

## COUNCIL MEETING MINUTES

April 5, 2010

7:00 P.M.

Council members present were: Mr. Trotter, Jr., Mr. Blatt, Ms. Halleman, Mr. Ferencin, Ms. Gifford and Mr. Capuano. Absent was Mr. Rapp. Also in attendance were: Mayor Fink, Mr. Rick Prill, Administrator, Solicitor Don Lipson, Joe Gatta, Zoning Officer and Public Works Supervisor Jim Levernier.

Council Vice President Blatt called for the pledge to the flag.

At this time Council Vice President Blatt indicated the next item on the agenda was the approval of minutes:

1. February 17, 2010 Work Session meeting minutes. Any corrections/revisions were to have been submitted to Mr. Prill. Hearing no further comments regarding revisions/corrections, Council Vice President Blatt called for a motion and second for approval of the minutes. Councilman Ferencin motioned for approval of the minutes, seconded by Councilwoman Gifford, the minutes were unanimously approved.
2. March 1, 2010 Regular Meeting minutes. Any corrections/revisions were to have been submitted to Mr. Prill. Hearing no further comments regarding revisions/corrections, Council Vice President Blatt called for a motion and second for approval of the minutes. Councilman Trotter motioned for approval of the minutes, seconded by Councilman Ferencin, the minutes were unanimously approved.

Council Vice President Blatt noted that Representative Joseph Brennan was scheduled to discuss the new EIT Collection Program with Council but since he is not in attendance at this time, we will move on through the agenda.

Council Vice President Blatt opened the meeting to the public for any public comments on any Agenda item, noting that Mr. Richard Dillman had requested to speak to Council.

Mr. Dillman addressed Council with regards to his property at 802 Dodson Street, re – Jenn’s House, requesting approval of parking restrictions in front of the property due to issues of mail delivery and the safety of guests staying at the house when they are exiting the property and situations of limited sight distance when vehicles are parked on the street.

Council Vice President Blatt commented that Mr. Dillman should speak directly with Chief Stephens regarding this matter and the Chief will provide Council with a recommendation, which Council would then consider.

Hearing no further comments from the public, Mr. Blatt closed this public portion of the meeting.

Council Vice President Blatt noted the next item on the agenda was the Mayor’s report. Mayor Fink reviewed the following Police Department reports:

1. March Ticket report
2. March Abandoned Vehicle report
3. March Crime Statistics report

The next item on the agenda was the Executive Administrator’s report. Mr. Prill commented on the following items:

1. The Little League Opening Day ceremony is scheduled for Saturday, April 17<sup>th</sup>, at 12:00 Noon at the Stanley Avenue Recreation Area. Council Vice President Blatt noted that last year the time of the program was changed and Council had not been notified of the change, so he hopes that this will not happen again this year.

2. Mr. Prill noted that he had provided Council with a Resolution prior to the meeting and is asking that the Resolution approving the Pool Feasibility Study Consultant be added to the agenda for approval.
3. Last week a request had been submitted by a resident at 623 S. Lynn Street, for a temporary parking space to be dedicated to her due to her having broken her foot and the difficulty she has going from her home to her car, depending on where the car may need to be parked on any given day. The request was for a temporary dedicated parking space for approximately six (6) weeks.

Mr. Prill noted that if the request was for a much shorter time frame he would take care of it himself but given the length of the time period being requested, he felt that Council should be made aware of it.

Council discussed the request, noting that the length of time could be an issue with neighbors but that if approved, the Borough does not have the ability to prohibit anyone else from using the designated parking spot. Councilwoman Gifford made a motion to approve the request. The motion was seconded by Councilman Trotter and approved, with Councilman Ferencin and Councilman Blatt voting no.

Council Vice President Blatt noted the next item on the agenda was New Business and asked if Council had any matters to bring up. Hearing no comments, Council Vice President Blatt moved to the next item on the agenda - Resolutions:

Resolution # 2010-16 Accepting the Donation of Land from the DeAngelis family.

Solicitor Lipson asked Council to hold off on taking action on this Resolution until the proposed deeds have been submitted for review.

Councilman Trotter made a motion to table this Resolution until the next meeting. The motion was seconded by Councilman Capuano and approved by unanimous vote.

Resolution # 2010-17 Approving the Appointment of a New Tax Collector

**BOROUGH OF FOUNTAIN HILL  
RESOLUTION NO. 2010-17**

**A RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF FOUNTAIN HILL, LEHIGH COUNTY, PENNSYLVANIA, APPROVING THE APPOINTMENT OF TAVIS GROTENHUIS AS TAX COLLECTOR**

**WHEREAS**, Diane Allen, Tax Collector, has submitted her letter of resignation, effective December 31, 2009, resulting from her having relocated outside of the Borough; and

**WHEREAS**, pursuant to Article IX of the Pennsylvania Borough Code, Section 901, the Borough Council has 30 days following a vacancy in the Tax Collector's position to appoint a new Collector before other procedures take effect; and

**WHEREAS**, four residents of the Borough expressed interest in being appointed to the Tax Collector position and were interviewed by Council;

**NOW, THEREFORE, BE IT RESOLVED** that the Borough Council of the Borough of Fountain Hill does hereby appoint Tavis Grotenhuis as Tax Collector, effective immediately, and serving through the first Monday in January following the next Municipal election (January 2, 2012); and

**BE IT FURTHER RESOLVED** that Diane Allen be authorized to continue collecting taxes until such time as Mr. Grotenhuis has been officially sworn in by Mayor Fink and by Lehigh County.

Councilman Trotter commented that the Personnel Committee is unanimously recommending the appointment of Mr. Grotenhuis as the Tax Collector and made a motion to approve Resolution No. 2010-17. The motion was seconded by Councilwoman Gifford and approved with Councilwoman Halleman voting No.

Councilwoman Halleman commented that a full background check had not been performed on Mr. Grotenhuis. Council Vice President Blatt noted that the same comment would apply to the other candidate as well and that Council had received a memorandum from Mr. Prill addressing the issue of background checks on these individuals.

Resolution # 2010-18 Approving the Appointment of a Pool Feasibility Study Consultant.

**BOROUGH OF FOUNTAIN HILL  
RESOLUTION NO. 2010-18**

**A RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF FOUNTAIN HILL, LEHIGH COUNTY, PENNSYLVANIA, APPROVING A PROFESSIONAL SERVICES CONTRACT WITH WADE ASSOCIATES FOR THE PROVISION OF A POOL FEASIBILITY STUDY**

**WHEREAS**, The Borough solicited Requests for Proposals from six (6) consulting firms and received proposals back from four (4) firms as follows:

1.	Aquatic Facility Design	\$19,240.00
2.	Wade Associates	\$25,950.00
3.	Wallover Architects / Aquatics	\$26,070.00
4.	Integrated Aquatics Engin. Inc.	\$73,085.00
5.	Spillman Farmer Architects	Did Not Respond
6.	Pashek Associates	Did Not Respond

**WHEREAS**, The Pool Feasibility Study Committee has interviewed the first three firms and has recommended that Wade Associates be retained to conduct the Pool Feasibility Study; and

**WHEREAS**, DCNR has reviewed and approved the retaining of Wade Associates as a condition of the Borough receiving a \$13,100 pool feasibility study grant;

**NOW, THEREFORE, BE IT RESOLVED** that the Borough Council of the Borough of Fountain Hill does hereby approve a Professional Services Contract with Wade Associates for the provision of a Pool Feasibility Study, in accordance with the proposal submitted by Wade Associates.

Councilwoman Gifford noted that the Pool Feasibility Study Committee met last week to interview three of the consultants who had submitted proposals and it was the unanimous recommendation of the Committee that Council approve the appointment of Wade Associates to conduct the Pool Feasibility Study. Councilwoman Gifford made a motion to approve Resolution # 2010-18, appointing Wade Associates. Councilman Capuano seconded the motion and the Resolution was approved by unanimous vote.

Council Vice President Blatt commented that he was very impressed with the presentation of Wade Associates. Councilman Ferencin noted that in reviewing the proposals submitted by the different companies, he was impressed with the proposal of Wade Associates.

Mayor Fink commented that he would like to be able to speak to the consultant to provide them with background information about the Pool and the site it is constructed on.

The next item on the agenda is Introduction of Ordinances.

Introduction of Ordinance #754 Amending Chapter 4, Bicycles.

ORDINANCE NO. 754

**BOROUGH OF FOUNTAIN HILL  
LEHIGH COUNTY, PENNSYLVANIA**

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE  
BOROUGH OF FOUNTAIN HILL, CHAPTER 4, BICYCLES.

**WHEREAS**, the Borough of Fountain Hill wishes to amend Chapter 4 of the Codified Ordinances of the Borough of Fountain Hill regarding the registration and licensing of bicycles; and

**WHEREAS**, the Borough of Fountain Hill has determined that it is in its best interests of the Borough of Fountain Hill to adopt such an ordinance.

**NOW THEREFORE, BE IT DULY ENACTED** and **ORDAINED** by the Borough Council of the Borough of Fountain Hill:

1. Chapter 4, Part 1, of the Code of the Borough of Fountain Hill shall be amended as follows:  
§ 101. Definitions.

- A. Delete the definitions for Licensee and License Plate.
- 2. Chapter 4, Part 2, shall be deleted in it's entirety.
- 3. Chapter 4, Part 3, shall be re-numbered 'Part 2', with each Section re-numbered as 201 - 214.
- 4. Chapter 4, Part 4, shall be re-numbered 'Part 3', with each Section re-numbered as 301 – 306, and with Sections 301 and 302 being revised as follows:

§ 301. Inspection.

Any member of the Police Department is authorized to inspect any bicycle, at any reasonable time, for the purpose of making a checkup of the serial number and for the purpose of determining the mechanical condition of the bicycle.

§ 302. Removal of Serial Number.

It shall be unlawful for any person, willfully or maliciously, to remove, destroy, mutilate, or alter the serial number of any bicycle.

5. It is hereby declared to be the legislative intent that if a court of competent jurisdiction declares any provisions of this Ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Ordinance shall continue to be separately and fully effective. Borough Council hereby declares that it would have passed this Ordinance and each section or part thereof, other than any part declared invalid, if it had advance knowledge that any part would be declared invalid.

- 6. Any procedural challenge shall be filed in accordance with applicable law.
- 7. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
- 8. This Ordinance shall become effective immediately upon enactment.

Date of Borough Council Public Hearing: May 3, 2010.

Council Vice President Blatt noted that the House & Ordinance Committee has reviewed these proposed changes and is recommending approval of the Ordinance.

Councilwoman Gifford moved for the approval of the Introduction of Ordinance #754. Councilman Trotter seconded the motion and the motion was approved unanimously.

Introduction of Ordinance #755 Amending Chapter 15, Prohibiting Parking:

ORDINANCE NO. 755

**BOROUGH OF FOUNTAIN HILL  
LEHIGH COUNTY, PENNSYLVANIA**

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE BOROUGH OF FOUNTAIN HILL, CHAPTER 15, PART 3, SCHEDULE 1, PROHIBITING PARKING AT ALL TIMES IN CERTAIN LOCATIONS

BE IT ORDAINED by the Borough Council of the Borough of Fountain Hill, Lehigh County, Commonwealth of Pennsylvania, that Chapter 15, Part 3, Schedule 1 shall be amended as follows:

- 1. Schedule 1, Parking Prohibited at All Times in Certain Locations, shall be amended as follows:

ADD:

STREET	SIDE	BETWEEN
Bishopthorpe Street	East	Delaware Avenue & Ostrum Street

GENERAL REPEALER

All Ordinances or parts of ordinances, and all resolutions or part of resolutions, inconsistent herewith shall be and are herewith repealed.

3. **SEVERABILITY.** It is hereby declared to be the legislative intent that if a court of competent jurisdiction declares any provisions of this Ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other

provisions of this Ordinance shall continue to be separately and fully effective. Borough Council hereby declares that it would have passed this Ordinance and each section or part thereof, other than any part declared invalid, if it has advance knowledge that any part would be declared invalid.

4. **PROCEDURAL DEFECTS IN ENACTMENT.** Any procedural challenge shall be filed in accordance with applicable law.

5. **ENACTMENT.** Under Authority of Law, Borough Council of Fountain Hill hereby enacts and ordains into an Ordinance the attached documents this date of \_\_\_\_\_. The provisions of this Ordinance shall become effective immediately from the date of passage of this Ordinance.

Date of Borough Council Public Hearing: May 3, 2010.

Councilman Ferencin moved for the approval of the Introduction of Ordinance #755.  
Councilwoman Halleman seconded the motion and the motion was approved unanimously.

Adoption of Ordinance # 751 Amending Chapter 15, Approving Handicapped Parking

ORDINANCE NO. 751

**BOROUGH OF FOUNTAIN HILL  
LEHIGH COUNTY, PENNSYLVANIA**

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE BOROUGH OF FOUNTAIN HILL, CHAPTER 15, PART 3, PROHIBITING PARKING AT VARIOUS TIMES, AMENDING SECTION 302 ( c ) (3) (Schedule 1(A)), BY ADDING THE FOLLOWING HANDICAPPED PARKING SIGN

I. SECTION 302 ( c ) (3) (Schedule 1(A)), shall be amended by adding the following Handicapped Parking spaces and signs:

ADD:

<u>STREET</u>	<u>SIDE</u>	<u>LOCATION</u>
Russell Avenue	Front	# 1129
Delaware Avenue	Front	# 836

**GENERAL REPEALER**

All Ordinances or parts of ordinances, and all resolutions or part of resolutions, inconsistent herewith shall be and are herewith repealed.

3. **SEVERABILITY.** It is hereby declared to be the legislative intent that if a court of competent jurisdiction declares any provisions of this Ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Ordinance shall continue to be separately and fully effective. Borough Council hereby declares that it would have passed this Ordinance and each section or part thereof, other than any part declared invalid, if it has advance knowledge that any part would be declared invalid.

4. **PROCEDURAL DEFECTS IN ENACTMENT.** Any procedural challenge shall be filed in accordance with applicable law.

5. **ENACTMENT.** Under Authority of Law, Borough Council of Fountain Hill hereby enacts and ordains into an Ordinance the attached documents this date of April 5, 2010. The provisions of this Ordinance shall become effective immediately from the date of passage of this Ordinance.

Date of Borough Council Public Hearing: April 5, 2010.

**DULY ENACTED AND ORDAINED** on this 5th day of April, 2010, by the Borough of Fountain Hill in lawful session duly assembled.

Councilman Capuano moved for the approval of the adoption of Ordinance #751. Councilman Ferencin seconded the motion and the motion was approved unanimously.

Adoption of Ordinance #752 Amending Chapter 18, Sewers and Sewage Disposal:

ORDINANCE NO. 752

**BOROUGH OF FOUNTAIN HILL  
LEHIGH COUNTY, PENNSYLVANIA**

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE BOROUGH OF FOUNTAIN HILL, CHAPTER 18, SEWERS AND SEWAGE DISPOSAL, PART 2, RATES AND CHARGES, SECTION 210, COLLECTION OF SEWER RENTS, AND SECTION 211, RATE OF INTEREST ON UNPAID RENTAL, ESTABLISHING THE PROCEDURE FOR THE COLLECTION OF DELINQUENT SEWER RENTS.

**WHEREAS**, the Borough of Fountain Hill wishes to amend Chapter 18, Part 2 of the Codified Ordinances of the Borough of Fountain Hill regarding the collection of sewer rents;

**WHEREAS**, the Borough of Fountain Hill wishes to permanently establish and adopt an ordinance to provide for the collection of delinquent sewer rents; and

**WHEREAS**, the Borough of Fountain Hill has determined that it is in its best interests of the Borough of Fountain Hill to adopt such an ordinance.

**NOW THEREFORE, BE IT DULY ENACTED and ORDAINED** by the Borough Council of the Borough of Fountain Hill:

1. The Chapter 18, Part 2 of the Code of the Borough of Fountain Hill shall be amended as follows:

§ 210. Collection of Sewer Rents.

A. The Office of the Executive Administrator/Secretary of the Borough of Fountain Hill is hereby charged with the duty of collecting all residential and commercial sewer rents, and is authorized to adopt such regulations as may, in his/her discretion, seem fit and proper, subject to the approval of Borough Council.

B. The following provisions shall apply to the collection of all residential and commercial sewer rents:

1. **Payment Discount.** The sewer rental charge as set forth by Borough Council shall be subject to a two percent (2%) discount if paid within thirty (30) days of receipt of the bill. The gross amount is to be paid if payment is made in the following thirty (30) days.

2. **Delinquent Rentals.** Any sewer or rental charge not paid within sixty (60) days after the date due shall be classified as delinquent. The Borough shall notify the property owner of the delinquency in writing, via first class, postage prepaid United States mail, at the last known address of the property owner.

- (a) In the event that a property owner makes payments on a delinquent account, those payments shall be first applied to satisfying the current quarterly sewer charge until such current charge is paid in full, at which time any excess monies collected will be applied against fees, costs, interest, penalties and principal account balance.

- (b) The Executive Administrator is authorized, in appropriate cases, to enter into agreements permitting the property owner to make payments on his or her delinquent rentals.

- (c) The Executive Administrator shall permit property owners to enter into the agreements mentioned in subsection (b) above when (i) the gross household income for a property owner is less than or equal to the annual Poverty Guidelines as set forth by the United States Department of Health and Human Services, and (ii) the property owner does not owe more than One Thousand Five Hundred Dollars (\$1,500.00) in delinquent rentals. This subsection may be amended from time to time by resolution of Borough Council as to the eligibility to enter into agreements.

- (d) The monthly payment plans shall be completed as follows:

- (i) If the total amount of delinquent rentals is less than \$500.00, the property owner may enter into a repayment plan not to exceed ninety (90) days, with a minimum monthly payment equal to the total amount outstanding divided by three (3).

- (ii) If the total amount of delinquent rentals is equal to or greater than \$500.00 but less than \$1,000.00, the property owner may

enter into a repayment plan not to exceed one hundred twenty (120) days, with a minimum monthly payment equal to the total amount outstanding divided by four (4).

- (iii) If the total amount of delinquent rentals is equal to or greater than \$1,000.00 but less than \$1,500.00, the property owner may enter into a repayment plan not to exceed one hundred eighty (180) days, with a minimum monthly payment equal to the total amount outstanding divided by six (6).
- (iv) If the total amount of delinquent rentals is equal to or exceeds \$1,500.00, the property owner's account will be referred to the Borough Solicitor for collection.
- (e) If a property owner should fail to pay any current quarterly sewer charge while enrolled in a monthly repayment plan as set forth in Section 210(B)(2)(d), any and all delinquent rentals owed pursuant to the repayment plan will become immediately due and payable.
- (f) Failure to pay any installment of delinquent rental when due pursuant to any repayment plan entered into between the Borough and the property owner will result in an enforcement action, additional interest, late fees, costs of collection and attorney's fees.

### 3. Enforcement Actions.

- (a) Legal Actions; Filing of a Lien. Such sewer or rental charge shall be a lien on the properties charged with the payment thereof, from the date set forth in this Section, and if not paid after thirty (30) days notice or, if applicable, within the timeframes set forth in Section 210(B)(2)(d), may be collected by an action of assumpsit in the name of the Borough against the owner of the property charged, or by distress of personal property on the premises, or by a lien filed in the nature of a municipal lien. All proceedings under this action shall be subject to an attorney's commission in the statutory amount of five percent (5%) the amount outstanding, provided that notice is given to the property owner as provided by law. Notice shall mean delivery of the sewer rental bill by ordinary mail to the owner of the premises.
- (b) Shutting Off Water if Sewer Rentals or Charges Are Not Paid; Notice; Statement of Defense.
  - (i) If the owner or occupant of any premises served by the Borough Sewer System shall neglect or fail to pay the sewer rentals within thirty (30) days after the date of the notice of intent to shut off the water, the Borough may request the City of Bethlehem, the utility supplying the Borough residents with water, to shut off the supply of water to such premises until all such overdue rentals and charges, together with any penalties and interest, until all such overdue rentals and charges, together with any costs, penalties, fees and interest thereon, shall be paid to the Borough. Upon such request, the City of Bethlehem is hereby authorized and required to shut off the supply of water to such premises until all such over due rentals and charges, together with any costs, penalties, fees and interest thereon shall be paid to the Borough.
  - (ii) In no case shall the water supply be shut off to any premises until ten (10) days after written notice of an intention to do so has been mailed to the person liable for payment of the rentals or charges and there has been posted a written notice in a conspicuous spot at the main entrance to the premises. If during such ten (10) day period, the person liable for the payment of the rentals or charges delivers to the Borough or the City of Bethlehem, a written statement, under oath or affirmation, stating that he/she has a just defense to the claim, or part of it, for such rentals or charges, then the water supply shall not be shut off until the claim has been judicially determined. The statement shall also contain a declaration under oath or an affirmation that it was not executed for the purpose of delay.
  - (iii) Nothing contained in this Section shall authorize the Borough or the City of Bethlehem to shut off or deny water service to any lessee or a property because a previous lessee failed to pay the sewer rental charge.

- (iv) If requested by the City of Bethlehem, the Borough shall pay to the City the mutually agreed cost of such shut-off service and the estimated loss of water revenues resulting from such shut-off. Any such costs shall be reimbursed by the owner or occupant of the premises at which the water is shut off.
- (v) The Borough may enter into a long-term agreement with the City of Bethlehem for the performance of such water shut-off services; which agreement shall be binding upon the City of Bethlehem, its successors and assigns.
- (vi) The Borough Council may, by resolution, adopt such rules and regulations as are necessary to effectuate the purposes of this Section.

2. Chapter 18, Part 2, Section 211 of the Code of the Borough of Fountain Hill shall be amended in its entirety as follows:

§ 211. Rate of Interest on Unpaid Rental.

Any sewer or rental charge not paid within sixty (60) days after the date due shall bear interest at the maximum rate permitted by law. As of the effective date of this Ordinance, the maximum rate of interest permitted by law is six percent (6%).

3. It is hereby declared to be the legislative intent that if a court of competent jurisdiction declares any provisions of this Ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Ordinance shall continue to be separately and fully effective. Borough Council hereby declares that it would have passed this Ordinance and each section or part thereof, other than any part declared invalid, if it had advance knowledge that any part would be declared invalid.

- 4. Any procedural challenge shall be filed in accordance with applicable law.
- 5. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
- 6. This Ordinance shall become effective sixty (60) days after the date of enactment.

Date of Borough Council Public Hearing: April 5, 2010.

DULY ENACTED AND ORDAINED on this 5<sup>th</sup> day of April, 2010 by the Borough of Fountain Hill in lawful session duly assembled.

Councilman Trotter made a motion for the Introduction of Ordinance #752. The motion was seconded by Councilman Ferencin and the motion was approved with Councilwoman Gifford voting No.

Adoption of Ordinance #753 Amending Chapter 20, Establishing Procedure for the Collection of Delinquent Fees for the Collection and Disposal of Solid Waste.

ORDINANCE NO. 753

**BOROUGH OF FOUNTAIN HILL  
LEHIGH COUNTY, PENNSYLVANIA**

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE BOROUGH OF FOUNTAIN HILL, CHAPTER 20, SOLID WASTE TO ESTABLISH A PROCEDURE FOR THE COLLECTION OF DELINQUENT FEES FOR THE COLLECTION AND DISPOSAL OF SOLID WASTE.

**WHEREAS**, the Borough of Fountain Hill wishes to amend Chapter 20 of the Codified Ordinances of the Borough of Fountain Hill regarding the collection of delinquent fees for the collection and disposal of solid waste;

**WHEREAS**, the Borough of Fountain Hill wishes to permanently establish and adopt an ordinance to provide for the collection of delinquent fees for the collection and disposal of solid waste; and

**WHEREAS**, the Borough of Fountain Hill has determined that it is in its best interests of the Borough of Fountain Hill to adopt such an ordinance.

**NOW THEREFORE, BE IT DULY ENACTED and ORDAINED** by the Borough Council of the Borough of Fountain Hill:

- 1. The Chapter 20 of the Code of the Borough of Fountain Hill shall be amended to include Section 111, which shall read as follows:

§ 111. Collection of Fees for the Collection and Disposal of Solid Waste.

- A. The Office of the Executive Administrator/Secretary of the Borough of Fountain Hill is hereby charged with the duty of collecting all residential and commercial fees for the collection and disposal of solid waste, and is authorized to adopt such regulations as may, in his/her discretion, seem fit and proper, subject to the approval of Borough Council.
- B. The following provisions shall apply to the collection of all residential and commercial fees for the collection and disposal of solid waste:
1. **Payment Discount.** The solid waste collection and disposal charge as set forth by Borough Council shall be subject to a two percent (2%) discount if paid within thirty (30) days of receipt of the bill. The gross amount is to be paid if payment is made in the following thirty (30) days.
  2. **Delinquent Rentals.** Any solid waste collection and disposal charge not paid within sixty (60) days after the date due shall be classified as delinquent. The Borough shall notify the property owner of the delinquency in writing, via first class, postage prepaid United States mail, at the last known address of the property owner.
    - (a) In the event that a property owner makes payments on a delinquent account, those payments shall be first applied to satisfying the current quarterly charge for solid waste collection and disposal until such current charge is paid in full, at which time any excess monies collected will be applied against fees, costs, interest, penalties and principal account balance.
    - (b) The Executive Administrator is authorized, in appropriate cases, to enter into agreements permitting the property owner to make payments on his or her delinquent rentals.
    - (c) The Executive Administrator shall permit property owners to enter into the agreements mentioned in subsection (b) above when (i) the gross household income for a property owner is less than or equal to the annual Poverty Guidelines as set forth by the United States Department of Health and Human Services, and (ii) the property owner does not owe more than One Thousand Five Hundred Dollars (\$1,500.00) in delinquent rentals. This subsection may be amended from time to time by resolution of Borough Council as to the eligibility to enter into agreements.
    - (d) The monthly payment plans shall be completed as follows:
      - (i) If the total amount of delinquent solid waste collection and disposal charges is less than \$500.00, the property owner may enter into a repayment plan not to exceed ninety (90) days, with a minimum monthly payment equal to the total amount outstanding divided by three (3).
      - (ii) If the total amount of delinquent solid waste collection and disposal charges is equal to or greater than \$500.00 but less than \$1,000.00, the property owner may enter into a repayment plan not to exceed one hundred twenty (120) days, with a minimum monthly payment equal to the total amount outstanding divided by four (4).
      - (iii) If the total amount of delinquent solid waste collection and disposal charges is equal to or greater than \$1,000.00 but less than \$1,500.00, the property owner may enter into a repayment plan not to exceed one hundred eighty (180) days, with a minimum monthly payment equal to the total amount outstanding divided by six (6).
      - (iv) If the total amount of delinquent solid waste collection and disposal charges is equal to or exceeds \$1,500.00, the property owner's account will be referred to the Borough Solicitor for collection.
    - (e) If a property owner should fail to pay any current quarterly solid waste collection and disposal charge while enrolled in a monthly repayment plan as set forth in Section 210(B)(2)(d), any and all delinquent charges owed pursuant to the repayment plan will become immediately due and payable.
    - (f) Failure to pay any installment of delinquent solid waste collection and disposal charges when due pursuant to any repayment plan entered into between the Borough and the property owner will result in an

enforcement action, additional interest, late fees, costs of collection and attorney's fees.

3. Enforcement Actions.

- (a) Legal Actions; Filing of a Lien. Such solid waste collection and disposal charge shall be a lien on the properties charged with the payment thereof, from the date set forth in this Section, and if not paid after thirty (30) days notice or, if applicable, within the timeframes set forth in Section 210(B)(2)(d), may be collected by an action of assumpsit in the name of the Borough against the owner of the property charged, or by distress of personal property on the premises, or by a lien filed in the nature of a municipal lien. All proceedings under this action shall be subject to an attorney's commission in the statutory amount of five percent (5%) the amount outstanding, provided that notice is given to the property owner as provided by law. Notice shall mean delivery of the sewer rental bill by ordinary mail to the owner of the premises.

3. Chapter 20 of the Code of the Borough of Fountain Hill shall be amended to include Section 112, which shall read as follows:

§ 112. Rate of Interest on Unpaid Charges.

Any solid waste collection and disposal charge not paid within sixty (60) days after the date due shall bear interest at the maximum rate permitted by law. As of the effective date of this Ordinance, the maximum rate of interest permitted by law is six percent (6%).

3. It is hereby declared to be the legislative intent that if a court of competent jurisdiction declares any provisions of this Ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Ordinance shall continue to be separately and fully effective. Borough Council hereby declares that it would have passed this Ordinance and each section or part thereof, other than any part declared invalid, if it had advance knowledge that any part would be declared invalid.

4. Any procedural challenge shall be filed in accordance with applicable law.
5. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
6. This Ordinance shall become effective sixty (60) days after the date of enactment.

Date of Borough Council Public Hearing: April 5, 2010.

DULY ENACTED AND ORDAINED on this 5<sup>th</sup> day of April, 2010 by the Borough of Fountain Hill in lawful session duly assembled.

Councilman Capuano made a motion for the approval of Ordinance #753. Councilman Ferencin seconded the motion and the motion was approved with Councilwoman Gifford voting No.

Council Vice President Blatt noted the next item on the agenda were Motions:

1. Council Vice President Blatt noted that Council members have received a request for a curb opening permit from the owner of 611 Norway Place and that this has been reviewed and approved by Chief Stephens and Jim Levernier. Councilman Capuano made a motion for the approval of a curb opening for the installation of a parking pad at the rear of 611 Norway Place. Councilman Trotter seconded the motion and the curb opening request was approved.
2. Council Vice President Blatt indicated that the Civil Service Commission met previously and voted to abolish the current Patrol Officer eligibility list since there is only one individual remaining on the list and the Commission historically recommends three candidates to Council to fill a vacant Patrol Officer position, and is recommending that Council authorize a new examination be given to generate a new eligibility list. Councilman Ferencin made a motion to authorize a new Patrol Officer examination. The motion was seconded by Councilwoman Gifford and approved unanimously.

Council Vice President Blatt asked if any members of Council had any Old Business to bring up. Hearing no comments, Council Vice President Blatt noted that he did not have a Council President's Report to make in the absence of Council President Rapp.

Council Vice President Blatt asked for the Solicitor’s Report. Mr. Lipson indicated that he had no report at this time.

Council Vice President Blatt proceeded to Committee Reports:

Finance Committee: Councilman Trotter reported on the following:

1. Reviewed the amount of bills to be paid by Fund and made a motion for the approval of the Bill List. The motion was seconded by Councilman Capuano. The motion was approved unanimously.

Public Works Committee: Councilman Capuano reviewed the following:

1. March monthly report.
2. Councilman Capuano asked Mr. Levernier about the status of the Tot Pool. Mr. Levernier indicated that the Pool has been filled and they are checking to see if they can determine where the leaking is occurring.

Police Committee:

1. In Chief Stephens absence, Investigative Officer DelRosario reported on an increased level of incidents recently.

House & Ordinance Committee:

1. Councilman Blatt indicated that the Committee had met to review and discuss the Bicycle Ordinance amendment which was acted on earlier.

Fire Committee: Councilman Ferencin reviewed the following:

1. March monthly report.

Recreation Committee: Councilwoman Gifford commented on the following:

1. Easter Egg Hunt program was a success.

Health & Sanitation Committee:

1. Councilwoman Halleman reviewed the March monthly report for Garbage and Sewer operations as follows:

<b>3/31/2010</b>		<b>Current &amp; Prior Billings</b>	<b>Mar.</b>	<b>Total Quarterly Collections</b>	<b>Balance Due</b>	
		<b><u>Due</u></b>	<b><u>Receipts</u></b>	<b><u>To-Date</u></b>	<b><u>Due</u></b>	
<b><u>Garbage Collections</u></b>						
	<b>Current * Prior / Delinquent Recycling Cans Grant/Recycling</b>	<b>(Billed Mar. 2010)</b>	\$174,589.64	\$ 78,811.50	\$ 78,811.50	\$ 95,778.14
			\$136,270.46	\$ 4,524.20	\$ 4,524.20	\$131,746.26
			\$ -	\$ 30.00	\$ 30.00	\$ -
			\$ -	\$ -	\$ -	\$ -
	<b>Total</b>		<b><u>\$310,860.10</u></b>	<b><u>\$ 83,365.70</u></b>	<b><u>\$ 83,365.70</u></b>	<b><u>\$227,524.40</u></b>

**Sewer Collections**

<b>Residential</b>	<b>Current</b>	<b>(Billed Mar.2010)</b>	\$149,719.12	\$ 68,137.00	\$ 68,137.00	\$ 81,582.12
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	*						
Residential	Prior/Delinquent		\$121,295.56	\$ 4,034.71	\$ 4,034.71	\$117,260.85	
Commercial	Current	(Billed 4th Qtr '09)	\$ 87,460.63	\$ 76,435.94	\$ 76,435.94	\$ 11,024.69	
	*	(Prior to 4th Qtr. '09)					
Commercial	Prior/Delinquent		\$ 6,478.91	\$ 50.00	\$ 50.00	\$ 6,428.91	
	Salisbury Twp.		\$ -	\$ -	\$ -	\$ -	
	Star Village		\$ -	\$ -	\$ -	\$ -	
	St. Luke/Pump House		\$ -	\$ -	\$ -	\$ -	
	<b>Total</b>		<b><u>\$364,954.22</u></b>	<b><u>\$148,657.65</u></b>	<b><u>\$148,657.65</u></b>	<b><u>\$216,296.57</u></b>	
	<b>Grand Total</b>		<b><u>\$675,814.32</u></b>	<b><u>\$232,023.35</u></b>	<b><u>\$232,023.35</u></b>	<b><u>\$443,820.97</u></b>	

\* Prior/ Delinquent - Outstanding Bills except Current Bill.

Council Vice President Blatt asked if there were any reports from any Special or Select Committees.

1. Community Police Officer Apgar reported on the following:
  - The Police Department, thanks to the efforts of Detective DelRosario, have created a FH Police Facebook page. Councilwoman Gifford commented that it is put together very well
  - Officer Apgar indicated that he will be working on putting together Block Watch groups
  - A presentation was made to the PTA on online child safety
  - The Egg Hunt program was very successful thanks to the efforts of a number of people
  - The FH Elementary School Reading Challenge program was very successful
  - Planning for the Halloween event is moving forward
  - The Community Day program planning is moving forward
  - Planning for the National Night Out in August is also underway
2. Suzanne Porzolai noted that the Arbor Day Ceremony is scheduled for Friday, April 30<sup>th</sup>, at 2:00 pm at the Stanley Avenue Park.
3. Chief Sabo commented that the Department is pursuing fund raising activities due to there being less grant funding available.
4. Bob Erland, St. Luke's Hospital, asked about the no parking ordinance introduced tonight and whether the affected property owners will be notified. Council Vice President Blatt indicated that a letter will be sent to the property owners directly affected.

At this time, Council Vice President Blatt opened the meeting up to any public comments. Hearing no comments, the public session was closed.

Hearing no further comments from Council, Council Vice President Blatt asked for a motion to adjourn. Councilman Capuano made the motion, seconded by Councilwoman Gifford and approved unanimously. The meeting adjourned at 8:00 pm.

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Minutes approved on May 3, 2010.

	Motion	2nd	Yes	No	Abstain
Mark Ferencin			Absent		
Carolee Gifford			X		
Norman Blatt			X		
Fred Capuano	X		X		
Larry Rapp			X		
Doug Trotter		X	X		
Helen Halleman			X		
Mayor Ned Fink					

**ATTEST:**

**BOROUGH OF FOUNTAIN HILL  
LEHIGH COUNTY, PENNSYLVANIA**

By: \_\_\_\_\_  
Rick Prill, Borough Secretary

By: \_\_\_\_\_  
Lawrence E. Rapp, President of Council