the easement will be. Mr. Ruttle notes that the parking lot would need to be changed and Mr. Wayne notes that if this is an issue we could negotiate. Mr. DeNovio notes that he believes that this is unfair and how could a smart guy like Mr. Ruttle overlook this and let it fall through the cracks. Mr. Ruttle notes it was overlooked due to the sewer moratorium. Mr. DeNovio states he cannot accept that and that he spent all this money to be compliant with the ordinance and Council wants to take that away. He states he does not want to ruffle feathers but this has been ongoing for 5 years and an investment. He will not accept the motion. Mr. Ruttle notes he thinks that Steve Ware may have been unaware. Belinda Bright, Yardley Commons, states that Mr. Ruttle knew about it and is a liar and so is Mr. Boyle.

Mr. Ruttle makes a motion to withdrawal the motion. Mr. Buehler seconds the motion. Mr. DeNovio states that he knows most of Council and states this is reasonable. Mr. Ruttle makes a motion to grant approval of the land development compliant with the engineers review without conditions. Mr. Buehler seconds the motion. Motion carries unanimously.

Jerry Taylor, 35 Lookover Lane, states a study of parking should be performed to understand how to connect all the parking in the lot. Mr. Ruttle states he wants to see the Borough grow and we need to get away from the idea that is it my turf. Mr. DeNovio states he has never had an issue before and that this was a surprise.

Ann Heasley, 24 Cadwallader Court, states that Council could identify on the comprehensive plan where they want future improvements, easements and additional zoning which would be clear.

- 3. Yardley Walk – Unfinished Work.....Mr. Wayne**
Mr. Wayne notes that he has had several residents asking questions about when the Yardley Walk Bridge will be opening, debris and the paths and the restrictions of access to emergency access and the completion of landscaping. Yardley Walk construction, approved in 2011, is progressing. The first model units were completed in early 2015. Seventeen units have been purchased and occupied or are about to be occupied. An HOA has been formed but is currently dominated by representatives of the builder, Lennar. Several more units have been reserved by deposits. The final units are projected to be completed in 13 to 14 months, according to the site director.

The new residents of Yardley Walk and people from the Orchard Hill and Whiskey Hill neighborhoods have been asking questions about several unfinished aspects of the project including the new pedestrian bridge, debris, a walking path, a bollard and landscaping.

He met with Orchard Hill residents the Harrisons in May. Mayor Harding and Mr. Wayne met with Mike Doyle and Sam Carlo from Lennar on June 1 to discuss the issues. Council President Cadwallader, Borough Manger Boyle, Mr. Marshall and he toured the rear of the property soon after. Mr. Marshall and Mr. Wayne met with the Lennar reps on June 24. At the most recent meeting, Mr. Carlo presented the printout of an e-mail message from former engineer Jim Majewski that authorized a field change to allow a berm behind unit No. 26.

DISCUSSION

The two most attractive features of the development (the bridge and rear walking path) are not open.

BERMS: There are three berms in the rear of the site – one on the north side of the Orchard Hill access/emergency path, one on the south side of the path and another near the upper dam. The berm near the upper dam was not mentioned in the Majewski email. Two of these berms are blocking the required walking path in the rear woods. They are not filled with what Mr. Wayne would consider clean fill. Mr. Carlo from Lennar insists it is clean fill. Majewski misinterpreted Mr. Wayne’s approval (for just the far north berm) and his message made no reference to a berm near the upper dam.

BRIDGE: Orleans, the initial builder, constructed a temporary path to the new bridge. However, Lennar is not interested in opening the bridge to foot traffic until the final units (59-63) are built because of the liability associated with encouraging people to walk through an active work zone. Many residents, including Yardley Walk folks, are demanding that the bridge open. Lennar wants the Borough to provide a temporary indemnification/hold harmless for pedestrian access. Peter Toft, our insurance agent, got a premium indication to provide a \$1 million coverage policy naming the builder as Additional Insured for approximately \$1,000 for an annual premium.

LANDSCAPING: This is still not complete along the Orchard Hill and Whiskery Hill paths. It is non-existent on some parts of the berms as well atop the retaining wall in the rear of Bunkie Maddock’s Windsor Road property. Some of the initial landscaping has died.

EMERGENCY PATH: The path to Orchard Hill is supposed to be used only by pedestrians, bicyclists and emergency vehicles but since completion has been used by motorcycles and trucks. Lennar has ordered a bollard.

EASEMENT/HOA: The borough should require a simple pedestrian walking path easement or extension in the far west of the property to eventually link the approved walking path to the Tax Map Parcel 20-023-088, a 9.96 acre open space lot in LMT owned by Buck Creek HOA. This could link with the Ruddy property and enable borough residents to visit many more people and safely bike to the elementary schools (Quarry Hill and Afton) and proposed new ball fields. Separately, our solicitor should review HOA stuff in the near future.

MOTION

Mr. Wayne makes a motion that Borough Council authorizes the Borough Solicitor to work with Lennar Corp. representatives to reach an agreement under which the borough would pay for temporary liability insurance associated with opening the pedestrian bridge from Yardley Walk to Afton Ave. Mr. Buehler seconds the motion. Mr. Ruttle notes that Mr. Wayne has been working on this a long time and that this should be included which is the whole point in that Whiskey Hill and Orchard Hill can get into town. Mr. Boyle notes that the building permit for bridge has not been permitted yet. Mr. Feiner notes that we should consider the large number of people impacted. It is noted that the DEP permit to open the bridge is also necessary. Mr. Feiner notes that the people using it now, the bridge is their liability. Mr. Yeager notes that the concern is that access could be closed. Mr. Wayne notes that the final units may take 13-14 months to sell which would then allow them to do the final path. Motion carries unanimously with Mr. Ruttle abstaining.

Susan Taylor, 35 Lookover Lane, states that the bridge was part of the developmental agreement this is the developers issue and this is for the common good and Council should stick with it.

A resident from North Main Street, states it sounds like the developers are playing with them and Mr. Wayne states there are not requirements to open it now. Mr. Feiner notes that the budget is very tight. A resident from North Delaware Avenue, states it is in the best interest to open the bridge. Mr. Wayne notes that the commitment to open the bridge is 14 months of the first home going in.

A resident in Yardley Walk, Don Carlson purchased his home in 2014 and states that it behooves Yardley Walk to open the walking paths and that as the homeowners association grows, they can also put pressure on them. Mr. Ruttle notes we need to insist our agreement be adhered to and the paths, the bridges and the open space as this is the reason we did so in the first place.

Mr. Wayne makes a motion that Yardley Borough allow Lennar Corp and its successors to keep parts of three berms constructed in three locations – along both sides of the Orchard Hill emergency access path and near the upper dam – of the Yardley Walk land development so long as the following conditions are met:

1. The berm near the upper dam adjacent to the creek will be modified, spread and graded to allow for easy pedestrian access to the required woodchip walking path.
2. The berm on the south side of the emergency access, adjacent to the wood line, will be graded to allow the walking trail to connect directly to the emergency access path from the woods. The rest of the berm will be graded to reduce the height.
3. Some of the fill material generated from modifications of the berms in item numbers 1 and 2 above will be placed on the north side of the emergency access immediately behind the existing residents (Mr. & Mrs. Harrison, TMP 54-1-2-62). This berm will be graded to provide undulations in height. Landscaping already in this area will be relocated and planted atop this extended berm.
4. The exact height and shape of the three berms shall be determined by the borough engineer. All berms shall be covered with a layer of top soil and seeded with grass. All visible debris such as tile, metal, plastic, canvas, foam and demolition materials shall be removed from the area. Any fill that cannot be relocated shall be hauled away.
5. Lennar agrees to open the pedestrian bridge and the temporary walking path to the public as soon as the Yardley Borough solicitor and Lennar representatives reach an agreement under which the borough would pay for temporary liability insurance. The insurance shall be in place only until the homes (units 59-63) in proximity to the bridge are constructed, when Lennar and/or the Yardley Walk homeowners Association would resume liability.
6. Lennar shall finish all required landscaping along the walking and emergency paths by the end of 2016. Lennar also agrees to install three additional evergreen trees, each four to five feet in height, on Bunkie Maddock's property at a location to be determined by Mrs. Maddock.
7. Lennar agrees to remove above ground debris and trash from the area between the creek and the planned walking path near the upper dam.
8. Lennar and the Yardley Walk HOA agree to grant a permanent easement to the Borough or its assignees to extend the western wooded walking path to reach the property line with TMP 2-023-088 owned by the Buck Creek Homeowners Association. Long term maintenance of this extended path shall be the responsibility of the Yardley Walk HOA.
9. All design and work involved in all items above will be subject to the review and approval of the Borough engineer.

Mr. Ruttle seconds the motion. Mayor Harding notes out of these 9 things is #8 the only one item which they don't have to do and Mr. Wayne notes that they will argue that berms were approved. The Mayor question if they have to get through at least 1 of the berms, Mr. Wayne clarifies 2 berms. The Mayor asks if there is anything that they don't have to do. Mr. Wayne notes they have to do it it is in the plan. The Mayor asks if we are telling them to do what they have to do. Mr. Wayne notes some of it yes, but we have an escrow fund which enforces this and Mr. Marshall notes that we need an agreement to move forward and work with them not against them. Mr. Ruttle notes the berms were left by Orleans and we need to find something everyone can live with. Motion carries unanimously.

NEW BUSINESS

None.

Adjournment

At 10:10p.m., Mr. Wayne makes a motion for Council to adjourn and Mr. Ruttle seconds the motion.

Respectfully submitted,

Susan Harvey