

In The Matter Of:
Borough of Chester Heights
Borough Council

Proposed Ordinance 211
March 04, 2019

Media Court Reporting
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Page 1

1 BOROUGH OF CHESTER HEIGHTS
2 BOROUGH COUNCIL
3 - - -
4 re: Nuisance regulation
 Proposed Ordinance 211
5 - - -
6 Chester Heights, Pennsylvania
7 Monday, March 4, 2019
8 - - -
9 Hearing in the above matter held at
10 Chester Heights Borough Office, 222 Llewellyn
11 Road, Chester Heights, Pennsylvania, on the above
12 date beginning at 7:00 p.m. and recorded
13 stenographically by Maria Lairdieson O'Neill,
14 Registered Professional Reporter and Notary
15 Public.
16 - - -
17 BEFORE: DREW BAUM, President
 STEVE COCOZZA, Vice President
 THERESA AGOSTINELLI
 PHILIP BLOCK, Ph.D.
 SUSAN CLARKE
 GINAMARIE ELLIS
18 GERALD MONTELLA, ESQUIRE, Solicitor
19 - - -
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Page 3

1 tonight to the March 4th regular council meeting
2 of Chester Heights Borough.
3 First up on the agenda is roll call.
4 Present tonight we have Mayor Stacey Smith,
5 solicitor Jerry Montella; Counsel Persons Philip
6 Block, Ginamarie Ellis, Theresa Agostinelli,
7 myself, Steve Cocozza, and Susan Clark.
8 Not present tonight are Borough Engineer
9 Matt Houtmann and Council Person Jordan Goldberg.
10 At this point I will turn the floor over
11 to Solicitor Jerry Montella for the start of the
12 public hearing.
13 MR. MONTELLA: Good evening, Mr.
14 President, members of Council, and public.
15 The purpose of this public hearing
16 tonight is to consider the adoption of the
17 Borough's nuisance regulation Proposed Ordinance
18 No. 211.
19 The Borough published notice as required
20 by the Borough Code 3301.2. The Borough published
21 notice of a summary and reasonable detail that
22 I've prepared of the ordinance in the Delaware
23 County Daily Times. It was published on February
24 15th and February 22nd. I also provided the full
25 text to the Daily Times.

Page 2

1 ALSO PRESENT:
2 Stacey Smith, Mayor
3 Sue Timmins, Secretary/Treasurer
4 Greg Chestnut
5 Ron Surkin
6 Don Garrahan
7 Martha Driscoll
8 Anne Searl
9 Laura Lim
10 Larry Ward
11 Derek Schroeder
12 Patrick McFadden
13 Dave Firkser
14 - - -
15 MR. BAUM: Okay, folks. I'd like to
16 call the meeting to order.
17 Prior to standing for the Pledge Of
18 Allegiance, I would just like to announce the
19 passing of Mrs. Theresa Cassidy Albany. She
20 passed on February 22nd at the age of 91. She's a
21 lifelong Chester Heights resident, and the mother
22 of Former Mayor John Albany.
23 (The Pledge Of Allegiance To The Flag
24 was recited.)
25 MR. BAUM: I'd like to welcome everyone

Page 4

1 I don't believe we have official Proof
2 Of Publication, but upon receipt by the Borough,
3 we'll amend the application accordingly.
4 On February 8th, 2019, I also provided a
5 copy of the full text of the ordinance to the Law
6 Library, Delaware County Law Library, along with
7 an attestation, which is marked as B-2.
8 I will mark the notice of summary to the
9 Daily Times as B-1. Make it part of the record.
10 The proposed ordinance would repeal the
11 current Chapter 123 related to nuisances, which
12 has two parts: Article 1, which is vegetation;
13 and Article 2, related to the littering.
14 The prior ordinance of -- or the current
15 ordinance was enacted back in 1991.
16 This proposed ordinance would replace
17 the ordinance with a General Chapter Section 1 on
18 property maintenance, incorporated landscaping and
19 littering, refuse, rubbish; and create a
20 Section 2, a new Section 2, related to running
21 bamboo.
22 Council may recall that in September
23 2017 a hearing was held related to the possible
24 adoption of the ordinance. Since the hearing, the
25 proposed ordinance has been revised to address

Page 5

1 height restrictions on lawns, amount of fines
2 related to violations, elimination of diseased or
3 dangerous trees on private property, and also to
4 limit this ordinance to borough roadways.
5 The Borough -- the proposed ordinance,
6 I'm not going to read all of it. It's rather
7 lengthy. But I will highlight a portion of it.
8 An ordinance of the Borough Of Chester
9 Heights repealing Chapter 123 Nuisance, and
10 enacting new Chapter 123 to establish nuisance
11 regulations for property maintenance of
12 landscaping, prohibiting the outdoor storage of
13 refuse, including junk vehicles; and enacting
14 Chapter 124, establishing regulations for the
15 planting and growing and removal of running
16 bamboo.
17 It has a Section 1, Chapter 123, related
18 to property maintenance, and under landscaping:
19 Trees, shrubbery, lawns, hedges, other landscaping
20 shall be maintained and kept from becoming
21 overgrown and unsightly or in any state of neglect
22 or disrepair.
23 It has provisions related to encroaching
24 on sidewalks. Lawns in excess of 6 inches in
25 height constitute a violation for the purpose of

Page 6

1 the chapter. A lawn is defined, a meadow is
2 exempt, a wetland is exempt.
3 There's a section on refuse, that
4 premises and all structures be kept free of all
5 nuisances, unsanitary conditions, and any hazards.
6 Notification provision has the borough
7 code enforcement officer as duly appointed
8 representative of the Borough to provide written
9 notice containing the nature of the issue.
10 And essentially the violation would be
11 \$300 fine, a fine not exceeding \$300, plus
12 attorney's fees, notes fees and costs for each day
13 the violation continues.
14 The charge would be a lien against the
15 real estate of the property owner. In addition
16 there is an administrative fee of 10 percent.
17 With regard to running bamboo, the
18 purpose and intent was to protect private property
19 from the damaging spread of running bamboo grasses
20 through the Borough.
21 There's a definition clause related to
22 bamboo, bamboo owners, and it creates a buffer
23 zone, which is essentially in any area located
24 within 20 feet of the right of way of a dedicated
25 borough roadway. It has regulations and

Page 7

1 limitations on existing bamboo, and what should a
2 property owner -- bamboo owner do with regard to
3 it.
4 I will read the applicability. This
5 ordinance shall not be deemed to alter any rights
6 of common law or otherwise that any property owner
7 may have to recover the costs of removal of
8 running bamboo on their own property against
9 another property owner from whose property the
10 bamboo has spread.
11 Nothing in the ordinance shall require
12 the owner to become involved in litigation between
13 adjoining property owners. However, the
14 requirements of this order may be cited in any
15 private litigation between such individuals.
16 Whenever a complaint is received by the
17 Borough regarding encroachment of any bamboo into
18 the buffer zone of any public property right of
19 way or public easements, the Borough shall give
20 notice.
21 There is also a notice and compliance
22 provision related to 30 days, and again the
23 violations and penalties for such violation would
24 be a fine not exceeding \$300 per day for each day
25 the violation persists. And the effective date

Page 8

1 would be 30 days after the enactment by Council.
2 With that said, I would turn over the
3 public hearing to the Council President and
4 Council for any comment or questions they may
5 have. After that, once Council has the
6 opportunity to speak, Council will permit
7 questions and public comment from any resident or
8 property owner within the Borough to be heard.
9 And just a reminder, before someone
10 speaks from the public, please advise what your
11 name is and your address within the Borough Of
12 Chester Heights.
13 So with that, Mr. President --
14 MR. BAUM: Thank you, Jerry.
15 MR. MONTELLA: -- it's yours to make any
16 comment.
17 MR. BAUM: First off, Philip, I'm going
18 to pass this to you, since you shepherded this
19 from the beginning. I'll let you have the first
20 word.
21 DR. BLOCK: I want to give a little
22 history on why we made this effort.
23 First of all I am the chair of the
24 ordinance committee. It fell to me to try to put
25 together the verbiage of a good ordinance.

Page 9

1 This stems -- the two primary things, as
 2 Mr. Montella said, is the bamboo and also the
 3 grass height. And both of these issues came
 4 before us over the years. I mean this is not a
 5 new issue that residents have brought to the
 6 Council.
 7 The issue is, if we take the bamboo as
 8 an example, bamboo is starting to encroach on
 9 property boundaries. And it's the concerns of
 10 residents that bamboo is going to come over, you
 11 know, from a neighbor property onto their
 12 property.
 13 And prior to this there had been no
 14 remedy for a resident to address the incursion of
 15 bamboo, which is basically a nuisance weed that
 16 moves very quickly.
 17 There's also issues around protecting
 18 borough assets, primarily our roadways; that as
 19 bamboo gets under the roadways, it could damage
 20 our roadways. And we have no remedy right now to
 21 protect those borough assets.
 22 So over the years we've had several, you
 23 know, residents come and ask us about, you know,
 24 protection against bamboo.
 25 On the grass side we've had issues,

Page 10

1 especially on Valleybrook, where grasses grow to a
 2 height where it affects visibility coming around a
 3 corner or makes turning onto Valleybrook an issue.
 4 We've also had issues where people tried
 5 to sell property and adjoining properties were not
 6 mowed, and it reduced property values.
 7 So we also took it upon ourselves in
 8 this effort to ensure that, you know, people as
 9 good neighbors are maintaining their front yards
 10 nicely, to maintain a neighborhood look and keep
 11 your property values up.
 12 So we've worked on this literally in
 13 different versions for years. And I do want to
 14 thank our solicitor's help for helping me get the
 15 right verbiage, we've been through several rounds.
 16 And the Council has had lots of input.
 17 And we hope that this is acceptable to
 18 the community and gives remedy that neighbors can
 19 interact with neighbors about, you know, nuisance
 20 issues.
 21 And just also point out that previously
 22 one of the things we tried to correct is in the
 23 nuisance ordinance the fine used to be \$1,000 a
 24 day with potential jail time, and that had to be
 25 remedied also.

Page 11

1 So that's a bit of the history on where
 2 this ordinance has originally started and where we
 3 are today. So we hope to hear your thoughts on
 4 it, and I'm sure there's going to be positive and
 5 negatives. We've all talked about them and we'd
 6 like to hear what you have to say. Thank you for
 7 coming out today.
 8 MR. BAUM: Any further comment from
 9 council members at this point?
 10 Okay. I'll open up the floor to the
 11 audience. Would you please state your name and
 12 address prior to your comments or concerns.
 13 Yes, sir.
 14 GREG CHESTNUT: Greg Chestnut, 317
 15 Willits Way. I have two questions.
 16 So in the instance of two private
 17 property owners, with one having encroaching
 18 bamboo on the other, what does this ordinance do
 19 to provide relief for that, anything at all?
 20 MR. BAUM: There's no enforcement by the
 21 Borough.
 22 GREG CHESTNUT: Okay. So it basically
 23 would lead to civil action between the two
 24 parties.
 25 MR. BAUM: Correct.

Page 12

1 DR. BLOCK: But it would allow, you
 2 know -- the resident who is having the issue of
 3 the bamboo coming on the property, there's now an
 4 ordinance to take to a civil matter and say --
 5 right now there's no remedy, there's no --
 6 GREG CHESTNUT: Right. But there's
 7 nowhere in the ordinance that says that it's a --
 8 there's no violation there basically of the
 9 ordinance if the two property owners --
 10 DR. BLOCK: It's a violation, but the
 11 Borough does not have to get involved in the
 12 litigation.
 13 GREG CHESTNUT: But it may?
 14 MR. MONTELLA: So in that situation, a
 15 private homeowner versus a private homeowner
 16 always has an opportunity for self help.
 17 So, in other words, there's a legal
 18 ramification -- a legal remedy of self help
 19 between property owner and property owner. You
 20 have that now.
 21 GREG CHESTNUT: Right.
 22 MR. MONTELLA: If there's someone with
 23 bamboo that's encroaching on another person's
 24 property, that property owner would go to that
 25 neighbor and say hey, look, you know, there's an

Page 13

1 encroachment.
2 The neighbor doesn't -- if the property
3 owner doesn't do anything with regard to that
4 encroachment, the property owner now has a right
5 to self help, to make whatever necessary remedy
6 that is needed, and then, for whatever cost, that
7 property owner would go against that neighbor who
8 has that, who's created the encroachment.
9 GREG CHESTNUT: And I have a second
10 question. The ordinance refers to encroachment
11 upon borough-dedicated roadways. What about state
12 roads?
13 MR. MONTELLA: That's a PennDOT issue.
14 Certainly PennDOT has its own regulations with
15 regard to encroachment into their public right of
16 way. And the ordinance doesn't provide a remedy
17 for that.
18 GREG CHESTNUT: So if someone had an
19 issue with bamboo encroaching on Valleybrook Road,
20 they would contact PennDOT?
21 MR. MONTELLA: Correct.
22 DR. BLOCK: That was a recent change.
23 We decided not to get involved with PennDOT.
24 GREG CHESTNUT: Thank you.
25 MR. BAUM: You're welcome.

Page 14

1 Yes, sir.
2 RON SURKIN: Yeah. My name is Ron
3 Surkin. I live at 363 Valleybrook, right up the
4 street there.
5 I actually came to this because one of
6 the council members, when this was first proposed,
7 had sent the ordinance to me and just asked for
8 comments.
9 MR. BAUM: Sure.
10 RON SURKIN: I made a memo to her. And
11 then I just saw this notice come up. And I looked
12 at the revised ordinance, and it really didn't
13 address a number of the issues I raised. It
14 addressed some of them, but not all of them.
15 So what I did is I've actually gone back
16 and redid my memo, which I'd like to hand up.
17 MR. BAUM: Sure.
18 RON SURKIN: And just talk about a
19 couple of the points, if I can.
20 MR. BAUM: Fine.
21 RON SURKIN: I made three copies of it.
22 It's only a page and a half.
23 MR. MONTELLA: Mr. Surkin, we'll make
24 that part of the record.
25 RON SURKIN: Yes.

Page 15

1 MR. MONTELLA: Thank you.
2 RON SURKIN: I appreciate that.
3 What I wanted really to talk about on
4 this is that I think -- well, first I have no
5 comment on the bamboo section at all. I mean that
6 makes total sense to me. And I don't know
7 anything about bamboo, quite frankly.
8 But on the first part of it -- and I
9 come to this from the standpoint of being a lawyer
10 who's dealt with, unfortunately, over 45 years, a
11 lot of disputes between neighbors.
12 And what I'm afraid that this does is it
13 creates a situation where you have very vague,
14 discretionary language that you're introducing
15 into an ordinance that's replacing language that
16 essentially does the same thing in the old
17 ordinance that has a long history of being
18 interpreted in courts and people know what it
19 means.
20 Now what you're talking about in this
21 new ordinance -- and really my comments are on the
22 very first section more than anything else,
23 Section A, it says: Trees, shrubbery, lawns,
24 hedges, and other landscaping shall be maintained
25 and kept from becoming overgrown and unsightly or

Page 16

1 in any state of neglect or disrepair.
2 None of those are legal concepts.
3 They're all in the eyes of the beholder. And the
4 beholder is going to be the neighbor typically.
5 And usually it's going to come in front of Council
6 in a complaint because neighbors don't get along.
7 If the neighbors get along, what's going to happen
8 is one neighbor is going to go to the other and
9 talk to them about it.
10 If you've got your house up for sale and
11 your neighbor's not mowing the lawn, you know the
12 neighbor, you're going to walk over, say hey, I
13 got some people coming over, can you cut your
14 grass. You're not going to go to Borough Council
15 and seek enforcement action.
16 So what you're doing, in my opinion, is
17 you're encouraging what would normally be
18 situations that should be dealt with neighbor to
19 neighbor in small community and turning it into a
20 legal issue where the standards are not well
21 established and are very discretionary.
22 You know, that's appropriate for a
23 condominium community. But we're not a
24 condominium community. We've got -- you know,
25 we've got townhouses here, we've got houses that

Page 17

1 have been built in the last year, and we've got
2 houses like mine that were built in 1735. You
3 know, the differences and the properties are so
4 different in the neighborhood. What it takes to
5 care for them, what people like, differs greatly.
6 If we all paid for the -- if we all paid
7 the condominium fee in a condominium community,
8 then we'd have a standard that we can all look at.
9 Here there are no standards.
10 And all you're going to be doing is
11 you're going to be creating problems among
12 neighbors that are going to get escalated to a
13 legal issue when they shouldn't be a legal issue.
14 They're not -- this language has nothing
15 to do with public health, safety, and welfare. It
16 just says if they become overgrown or unsightly,
17 or in any state of neglect or disrepair, that
18 violates the ordinance; nothing to do with public
19 health, safety, and welfare.
20 The current ordinance, by contrast, says
21 exactly the same thing but it relates to -- it
22 says weeds, bushes, if they encroach on the
23 sidewalk, street, alley or roadway, the
24 inconvenience, danger, annoyance, or impediment to
25 persons passing on the streets or sidewalks when

Page 18

1 they prevent a clear view of motor traffic.
2 They're focused on things that affect
3 things the government should be concerned about,
4 not aesthetics. The government really should not
5 be concerned about aesthetics, because people have
6 very different views on what aesthetics are. Some
7 people like to have grass growing and be in kind
8 of meadow environment, even not in a meadow.
9 That's a type of landscaping.
10 One of the things I noticed is you
11 have -- your grass has to be cut to 6 inches. You
12 know, people, in the springtime you can't keep
13 your grass at 6 inches. You can't keep your grass
14 at 4 inches. You can't keep it at 3. It grows
15 like crazy and you're constantly on a lawnmower.
16 Somebody, if there's a dispute between
17 neighbors, are they going to come to Borough
18 Council because your grass is 8 inches high? I
19 mean and that has nothing to do with public
20 health, safety, and welfare. If it's blocking the
21 view of a road, another story. But that's not
22 what the ordinance does.
23 So that's where my main objection is to
24 this. There's a few other things that I've
25 mentioned in here that I'll essentially leave to

Page 19

1 my memo, to my written comments.
2 There's one specific thing on language
3 that I'd like to raise that I really also would
4 like you to very seriously consider. It's in
5 Section 123-3B, which is the enforcement section.
6 And that section, I think that's the
7 section that deals with what's viewed as an
8 emergency situation, where you can go -- find
9 that. If the nature of the condition is found to
10 exist on the property that it's considered a
11 threat of imminent harm or danger, then you don't
12 have to give notice to the landowner.
13 And I make a suggestion -- I think it's
14 kind of hard to imagine, unless you are standing
15 there and the tree is actually falling over, that
16 landscaping issues are going to be that serious,
17 that if the complaint comes to the Borough and an
18 enforcement officer sees a problem, that they
19 can't make an effort to pick up the phone and call
20 that landowner or send somebody over to knock on
21 the door.
22 Again we're only talking about a 2-1/2
23 square mile borough here. It's not like anybody
24 has to travel far.
25 So I propose language that says that you

Page 20

1 have to -- that the Borough should make at least a
2 good faith effort to contact the landowner before
3 they go into court. I think that's only fair to
4 all the residents. And it's no burden at all, but
5 at least gives the person some advance notice so
6 they can do whatever they feel is appropriate.
7 I'll just leave the rest of my comments
8 to what I've submitted in writing. Does anybody
9 have any questions for me?
10 MR. BAUM: No, we don't, thank you for
11 that.
12 MS. CLARKE: Thank you, Ron.
13 MR. BAUM: Okay. Second row, continuing
14 on. Anyone?
15 DON GARRAHAN: Yeah. My name is Don
16 Garrahan. I live at 240 Llewellyn Road. I just
17 have a question.
18 I guess, Jerry, you said that in terms
19 of the buffer zone, the buffer zone only pertains
20 to public land or highways or whatever.
21 MR. MONTELLA: That's a right of way of
22 dedicated borough roadway.
23 DON GARRAHAN: Right.
24 MR. MONTELLA: So it needs to be a
25 buffer zone, and it's 20 feet off the right of

Page 21

1 way.
2 DON GARRAHAN: Now the prior law, I
3 guess, what you removed, just so I understand,
4 there was a buffer zone on any property and up the
5 side of the property 10 feet past the house? Is
6 that correct?
7 MR. MONTELLA: I didn't -- I wasn't here
8 in 2017, so I'm not quite sure what revisions --
9 the revised language was.
10 DON GARRAHAN: Yeah.
11 MR. MONTELLA: I think it had to do with
12 a public road, not just simply the borough
13 roadway.
14 DON GARRAHAN: All right. So it's
15 illegal at this point for the bamboo to be, in
16 other words, within 10 feet of my property line,
17 if it's --
18 MR. MONTELLA: If you own bamboo and
19 it's within a 20-foot right of way of the borough
20 roadway --
21 DON GARRAHAN: Right, right.
22 MR. MONTELLA: -- it could be
23 potentially in violation of this particular
24 ordinance.
25 DON GARRAHAN: Is it illegal for the

Page 22

1 bamboo to be -- between two private properties, to
2 be within 10 feet of any property line? Have you
3 made that determination?
4 MR. MONTELLA: I don't know with regard
5 to the allowed -- the illegality.
6 DON GARRAHAN: Right.
7 MR. MONTELLA: It certainly still is --
8 if your bamboo is encroaching on another person's
9 property, okay, your adjacent neighbor --
10 DON GARRAHAN: Right.
11 MR. MONTELLA: -- certainly that's an
12 issue that you should be correcting if you're
13 given some type of notice from your neighbor.
14 DON GARRAHAN: Correct. No. I get
15 that.
16 MR. MONTELLA: Because there's an
17 encroachment.
18 DON GARRAHAN: I understand.
19 MR. MONTELLA: So and under D, where it
20 says buffer zone, it's also defined as any area
21 located from the property boundary of the front
22 yard, and it's extending through the side yards
23 and 30 feet back into the rear yard from the rear
24 edge of the building footprint.
25 Our building inspector is not here

Page 23

1 tonight; correct?
2 MR. BAUM: He is not.
3 MR. MONTELLA: So I think he might be
4 able to comment more than I would --
5 DON GARRAHAN: Right, right.
6 MR. MONTELLA: -- with regard to his
7 personal opinion.
8 DON GARRAHAN: Right. Okay. Okay. No.
9 I understand. Thank you.
10 MR. MONTELLA: Bottom line is I think if
11 there is an encroachment of your bamboo on another
12 person's -- on your neighbor's property, then
13 there should be --
14 DON GARRAHAN: It's not mine.
15 MR. MONTELLA: From any person's
16 property, then there should be --
17 DON GARRAHAN: Encroached, encroached.
18 MR. MONTELLA: Then there should be a
19 remedy from either being encroached or
20 encroaching.
21 DON GARRAHAN: Right. I got you.
22 MR. MONTELLA: Thank you.
23 MR. BAUM: One question I have.
24 Philip, have we identified any
25 properties in the Borough that meet the criteria

Page 24

1 for the 20-foot buffer as far as a borough
2 roadway? We've spoken about this.
3 DR. BLOCK: I haven't gone -- there may
4 be some properties on Wawa Road.
5 MR. BAUM: That's a state road.
6 DR. BLOCK: I'm not aware of any at this
7 time.
8 MR. BAUM: Okay.
9 DR. BLOCK: Most of the bamboo I see is
10 state roads.
11 We had language, you know, just for
12 everybody's sake, in very bad winter weather, like
13 we've seen, one of the problems -- and this would
14 not be impacted here, because we took the state
15 roads out -- is bamboo gets heavy and falls over.
16 And it has actually laid upon, you know, the lanes
17 of Valleybrook, as an example.
18 We had a discussion about whether to
19 include PennDOT roads because of that issue, and
20 that would be a public safety issue. But again
21 the ability to really enforce issues on the state
22 road, you know, we chose not to do that.
23 But that's where especially it becomes a
24 safety issue, when it falls over. It springs back
25 up when it's warm and then it's taller, it falls

Page 25

1 down again. But I'm not aware specifically --
2 MR. BAUM: Okay.
3 DR. BLOCK: -- of any roads right now.
4 MR. BAUM: Sure. Okay. Continuing on
5 in the row. Yes.
6 MARTHA DRISCOLL: I'm Martha Driscoll,
7 458A Lenni Road.
8 So my comments mirror the gentleman from
9 363 Valleybrook Road. Section 123-1 I believe
10 is -- the very first paragraph -- is very
11 subjective. And like he said, it's in the eyes of
12 the beholder as to how it would be interpreted.
13 And also Paragraph A from 123-2 in the
14 refuse, there is also a lot of definitions I think
15 that are not defined, like nuisances and
16 unsanitary conditions. I feel like they're, you
17 know, not defined in the code here.
18 I'm also concerned about imminent harm
19 and threat to general public and the borough's
20 ability to come on my land and do what they see
21 fit and charge me for it without a phone call.
22 I think we're all reasonable landowners
23 here in Chester Heights, and if somebody picked up
24 the phone and said there was a dangerous condition
25 on my land, I wouldn't want it to continue and

Page 26

1 would definitely work towards ameliorating it to
2 the satisfaction of the Borough.
3 So I just wanted to let you know that I
4 have the same concerns. And I would hope that we
5 could revert a little bit more back to the
6 language we had in the original ordinance, more
7 structurally and legally sound and less subjective
8 for the bamboo.
9 MR. BAUM: Thank you. Anyone else in
10 the second row? Yes.
11 ANNE SEARL: Anne Searl, 360 and 364
12 Valleybrook Road.
13 I also want to mirror what Mr. Surkin
14 said, and I'm concentrating mostly on Section
15 123-2, refuse. None of the terms in here really
16 are legal definitions and there are no definitions
17 provided of some of these terms. They seem very
18 nebulous and vague, such as nuisance, obnoxious
19 growth, paper, garbage, trash, rubbish, debris of
20 any description or nature.
21 So my concern is that the interpretation
22 of these terms by different people without context
23 of what they mean, they could be widely
24 interpreted.
25 MR. BAUM: Sure.

Page 27

1 ANNE SEARL: That's all.
2 DR. BLOCK: May I make a comment.
3 MR. BAUM: Yes.
4 DR. BLOCK: That is the current
5 ordinance by the way. You're all commenting on
6 the current ordinance.
7 The nuisance ordinance has not been
8 changed in decades. The only thing that's been
9 changed that we're -- is issues about the grass
10 and issues about bamboo. Yes.
11 RON SURKIN: That's not actually
12 correct. The difference is not so much the
13 language of referring to types of rubbish and
14 things like that, but it's -- the new ordinance
15 does not tie the violation into public health,
16 safety, and welfare. It divorces it from it.
17 That's the problem. So it leaves it much more
18 subjective.
19 And it becomes then a question of do you
20 not like the way something looks, rather than the
21 current ordinance, which is, is what is there a
22 risk to the community in some fashion.
23 That difference in focus is huge,
24 because a governing body should be concerned about
25 the latter, not so much about the former.

Page 28

1 DR. BLOCK: There are other reasons. I
2 mean property values, the look of the
3 neighborhood, is also part of this.
4 But did we change that language? I mean
5 with respect to trash and nuisance stuff, we
6 didn't change that language, as far as I know.
7 Did we?
8 RON SURKIN: Look at the very -- the
9 section on 23.1A.
10 MR. MONTELLA: So what the Borough has
11 done here is expanded it to some extent, because
12 some of that language is not in the current
13 ordinance.
14 However, there is a whereas clause with
15 regard to what the purpose and intent. And one
16 could argue -- I'm not going to get into a legal
17 argument with you tonight, Ron. But one could
18 argue before a court that it certainly is within
19 the bounds of the municipality to bring an action
20 based upon public safety, health, and welfare.
21 You got to -- you know, the building
22 inspector would go out onto the property, take a
23 look at it from a practical standpoint, and make a
24 determination whether or not it meets or doesn't
25 meet the ordinance.

Page 29

1 So I understand your argument with
2 regard to, you know, the notice requirement.
3 Certainly it's been my experience, the many years
4 I've been here, that the building inspectors, the
5 Council, and everybody associated with the Borough
6 would certainly make a good faith effort to try
7 and resolve an issue before it actually went into
8 litigation, to be a neighborly issue and try and
9 work with the neighbors as opposed to going right
10 in and doing something from a legal standpoint.
11 RON SURKIN: I guess, I guess what it
12 comes down to is what do you do when one neighbor
13 comes and says my next-door neighbor is not taking
14 care of his lawn, it looks like hell, he hasn't
15 cut it in three weeks, and it's springtime and the
16 grass is growing like crazy, and I'm getting --
17 I'm getting crabgrass seeds on my lawn? What are
18 you going do?
19 DR. BLOCK: Technically --
20 RON SURKIN: Are you going to start a
21 legal enforcement action in a situation like that?
22 DR. BLOCK: If I can just make a
23 comment. That's not uncommon. We've had issues
24 with noise, we've had issues with trash on
25 properties, we've had issues with vacant

Page 30

1 properties. And if it can't be resolved by
2 calling them up, what's typically done is our
3 zoning officer --
4 MS. ELLIS: Code enforcement.
5 DR. BLOCK: Code enforcement, thank you,
6 code enforcement officer talks with them. And if
7 that can't be resolved, I don't think we've ever
8 taken anybody to court. And I'm sorry. Go ahead.
9 RON SURKIN: But this, under the current
10 ordinance you wouldn't be able to, but under the
11 new ordinance you would, because the new ordinance
12 does not have language that relates to the
13 violation directly to public health, safety, and
14 welfare, like the prior ordinance does. That was
15 really the issue. It's drafting issue, Jerry.
16 MR. MONTELLA: I hear your argument. I
17 understand your comment. I believe that the
18 ordinance does allow for the Borough to base its
19 action on the health, safety, and general welfare
20 of the residents.
21 I think from a practical experience, as
22 long as I've been involved with the Borough, there
23 has always been an effort by the building code
24 enforcement officer, under direction by Council,
25 to work with the neighbors in a reasonable manner,

Page 31

1 and to try and work out anything that has to do
2 with a nuisance on someone's property related to a
3 complaint by another individual in the Borough. I
4 mean that's the best way I can explain it.
5 RON SURKIN: Okay. I don't want to keep
6 going back and forth on this.
7 MR. MONTELLA: Yes.
8 RON SURKIN: But you used a word that
9 makes sense to me, which is nuisance, and that's a
10 defined legal term. You know what that is and I
11 know what that is.
12 But unsightly hedges is not a defined
13 legal term. But that now becomes a -- an
14 unsightly hedge becomes a violation of the
15 ordinance, which is not what I think you really
16 want. But you're allowing it and you're -- what
17 you're doing is you're -- I don't know.
18 It just seems to me you're opening up an
19 area for neighbors to fight each other where --
20 and involve -- I'm sorry; not just the neighbors
21 fighting, but to involve the township in disputes
22 between neighbors.
23 MR. MONTELLA: That's the purpose of a
24 public hearing, to obtain public comment.
25 RON SURKIN: Okay.

Page 32

1 MR. MONTELLA: And provide Council with,
2 you know, comment for or against a particular
3 ordinance.
4 RON SURKIN: Okay.
5 MR. MONTELLA: That's why we're here
6 tonight. Thank you.
7 MS. CLARKE: I do want to say one thing.
8 The paragraph about not giving notice,
9 we have had one and I think we're faced with
10 another situation where the owners of the home
11 were deceased, or left and then died, and no one
12 really owned the property and there was really no
13 one to contact. It was one difficult situation
14 that we had to intervene in. I see another one
15 coming in the Borough.
16 So I think that -- I don't know how we
17 could word this, but that would be a very rare
18 situation, where we would go in and do something
19 without notifying the property owner. But it has
20 happened. It happened once, and I can see it
21 potentially happening again in the Borough.
22 MR. BAUM: Okay. Moving forward. Yes.
23 LAURA LIM: Hi. My name is Laura Lim
24 and I live at 101 Valleybrook Road. My house is
25 the last house in the Chester Heights Borough on

Page 33

1 Valleybrook Road. And my property butts up
2 against Concord Township and Green Creek.
3 So one of the questions I had, I guess,
4 for Dr. Block.
5 DR. BLOCK: Yes.
6 LAURA LIM: Since you were working on
7 this. Did the Council conduct a Chester Heights
8 Borough resident business bamboo survey before
9 incorporating this ordinance? Do you know how
10 many residents' and businesses' properties the
11 bamboo ordinance is going to affect?
12 DR. BLOCK: No, we did not.
13 LAURA LIM: Okay. My next question is:
14 Do you know how many property owners that butt up
15 against, like me, to other townships and creeks in
16 Chester Heights Borough.
17 DR. BLOCK: Not offhand, no.
18 LAURA LIM: So I went online and I
19 looked, because I was trying to figure that out.
20 Because I do have bamboo on my property. When I
21 bought my property, it already -- there was
22 already bamboo there.
23 The property that belongs in the Concord
24 Township, they have an HOA, and their HOA does not
25 address bamboo. But I have Green Creek. And I'm

Page 34

1 trying to figure out if I were to chop down my
2 bamboo per the ordinance and put weed killer in
3 it -- which is what it says, I can poison the
4 roots -- I would stop, because I do not want to
5 poison Green Creek, because I'm a smart person and
6 I don't want to do that to the watershed. Then
7 who is responsible for the bamboo on the foot and
8 a half, 3 feet, of the Green Creek, the edges of
9 Green Creek?
10 So I reached out to Chester Ridley Crum
11 watershed. And on their website they are
12 responsible for 3 feet on both sides of the creek.
13 So if I were to do that, would you be
14 responsible to find them and have them take care
15 of their bamboo on their edge of Green Creek if I
16 were to get rid of mine? Because it's technically
17 on my property up until Green Creek. But I
18 actually do not own Green Creek property. Nobody
19 owns the creek, the waterway. And there's bamboo
20 there.
21 And the neighbor across from me on Green
22 Creek, they also have a lot of bamboo. That was
23 there when we moved there. And we've got pictures
24 from five years ago to today. And it's just
25 growing. It is invasive, and we'd like to get rid

Page 35

1 of it, but we want to do it responsibly.
2 And I'm not really sure. I'm not
3 comfortable with the wordage in this bamboo. I
4 kind of feel like you're forcing me to address
5 this, but you're not giving me a lot of guidance,
6 specifically around the watershed. And I want to
7 be a responsible resident and I don't want to weed
8 kill, like you're recommending, up until the line.
9 But if I get rid of my bamboo, I'm going
10 to have bamboo on 3 feet of my side of the creek,
11 and the roots are just going to pop back up. And
12 so that's something I care about it.
13 If I get rid of the bamboo on my
14 property, the homeowner and the HOA for the
15 Concord Township, their bamboo roots are still on
16 their side of the property, and it will just come
17 back.
18 So you're putting me in a financial
19 situation where I'm having to constantly keep up
20 with my bamboo to adhere to the rules and policies
21 of the ordinance, but nobody else around me is
22 responsible. So I'm concerned about this. I
23 don't think this addresses my situation.
24 And then I was curious how many
25 residents or business owners have bamboo. I think

Page 36

1 that's important before you make this active and
2 everybody has to adhere to it.
3 The only other comment I had was I did
4 look, and in Delaware County there's 74 creeks.
5 And I couldn't figure out how many creeks or
6 streams are in Chester Heights that this is
7 applicable to, and I'm kind of curious about that.
8 I can't imagine I'm the only homeowner
9 that would have that concern. And we'd want to
10 provide them guidance not to put weed killer in
11 the roots near the creek. I think that's
12 important. And that's not in here and that's not
13 documented here. That's my concerns.
14 DR. BLOCK: Can I just ask a question.
15 LAURA LIM: Yeah.
16 DR. BLOCK: Why do you feel you need to
17 remediate the bamboo by the creek?
18 LAURA LIM: Well, actually we want to
19 get rid of the bamboo regardless of this. We are
20 responsible homeowners. And it's not indigenous
21 flora or fauna to Pennsylvania, and we want to get
22 rid of it. It was here when we moved in.
23 It actually is occupying the nicest part
24 of our property, and it's the access to Green
25 Creek, where we could hang out with our children.

Page 37

1 And it's constantly growing, and we're seeing it
2 take over the natural tree area in our forest
3 area.
4 And so we do want to get rid of it. But
5 we don't want to be told to get rid of it. We
6 want to do it smartly and at our own pace, I
7 guess, if that's the right word. I just kind of
8 feel like they're forcing my hand.
9 And then the other question I have: Is
10 someone going to come onto my property and measure
11 with a tape measure the buffer zone from the creek
12 edge in? Because isn't the creek public property?
13 DR. BLOCK: So that would -- I mean
14 we're talking about to the roadway.
15 LAURA LIM: From the creek inland to the
16 property.
17 DR. BLOCK: Correct.
18 MR. MONTELLA: This is a public roadway.
19 DR. BLOCK: This is a public roadway
20 right of way. It wouldn't -- it's going to come
21 under --
22 LAURA LIM: So I wouldn't have to worry
23 about the creek at all. I don't have to worry
24 about that.
25 DR. BLOCK: By the way there's a very

Page 38

1 expensive way you can take care of your issue.
2 One way to take care of bamboo is put in metal
3 sheet pile about 10 feet down, because the runners
4 can't go there. So if you were to remove it, the
5 only way you can prevent bamboo from a non-borough
6 resident coming on there is, you know, potentially
7 sheet piling. But that's pretty expensive.
8 LAURA LIM: Right. And I wouldn't think
9 you'd want to put the burden on residents to do
10 that.
11 DR. BLOCK: So I don't think this
12 particular ordinance would come with an issue to
13 the creek. And no, there would not be a borough
14 official coming onto your property --
15 LAURA LIM: Right.
16 DR. BLOCK: -- to look at that.
17 LAURA LIM: That's good. But I just --
18 I just didn't think it read that well. That's
19 what I'm trying to say. Because I came here with
20 all these questions because I felt like I would be
21 responsible for it. Maybe changing the verbiage
22 slightly. Thank you.
23 DR. BLOCK: Thank you.
24 MR. BAUM: Yes, sir. Larry, third row,
25 please.

Page 39

1 LARRY WARD: Larry Ward, 222 Llewellyn.
2 With regard to the bamboo, I mean 100
3 percent of the bamboo that we're talking about is
4 already existing in the Borough, because, you
5 know, nobody is going to wantonly plant bamboo
6 after this ordinance.
7 The burden of proof between two property
8 owners -- I just heard another property owner say
9 it was here when I bought it. I've heard that
10 many times over, it was here when I bought it,
11 it's not my issue.
12 But when it starts encroaching upon
13 another person's property, what burden of proof
14 does the property owner who it's encroaching to
15 have to provide in order to start a path of
16 remedy?
17 MR. MONTELLA: So, Mr. Ward, that's
18 really an issue from a private property owner
19 versus a private property owner. I really can't
20 comment with regard to the burden of proof in a
21 legal matter.
22 But certainly if there is an
23 encroachment on your particular property for
24 bamboo, you have a right to self help. It's a
25 legal remedy that everybody has with regard to it.

Page 40

1 You know, you have something that's
2 encroaching on your property; you put the property
3 owner on notice that there's an encroachment; and
4 if that property owner doesn't do anything about
5 it, then you certainly can take reasonable. And
6 necessary means within which to remediate that
7 encroachment.
8 And then at that point, if you spend
9 certain dollars, you can certainly, you know, seek
10 legal -- a legal -- or litigation with regard to
11 that particular cost that you now have expended to
12 remediate the encroachment onto your property.
13 That's currently now.
14 LARRY WARD: But that's assuming the
15 neighboring property owner accepts encroachment,
16 accepts that.
17 MR. MONTELLA: That's something you
18 would have to -- that's something you would have
19 to litigate in the courts.
20 LARRY WARD: In court. So in order to
21 remediate it, we would have to remediate it at our
22 cost, and then try and recover it in court.
23 MR. MONTELLA: If the neighbor wasn't
24 willing to remediate it himself or herself, yes.
25 LARRY WARD: Okay. Thank you.

Page 41

1 MR. BAUM: Yes.
2 GREG CHESTNUT: Question slash comment.
3 COURT REPORTER: Who is that?
4 GREG CHESTNUT: My understanding is --
5 Greg Chestnut, 317 Willits Way.
6 COURT REPORTER: Thank you.
7 GREG CHESTNUT: My understanding is that
8 Green Creek and Chester Creek are nonnavigable
9 waters and, therefore, they're not public
10 property. Is that correct?
11 MR. MONTELLA: I couldn't make --
12 GREG CHESTNUT: My understanding.
13 MR. MONTELLA: -- comment tonight about
14 that particular comment.
15 GREG CHESTNUT: My understanding is the
16 property -- the adjacent property owner has the
17 land rights underneath the creek. So, therefore,
18 your property goes to the creek, then you own the
19 property to the creek. So you don't have to worry
20 about the 3 feet on your side. There's no
21 easement on a creek is my understanding.
22 Maybe that can be followed up on. My
23 understanding is that the adjacent property owner
24 owns the rights to the creek; not the water.
25 MR. MONTELLA: Not the water, but --

Page 42

1 GREG CHESTNUT: The land up to the
2 creek. If that's where the property line is.
3 MR. MONTELLA: Some extension into the
4 creek bed.
5 GREG CHESTNUT: Yes.
6 MR. MONTELLA: With regard to what
7 you -- what that right of way -- or what that
8 ownership would be --
9 GREG CHESTNUT: Right.
10 MR. MONTELLA: -- I couldn't confirm
11 that tonight here in this hearing.
12 GREG CHESTNUT: I understand. Right.
13 But my understanding is you don't have an issue
14 with it.
15 MR. BAUM: Questions.
16 DEREK SCHROEDER: Yeah. Derek
17 Schroeder, 200 Wawa Road. Just so everybody
18 knows, most of the bamboo in Wawa all came from a
19 guy named -- my Great Uncle Werty. He owned the
20 landscaping place that was over on Ridley Creek
21 Road. Yeah. He planted all of it.
22 But I'm wondering about these sort of
23 trees. It does say something about trees
24 endangering power lines. I was wondering about
25 the definition of the word endanger.

Page 43

1 And also we still have a telephone pole
2 on Laurel Road (ph) being held up by a rope that
3 was put there by PECO three years ago.
4 So I kind of -- like you want us to take
5 responsibility for these trees, when clearly the
6 people who own the telephone pole don't seem to
7 put it as high priority.
8 And also there was a tree from my
9 property was leaning on the power lines. I called
10 everybody. It took six months to a year. It
11 looks like it's gone. I don't know who got it. I
12 was at work. But somehow somebody got that tree
13 off the power line.
14 But again I mean that's pretty low
15 priority. I remember calling them, and they said
16 do you have service. I said yes. They said okay,
17 well, then you're fine, see you. They don't care.
18 So I just don't want to get the Borough
19 involved in something that could be clearly
20 between PECO and whoever owns the telephone poles,
21 because they don't seem to put a high priority on
22 it. Thank you.
23 MR. BAUM: Pat.
24 PATRICK MCFADDEN: Madame Mayor, Mr.
25 President, members of Council, and residents, my

Page 44

1 name is Patrick McFadden. I live at 282 Llewellyn
2 Road.
3 I believe that the original ordinance
4 came out of a situation from 1994, give or take,
5 where someone retaliatorily decided not to cut
6 grass.
7 But what I'm hearing today is if these
8 violations are not on borough roads, there's not
9 much we can do about it. This code doesn't really
10 protect us as adjoining property owners from
11 people deciding not to cut the grass, not to cut
12 the trees down, trees falling on houses, on cars.
13 I'm not too sure exactly what this
14 ordinance is doing. I know of two areas that have
15 bamboo that are on Valleybrook -- actually both on
16 Valleybrook Road, that sounds like we as a borough
17 can't do anything about it; plus the idea of
18 landscaping and clearly, you know, public
19 health -- public health, safety, and welfare is
20 paramount to what we do as a borough.
21 I was a building inspector for 36 years,
22 zoning officer, et cetera, here in Chester
23 Heights.
24 So I guess I'm wondering. Are we not --
25 is this ordinance only for properties that adjoin

Page 45

1 or are laying on top of the borough property, and
2 not deal with county and state roads? Like
3 there's nothing we can do about it. Plus if I
4 have an adjoining property owner that's not
5 cutting the grass, this ordinance does not
6 necessarily help me.
7 DR. BLOCK: If I may make a comment.
8 PATRICK MCFADDEN: Yeah. I'm asking.
9 DR. BLOCK: The borough road issue is
10 with respect to the bamboo. The grass ordinance
11 is with respect to all the Borough.
12 PATRICK MCFADDEN: But it sounds like,
13 you know, we're talking about setbacks and 30
14 feet. But would it only apply to property that's
15 on borough property -- borough roads? Excuse me.
16 DR. BLOCK: That's only the bamboo part
17 of the ordinance.
18 PATRICK MCFADDEN: So any grass
19 situation or landscaping issue would be even on
20 county and state roads.
21 DR. BLOCK: Correct.
22 PATRICK MCFADDEN: Okay. And the remedy
23 would be to, what? To notify the Borough?
24 DR. BLOCK: If you are not --
25 PATRICK MCFADDEN: Successful.

Page 46

1 DR. BLOCK: -- successful with your
2 neighbor --
3 PATRICK MCFADDEN: Right.
4 DR. BLOCK: -- then yes, you notify the
5 Borough.
6 PATRICK MCFADDEN: Right. So something
7 that's been in existence for five, six, seven, 10
8 years, the Borough has taken no action, is that
9 because nobody complained?
10 DR. BLOCK: With respect to cut grass
11 there's been no ordinance.
12 PATRICK MCFADDEN: Well, I mean I think
13 there was an attempt anyway. So but it's clearly
14 a dangerous situation with trees falling on
15 houses, on cars, that have been in existence for
16 at least five, six years, and the Borough is not
17 taking any action.
18 I'm not complaining about that. I just
19 wondered how that would be triggered.
20 DR. BLOCK: So we looked at a tree
21 ordinance --
22 PATRICK MCFADDEN: Well, this would be
23 landscaping.
24 DR. BLOCK: -- a year and a half ago,
25 and it received a lot of negative feedback from

Page 47

1 the Borough. So at that point we did not -- in
2 fact it made the local newspaper. And so we
3 focused on bamboo and grass, but we've not gone
4 back to the tree issue.
5 PATRICK MCFADDEN: Okay.
6 DR. BLOCK: Some of us live in a part of
7 the neighborhood where falling trees and winter
8 storms knock out our power very consistently.
9 Although I think we're kind of lucky. I think all
10 of the trees have now fallen down, so we've been
11 lucky for the last two or three years.
12 So that has -- you know, just from a
13 power point of view, knocking stuff out, we did
14 look at that about a year and a half ago, got a
15 lot of negative feedback. So we've not pushed
16 forward the tree part of the ordinance.
17 PATRICK MCFADDEN: Okay.
18 DR. BLOCK: The grass ordinance again
19 historically came because there were sight line
20 issues and actually issues with people trying to
21 sell property and property value issues in general
22 on that. So we did try to address that issue and
23 then, of course, the bamboo.
24 PATRICK MCFADDEN: Yes. Thank you.
25 DR. BLOCK: In fact if I can make a

Page 48

1 comment, to address the record on something I
2 actually misquoted last time. I just want to read
3 this. Thank you, Jerry.
4 With respect to the current ordinance
5 and the fees associated with it, it's actually
6 violators of the current ordinance can actually be
7 arrested and the daily penalties were \$50 a day.
8 I misspoke. I said 1,000. I wanted to
9 correct it.
10 MR. MONTELLA: I think the original
11 ordinance that was proposed in 2017 at a public
12 hearing did have \$1,000 per day.
13 DR. BLOCK: Yes.
14 MR. MONTELLA: That's what was reduced
15 to \$300 per day.
16 DR. BLOCK: I do apologize for that.
17 MR. BAUM: Okay. Anyone further in the
18 back row? Any more comments or concerns?
19 Jerry, I turn the floor back over to you
20 if there's no more comments.
21 MR. MONTELLA: If there's no more
22 comments, if Council has no comments.
23 DAVE FIRKSER: I just had one quick
24 thing. Dave Firkser, 2 Rolling Heights Lane.
25 It just seems like the language of the

Page 49

1 ordinance is already leading to a lot of
2 consternation and discussion, from both a legal
3 perspective as well as a neighbor-to-neighbor
4 perspective.
5 The purpose of the ordinance seems to be
6 primarily to protect borough roads. Has there
7 been any discussion about potentially approaching
8 homeowners where the bamboo is encroaching on
9 borough roads and offering some kind of tax
10 incentive over a certain number of years to
11 rectify the situation?
12 DR. BLOCK: Well, right now actually I'm
13 not sure there is bamboo encroaching on borough
14 roads. So this would be with respect to bamboo
15 that eventually will make it to borough roads or
16 people planting it.
17 Most of the bamboo ordinance is really
18 property-to-property issues between neighbors.
19 DAVE FIRKSER: Okay.
20 DR. BLOCK: Which we have several
21 examples other than...
22 DAVE FIRKSER: It seems a little
23 contradictory to what was just discussed. Perhaps
24 I misheard it. I thought someone asked about if
25 the bamboo was neighbor to neighbor, and the

Page 50

1 answer was no.
2 So it just seemed to me like the
3 ordinance was to protect the Borough.
4 So that's why I'm suggesting I think it
5 makes sense, if it is going to be an issue that
6 affects borough property in the future, we can
7 address it in a way that makes sense to the
8 homeowner and the Borough. Just a thought.
9 MS. AGOSTINELLI: So is the burden going
10 to be on council members to enforce it?
11 DR. BLOCK: Council members or the
12 Borough.
13 MS. AGOSTINELLI: Who will police all of
14 that?
15 DR. BLOCK: If a complaint comes in --
16 noise complaints we get all the time -- we send
17 out our code enforcement officer.
18 PATRICK MCFADDEN: So it would have to
19 be a complaint to --
20 MR. MONTELLA: Just your name.
21 PATRICK MCFADDEN: Patrick McFadden,
22 282.
23 MR. MONTELLA: Thank you.
24 PATRICK MCFADDEN: What you're saying is
25 it would have to be a complaint.

Page 51

1 DR. BLOCK: Yeah.
2 PATRICK MCFADDEN: By maybe a private
3 citizen, before -- or go and see, say, Sue
4 Timmins, just because she's on the phone.
5 Otherwise there's not any kind of oversight.
6 You're not anticipating an oversight by the
7 building code official, like running around the
8 Borough and looking.
9 MR. BAUM: Surveying.
10 DR. BLOCK: No.
11 MR. BAUM: Surveying the property in the
12 Borough.
13 PATRICK MCFADDEN: So you're only
14 waiting for complaints. Is that what you're
15 saying?
16 DR. BLOCK: I don't want to speak for
17 the Borough.
18 PATRICK MCFADDEN: No.
19 DR. BLOCK: That's pretty much how all
20 of our ordinances work. We have people come in
21 and complain about noise.
22 We have, you know, all our current
23 ordinances, signs, things like that. We do not
24 have somebody that goes around and routinely
25 checks that the ordinances are being met.

Page 52

1 PATRICK MCFADDEN: All right.
2 LAURA LIM: Has there ever been -- Laura
3 Lim, 101 Valleybrook Road.
4 Has there ever been any discussions
5 about grandfathering in folks who already have
6 property that have bamboo on it? If it's in the
7 buffer zone and it's fine, it's contained, that's
8 acceptable. But if you want to sell your home,
9 they should disclose that on the seller's
10 disclosure form, so when a buyer has it, they
11 understand what Chester Heights Borough's
12 responsibility is, if you pass it.
13 I mean is that something that you -- I'm
14 just curious, because you said it's for future,
15 you know, for future issues. Is that something
16 that you can consider?
17 DR. BLOCK: To me the comment you meant
18 was contained. If it's contained, it's contained.
19 This is running bamboo that's not contained. It's
20 hard to contain it unless you put it in a barrier.
21 So I mean I think if it was contained,
22 I'm not sure there would be an issue.
23 MR. MONTELLA: Well, I don't believe the
24 Borough would be involved in a person's sale,
25 buyer, agreement, except there's a due diligence

Page 53

1 matter sellers have to go through.
2 LAURA LIM: I'm just curious on how do
3 you relay that. Because you just said the whole
4 point of you wanting to pass this is future
5 borough residents and future borough issues.
6 So if I have enough acreage, technically
7 my bamboo is contained and the buffer is fine.
8 But it may be a certain point to where it will --
9 the next homeowner, in theory, it will be their
10 issue. And they need to be aware of this
11 ordinance, because there's going to be fines, you
12 know. And I was just curious, have you thought
13 that far or have you thought about this versus the
14 ramifications of it for future homeowners.
15 DR. BLOCK: I don't know if we get into
16 that.
17 MR. MONTELLA: Yeah. I don't know --
18 LAURA LIM: Or is it just not?
19 MR. MONTELLA: I don't know if it's an
20 issue that was discussed in that detail, at least
21 since I've been --
22 LAURA LIM: Sure.
23 MR. MONTELLA: -- on board here. I
24 understand your issue. But again it's a private
25 homeowner --

Page 54

1 LAURA LIM: Right.
2 MR. MONTELLA: -- buyer, seller issue.
3 MR. BAUM: Okay. If there's no other
4 further comments, we will bring this public
5 hearing to an end. It is 7:52 and the public
6 hearing will be ended.
7 DR. BLOCK: I'd like to thank you all.
8 I appreciate your comments, all of them.
9 DON GARRAHAN: Can I just ask one more
10 question.
11 MR. BAUM: Sure. Absolutely.
12 DON GARRAHAN: So where does it go from
13 here? In other words, now we've had this
14 discussion. Where do we go from here? What do
15 you guys do at this point.
16 MR. BAUM: Based on the comments we had
17 tonight --
18 DON GARRAHAN: Right.
19 MR. BAUM: -- I was going to advise
20 Council that we take all these comments under
21 advisement.
22 DON GARRAHAN: Okay.
23 MR. BAUM: And go back to -- not the
24 drawing board, but to these areas that there has
25 been concern about.

Page 55

1 DON GARRAHAN: And where would that be
2 done? At a public hearing?
3 MR. BAUM: Absolutely.
4 DON GARRAHAN: Okay.
5 MR. BAUM: Absolutely.
6 DON GARRAHAN: And what? If I check the
7 website, you guys will notice it?
8 MR. BAUM: Sure.
9 DON GARRAHAN: Okay. All right.
10 MR. BAUM: The next meeting is our work
11 session, and that is -- what date would that be?
12 The third week of this month.
13 DON GARRAHAN: Chances are you would be
14 talking about it? Is that what you --
15 MR. BAUM: I think so.
16 DON GARRAHAN: Okay.
17 MR. BAUM: What I'm going to suggest is
18 that we have the transcript from tonight's
19 meeting, and we all have the chance to look it
20 over, because there were some comments.
21 DR. BLOCK: Let me just say, depending
22 on the comments depends how much of a rewrite
23 there is. I'm not sure I'd guarantee a working
24 session that --
25 MR. BAUM: I'm sure we would comment on

Page 56

1 it.
2 DR. BLOCK: Yes.
3 MR. BAUM: Maybe not have it complete by
4 that point.
5 DON GARRAHAN: Thank you.
6 MR. BAUM: You're welcome. Okay. It's
7 7:56. We're now moving back into the -- I'm
8 sorry. We're moving into the regular council
9 meeting.
10 (The hearing concluded at 7:58 p.m.)
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1	INDEX	
2	BOARD'S EXHIBITS	
3	NO. DESCRIPTION	PAGE
4	B-1 Notice of Summary	4
5	B-2 Full text of ordinance	4
6	- - -	
7	PUBLIC COMMENT	
8	RESIDENT	PAGE
9	GREG CHESTNUT	11
10	RON SURKIN	13, 27
11	DON GARRAHAN	20, 54
12	MARTHA DRISCOLL	24
13	ANNE SEARL	26
14	LAURA LIM	32, 52
15	LARRY WARD	38
16	DEREK SCHROEDER	42
17	PATRICK MCFADDEN	43, 50
18	DAVE FIRKSER	48
19	- - -	
20	RESIDENTS' EXHIBITS	
21	NO. DESCRIPTION	PAGE
22	1 Comments, Ron Surkin	14
23	- - -	
24		
25		

1 I HEREBY CERTIFY that the
2 proceedings and evidence are contained fully and
3 accurately in the stenographic notes taken by me
4 upon the foregoing matter on Monday,
5 March 4, 2019, and that this is a correct
6 transcript of same.
7
8
9
10
11 _____
12 Maria Lairdieson O'Neill
13 Registered Professional Reporter
14 Notary Public
15
16
17 (The foregoing certification of this
18 transcript does not apply to any reproduction of
19 the same by any means, unless under the direct
20 control and/or supervision of the certifying
21 reporter.)
22
23
24
25

	2:20;3:24		54:21	anticipating (1) 51:6
\$	23.1A (1) 28:9	9	aesthetics (3) 18:4,5,6	apologize (1) 48:16
\$1,000 (2) 10:23;48:12	240 (1) 20:16	91 (1) 2:20	affect (2) 18:2;33:11	applicability (1) 7:4
\$300 (4) 6:11,11;7:24;48:15	282 (2) 44:1;50:22	A	affects (2) 10:2;50:6	applicable (1) 36:7
\$50 (1) 48:7	3	ability (2) 24:21;25:20	afraid (1) 15:12	application (1) 4:3
1	3 (5) 18:14;34:8,12;35:10; 41:20	able (2) 23:4;30:10	again (8) 7:22;19:22;24:20; 25:1;32:21;43:14; 47:18;53:24	apply (1) 45:14
1 (3) 4:12,17;5:17	30 (4) 7:22;8:1;22:23;45:13	Absolutely (3) 54:11;55:3,5	against (7) 6:14;7:8;9:24;13:7; 32:2;33:2,15	appointed (1) 6:7
1,000 (1) 48:8	317 (2) 11:14;41:5	acceptable (2) 10:17;52:8	age (1) 2:20	appreciate (2) 15:2;54:8
10 (6) 6:16;21:5,16;22:2; 38:3;46:7	3301.2 (1) 3:20	accepts (2) 40:15,16	agenda (1) 3:3	approaching (1) 49:7
100 (1) 39:2	36 (1) 44:21	access (1) 36:24	ago (4) 34:24;43:3;46:24; 47:14	appropriate (2) 16:22;20:6
101 (2) 32:24;52:3	360 (1) 26:11	accordingly (1) 4:3	Agostinelli (3) 3:6;50:9,13	area (5) 6:23;22:20;31:19; 37:2,3
123 (4) 4:11;5:9,10,17	363 (2) 14:3;25:9	acreage (1) 53:6	agreement (1) 52:25	areas (2) 44:14;54:24
123-1 (1) 25:9	364 (1) 26:11	across (1) 34:21	ahead (1) 30:8	argue (2) 28:16,18
123-2 (2) 25:13;26:15	4	action (7) 11:23;16:15;28:19; 29:21;30:19;46:8,17	Albany (2) 2:19,22	argument (3) 28:17;29:1;30:16
123-3B (1) 19:5	4 (1) 18:14	active (1) 36:1	Allegiance (2) 2:18,23	around (6) 9:17;10:2;35:6,21; 51:7,24
124 (1) 5:14	45 (1) 15:10	actually (15) 14:5,15;19:15;24:16; 27:11;29:7;34:18; 36:18,23;44:15;47:20; 48:2,5,6;49:12	alley (1) 17:23	arrested (1) 48:7
15th (1) 3:24	458A (1) 25:7	addition (1) 6:15	allow (2) 12:1;30:18	Article (2) 4:12,13
1735 (1) 17:2	4th (1) 3:1	address (10) 4:25;8:11;9:14; 11:12;14:13;33:25; 35:4;47:22;48:1;50:7	allowed (1) 22:5	assets (2) 9:18,21
1991 (1) 4:15	6	addressed (1) 14:14	allowing (1) 31:16	associated (2) 29:5;48:5
1994 (1) 44:4	6 (3) 5:24;18:11,13	addresses (1) 35:23	along (3) 4:6;16:6,7	assuming (1) 40:14
2	7	adhere (2) 35:20;36:2	alter (1) 7:5	attempt (1) 46:13
2 (4) 4:13,20,20;48:24	7:52 (1) 54:5	adjacent (3) 22:9;41:16,23	Although (1) 47:9	attestation (1) 4:7
20 (2) 6:24;20:25	7:56 (1) 56:7	adjoin (1) 44:25	always (2) 12:16;30:23	attorney's (1) 6:12
200 (1) 42:17	7:58 (1) 56:10	adjoining (4) 7:13;10:5;44:10;45:4	ameliorating (1) 26:1	audience (1) 11:11
2017 (3) 4:23;21:8;48:11	74 (1) 36:4	administrative (1) 6:16	among (1) 17:11	aware (3) 24:6;25:1;53:10
2019 (1) 4:4	8	adoption (2) 3:16;4:24	amount (1) 5:1	B
20-foot (2) 21:19;24:1	8 (1) 18:18	advance (1) 20:5	Anne (4) 2:8;26:11,11;27:1	B-1 (1) 4:9
2-1/2 (1) 19:22	8th (1) 4:4	advise (2) 8:10;54:19	announce (1) 2:18	B-2 (1) 4:7
211 (1) 3:18		advisement (1)	annoyance (1) 17:24	back (13) 4:15;14:15;22:23; 24:24;26:5;31:6;35:11, 17;47:4;48:18,19;
222 (1) 39:1				
22nd (2)				

54:23;56:7 bad (1) 24:12 bamboo (72) 4:21;5:16;6:17,19,22, 22:7:1,2,8,10,17;9:2,7, 8,10,15,19,24;11:18; 12:3,23;13:19;15:5,7; 21:15,18;22:1,8;23:11; 24:9,15;26:8;27:10; 33:8,11,20,22,25;34:2, 7,15,19,22;35:3,9,10,13, 15,20,25;36:17,19;38:2, 5;39:2,3,5,24;42:18; 44:15;45:10,16;47:3, 23;49:8,13,14,17,25; 52:6,19;53:7 barrier (1) 52:20 base (1) 30:18 based (2) 28:20;54:16 basically (3) 9:15;11:22;12:8 BAUM (44) 2:15,25;8:14,17;11:8, 20,25;13:25;14:9,17,20; 20:10,13;23:2,23;24:5, 8;25:2,4;26:9,25;27:3; 32:22;38:24;41:1; 42:15;43:23;48:17; 51:9,11;54:3,11,16,19, 23;55:3,5,8,10,15,17, 25;56:3,6 become (2) 7:12;17:16 becomes (4) 24:23;27:19;31:13,14 becoming (2) 5:20;15:25 bed (1) 42:4 beginning (1) 8:19 beholder (3) 16:3,4;25:12 belongs (1) 33:23 best (1) 31:4 bit (2) 11:1;26:5 Block (56) 3:6;8:21;12:1,10; 13:22;24:3,6,9;25:3; 27:2,4;28:1;29:19,22; 30:5;33:4,5,12,17; 36:14,16;37:13,17,19, 25;38:11,16,23;45:7,9, 16,21,24;46:1,4,10,20, 24;47:6,18,25;48:13,16; 49:12,20;50:11,15;51:1,	10,16,19;52:17;53:15; 54:7;55:21;56:2 blocking (1) 18:20 board (2) 53:23;54:24 body (1) 27:24 Borough (72) 3:2,8,19,20,20;4:2; 5:4,5,8;6:6,8,20,25; 7:17,19;8:8,11;9:18,21; 11:21;12:11;16:14; 18:17;19:17,23;20:1, 22;21:12,19;23:25; 24:1;26:2;28:10;29:5; 30:18,22;31:3;32:15,21, 25;33:8,16;38:13;39:4; 43:18;44:8,16,20;45:1, 9,11,15,15,23;46:5,8, 16;47:1;49:6,9,13,15; 50:3,6,8,12;51:8,12,17; 52:24;53:5,5 borough-dedicated (1) 13:11 Borough's (3) 3:17;25:19;52:11 both (4) 9:3;34:12;44:15;49:2 Bottom (1) 23:10 bought (3) 33:21;39:9,10 boundaries (1) 9:9 boundary (1) 22:21 bounds (1) 28:19 bring (2) 28:19;54:4 brought (1) 9:5 buffer (11) 6:22;7:18;20:19,19, 25;21:4;22:20;24:1; 37:11;52:7;53:7 building (7) 22:24,25;28:21;29:4; 30:23;44:21;51:7 built (2) 17:1,2 burden (6) 20:4;38:9;39:7,13,20; 50:9 bushes (1) 17:22 business (2) 33:8;35:25 businesses' (1) 33:10 butt (1) 33:14	butts (1) 33:1 buyer (3) 52:10,25;54:2 C call (4) 2:16;3:3;19:19;25:21 called (1) 43:9 calling (2) 30:2;43:15 came (6) 9:3;14:5;38:19; 42:18;44:4;47:19 can (23) 10:18;14:19;16:13; 17:8;19:8;20:6;29:22; 31:4;32:20;34:3;36:14; 38:1,5;40:5,9,41;22; 44:9;45:3;47:25;48:6; 50:6;52:16;54:9 care (7) 17:5;29:14;34:14; 35:12;38:1,2;43:17 cars (2) 44:12;46:15 Cassidy (1) 2:19 certain (3) 40:9;49:10;53:8 Certainly (9) 13:14;22:7,11;28:18; 29:3,6;39:22;40:5,9 cetera (1) 44:22 chair (1) 8:23 chance (1) 55:19 Chances (1) 55:13 change (3) 13:22;28:4,6 changed (2) 27:8,9 changing (1) 38:21 Chapter (7) 4:11,17;5:9,10,14,17; 6:1 charge (2) 6:14;25:21 check (1) 55:6 checks (1) 51:25 Chester (13) 2:21;3:2;5:8;8:12; 25:23;32:25;33:7,16; 34:10;36:6;41:8;44:22; 52:11	Chestnut (20) 2:4;11:14,14,22;12:6, 13,21;13:9,18,24;41:2, 4,5,7,12,15;42:1,5,9,12 children (1) 36:25 chop (1) 34:1 chose (1) 24:22 cited (1) 7:14 citizen (1) 51:3 civil (2) 11:23;12:4 Clark (1) 3:7 CLARKE (2) 20:12;32:7 clause (2) 6:21;28:14 clear (1) 18:1 clearly (4) 43:5,19;44:18;46:13 Cocozza (1) 3:7 Code (10) 3:20;6:7;25:17;30:4, 5,6,23;44:9;50:17;51:7 comfortable (1) 35:3 coming (7) 10:2;11:7;12:3; 16:13;32:15;38:6,14 comment (20) 8:4,7,16;11:8;15:5; 23:4;27:2;29:23;30:17; 31:24;32:2;36:3;39:20; 41:2,13,14;45:7;48:1; 52:17;55:25 commenting (1) 27:5 comments (16) 11:12;14:8;15:21; 19:1;20:7;25:8;48:18, 20,22,22;54:4,8,16,20; 55:20,22 committee (1) 8:24 common (1) 7:6 community (6) 10:18;16:19,23,24; 17:7;27:22 complain (1) 51:21 complained (1) 46:9 complaining (1) 46:18 complaint (7)	7:16;16:6;19:17; 31:3;50:15,19,25 complaints (2) 50:16;51:14 complete (1) 56:3 compliance (1) 7:21 concentrating (1) 26:14 concepts (1) 16:2 concern (3) 26:21;36:9;54:25 concerned (5) 18:3,5;25:18;27:24; 35:22 concerns (5) 9:9;11:12;26:4; 36:13;48:18 concluded (1) 56:10 Concord (3) 33:2,23;35:15 condition (2) 19:9;25:24 conditions (2) 6:5;25:16 condominium (4) 16:23,24;17:7,7 conduct (1) 33:7 confirm (1) 42:10 consider (3) 3:16;19:4;52:16 considered (1) 19:10 consistently (1) 47:8 constantly (3) 18:15;35:19;37:1 consternation (1) 49:2 constitute (1) 5:25 contact (3) 13:20;20:2;32:13 contain (1) 52:20 contained (7) 52:7,18,18,18,19,21; 53:7 containing (1) 6:9 context (1) 26:22 continue (1) 25:25 continues (1) 6:13 continuing (2) 20:13;25:4
--	--	--	---	---

contradictory (1) 49:23	current (11) 4:11,14;17:20;27:4,6, 21;28:12;30:9;48:4,6; 51:22	Delaware (3) 3:22;4:6;36:4	54:9,12,18,22;55:1,4,6, 9,13,16;56:5	encouraging (1) 16:17
contrast (1) 17:20	currently (1) 40:13	depending (1) 55:21	done (3) 28:11;30:2;55:2	encroach (2) 9:8;17:22
copies (1) 14:21	cut (7) 16:13;18:11;29:15; 44:5,11,11;46:10	depends (1) 55:22	door (1) 19:21	encroached (3) 23:17,17,19
copy (1) 4:5	cutting (1) 45:5	Derek (3) 2:11;42:16,16	down (6) 25:1;29:12;34:1; 38:3;44:12;47:10	encroaching (11) 5:23;11:17;12:23; 13:19;22:8;23:20; 39:12,14;40:2;49:8,13
corner (1) 10:3		description (1) 26:20	DR (55) 8:21;12:1,10;13:22; 24:3,6,9;25:3;27:2,4; 28:1;29:19,22;30:5; 33:4,5,12,17;36:14,16; 37:13,17,19,25;38:11, 16,23;45:7,9,16,21,24; 46:1,4,10,20,24;47:6, 18,25;48:13,16;49:12, 20;50:11,15;51:1,10,16, 19;52:17;53:15;54:7; 55:21;56:2	encroachment (13) 7:17;13:1,4,8,10,15; 22:17;23:11;39:23; 40:3,7,12,15
correcting (1) 22:12		detail (2) 3:21;53:20	drawing (1) 54:24	end (1) 54:5
cost (3) 13:6;40:11,22	D	determination (2) 22:3;28:24	Driscoll (3) 2:7;25:6,6	endanger (1) 42:25
costs (2) 6:12;7:7	Daily (4) 3:23,25;4:9;48:7	died (1) 32:11	due (1) 52:25	endangering (1) 42:24
council (26) 3:1,9,14;4:22;8:1,3,4, 5,6;9:6;10:16;11:9; 14:6;16:5,14;18:18; 29:5;30:24;32:1;33:7; 43:25;48:22;50:10,11; 54:20;56:8	damage (1) 9:19	difference (2) 27:12,23	due (1) 52:25	ended (1) 54:6
Counsel (1) 3:5	damaging (1) 6:19	differences (1) 17:3	due (1) 52:25	engineer (1) 3:8
County (5) 3:23;4:6;36:4;45:2,20	danger (2) 17:24;19:11	different (4) 10:13;17:4;18:6; 26:22	duly (1) 6:7	enough (1) 53:6
couple (1) 14:19	dangerous (3) 5:3;25:24;46:14	differs (1) 17:5	E	ensure (1) 10:8
course (1) 47:23	date (2) 7:25;55:11	difficult (1) 32:13	easement (1) 41:21	environment (1) 18:8
court (7) 20:3;28:18;30:8; 40:20,22;41:3,6	Dave (5) 2:13;48:23,24;49:19, 22	diligence (1) 52:25	easements (1) 7:19	escalated (1) 17:12
courts (2) 15:18;40:19	day (7) 6:12;7:24,24;10:24; 48:7,12,15	direction (1) 30:24	edge (3) 22:24;34:15;37:12	especially (2) 10:1;24:23
crabgrass (1) 29:17	days (2) 7:22;8:1	directly (1) 30:13	edges (1) 34:8	essentially (4) 6:10,23;15:16;18:25
crazy (2) 18:15;29:16	deal (1) 45:2	disclose (1) 52:9	effective (1) 7:25	establish (1) 5:10
create (1) 4:19	deals (1) 19:7	disclosure (1) 52:10	effort (6) 8:22;10:8;19:19; 20:2;29:6;30:23	established (1) 16:21
created (1) 13:8	dealt (2) 15:10;16:18	discretionary (2) 15:14;16:21	either (1) 23:19	establishing (1) 5:14
creates (2) 6:22;15:13	debris (1) 26:19	discussed (2) 49:23;53:20	elimination (1) 5:2	estate (1) 6:15
creating (1) 17:11	decades (1) 27:8	discussion (4) 24:18;49:2,7;54:14	Ellis (2) 3:6;30:4	et (1) 44:22
Creek (30) 33:2,25;34:5,8,9,12, 15,17,18,19,22;35:10; 36:11,17,25;37:11,12, 15,23;38:13;41:8,8,17, 18,19,21,24;42:2,4,20	deceased (1) 32:11	discussions (1) 52:4	else (3) 15:22;26:9;35:21	even (2) 18:8;45:19
creeks (3) 33:15;36:4,5	decided (2) 13:23;44:5	diseased (1) 5:2	emergency (1) 19:8	evening (1) 3:13
criteria (1) 23:25	deciding (1) 44:11	dispute (1) 18:16	enacted (1) 4:15	eventually (1) 49:15
Crum (1) 34:10	dedicated (2) 6:24;20:22	disputes (2) 15:11;31:21	enacting (2) 5:10,13	everybody (5) 29:5;36:2;39:25; 42:17;43:10
curious (5) 35:24;36:7;52:14; 53:2,12	deemed (1) 7:5	disrepair (3) 5:22;16:1;17:17	enactment (1) 8:1	everybody's (1) 24:12
	defined (6) 6:1;22:20;25:15,17; 31:10,12	divorces (1) 27:16		
	definitely (1) 26:1	documented (1) 36:13		
	definition (2) 6:21;42:25	dollars (1) 40:9		
	definitions (3) 25:14;26:16,16	Don (29) 2:6;20:15,15,23;21:2, 10,14,21,25;22:6,10,14, 18;23:5,8,14,17,21;		

everyone (1) 2:25	fashion (1) 27:22	41:22	3:13;8:25;10:9;20:2; 29:6;38:17	19:14;52:20
exactly (2) 17:21;44:13	fauna (1) 36:21	foot (1) 34:7	governing (1) 27:24	harm (2) 19:11;25:18
example (2) 9:8;24:17	February (4) 2:20;3:23,24;4:4	footprint (1) 22:24	government (2) 18:3,4	hazards (1) 6:5
examples (1) 49:21	fee (2) 6:16;17:7	forcing (2) 35:4;37:8	grandfathering (1) 52:5	health (9) 17:15,19;18:20; 27:15;28:20;30:13,19; 44:19,19
exceeding (2) 6:11;7:24	feedback (2) 46:25;47:15	forest (1) 37:2	grass (18) 9:3,25;16:14;18:7,11, 13,13,18;27:9;29:16; 44:6,11;45:5,10,18; 46:10;47:3,18	hear (3) 11:3,6;30:16
except (1) 52:25	feel (5) 20:6;25:16;35:4; 36:16;37:8	form (1) 52:10	grasses (2) 6:19;10:1	heard (3) 8:8;39:8,9
excess (1) 5:24	fees (3) 6:12,12;48:5	Former (2) 2:22;27:25	Great (1) 42:19	hearing (13) 3:12,15;4:23,24;8:3; 31:24;42:11;44:7; 48:12;54:5,6;55:2; 56:10
Excuse (1) 45:15	feet (12) 6:24;20:25;21:5,16; 22:2,23;34:8,12;35:10; 38:3;41:20;45:14	forth (1) 31:6	greatly (1) 17:5	heavy (1) 24:15
exempt (2) 6:2,2	fell (1) 8:24	forward (2) 32:22;47:16	Green (11) 33:2,25;34:5,8,9,15, 17,18,21;36:24;41:8	hedge (1) 31:14
exist (1) 19:10	felt (1) 38:20	found (1) 19:9	Greg (20) 2:4;11:14,14,22;12:6, 13,21;13:9,18,24;41:2, 4,5,7,12,15;42:1,5,9,12	hedges (3) 5:19;15:24;31:12
existence (2) 46:7,15	few (1) 18:24	frankly (1) 15:7	grow (1) 10:1	height (4) 5:1,25;9:3;10:2
existing (2) 7:1;39:4	fight (1) 31:19	front (3) 10:9;16:5;22:21	growing (5) 5:15;18:7;29:16; 34:25;37:1	Heights (12) 2:21;3:2;5:9;8:12; 25:23;32:25;33:7,16; 36:6;44:23;48:24;52:11
expanded (1) 28:11	fighting (1) 31:21	full (2) 3:24;4:5	grows (1) 18:14	held (2) 4:23;43:2
expended (1) 40:11	figure (3) 33:19;34:1;36:5	further (3) 11:8;48:17;54:4	growth (1) 26:19	hell (1) 29:14
expensive (2) 38:1,7	financial (1) 35:18	future (6) 50:6;52:14,15;53:4,5, 14	guarantee (1) 55:23	help (6) 10:14;12:16,18;13:5; 39:24;45:6
experience (2) 29:3;30:21	find (2) 19:8;34:14	G	guess (7) 20:18;21:3;29:11,11; 33:3;37:7;44:24	helping (1) 10:14
explain (1) 31:4	fine (8) 6:11,11;7:24;10:23; 14:20;43:17;52:7;53:7	garbage (1) 26:19	guidance (2) 35:5;36:10	herself (1) 40:24
extending (1) 22:22	finer (2) 5:1;53:11	Garrahan (29) 2:6;20:15,16,23;21:2, 10,14,21,25;22:6,10,14, 18;23:5,8,14,17,21; 54:9,12,18,22;55:1,4,6, 9,13,16;56:5	guy (1) 42:19	hey (2) 12:25;16:12
extension (1) 42:3	Firkser (5) 2:13;48:23,24;49:19, 22	General (4) 4:17;25:19;30:19; 47:21	guys (2) 54:15;55:7	Hi (1) 32:23
extent (1) 28:11	First (9) 3:3;8:17,19,23;14:6; 15:4,8,22;25:10	gentleman (1) 25:8	H	high (3) 18:18;43:7,21
eyes (2) 16:3;25:11	fit (1) 25:21	gets (2) 9:19;24:15	half (4) 14:22;34:8;46:24; 47:14	highlight (1) 5:7
F	five (3) 34:24;46:7,16	Ginamarie (1) 3:6	hand (2) 14:16;37:8	highways (1) 20:20
faced (1) 32:9	Flag (1) 2:23	given (1) 22:13	hang (1) 36:25	himself (1) 40:24
fact (2) 47:2,25	floor (3) 3:10;11:10;48:19	gives (2) 10:18;20:5	happen (1) 16:7	historically (1) 47:19
fair (1) 20:3	flora (1) 36:21	giving (2) 32:8;35:5	happened (2) 32:20,20	history (3) 8:22;11:1;15:17
faith (2) 20:2;29:6	focus (1) 27:23	goes (2) 41:18;51:24	happening (1) 32:21	HOA (3) 33:24,24;35:14
fallen (1) 47:10	focused (2) 18:2;47:3	Goldberg (1) 3:9	hard (2)	home (2) 32:10;52:8
falling (4) 19:15;44:12;46:14; 47:7	folks (2) 2:15;52:5	Good (6)		homeowner (7) 12:15,15;35:14;36:8;
falls (3) 24:15,24,25	followed (1)			
far (4) 19:24;24:1;28:6; 53:13				

50:8;53:9,25 homeowners (3) 36:20;49:8;53:14 hope (3) 10:17;11:3;26:4 house (4) 16:10;21:5;32:24,25 houses (4) 16:25;17:2;44:12; 46:15 Houtmann (1) 3:9 huge (1) 27:23	inspectors (1) 29:4 instance (1) 11:16 intent (2) 6:18;28:15 interact (1) 10:19 interpretation (1) 26:21 interpreted (3) 15:18;25:12;26:24 intervene (1) 32:14 into (13) 7:17;13:15;15:15; 16:19;20:3;22:23; 27:15;28:16;29:7;42:3; 53:15;56:7,8 introducing (1) 15:14 invasive (1) 34:25 involve (2) 31:20,21 involved (6) 7:12;12:11;13:23; 30:22;43:19;52:24 issue (33) 6:9;9:5,7;10:3;12:2; 13:13,19;16:20;17:13, 13;22:12;24:19,20,24; 29:7,8;30:15,15;38:1, 12;39:11,18;42:13; 45:9,19;47:4,22;50:5; 52:22;53:10,20,24;54:2 issues (19) 9:3,17,25;10:4,20; 14:13;19:16;24:21; 27:9,10;29:23,24,25; 47:20,20,21;49:18; 52:15;53:5	5:20;6:4;15:25 kill (1) 35:8 killer (2) 34:2;36:10 kind (9) 18:7;19:14;35:4; 36:7;37:7;43:4;47:9; 49:9;51:5 knock (2) 19:20;47:8 knocking (1) 47:13 knows (1) 42:18	5:1,19,24;15:23 lawyer (1) 15:9 laying (1) 45:1 lead (1) 11:23 leading (1) 49:1 leaning (1) 43:9 least (4) 20:1,5;46:16;53:20 leave (2) 18:25;20:7 leaves (1) 27:17 left (1) 32:11 legal (17) 12:17,18;16:2,20; 17:13,13;26:16;28:16; 29:10,21;31:10,13; 39:21,25;40:10,10;49:2 legally (1) 26:7 lengthy (1) 5:7 Lenni (1) 25:7 less (1) 26:7 Library (2) 4:6,6 lien (1) 6:14 lifelong (1) 2:21 Lim (19) 2:9;32:23,23;33:6,13, 18;36:15,18;37:15,22; 38:8,15,17;52:2,3;53:2, 18,22;54:1 limit (1) 5:4 limitations (1) 7:1 line (7) 21:16;22:2;23:10; 35:8;42:2;43:13;47:19 lines (2) 42:24;43:9 literally (1) 10:12 litigate (1) 40:19 litigation (5) 7:12,15;12:12;29:8; 40:10 littering (2) 4:13,19 little (3) 8:21;26:5;49:22	live (5) 14:3;20:16;32:24; 44:1;47:6 Llewellyn (3) 20:16;39:1;44:1 local (1) 47:2 located (2) 6:23;22:21 long (2) 15:17;30:22 look (10) 10:10;12:25;17:8; 28:2,8,23;36:4;38:16; 47:14;55:19 looked (3) 14:11;33:19;46:20 looking (1) 51:8 looks (3) 27:20;29:14;43:11 lot (7) 15:11;25:14;34:22; 35:5;46:25;47:15;49:1 lots (1) 10:16 low (1) 43:14 lucky (2) 47:9,11
I		L		M
idea (1) 44:17 identified (1) 23:24 illegal (2) 21:15,25 illegality (1) 22:5 imagine (2) 19:14;36:8 imminent (2) 19:11;25:18 impacted (1) 24:14 impediment (1) 17:24 important (2) 36:1,12 incentive (1) 49:10 inches (5) 5:24;18:11,13,14,18 include (1) 24:19 including (1) 5:13 inconvenience (1) 17:24 incorporated (1) 4:18 incorporating (1) 33:9 incursion (1) 9:14 indigenous (1) 36:20 individual (1) 31:3 individuals (1) 7:15 inland (1) 37:15 input (1) 10:16 inspector (3) 22:25;28:22;44:21	J jail (1) 10:24 Jerry (7) 3:5,11;8:14;20:18; 30:15;48:3,19 John (1) 2:22 Jordan (1) 3:9 junk (1) 5:13	laid (1) 24:16 land (5) 20:20;25:20,25; 41:17;42:1 landowner (3) 19:12,20;20:2 landowners (1) 25:22 landscaping (11) 4:18;5:12,18,19; 15:24;18:9;19:16; 42:20;44:18;45:19; 46:23 Lane (1) 48:24 lanes (1) 24:16 language (14) 15:14,15;17:14;19:2, 25;21:9;24:11;26:6; 27:13;28:4,6,12;30:12; 48:25 Larry (7) 2:10;38:24;39:1,1; 40:14,20,25 last (4) 17:1;32:25;47:11; 48:2 latter (1) 27:25 Laura (19) 2:9;32:23,23;33:6,13, 18;36:15,18;37:15,22; 38:8,15,17;52:2,2;53:2, 18,22;54:1 Laurel (1) 43:2 Law (4) 4:5,6;7:6;21:2 lawn (4) 6:1;16:11;29:14,17 lawnmower (1) 18:15 lawns (4)	live (5) 14:3;20:16;32:24; 44:1;47:6 Llewellyn (3) 20:16;39:1;44:1 local (1) 47:2 located (2) 6:23;22:21 long (2) 15:17;30:22 look (10) 10:10;12:25;17:8; 28:2,8,23;36:4;38:16; 47:14;55:19 looked (3) 14:11;33:19;46:20 looking (1) 51:8 looks (3) 27:20;29:14;43:11 lot (7) 15:11;25:14;34:22; 35:5;46:25;47:15;49:1 lots (1) 10:16 low (1) 43:14 lucky (2) 47:9,11	Madame (1) 43:24 main (1) 18:23 maintain (1) 10:10 maintained (2) 5:20;15:24 maintaining (1) 10:9 maintenance (3) 4:18;5:11,18 makes (5) 10:3;15:6;31:9;50:5,7 manner (1) 30:25 many (6) 29:3;33:10,14;35:24; 36:5;39:10 March (1) 3:1 mark (1) 4:8 marked (1) 4:7 Martha (3) 2:7;25:6,6 Matt (1) 3:9 matter (3)

12:4;39:21;53:1 may (9) 4:22;7:7,14;8:4; 12:13;24:3;27:2;45:7; 53:8 Maybe (4) 38:21;41:22;51:2; 56:3 Mayor (4) 2:2,22;3:4;43:24 McFadden (23) 2:12;43:24;44:1;45:8, 12,18,22,25;46:3,6,12, 22;47:5,17,24;50:18,21, 21,24;51:2,13,18;52:1 meadow (3) 6:1;18:8,8 mean (13) 9:4;15:5;18:19; 26:23;28:2,4;31:4; 37:13;39:2;43:14; 46:12;52:13,21 means (2) 15:19;40:6 meant (1) 52:17 measure (2) 37:10,11 meet (2) 23:25;28:25 meeting (5) 2:16;3:1;55:10,19; 56:9 meets (1) 28:24 members (6) 3:14;11:9;14:6; 43:25;50:10,11 memo (3) 14:10,16;19:1 mentioned (1) 18:25 met (1) 51:25 metal (1) 38:2 might (1) 23:3 mile (1) 19:23 mine (3) 17:2;23:14;34:16 mirror (2) 25:8;26:13 misheard (1) 49:24 misquoted (1) 48:2 misspoke (1) 48:8 Montella (54) 3:5,11,13;8:15;9:2; 12:14,22;13:13,21;	14:23;15:1;20:21,24; 21:7,11,18,22;22:4,7, 11,16,19;23:3,6,10,15, 18,22;28:10;30:16; 31:7,23;32:1,5;37:18; 39:17;40:17,23;41:11, 13,25;42:3,6,10;48:10, 14,21;50:20,23;52:23; 53:17,19,23;54:2 month (1) 55:12 months (1) 43:10 more (9) 15:22;23:4;26:5,6; 27:17;48:18,20,21;54:9 Most (3) 24:9;42:18;49:17 mostly (1) 26:14 mother (1) 2:21 motor (1) 18:1 moved (2) 34:23;36:22 moves (1) 9:16 Moving (3) 32:22;56:7,8 mowed (1) 10:6 mowing (1) 16:11 Mrs (1) 2:19 much (6) 27:12,17,25;44:9; 51:19;55:22 municipality (1) 28:19 myself (1) 3:7	need (2) 36:16;53:10 needed (1) 13:6 needs (1) 20:24 negative (2) 46:25;47:15 negatives (1) 11:5 neglect (3) 5:21;16:1;17:17 neighbor (18) 9:11;12:25;13:2,7; 16:4,8,12,18,19;22:9, 13;29:12,13;34:21; 40:23;46:2;49:25,25 neighborhood (4) 10:10;17:4;28:3;47:7 neighboring (1) 40:15 neighborly (1) 29:8 neighbors (14) 10:9,18,19;15:11; 16:6,7;17:12;18:17; 29:9;30:25;31:19,20, 22;49:18 neighbor's (2) 16:11;23:12 neighbor-to-neighbor (1) 49:3 new (7) 4:20;5:10;9:5;15:21; 27:14;30:11,11 newspaper (1) 47:2 next (3) 33:13;53:9;55:10 next-door (1) 29:13 nicely (1) 10:10 nicest (1) 36:23 Nobody (4) 34:18;35:21;39:5; 46:9 noise (3) 29:24;50:16;51:21 non-borough (1) 38:5 None (2) 16:2;26:15 nonnavigable (1) 41:8 normally (1) 16:17 notes (1) 6:12 notice (14) 3:19,21;4:8;6:9;7:20, 21;14:11;19:12;20:5;	22:13;29:2;32:8;40:3; 55:7 noticed (1) 18:10 Notification (1) 6:6 notify (2) 45:23;46:4 notifying (1) 32:19 nowhere (1) 12:7 nuisance (11) 3:17;5:9,10;9:15; 10:19,23;26:18;27:7; 28:5;31:2,9 nuisances (3) 4:11;6:5;25:15 number (2) 14:13;49:10	opening (1) 31:18 opinion (2) 16:16;23:7 opportunity (2) 8:6;12:16 opposed (1) 29:9 order (4) 2:16;7:14;39:15; 40:20 Ordinance (73) 3:17,22;4:5,10,14,15, 16,17,24,25;5:4,5,8;7:5, 11;8:24,25;10:23;11:2, 18;12:4,7,9;13:10,16; 14:7,12;15:15,17,21; 17:18,20;18:22;21:24; 26:6;27:5,6,7,14,21; 28:13,25;30:10,11,11, 14,18;31:15;32:3;33:9, 11;34:2;35:21;38:12; 39:6;44:3,14,25;45:5, 10,17;46:11,21;47:16, 18;48:4,6,11;49:1,5,17; 50:3;53:11 ordinances (3) 51:20,23,25 original (3) 26:6;44:3;48:10 originally (1) 11:2 otherwise (2) 7:6;51:5 ourselves (1) 10:7 out (14) 10:21;11:7;24:15; 28:22;31:1;33:19;34:1, 10;36:5,25;44:4;47:8, 13;50:17 outdoor (1) 5:12 over (18) 3:10;8:2;9:4,10,22; 15:10;16:12,13;19:15, 20;24:15,24;37:2; 39:10;42:20;48:19; 49:10;55:20 overgrown (3) 5:21;15:25;17:16 oversight (2) 51:5,6 own (7) 7:8;13:14;21:18; 34:18;37:6;41:18;43:6 owned (2) 32:12;42:19 owner (24) 6:15;7:2,2,6,9,12;8:8; 12:19,19,24;13:3,4,7; 32:19;39:8,14,18,19; 40:3,4,15;41:16,23;45:4
	N		O	

<p>owners (9) 6:22;7:13;11:17; 12:9;32:10;33:14; 35:25;39:8;44:10</p> <p>ownership (1) 42:8</p> <p>owns (3) 34:19;41:24;43:20</p>	<p>per (4) 7:24;34:2;48:12,15</p> <p>percent (2) 6:16;39:3</p> <p>Perhaps (1) 49:23</p> <p>permit (1) 8:6</p> <p>persists (1) 7:25</p> <p>Person (3) 3:9;20:5;34:5</p> <p>personal (1) 23:7</p> <p>Persons (2) 3:5;17:25</p> <p>person's (6) 12:23;22:8;23:12,15; 39:13;52:24</p> <p>perspective (2) 49:3,4</p> <p>pertains (1) 20:19</p> <p>ph (1) 43:2</p> <p>Philip (3) 3:5;8:17;23:24</p> <p>phone (4) 19:19;25:21,24;51:4</p> <p>pick (1) 19:19</p> <p>picked (1) 25:23</p> <p>pictures (1) 34:23</p> <p>pile (1) 38:3</p> <p>piling (1) 38:7</p> <p>place (1) 42:20</p> <p>plant (1) 39:5</p> <p>planted (1) 42:21</p> <p>planting (2) 5:15;49:16</p> <p>please (3) 8:10;11:11;38:25</p> <p>Pledge (2) 2:17,23</p> <p>plus (3) 6:11;44:17;45:3</p> <p>pm (1) 56:10</p> <p>point (11) 3:10;10:21;11:9; 21:15;40:8;47:1,13; 53:4,8;54:15;56:4</p> <p>points (1) 14:19</p> <p>poison (2) 34:3,5</p>	<p>pole (2) 43:1,6</p> <p>poles (1) 43:20</p> <p>police (1) 50:13</p> <p>policies (1) 35:20</p> <p>pop (1) 35:11</p> <p>portion (1) 5:7</p> <p>positive (1) 11:4</p> <p>possible (1) 4:23</p> <p>potential (1) 10:24</p> <p>potentially (4) 21:23;32:21;38:6; 49:7</p> <p>power (5) 42:24;43:9,13;47:8, 13</p> <p>practical (2) 28:23;30:21</p> <p>premises (1) 6:4</p> <p>prepared (1) 3:22</p> <p>PRESENT (3) 2:1;3:4,8</p> <p>President (4) 3:14;8:3,13;43:25</p> <p>pretty (3) 38:7;43:14;51:19</p> <p>prevent (2) 18:1;38:5</p> <p>previously (1) 10:21</p> <p>primarily (2) 9:18;49:6</p> <p>primary (1) 9:1</p> <p>Prior (6) 2:17;4:14;9:13; 11:12;21:2;30:14</p> <p>priority (3) 43:7,15,21</p> <p>private (11) 5:3;6:18;7:15;11:16; 12:15,15;22:1;39:18, 19;51:2;53:24</p> <p>problem (2) 19:18;27:17</p> <p>problems (2) 17:11;24:13</p> <p>prohibiting (1) 5:12</p> <p>Proof (4) 4:1;39:7,13,20</p> <p>properties (9) 10:5;17:3;22:1;</p>	<p>23:25;24:4;29:25;30:1; 33:10;44:25</p> <p>property (88) 4:18;5:3,11,18;6:15, 18;7:2,6,8,9,9,13,18; 8:8;9:9,11,12;10:5,6,11; 11:17;12:3,9,19,19,24, 24;13:2,4,7;19:10;21:4, 5,16;22:2,9,21;23:12, 16;28:2,22;31:2;32:12, 19;33:1,14,20,21,23; 34:17,18;35:14,16; 36:24;37:10,12,16; 38:14;39:7,8,13,14,18, 19,23;40:2,2,4,12,15; 41:10,16,16,18,19,23; 42:2;43:9;44:10;45:1,4, 14,15;47:21,21;50:6; 51:11;52:6</p> <p>property-to-property (1) 49:18</p> <p>propose (1) 19:25</p> <p>Proposed (7) 3:17;4:10,16,25;5:5; 14:6;48:11</p> <p>protect (5) 6:18;9:21;44:10; 49:6;50:3</p> <p>protecting (1) 9:17</p> <p>protection (1) 9:24</p> <p>provide (6) 6:8;11:19;13:16; 32:1;36:10;39:15</p> <p>provided (3) 3:24;4:4;26:17</p> <p>provision (2) 6:6;7:22</p> <p>provisions (1) 5:23</p> <p>public (31) 3:12,14,15;7:18,19; 8:3,7,10;13:15;17:15, 18;18:19;20:20;21:12; 24:20;25:19;27:15; 28:20;30:13;31:24,24; 37:12,18,19;41:9;44:18, 19;48:11;54:4,5;55:2</p> <p>Publication (1) 4:2</p> <p>published (3) 3:19,20,23</p> <p>purpose (6) 3:15;5:25;6:18; 28:15;31:23;49:5</p> <p>pushed (1) 47:15</p> <p>put (10) 8:24;34:2;36:10;38:2, 9;40:2;43:3,7,21;52:20</p> <p>putting (1)</p>	<p>35:18</p> <hr/> <p>Q</p> <hr/> <p>quick (1) 48:23</p> <p>quickly (1) 9:16</p> <p>quite (2) 15:7;21:8</p> <hr/> <p>R</p> <hr/> <p>raise (1) 19:3</p> <p>raised (1) 14:13</p> <p>ramification (1) 12:18</p> <p>ramifications (1) 53:14</p> <p>rare (1) 32:17</p> <p>rather (2) 5:6;27:20</p> <p>reached (1) 34:10</p> <p>read (4) 5:6;7:4;38:18;48:2</p> <p>real (1) 6:15</p> <p>really (16) 14:12;15:3,21;18:4; 19:3;24:21;26:15; 30:15;31:15;32:12,12; 35:2;39:18,19;44:9; 49:17</p> <p>rear (2) 22:23,23</p> <p>reasonable (4) 3:21;25:22;30:25; 40:5</p> <p>reasons (1) 28:1</p> <p>recall (1) 4:22</p> <p>receipt (1) 4:2</p> <p>received (2) 7:16;46:25</p> <p>recent (1) 13:22</p> <p>recited (1) 2:24</p> <p>recommending (1) 35:8</p> <p>record (3) 4:9;14:24;48:1</p> <p>recover (2) 7:7;40:22</p> <p>rectify (1) 49:11</p> <p>redid (1)</p>
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14:16	6:8	Road (19) 13:19;18:21;20:16; 21:12;24:4,5,22;25:7,9; 26:12;32:24;33:1; 42:17,21;43:2;44:2,16; 45:9;52:3	50:24;51:15	shepherded (1) 8:18
reduced (2) 10:6;48:14	require (1) 7:11	roads (13) 13:12;24:10,15,19; 25:3;44:8;45:2,15,20; 49:6,9,14,15	Schroeder (3) 2:11;42:16,17	shrubbery (2) 5:19;15:23
referring (1) 27:13	required (1) 3:19	roadway (9) 6:25;17:23;20:22; 21:13,20;24:2;37:14,18, 19	Searl (4) 2:8;26:11,11;27:1	side (6) 9:25;21:5;22:22; 35:10,16;41:20
refers (1) 13:10	requirement (1) 29:2	roadways (5) 5:4;9:18,19,20;13:11	second (3) 13:9;20:13;26:10	sides (1) 34:12
refuse (5) 4:19;5:13;6:3;25:14; 26:15	requirements (1) 7:14	roll (1) 3:3	Secretary/Treasurer (1) 2:3	sidewalk (1) 17:23
regard (13) 6:17;7:2;13:3,15; 22:4;23:6;28:15;29:2; 39:2,20,25;40:10;42:6	resident (7) 2:21;8:7;9:14;12:2; 33:8;35:7;38:6	Rolling (1) 48:24	Section (15) 4:17,20,20;5:17;6:3; 15:5,22,23;19:5,5,6,7; 25:9;26:14;28:9	sidewalks (2) 5:24;17:25
regarding (1) 7:17	residents (9) 9:5,10,23;20:4;30:20; 35:25;38:9;43:25;53:5	Ron (19) 2:5;14:2,2,10,18,21, 25;15:2;20:12;27:11; 28:8,17;29:11,20;30:9; 31:5,8,25;32:4	seeds (1) 29:17	sight (1) 47:19
regardless (1) 36:19	residents' (1) 33:10	roots (4) 34:4;35:11,15;36:11	seeing (1) 37:1	signs (1) 51:23
regular (2) 3:1;56:8	resolve (1) 29:7	rope (1) 43:2	seek (2) 16:15;40:9	simply (1) 21:12
regulation (1) 3:17	resolved (2) 30:1,7	rounds (1) 10:15	seem (3) 26:17;43:6,21	situation (13) 12:14;15:13;19:8; 29:21;32:10,13,18; 35:19,23;44:4;45:19; 46:14;49:11
regulations (4) 5:11,14;6:25;13:14	respect (6) 28:5;45:10,11;46:10; 48:4;49:14	routinely (1) 51:24	seemed (1) 50:2	situations (1) 16:18
related (10) 4:11,13,20,23;5:2,17, 23;6:21;7:22;31:2	responsibility (2) 43:5;52:12	row (5) 20:13;25:5;26:10; 38:24;48:18	seems (4) 31:18;48:25;49:5,22	six (3) 43:10;46:7,16
relates (2) 17:21;30:12	responsible (7) 34:7,12,14;35:7,22; 36:20;38:21	rubish (3) 4:19;26:19;27:13	sees (1) 19:18	slash (1) 41:2
relay (1) 53:3	responsibly (1) 35:1	rules (1) 35:20	self (4) 12:16,18;13:5;39:24	slightly (1) 38:22
relief (1) 11:19	rest (1) 20:7	runners (1) 38:3	sell (3) 10:5;47:21;52:8	small (1) 16:19
remediate (6) 36:17;40:6,12,21,21, 24	restrictions (1) 5:1	running (7) 4:20;5:15;6:17,19; 7:8;51:7;52:19	seller (1) 54:2	smart (1) 34:5
remedied (1) 10:25	retaliatorily (1) 44:5	S	sellers (1) 53:1	smartly (1) 37:6
remedy (11) 9:14,20;10:18;12:5, 18;13:5,16;23:19; 39:16,25;45:22	revert (1) 26:5	safety (10) 17:15,19;18:20; 24:20,24;27:16;28:20; 30:13,19;44:19	seller's (1) 52:9	Smith (2) 2:2;3:4
remember (1) 43:15	revised (3) 4:25;14:12;21:9	sake (1) 24:12	send (2) 19:20;50:16	solicitor (2) 3:5,11
reminder (1) 8:9	revisions (1) 21:8	sale (2) 16:10;52:24	sent (1) 14:7	solicitor's (1) 10:14
removal (2) 5:15;7:7	rewrite (1) 55:22	same (3) 15:16;17:21;26:4	September (1) 4:22	Somebody (5) 18:16;19:20;25:23; 43:12;51:24
remove (1) 38:4	rid (8) 34:16,25;35:9,13; 36:19,22;37:4,5	satisfaction (1) 26:2	serious (1) 19:16	somehow (1) 43:12
removed (1) 21:3	Ridley (2) 34:10;42:20	saw (1) 14:11	seriously (1) 19:4	someone (6) 8:9;12:22;13:18; 37:10;44:5;49:24
repeal (1) 4:10	right (40) 6:24;7:18;9:20; 10:15;12:5,6,21;13:4, 15;14:3;20:21,23,25; 21:14,19,21,21;22:6,10; 23:5,5,8,21;25:3;29:9; 37:7,20;38:8,15;39:24; 42:7,9,12;46:3,6;49:12; 52:1;54:1,18;55:9	saying (2)	service (1) 43:16	someone's (1) 31:2
repealing (1) 5:9	rights (3) 7:5;41:17,24		session (2) 55:11,24	sorry (3) 30:8;31:20;56:8
replace (1) 4:16	risk (1) 27:22		setbacks (1) 45:13	sort (1) 42:22
replacing (1) 15:15			seven (1) 46:7	sound (1) 26:7
REPORTER (2) 41:3,6			several (3) 9:22;10:15;49:20	sounds (2) 44:16;45:12
representative (1)			shall (5) 5:20;7:5,11,19;15:24	speak (2)
			sheet (2) 38:3,7	

8:6;51:16 speaks (1) 8:10 specific (1) 19:2 specifically (2) 25:1;35:6 spend (1) 40:8 spoken (1) 24:2 spread (2) 6:19;7:10 springs (1) 24:24 springtime (2) 18:12;29:15 square (1) 19:23 Stacey (2) 2:2;3:4 standard (1) 17:8 standards (2) 16:20;17:9 standing (2) 2:17;19:14 standpoint (3) 15:9;28:23;29:10 start (3) 3:11;29:20;39:15 started (1) 11:2 starting (1) 9:8 starts (1) 39:12 state (11) 5:21;11:11;13:11; 16:1;17:17;24:5,10,14, 21;45:2,20 stems (1) 9:1 Steve (1) 3:7 still (3) 22:7;35:15;43:1 stop (1) 34:4 storage (1) 5:12 storms (1) 47:8 story (1) 18:21 streams (1) 36:6 street (2) 14:4;17:23 streets (1) 17:25 structurally (1) 26:7	structures (1) 6:4 stuff (2) 28:5;47:13 subjective (3) 25:11;26:7;27:18 submitted (1) 20:8 Successful (2) 45:25;46:1 Sue (2) 2:3;51:3 suggest (1) 55:17 suggesting (1) 50:4 suggestion (1) 19:13 summary (2) 3:21;4:8 sure (15) 11:4;14:9,17;21:8; 25:4;26:25;35:2;44:13; 49:13;52:22;53:22; 54:11;55:8,23,25 Surkin (19) 2:5;14:2,3,10,18,21, 23,25;15:2;26:13; 27:11;28:8;29:11,20; 30:9;31:5,8,25;32:4 survey (1) 33:8 Surveying (2) 51:9,11 Susan (1) 3:7	53:9 therefore (2) 41:9,17 Theresa (2) 2:19;3:6 third (2) 38:24;55:12 thought (4) 49:24;50:8;53:12,13 thoughts (1) 11:3 threat (2) 19:11;25:19 three (4) 14:21;29:15;43:3; 47:11 tie (1) 27:15 Times (4) 3:23,25;4:9;39:10 Timmons (2) 2:3;51:4 today (4) 11:3,7;34:24;44:7 together (1) 8:25 told (1) 37:5 tonight (10) 3:1,4,8,16;23:1; 28:17;32:6;41:13; 42:11;54:17 tonight's (1) 55:18 took (3) 10:7;24:14;43:10 top (1) 45:1 total (1) 15:6 towards (1) 26:1 townhouses (1) 16:25 township (4) 31:21;33:2,24;35:15 townships (1) 33:15 traffic (1) 18:1 transcript (1) 55:18 trash (3) 26:19;28:5;29:24 travel (1) 19:24 tree (7) 19:15;37:2;43:8,12; 46:20;47:4,16 trees (11) 5:3,19;15:23;42:23, 23;43:5;44:12,12; 46:14;47:7,10	tried (2) 10:4,22 triggered (1) 46:19 try (6) 8:24;29:6,8;31:1; 40:22;47:22 trying (4) 33:19;34:1;38:19; 47:20 turn (3) 3:10;8:2;48:19 turning (2) 10:3;16:19 two (10) 4:12;9:1;11:15,16,23; 12:9;22:1;39:7;44:14; 47:11 type (2) 18:9;22:13 types (1) 27:13 typically (2) 16:4;30:2	29:25 vague (2) 15:13;26:18 Valleybrook (12) 10:1,3;13:19;14:3; 24:17;25:9;26:12; 32:24;33:1;44:15,16; 52:3 value (1) 47:21 values (3) 10:6,11;28:2 vegetation (1) 4:12 vehicles (1) 5:13 verbiage (3) 8:25;10:15;38:21 versions (1) 10:13 versus (3) 12:15;39:19;53:13 view (3) 18:1,21;47:13 viewed (1) 19:7 views (1) 18:6 violates (1) 17:18 violation (11) 5:25;6:10,13;7:23,25; 12:8,10;21:23;27:15; 30:13;31:14 violations (3) 5:2;7:23;44:8 violators (1) 48:6 visibility (1) 10:2
	T		U	
	talk (3) 14:18;15:3;16:9 talked (1) 11:5 talking (6) 15:20;19:22;37:14; 39:3;45:13;55:14 talks (1) 30:6 taller (1) 24:25 tape (1) 37:11 tax (1) 49:9 Technically (3) 29:19;34:16;53:6 telephone (3) 43:1,6,20 term (2) 31:10,13 terms (4) 20:18;26:15,17,22 theory (1)	Uncle (1) 42:19 uncommon (1) 29:23 under (8) 5:18;9:19;22:19;30:9, 10,24;37:21;54:20 underneath (1) 41:17 unfortunately (1) 15:10 unless (2) 19:14;52:20 unsanitary (2) 6:5;25:16 unsightly (5) 5:21;15:25;17:16; 31:12,14 up (22) 3:3;10:11;11:10;14:3, 11,16;16:10;19:19; 21:4;24:25;25:23;30:2; 31:18;33:1,14;34:17; 35:8,11,19;41:22;42:1; 43:2 upon (6) 4:2;10:7;13:11; 24:16;28:20;39:12 used (2) 10:23;31:8 usually (1) 16:5	U	waiting (1) 51:14 walk (1) 16:12 wantonly (1) 39:5 Ward (7) 2:10;39:1,1,17;40:14, 20,25 warm (1) 24:25 water (2) 41:24,25 waters (1) 41:9 watershed (3) 34:6,11;35:6 waterway (1) 34:19 Wawa (3)
			V	
			vacant (1)	

<p>24:4;42:17,18 way (18) 6:24;7:19;11:15; 13:16;20:21;21:1,19; 27:5,20;31:4;37:20,25; 38:1,2,5;41:5;42:7;50:7 weather (1) 24:12 website (2) 34:11;55:7 weed (4) 9:15;34:2;35:7;36:10 weeds (1) 17:22 week (1) 55:12 weeks (1) 29:15 welcome (3) 2:25;13:25;56:6 welfare (8) 17:15,19;18:20; 27:16;28:20;30:14,19; 44:19 Werty (1) 42:19 wetland (1) 6:2 what's (3) 16:7;19:7;30:2 Whenever (1) 7:16 whereas (1) 28:14 whole (1) 53:3 who's (2) 13:8;15:10 whose (1) 7:9 widely (1) 26:23 willing (1) 40:24 Willits (2) 11:15;41:5 winter (2) 24:12;47:7 within (8) 6:24;8:8,11;21:16,19; 22:2;28:18;40:6 without (3) 25:21;26:22;32:19 wondered (1) 46:19 wondering (3) 42:22,24;44:24 word (5) 8:20;31:8;32:17; 37:7;42:25 wordage (1) 35:3 words (3)</p>	<p>12:17;21:16;54:13 work (7) 26:1;29:9;30:25; 31:1;43:12;51:20;55:10 worked (1) 10:12 working (2) 33:6;55:23 worry (3) 37:22,23;41:19 writing (1) 20:8 written (2) 6:8;19:1</p>			
	Y			
	<p>yard (2) 22:22,23 yards (2) 10:9;22:22 year (4) 17:1;43:10;46:24; 47:14 years (12) 9:4,22;10:13;15:10; 29:3;34:24;43:3;44:21; 46:8,16;47:11;49:10</p>			
	Z			
	<p>zone (9) 6:23;7:18;20:19,19, 25;21:4;22:20;37:11; 52:7 zoning (2) 30:3;44:22</p>			