

COUNCIL MEETING MINUTES

August 2, 2010

7:00 P.M.

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

Council President Rapp called for the pledge to the flag.

At this time Council President Rapp turned the meeting over to Chief Stephens and Community Police Officer Apgar who had a presentation to make. Officer Apgar introduced 'McGruff the Crime Dog', providing a brief history of McGruff and thanked Mr. Robert Erland, St. Luke's Hospital, for their financial donation in allowing McGruff to become a part of the Fountain Hill Police Departments crime prevention program.

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

1. June 16, 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 Capuano motioned for approval of the minutes, seconded by Councilwoman Gifford, the minutes were unanimously approved.
2. July 7, 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. Councilwoman Gifford motioned for approval of the minutes, seconded by Councilman Capuano, 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. July Ticket Report
2. July Crime Statistics Report
3. July District Justice report
4. Letter from the Lehigh County Planning Commission advising of funding available through PennDOT under the PA Community Transportation Initiative.

The next item on the agenda was the Executive Administrator's report. Mr. Prill reported on the following:

1. Reported that the Borough has been awarded grant funds in the amount of \$1,500 under the Lehigh County Tree Vitalization Program.

2. Reported that the Borough has been awarded \$215,000 in CDBG funds for our Phase V storm sewer rehabilitation project, but that our application for grant funds for handicapped curb and sidewalk ramps was denied.
3. Mr. Prill also noted that Salisbury received CDBG funds for a storm sewer project wherein a portion of this project is located in the Borough on Jeter Avenue and Dodson Street.
4. Borough Council has received letters from two residents (Suzanne Poroszlai and Edward Stetch) expressing interest on being considered for the vacant Council position.

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 # 2010-23 Approving the Award of Bid for the Long & Clewell Streets Storm Sewer Rehabilitation (Phase IV)

**BOROUGH OF FOUNTAIN HILL
RESOLUTION NO. 2010-23**

A RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF FOUNTAIN HILL, LEHIGH COUNTY, PENNSYLVANIA, APPROVING THE AWARD OF BID FOR THE LONG & CLEWELL STREET STORM SEWER REHABILITATION PROJECT (PHASE IV)

WHEREAS, bids were received on July 19, 2010 for the Rehabilitation of a portion of the storm sewer lines on Long & Clewell Streets as follows:

Tri-State Grouting	\$118,000.00
ProShot Concrete	\$189,737.50
Nat'l Water Main Cleaning	\$199,693.75
Graciano Corp.	\$252,700.00

WHEREAS, the Borough Engineer has reviewed the bid documents as received from the multiple bidders on said date, for administrative completeness and responsiveness to the bid specifications for the project; and

WHEREAS, the lowest bid received was from Tri-State Grouting, LLC in the amount of \$118,000, however, in written correspondence to the Borough Engineer post-bid, Tri-State Grouting, LLC conditioned its bid on a minimum amount of work even though the bid specifications indicated that the project involves unit pricing and will involve field decisions by the Engineer which could affect quantities of unit price work to be implemented; and

WHEREAS, in light of Tri-State Grouting, LLC conditioning its bid, the Borough Engineer is recommending the award of the bid to the lowest responsible bidder, which is ProShot Concrete, Inc., and;

WHEREAS, project funding includes grant funds administered by the Lehigh County Department of Community Development, whose Coordinator has found the bid documents received from ProShot Concrete, Inc. to be responsive and acceptable relative to the grant program requirements;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Fountain Hill that the bid for the storm sewer rehabilitation (Phase IV) project contract be awarded to ProShot Concrete, Inc., in the amount of \$189,737.50.

Councilman Blatt made a motion to approve Resolution # 2010-23. The motion was seconded by Councilwoman Halleman and approved by unanimous vote.

Resolution # 2010-24 Appointing Mr. David Whiteman as a Permanent Public Works Employee.

**BOROUGH OF FOUNTAIN HILL
RESOLUTION NO. 2010-24**

A RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF FOUNTAIN HILL, LEHIGH COUNTY, PENNSYLVANIA, AUTHORIZING THE PERMANENT APPOINTMENT OF DAVID WHITEMAN

WHEREAS, David Whiteman will completed his six (6) months probationary work period as a Public Works I employee effective August 7, 2010; and

WHEREAS, The Public Works Supervisor has recommended that Mr. Whiteman be appointed as a permanent employee with the Public Works Department;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Fountain Hill that David Whiteman be appointed as a permanent employee to the Public Works Department, effective August 8, 2010.

Councilman Capuano made a motion for the approval of Resolution #2010-24. The motion was seconded by Councilwoman Halleman and approved by unanimous vote.

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

Introduction of Ordinance #760 Amending Chapter 15, Motor Vehicles & Traffic, Providing for Restrictions on N. Lynn Street and Approving the Installation of a Handicapped Parking Space

ORDINANCE NO. 760

**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 SCHEDULE 1 (A) AND (B), PROHIBITING PARKING ON THE NORTH SIDE OF N. LYNN STREET

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

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

ADD:

STREET	SIDE	BETWEEN
N. Lynn Street	West	Russell Avenue to Stanley Avenue

- 2. Schedule 1(B), Parking Prohibited Between Certain Hours, shall be amended as follows:

1. Section B heading to read as follows:

B. Parking Prohibited Between Certain Hours on Certain Streets and Alleys. Parking is hereby prohibited on the following streets and alleys of the Borough:

2. Section B shall be revised as follows:

DELETE:

STREET	SIDE	BETWEEN	PARKING PROHIBITED
N. Lynn Street	West	Russell Ave. to Stanley Ave.	8:00 am – 9:00 p.m, during the months of April - September

3. 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>
S. Hoffert Street	West	54' from the southwest corner of Broadway and S. Hoffert Street intersection

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: September 6, 2010

Councilwoman Gifford moved for the Introduction of Ordinance #760. The motion was seconded by Councilman Capuano and adopted by unanimous vote.

Introduction of Ordinance #761 Amending the Police Pension Plan of the Borough of Fountain Hill to Eliminate the Killed-In-Service Provision.

ORDINANCE NO. 761

BOROUGH OF FOUNTAIN HILL

LEHIGH COUNTY, PENNSYLVANIA

**AN ORDINANCE AMENDING THE BOROUGH OF FOUNTAIN HILL
POLICE PENSION PLAN & TRUST TO ELIMINATE THE
KILLED-IN-SERVICE DEATH BENEFIT**

WHEREAS, by Ordinance No. 702, the Borough Council (“**Council**”) of the Borough of Fountain Hill (“**Borough**”) amended and restated the Borough of Fountain Hill Police Pension Plan and Trust (the “**Plan**”), a defined benefit pension plan for the full-time police officers of the Borough pursuant to Act 600 of 1955 as amended, 53 PA. STAT. ANN. §§ 767-778, and Council has further amended the Plan thereafter; and

WHEREAS, until recently, section 5(e)(2) of Act 600, 53 PA. STAT. ANN. § 771(e)(2), required that the Plan provide a “killed in service” death benefit calculated at one hundred percent of a participant’s salary at the time of death, and such a benefit is provided under Plan § 305(c); and

WHEREAS, effective October 9, 2009, Pennsylvania Act 51 of 2009 repealed section 5(e)(2) of Act 600, and amended section 1 of the Emergency and Law Enforcement Personnel Death Benefits Act, 53 PA. STAT. ANN. § 891, to replace the “killed in service” municipal pension death benefit with an additional state death benefit payable to the same beneficiaries, but not to the extent the beneficiaries receive other pension or retirement benefits; and

WHEREAS, Council desires to amend the Plan to conform to Act 600 as amended by Act 51 of 2009, and to provide killed in service salary continuation death benefits through direct payments from the Commonwealth rather than from the Borough’s police pension plan; and

WHEREAS, prior to the adoption of this Ordinance the Council reviewed a cost estimate of the effect of the changes made herein prepared by the plan’s actuarial firm in accordance Section 305 of the Municipal Pension Plan Funding Standard and Recovery Act, 53 PA. STAT. ANN. § 895.305; and

WHEREAS, prior to the adoption of this Ordinance, the terms of this ordinance were negotiated with and accepted by the Fountain Hill Police Association;

NOW, THEREFORE, be it **ORDAINED** and **ENACTED** by the Borough Council of the Borough of Fountain Hill, Lehigh County, Pennsylvania, that the Borough of Fountain Hill Police Pension Plan and Trust (as amended and restated by Ordinance No. 702) is further amended by amending sections 127, 305(a), (c), (d), and (e), and 306(a)(5)(G) as follows (with additions indicated by double-underlining, and deletions indicated by stricken-through type), effective immediately:

§ 127 Salary.

The monthly “Salary” of a Qualified Employee as of any given date shall mean the Qualified Employee’s base hourly rate of compensation as of that date, multiplied by 2080 and divided by 12. {The term “Salary” is defined for purposes of the new Act 2002-30 minimum disability ~~and killed in service~~ benefits which are based on salary at the time of the injury causing disability ~~or death~~, in contrast to the pre-existing Act 600 benefits which are based on compensation averaged over a 36-month period—“Final Monthly Average Compensation”.}

§ 305 Death Benefits.

(a) Qualification for Normal Death Benefit.

The Beneficiaries of a Participant shall be entitled to receive a Normal Death Benefit if the Participant dies—

~~However, a Normal Death Benefit shall not be paid if the Participant's Beneficiaries are entitled to receive a Killed in Service Death Benefit under subsection (c).~~

~~(c) Killed in Service Death Benefit. [RESERVED]~~

~~The Beneficiaries of a Participant who dies due to injuries incurred while performing the duties of his/her employment as a Qualified Employee shall be entitled to receive a Killed in Service Death Benefit, which shall consist of a series of monthly payments—~~

- ~~(1) beginning on the first day of the month following the month of the Participant's death, and~~
- ~~(2) continuing on the first day of each succeeding month until there is no person who qualifies as a Beneficiary,~~
- ~~(3) in a monthly amount equal to one hundred percent (100%) of the Participant's monthly Salary as of the Participant's Final Police Date.~~

(d) Beneficiaries.

(1) In General.

Any given payment in the series of payments which constitutes the Normal Death Benefit ~~or Killed in Service Death Benefit~~ shall be paid to the person(s) who is/are a Beneficiary as of the date for which the payment is being made.

(2) Definition.

For purposes of the Normal Death Benefit ~~and Killed in Service Benefit~~, a person is a "Beneficiary" of a Participant as of the date of any given payment if:

(3) Multiple Beneficiaries.

For purposes of the Normal Death Benefit ~~and Killed in Service Benefit~~, if there is more than one Beneficiary at the time of any given payment, the amount of the payment shall be split into equal shares, one for each Beneficiary.

(e) Death Benefit Return of Accumulated Contributions.

(1) In General.

If a Participant—

(A) dies at a time when his/her Beneficiaries are not eligible to receive a Normal Death Benefit ~~or Killed in Service Death Benefit~~ **or** has no Beneficiaries, **and**

§ 306 Limitation on Benefits.

(a) Definitions.

For purposes of this Section, the following words and phrases shall have the meanings provided in this subsection (a):

(5) Dollar Limitation.

The term “Dollar Limitation” shall mean * * * with the following modifications, as applicable—

(G) In the case of a Participant receiving a Disability Retirement Benefit, or a Beneficiary receiving a Normal Death Benefit ~~or Killed in Service Death Benefit~~, subparagraphs (B) and (D) shall not apply.

Date of Borough Council Public Hearing: September 6, 2010.

Councilwoman Halleman moved for the Introduction of Ordinance #761. The motion was seconded by Councilman Capuano and adopted by unanimous vote.

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

1. Councilwoman Gifford made a motion for the approval of a request from Mr. Brian Laughlin for the use of Lechauweki Springs Park on 9/18/10 for a short period of time to renew wedding vows. The motion was seconded by Councilman Capuano and approved by unanimous vote.
2. Councilman Blatt made a motion to approve the application for use of the basketball court at the Stanley Avenue Park for the Fountain Hill Classic stickball tournament. The motion was seconded by Councilwoman Gifford and approved by unanimous vote.

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

Councilwoman Halleman commented that the Borough Solicitor should investigate the possibility of going after the money paid to former Councilman Ferencin. Mr. Lipson noted that he could look into it but did not think that this could be done. Councilwoman Gifford commented that the cost of having Mr. Lipson check into this would be more than the money paid to Mr. Ferencin.

Councilwoman Halleman also commented on a member of Council being delinquent on their Sewer and Garbage bill. Council President Rapp indicated that at this time no member of Council is delinquent in their payments. Councilman Blatt stated that this discussion was inappropriate at this meeting just as it was inappropriate at the last Council meeting..

Hearing no further comments, Council President Rapp noted that he did not have a Council President’s Report.

Council President Rapp asked for the Solicitor’s Report.

1. Mr. Lipson indicated that no decision has been made yet with regards to the Fountain Hill Millwork case.
2. Mr. Lipson also indicated that he is currently reviewing some old municipal liens to see if they can be moved forward to collection.

3. Mr. Lipson reported that the Pavlock lawsuit, which is a ‘slip and fall’ case, is nearing completion and that the Borough’s insurance company is representing the Borough in this lawsuit.

Council President Rapp proceeded to Committee Reports:

Finance Committee: In Councilman Trotter’s absence, Councilman Capuano 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 Blatt and the motion was approved unanimously.

Public Works Committee: Councilman Capuano reviewed the following:

1. July monthly report.

Police Committee:

1. Chief Stephens and Community Police Officer Apgar presented a plaque to Ms. Antonella DiMatteo, thanking her for her valuable assistance to the Police Department on their community programs.

House & Ordinance Committee:

1. Councilman Blatt indicated the Committee had met to discuss the permit parking proposal that had been made at the last meeting but that there was no interest in pursuing this, but that a request would be sent to St. Luke’s Hospital asking that they advise their staff about parking on Tombler Street, between Jeter and Delaware.
2. The Committee also discussed Ordinance #760 which was Introduced this evening.

Fire Committee: Councilman Blatt reviewed the following:

1. No Report.

Recreation Committee: Councilwoman Gifford commented on the following:

1. Councilwoman Gifford commented that there is still time to enjoy the Pool and Playground this summer.

Health & Sanitation Committee:

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

7/30/2010	Current & Prior Billings	July	Quarterly Collections
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			<u>Due</u>	<u>Receipts</u>	<u>To-Date</u>	<u>Balance Due</u>
<u>Garbage Collections</u>						
	Current	(Billed Jun. 2010)	\$174,102.14	\$ 62,378.60	\$123,122.40	\$ 50,979.74
	* Prior / Delinquent		\$125,805.54	\$ 18,201.95	\$ 37,012.00	\$ 88,793.54
	Recycling Cans		\$ -	\$ 10.00	\$ 40.00	\$ -
	Grant/Recycling		\$ -	\$ -	\$ -	\$ -
	Total		<u>\$299,907.68</u>	<u>\$ 80,590.55</u>	<u>\$160,174.40</u>	<u>\$139,773.28</u>

Sewer Collections

Residential	Current	(Billed Jun.2010)	\$149,714.70	\$ 52,503.11	\$100,081.45	\$ 49,633.25
	* Prior/Delinquent		\$112,609.63	\$ 16,443.33	\$ 32,446.92	\$ 80,162.71
Commercial	Current	(Billed 1st Qtr '10)	\$ 91,852.55	\$ 11,522.60	\$ 90,669.55	\$ 1,183.00
	* Prior/Delinquent	'10)	\$ 6,509.00	\$ -	\$ -	\$ 6,509.00
	Salisbury Twp.		\$ -	\$ 967.51	\$ 967.51	\$ -
	Star Village		\$ -	\$ 198.46	\$ 396.92	\$ -
	St. Luke/Pump House		\$ -	\$ -	\$ -	\$ -
	Total		<u>\$360,685.88</u>	<u>\$ 81,635.01</u>	<u>\$224,562.35</u>	<u>\$137,487.96</u>
	Grand Total		<u>\$660,593.56</u>	<u>\$162,225.56</u>	<u>\$384,736.75</u>	<u>\$277,261.24</u>

* Prior/ Delinquent - Outstanding Bills except Current Bill.

Council President Rapp noted that the District Judge has collected a total of \$12,475 so far this year as a result of citations issued.

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

Officer Dave Apgar reviewed his July report.:

Councilwoman asked about the PA Migrant Worker program that Officer Apgar had commented on. Officer Apgar and Chief Stephens provided some background information on the program and the year-end event they attended at the elementary school.

Hearing no further reports, Council President Rapp opened the meeting up to any public comments. Hearing no comments, the public session was closed.

Hearing no further comments from Council, Council President Rapp asked for a motion to adjourn, noting that Council would have a short Executive Session regarding a personnel matter. Councilman Capuano made the motion, seconded by Councilwoman Gifford and approved unanimously. The meeting adjourned at 7:38 pm.

Minutes approved on September 7, 2010.

	Motion	2nd	Yes	No	Abstain
Ed Stech			X		
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