

**Yardley Borough Council Meeting  
September 3, 2019**

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

Sandi Brady	Ryan Berry	Bryon Marshall
Caroline Thompson	David Bria	

Council member(s) not in attendance: Mike Ruttle, Matthew Ross

Also in attendance were Mayor Chris Harding, Chief Joseph Kelly, Solicitor E. Closser, Engineers Tom Beach and Liz Colletti, Zoning Officer Mike Italia, and Borough Manager Paula Johnson. Council President Marshall called the meeting to order at 7:30 pm and led with the Pledge of Allegiance.

**Minutes (Time Stamp 7:30 pm)**

Mr. Berry moves to approve the minutes from the August 6, 2019 meeting, which is seconded by Ms. Brady. A vote was held and the motion passes. Note: August 20, 2019 meeting cancelled.

**Progress Reports (Time Stamp: 7:31 pm)**

Solicitor

Nothing to report.

Borough Manager

- Septa will replace bridge timbers and perform maintenance on the bridge at the train station over South Main, therefore South Main Street will be closed on Friday 10/4 at 11pm and reopen on Sunday 10/6 3pm. PennDot will post detour signs and notifications will be widely distributed.
- Meeting with a member of the EAC regarding pollination gardens and possible locations throughout the Borough.
- With President Marshall's approval, Borough Staff will be participating on 9/11 at the Morning of Service at Washington Crossing National Cemetery. Office will be closed in the morning of 9/11.

Mayor

Regarding the Morning of Service, in association with Carry the Load, there will be an opportunity to volunteer at the Washington Crossing Cemetery. The ultimate goal is to have all national cemeteries covered eventually. Time is 9am-12pm. Come dressed to clean. Bring gloves. Cleaning headstones and general maintenance cleaning will be done by volunteers. A link will be posted to sign up for this free event.

### Police Chief

- Chief Kelly presented service statistics for August 2019. The police department handled 515 calls for service, issued 127 traffic citations, issued 4 parking tickets, investigated 6 traffic accidents, and made 10 arrests, 2 of which were for DUI.
- August 26<sup>th</sup> was the latest Cone with a Cop event which was attended by well over 100 people.

### Borough Engineer

Liz Colletti gave the report.

- Main and Afton signal improvements. Submittal on 8/15 generated some comments from PennDot. They have reached out for some clarification on some issues.
- MS4 permit due end of September. Report will be completed on time.
- Delaware Ave speed study. They put together some estimates based on the suggestions. Questions for Ms. Brady regarding how many crosswalks or just one at Afton. Ms. Brady suggests to add one more at Morgan to help traffic calming.
- Yardley Walk – Crew onsite addressing issues. The inspector will go out 9/4. Discussions continuing on working with DEP to discuss the upper dam.
- Liquid Fuels Road Program – Waiting for schedule from contractor. Asked for estimate for speed hump. Also there is a manhole on N. Main that has a cracked frame that needs to be replaced. Waiting for a quote.

Mr. Berry – Question about grants submitted for bridge and sidewalk – what is expectation for hearing back? Bridge – by end of September. Other grants probably late October or early November.

Mr. Bria – Question regarding work on the upper dam – who is being billed? Builder is being billed.

### Council Vice President

Ms. Thompson and Mr. Bria held a listening session regarding the new business that opened, Tannery Brewing. The meeting was in response to residents who reached out to Council with questions and concern.

Themes that arose from the meeting and answers:

- Questions on zoning. No changes to zoning laws were changed to accommodate this sports bar.
- Will traffic study be conducted? No study is planned at this time. Can look into that in the future.
- Is this an accessory building or structure? Mike Italia answered that no, their use of the building is customary and expected so it is not an accessory structure.
- What is the capacity – 40 seats. Will Borough enforce the capacity limit? Enforcement would be like any other business and is complaint based. Violations would be handled the same as any other business, fee or fine.
- Would business need a variance to expand? They would have to expand the building to accommodate more people and seek proper variances and follow building code.
- Did Council know about the project? Yes and no. No direct discussions were had but if they went through permitting process and since there was no variance



needed the issue did not need to come before Council. Council doesn't get informed of everything that's happening if no exceptions or variances are needed.

- Which zoning officer approved the project? All three officers, Steve Ware, Mike Italia and XX.
- There is a school in the vicinity – is there any impact on hours they can be open. Liquor licensing is a state issue and they have to comply by state rules.
- Would engineer or Planning Commission be reviewing? – No, no variance is requested so no further review is needed.
- What activities are permitted and what hours? It is not a full bar license. They are producing on site and with that license they get three storage licenses which allow them to sell on that site. This is regulated by the state.
- Would business owner plant shrubs to block the view? That is a question for the business owner.
- Will Council look into the way we notify residents about new business openings. Mr. Bria doesn't want the Borough to be seen as unfriendly and overly restrictive.
- If the site or business is sold would this use transfer? That is up to the liquor control board and is a state matter.

Tom Posey, 120 S. Main – Is there another establishment working off the same liquor license going to open in town? Mr. Bria – not aware of any. Jim Cain, 125 S. Main, owner of Vault. They have 6 storage licenses that can be used anywhere in the state. The state regulates the hours which are: 5pm-close Thursday, Friday, 10am=12am Saturday, 9 am – 2 am Sunday but they often close earlier if it is quiet.

Pete Guidotti, 44 S. Bell – How many parking spaces allotted? 180 spaces, adding 120. 32 parking spots are associated with this functionality of this space.

#### Council President

Nothing to report.

#### Council Committees

##### Community Outreach-Ms. Thompson

Tot lot lock has been fixed.

Community Connections – Please submit entries for the newsletter.

##### General Government-Ms. Thompson

Meeting before next council meeting on 9/17.

##### Community & Economic Development – Mr. Berry

Nothing to report.

##### Public Safety – Mr. Brady

- Pedestrian flags added on South Main at Letchworth. Lots of positive feedback and more may be added on South Main and in other areas. A grant was applied for grant for all crosswalks on Main Street.

- Email to PennDot to follow up on communications regarding lowering speed limit on Delaware Ave, which as previously reported as not approved. Ms. Brady is asking PennDot to look at the road and consider banning trucks of a certain length on N. Main. Waiting to hear back.
- A request was made for a traffic study on brake retarders. PennDot approved 2 out of 3 locations for the prohibition. Afton and Delaware Ave approved; Main Street was not approved. Ms. Brady requests consensus to direct the solicitor to draft an ordinance that would prohibit the use of brake retarders on Delaware and Afton Avenue within the municipal limits. Consensus was granted.

Public Works-Mr. Bria  
Will meet in two weeks.

EAC – Mr. Ross  
n/a

**Bill List (Time stamp: 7:58 pm)**

Ms. Thompson moves to approve the bills list dated 9/3/19, which is seconded by Mr. Berry. Motion passes.

**Correspondence (Time stamp: 7:59 pm)**

Mr. Marshall brought attention to a letter from Mr. Michael Ruttle to Council which will be attached to these minutes.

**Public Comment (Time stamp: 8:00 pm)**

Dawn Perlmutter, 18 W. College Avenue, addressed Council regarding code enforcement issues throughout the Borough and selective code enforcement. She presented a handout which will be recorded into these minutes.

John Cain commended Council on doing a great job.

**Certificates of Appropriateness (Time Stamp: 8:10 pm)**

19-18 3 East Afton Ave (sign)

Mr. Bria moves to approve Certificate of Appropriateness 19-18 with revisions outlined on the application, which Ms. Brady seconds. Motion passes.

19-19 29 South Canal St (porch roof)

Mr. Bria moves to approve Certificate of Appropriateness 19-19 with the provisions outlined on the application, which Ms. Thompson seconds. Motion passes.



**Old Business (Time Stamp: 8:12 pm)**

1. Floodplain Ordinance Amendment Discussion.....Mr. Berry  
A hard copy of the Planning Commission’s recommendations on the ordinance change has been received. Those recommendations will be reviewed next week with the Community and Economic Development committee and the Solicitor and to chart a way forward. Copies of the recommendations are available from the Borough office for the community to review.  
Ms. Brady – FEMA and PEMA will have to review.  
Ms. Thompson – Thanks to volunteer committee for this hard work. She requests that the committee please look at how broadly each of these recommendations can be applied and make sure that changes aren’t made that only impact a small percentage of the population.  
Dan Mohn, 132 Longshore. His concern is that laypersons may not understand all the verbiage. He suggests that the new ordinance give specific examples that will help residents understand the ordinance with real world situations.  
Mr. Bria suggests updating the existing FAQ to add this information.

**New Business (Time Stamp: 8:17 pm)**

1. Res 19-07 Municipal Winter Traffic Services Agreement.....Mr. Bria  
Mr. Bria motions to pass Resolution 19-07 Municipal Winter Traffic Services Agreement, which is seconded by Ms. Brady. Motion passes.
2. Vote to Advertise for Trash Bids.....Mr. Bria  
Mr. Bria motions to advertise for trash bidding, which is seconded by Ms. Brady. Mr. Bria notes that the goal is to change the service levels and days/times the same as current. Motion passes.
3. Event Permit Yoga at Buttonwood Park September 26<sup>th</sup> .....Ms. Thompson  
Ms. Thompson moves to approve the special event permit for yoga at Buttonwood Park, seconded by Mr. Bria. Motion passes.
4. Event Permit Bikeout Oct 19-20<sup>th</sup> .....Ms. Thompson  
Ms. Thompson moves to approve the Bikeout special event permit, which is seconded by Mr. Berry. Motion passes.
5. 2020 Minimum Municipal Obligation (MMO).....Ms. Thompson  
Ms. Thompson moves to approve the 2020 MMO for Yardley Borough non-uniformed pension plan at \$4,720, which Mr. Bria seconds. Motion passes.
6. Res 19-08 Waiver of Police Contributions for 2020.....Ms. Thompson  
Ms. Thompson moves to accept the Resolution 19-08 as submitted for the police pension plan which will be \$50,565 for the year 2020, which Ms. Brady seconds. Motion passes.
7. Res 19-09 Disposition of Surplus Borough Personal Property.....Ms. Thompson  
Ms. Thompson moves to approve Resolution 19-09, Disposition of Surplus Borough Personal Property which would raise limit to \$2,000 so we could offload property under \$2,000 without getting multiple offers, which Mr. Berry seconds. Motion passes.

Mr. Berry motions to adjourn at 8:28, which Ms. Brady seconded.

Submitted by,  
Mary Ann McLean

**From:** Mike Ruttle <[mfwvpc@gmail.com](mailto:mfwvpc@gmail.com)>

**Sent:** Wednesday, August 14, 2019 8:34 AM

**To:** to: [bryonkmarshall@aol.com](mailto:bryonkmarshall@aol.com) <[bryonkmarshall@aol.com](mailto:bryonkmarshall@aol.com)>; Caroline Thompson <[cthompson@yardleyboro.com](mailto:cthompson@yardleyboro.com)>; David Bria <[dbria@yardleyboro.com](mailto:dbria@yardleyboro.com)>; Matthew Ross <[mross@yardleyboro.com](mailto:mross@yardleyboro.com)>; Ryan Berry <[rberry@yardleyboro.com](mailto:rberry@yardleyboro.com)>; Sandi Brady <[sbrady@yardleyboro.com](mailto:sbrady@yardleyboro.com)>; Ernest R. Closser <[erc@curtinheefner.com](mailto:erc@curtinheefner.com)>

**Subject:** Medical Marijuana

Dear Mr. Closser, Ms. Johnson, and the rest of Borough Council,

I have some serious concerns about the suggested ordinance changes regarding medical marijuana. First, this effort is, once again, a solution in search of a problem. This effort diverts time and resources of Council and the Solicitor in pursuit of addressing a problem which does not exist. In the absence of an actual application for a dispensary or a facility acting as a grower/processor, this effort seems less like governing and more like grandstanding.

If the Council chooses to proceed notwithstanding the lack of need, it should do so carefully and not create something which will need to be corrected in the future. Two obvious difficulties in this regard are presented.

The first is the restrictions on dispensaries. The 1000 feet limit is established by the State Legislatures in its act of 2016, and we have no discretion on this restriction. However, we should be careful not to impose any other restrictions which would cause a dispensary to be treated any differently than a pharmacy. Therefore, if a pharmacy would be permitted use in any commercial zone, a medical marijuana dispensary should, likewise, be permitted use, so long as it also complies with the 1000 feet limit established by State Law. It appears that the proposed ordinance does just that and thus, it is merely redundant.

Secondly, a facility of grower/processor does not have the 1000 feet restriction placed upon it by State Law. Adding such a restriction in our ordinance would create the possibility of a preemption argument, i.e. the fact that the State Legislature chose not to impose the same restriction it imposed on dispensaries may preempt a municipality from so doing. In our case, this distance restriction would preclude our only industrial properties from being used as they all are within 1000 feet of the Abrams Hebrew Academy. As a practical matter, Borough Council will have made it impossible to put such a facility in the Borough. Generally speaking Courts do not look favorably on such exclusionary zoning. Should a grower/processor choose to locate in Yardley Borough, there is no chance that the ordinance would be upheld. In such cases the excluded use has been permitted to site the use anywhere within the municipality. We must avoid that outcome.

While it is unlikely that a grower/ processor would ever choose a site in Yardley Borough, it is no excuse to pass an ordinance which is merely redundant, and illegal. Rather it reveals that this effort is, at best, misguided and at worst, merely posturing.

Mike Ruttle