

COUNCIL MEETING MINUTES

May 3, 2010

7:00 P.M.

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

Council President Rapp called for the pledge to the flag.

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

1. March 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 President Rapp called for a motion and second for approval of the minutes. Councilman Trotter motioned for approval of the minutes, seconded by Councilman Capuano, the minutes were unanimously approved.
2. April 5, 2010 Regular Meeting minutes. Any corrections/revisions were to have been submitted to Mr. Prill. Hearing no further comments regarding revisions/corrections, Council President Rapp called for a motion and second for approval of the minutes. Councilman Capuano motioned for approval of the minutes, seconded by Councilman Trotter, the minutes were unanimously approved.

Council President Rapp opened the meeting to the public for any public comments on any Agenda item. Hearing no comments from the public, Mr. Rapp closed this public portion of the meeting.

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

1. April Vehicle Maintenance report
2. April Abandoned Vehicle report
3. April Crime Statistics report
4. April Ticket report
5. April District Justice report

The next item on the agenda was the Executive Administrator's report. Mr. Prill indicated that he had no report at this time.

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

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

**BOROUGH OF FOUNTAIN HILL
LEHIGH COUNTY, PENNSYLVANIA
RESOLUTION 2010-16**

**ACCEPTING PARCELS OF LAND DONATED TO THE BOROUGH BY THE WILLIAM G. DEANGELIS
FAMILY**

WHEREAS, the DeAngelis family wish to donate parcels of land (hereinafter “Donated Real Property”) to the Borough of Fountain Hill; and

WHEREAS, the Borough of Fountain Hill wishes to accept the Donated Real Property.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

Borough Council of Fountain Hill Borough, Lehigh County, PA, in lawful session duly assembled, does enact the within Resolution accepting the Donated Real Property described below which has been dedicated to the Borough by the DeAngelis family.

The Donated Real Property consists of two (2) vacant tracts of land located on Roosevelt Avenue in the Borough of Fountain Hill and as more particularly described in (a) Deed Book Volume 1306, Page 1047, Document Identification 7225140 and Deed Book Volume 1208, Page 0437, Document Identification 7225146, and (b) Deed Book Volume 1137, Page 0898, Document Identification 7225147. Copies of the Deeds are attached hereto, incorporated by reference and made a part hereof. The Donated Real Property is accepted by the Borough for public purposes.

The acceptance shall be effective upon the execution, delivery and filing of a Deed of Dedication in a form satisfactory to the Borough Solicitor and the Lehigh County Recorder of Deeds

Solicitor Lipson noted that there would be some minor costs to the Borough involved in this transaction.

Councilwoman Gifford made a motion to accept the donation of land. The motion was seconded by Councilman Capuano. There was a brief discussion about the nature of the costs involved, following which the motion was approved with Councilman Blatt abstaining on the basis that he is representing the DeAngelis family.

The next item on the agenda is Introduction of Ordinances.

Introduction of Ordinance #756 Amending Chapter 21, Street & Sidewalks re – Prohibiting Obstructions in Roadways:

ORDINANCE NO. 756

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

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE
BOROUGH OF FOUNTAIN HILL, CHAPTER 21, STREETS & SIDEWALKS.

BE IT ORDAINED by the Borough Council of the Borough of Fountain Hill, Lehigh County, Commonwealth of Pennsylvania, that Chapter 21 of the Codified Ordinances of the Borough of Fountain Hill be amended to prohibit the obstruction of parking spaces, as follows:

1. Chapter 21, Streets & Sidewalks, Part 5, Obstructing Sidewalks & Gutters, of the Code of the Borough of Fountain Hill shall be amended as follows:

- A. Part 5, shall be revised to read as follows: Obstructing Sidewalks, Gutters and Streets.
- a. Section 501, Obstructions Prohibited, shall be revised with the addition of the following: Or to place any object in the street which results in a parking space or area being obstructed.
- C. Section 503, Penalty, shall be amended to reflect the following: "...and pay a fine of \$300 for a first offense and \$500 for a second and each subsequent offense, and the cost of prosecution, ..."

2. 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.

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

Date of Borough Council Public Hearing: June 7, 2010

Councilwoman Halleman moved for the Introduction of Ordinance #756. The motion was seconded by Councilman Capuano.

Councilman Blatt commented that someone needs to be observed placing an item in the street in order for a citation to be successfully prosecuted, otherwise there is a good chance the citation will be thrown out.

Solicitor Lipson agreed with this comment.

Following a brief conversation by Council about this issue, Council proceeded with a vote on the Introduction of the ordinance. Ordinance #756 was Introduced with Councilwoman Gifford voting No.

Introduction of Ordinance #757 Amending Chapter 15, Motor Vehicles & Traffic:

ORDINANCE NO. 757

**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
Jeter Avenue	South	Beginning at a point 630 feet east from the intersection of Dodson Street and Jeter Avenue and extending a distance of 85 feet east.

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 May 3, 2010. The provisions of this Ordinance shall become effective immediately from the date of passage of this Ordinance.

Date of Borough Council Public Hearing: June 7, 2010.

Councilman Trotter moved for the Introduction of Ordinance #757. The motion was seconded by Councilwoman Gifford and approved by unanimous vote.

Introduction of Ordinance #758 Amending Chapter 27, Zoning re – Check Cashing Business:

ORDINANCE NO. 758

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

AN ORDINANCE AMENDING CHAPTER 27, ZONING, OF THE BOROUGH OF FOUNTAIN HILL CODE OF ORDINANCES, AS AMENDED, TO ADD CHECK CASHING USE AS A SPECIAL EXCEPTION IN THE TOWN CENTER DISTRICT AND DELETE CHECK CASHING USE AS A SPECIAL EXCEPTION IN THE GENERAL COMMERCIAL DISTRICT AND TO PROVIDE FOR AN EFFECTIVE DATE AND GENERAL REPEALER.

WHEREAS, the Borough of Fountain Hill desires to amend Chapter 27, Zoning, of the Code of Ordinances.

NOW THEREFORE, BE IT DULY ENACTED and **ORDAINED** by the Borough Council of the Borough of Fountain Hill, in lawful fashion duly assembled as follows:

1. Part 3, Districts, Section 306, Table of Permitted Uses by District, Part 2, Primarily Mixed-Use and Nonresidential Districts, B. COMMERCIAL USES, is hereby amended as follows:
 - A. Check Cashing Business (as defined in Chapter 27, Part 2, Definitions, Section 202, Terms Defined), shall be permitted by special exception in the TC (Town Center) District and not permitted in the GC (General Commercial) District. The chart identified as 27 Attachment 2, on page 27 Attachment 2-1, shall be modified accordingly.

2. Part 4, Additional Requirements for Specific Uses, Section 402 A (11), Check- Cashing Business, shall be amended by the addition of the following provisions:
- (a) (3) A designated Historic District Zone
 - (b) A check cashing business shall only be permitted to operate between the hours of 9:00 am and 7:00 pm, Monday through Friday, 9:00 am and 3:00 pm on Saturday, and shall not operate on Sundays.
 - (c) Off-street parking spaces required shall be consistent with the standard set forth for Financial Institutions.
 - (d) Development plans shall be submitted with the application for the required Special Exception permit clearly illustrating the details of the proposed exterior (e.g., elevations, lighting, sign, parking, etc.), interior (e.g., layout and design, lighting, window display, etc.), and customer queuing in order to ensure that the use shall be developed and operated in a manner that would be compatible with an attractive, stable, and thriving district conducive to retail shopping.

GENERAL REPEALER

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

SEVERABILITY

The provisions of this Ordinance are severable. If any provision, sentence, clause, phrase, section or part thereof shall for any reason be found unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, phrases, sections, or parts thereof, but the same shall remain in effect. It is hereby declared to be the intent of the Borough of Fountain Hill that this Ordinance shall stand notwithstanding the invalidity of any part included herein.

EFFECTIVE DATE

The provisions of this Ordinance shall become effective on the fifth (5th) day following enactment.

Councilman Trotter moved for the Introduction of Ordinance #758. The motion was seconded by Councilman Capuano.

Solicitor Lipson commented that normal procedure would be for the Zoning Hearing Board to impose any conditions or restrictions on a proposed use, and not include them in an Ordinance.

Councilman Blatt noted that this was what he was trying to explain at the last Council worksession meeting.

Councilman Trotter indicated that the conditions included in the proposed Ordinance were ones that the applicant had suggested be incorporated.

Hearing no further comments, Ordinance #758 was Introduced by unanimous vote.

Council President Rapp noted that the next item on the Agenda was the adoption of Ordinances:

Adoption 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.

3. Chapter 4, Part 2, shall be deleted in its entirety.

4. Chapter 4, Part 3, shall be re-numbered 'Part 2', with each Section re-numbered as 201 - 214.

5. 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.

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

Adoption 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 May 3, 2010. 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.

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

Council President Rapp noted the next item on the agenda were Motions:

1. Resignation of Mr. George Williams from the Planning Commission. Councilman Blatt made a motion to accept the resignation of Mr. Williams, with regret, and asked that Mr.

Prill send a letter of thanks. The motion was seconded by Councilman Capuano and approved by unanimous vote.

2. Resignation of P/T Patrol Officer Matt Balodis. Councilwoman Gifford made a motion to accept the resignation of Mr. Balodis. The motion was seconded by Councilman Capuano and approved by unanimous vote.

Council President Rapp asked if any members of Council had any Old Business to bring up.

Councilwoman Halleman noted that the alley behind the house that had previously been burned out at the corner of Bishopthorpe and Cherokee has a significant amount of debris in it. Joe Gatta indicated that he will inspect this in the morning.

Hearing no further comments, Council President Rapp noted that he did not have a Council President's Report other than to thank all those involved in the Arbor Day Program.

Council President Rapp asked for the Solicitor's Report. Mr. Lipson indicated that he had no report at this time but will discuss on issue in executive session.

Council President Rapp 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.

Councilwoman Halleman commented on the invoice for cardmember services for the people paying bills via the credit card machine. The Borough should charge higher fees to those people who pay via credit card.

Hearing no further comments regarding the approval of bills, the motion was approved unanimously.

Councilwoman Halleman also asked about the status of the 2009 Audit Report. Mr. Prill noted that the Auditors are currently working on the Report. Councilwoman Halleman indicated that previous auditors used to make a presentation to the full Council, not just to the Finance Committee, and that she would like to have the current auditors make their presentation to the full Council. It was noted that when the auditors meet with the Finance Committee, this meeting is open to the public so Councilwoman Halleman would be allowed to attend and listen to the presentation.

Public Works Committee: Councilman Capuano reviewed the following:

1. April monthly report.

Police Committee:

1. Council President Rapp indicated he had no report.

Councilwoman Halleman asked about the status of the School Crossing Guard. Chief Stephens indicated that she had broken her foot and that is why a Patrol Officer has been

taking the post. Councilwoman Halleman asked if we are getting reimbursed by BASD for the Patrol Officer doing this work? Chief Stephens indicated that we only get reimbursed when the School Crossing Guard is working but at the same time, we are not paying the Guard since she is currently not working.

House & Ordinance Committee:

Councilman Blatt indicated he had no report

Fire Committee: Councilman Blatt reviewed the following:

1. April monthly report.

Recreation Committee: Councilwoman Gifford commented on the following:

1. The Committee will be meeting on Wednesday.

Health & Sanitation Committee:

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

4/30/2010		Current & Prior Billings	Apr.	Quarterly Collections	Balance Due
		<u>Due</u>	<u>Receipts</u>	<u>To-Date</u>	<u>Due</u>
<u>Garbage Collections</u>					
Current	(Billed Mar. 2010)	\$174,589.64	\$ 65,506.82	\$144,318.32	\$ 30,271.32
*Prior/Delinquent		\$136,270.46	\$ 15,962.39	\$ 20,486.59	\$15,783.87
Recycling Cans		\$ -	\$ 110.00	\$ 140.00	\$ -
Grant/Recycling		\$ -	\$ -	\$ -	\$ -
Total		<u>\$310,860.10</u>	<u>\$ 81,579.21</u>	<u>\$164,944.91</u>	<u>\$146,055.19</u>

Sewer Collections

Residential	Current	(Billed Mar.2010)	\$149,719.12	\$ 56,035.01	\$124,172.01	\$ 25,547.11
Residential	* Prior/Delinquent		\$121,295.56	\$ 12,454.10	\$ 16,488.81	\$104,806.75
Commercial	Current	(Billed 4th Qtr '09)	\$ 87,460.63	\$ 10,271.83	\$ 86,707.77	\$ 752.86
Commercial	* Prior/Delinquent	'09)	\$ 6,478.91	\$ 1,008.92	\$ 1,058.92	\$ 5,419.99
	Salisbury Twp.		\$ -	\$ 489.00	\$ 489.00	\$ -
	Star Village		\$ -	\$ 198.46	\$ 198.46	\$ -
	St. Luke/Pump House		\$ -	\$ -	\$ -	\$ -

Total	<u>\$364,954.22</u>	<u>\$ 80,457.32</u>	<u>\$229,114.97</u>	<u>\$136,526.71</u>
Grand Total	<u>\$675,814.32</u>	<u>\$162,036.53</u>	<u>\$394,059.88</u>	<u>\$282,581.90</u>

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

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

1. Chief Sabo of the Fire Department commented that the Department's personnel had been asked by St. Lukes Hospital to assist with traffic control as a result of construction activity in Bethlehem and that with the construction ongoing, that there will probably be additional times when traffic control will be requested, and wanted to make sure that Council was ok with the Department providing this assistance.

Council President Rapp noted that with the construction taking place in Bethlehem that the Department needs to help whenever they can.

2. Bob Erland commented that the Hospital is working with Norfolk Southern in an effort to finalize the necessary approvals to allow the Riverside Drive and new road project to proceed.
3. Jim Levernier commented that they have identified a leak in the drain pipe for the Baby Pool and this will be repaired shortly. If that fixes the problem, the Baby Pool will be re-opened this season.

At this time, Council President Rapp opened the meeting up to any public comments.

Mr. Steve Moyzan, 1517 Broadway, commented on the condition of the curbing on Broadway and asked if there are any plans to make improvements to Broadway. Council President Rapp noted that the Borough, along with Representative Brennan, have asked PennDOT to make roadway and curb improvements to Broadway but to-date, PennDOT has indicated that they have no plans to do so.

Hearing no further comments, the public session was closed.

Hearing no further comments from Council, Council President Rapp asked for a motion to adjourn the regular meeting and go into executive session, following which Council will not reconvene in open session. Councilman Capuano made the motion, seconded by Councilwoman Gifford and approved unanimously. The meeting adjourned at 7:45 pm.

Minutes approved on June 7, 2010.

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