

**BOROUGH OF FOUNTAIN HILL
COUNCIL MEETING MINUTES
December 5, 2016
7:00 P.M.**

Council members present were: Mr. Rapp, Ms. Jordan, Ms. Halleman, Ms. Gifford, Mr. Trotter, Mr. Blatt, Mr. Trabel and Mayor Rosado. Also in attendance were Anthony Branco, Executive Administrator, Mr. Don Lipson, Esq., Zoning Officer Albert Rohrbach, Jason Quarry, Public Works Supervisor, Mr. Joseph Patanella, St. Lukes University Health Network, and visitors

Council President Rapp called for the pledge to the flag.

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

1. Minutes of November 7, 2016 the Work Session Meeting

	Motion	2nd	Yes	No	Abstain	Absent
Philip Trabel			X			
Carolee Gifford			X			
Hellen Halleman			X			
Annamarie Jordon		X	X			
Norman Blatt	X		X			
Doug Trotter			X			
Larry Rapp			X			
Mayor Jose Rosado						

2. Minutes of the October 3, 2016 Regular Meeting

	Motion	2nd	Yes	No	Abstain	Absent
Philip Trabel						X
Carolee Gifford			X			
Hellen Halleman			X			
Annamarie Jordon		X	X			
Norman Blatt	X		X			
Doug Trotter			X			
Larry Rapp			X			
Mayor Jose Rosado						

Council President Rapp opened the meeting to the public for any comments on Agenda items or by those persons registered to speak. None

Mayor's Report

Mayor Rosado read the Police report for November, and the District Magistrate report for October. The Mayor informed Council that all is well in the Police Department.

Executive Administrator's Report: No report

Presidents Report:

Mr. Rapp thanked Mr. Branco, Public Works, Fire Department, and Fire Police for the work done to make the Christmas Tree lighting a success. Mr. Rapp also thanked all of Council for attending.

Solicitor Report:

Solicitor Lipson thanked Council for a great ride over the last 44 years that he has served the Borough as the Solicitor. He also informed Council that Ordinance 832 which is on the agenda for approval, is a topic he has been recommending for years. The ordinance makes the Planning Commission a recommending body. Solicitor Lipson thanked Mr. Branco for his work in getting this item to fruition.

Council President Rapp moved onto Resolutions:

RESOLUTION 2016-30

**A RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH
OF FOUNTAIN HILL, LEHIGH COUNTY, PENNSYLVANIA,
APPROVING THE INCREASE IN FEES FOR BUSINESS PRIVILEGE
LICENSE FEE**

WHEREAS, said Ordinance has been adopted by Borough Council for a Business Privilege License, and

WHEREAS, the Business Privilege License is a license requiring a fee to be set by Resolution, and

WHEREAS, the fee must compensate the for the cost of registering, licensing, and storing the data received for the license, and

WHEREAS, the Borough of Fountain Hill has a current fee for the Business License, and **WHEREAS**, the fee for 2016 is set at \$10.00, and

NOW THEREFORE BE IT RESOLVED, the Borough Council of Fountain Hill Borough hereby establish the Business Privilege' Fee at \$20.00 effective on January 1, 2017.

RESOLVED AND ENACTED, this 5th day of December, 2016.

	Motion	2nd	Yes	No	Abstain	Absent
Philip Trabel			X			
Carolee Gifford			X			
Hellen Halleman			X			
Annamarie Jordon		X	X			
Norman Blatt	X		X			
Doug Trotter			X			
Larry Rapp			X			
Mayor Jose Rosado						

Council President Rapp moved onto Ordinances:

Ordinance # 831

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES, CHAPTER 13,
LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS, TO ADD PART 3,
SOLICITATION, TO REGULATE SOLICITATION AND TRANSIENT RETAIL
BUSINESS WITHIN THE BOROUGH OF FOUNTAIN HILL**

WHEREAS, the Borough Council of the Borough of Fountain Hill desires to regulate and license solicitation and transient retail business within the Borough.

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the Borough Council as follows:

§ 301. Definitions. The following terms shall have the following meanings unless otherwise expressly set forth in the text.

- (a) "**Applicant**" shall mean a Person who desires to secure a License for solicitation, peddling, or a transient retail business.
- (b) "**Approved**" shall mean acceptable to Borough Council.
- (c) "**Borough**" shall mean the Borough of Fountain Hill.
- (d) "**Borough Council**" shall mean the Borough Council of the Borough of Fountain Hill.
- (e) "**License**" shall mean the License issued by the Borough pursuant to the terms, conditions and provisions hereof.
- (1) "**Licensee**" shall mean any person, individual, association, organization, corporation, partnership, co-partnership, firm, joint venture or similar business entity that secures a License.
- (g) "**License Period**" shall mean the period of time for which a License has been issued and is valid.
- (f) "**Person**" shall mean any individual, association, organization, corporation, partnership, co-partnership, firm, joint venture or similar business entity that applies for a License.
- "**Transient Retail Business**" shall mean any of the following events or practices: peddling, canvassing, soliciting or taking orders, either by sample or otherwise, for any goods, wares, merchandise, magazines, periodicals, books or other personal property, or services to be furnished or performed now or in the future, or solicitation of contributions for various causes and organizations including, but not limited to, charitable, religious, political, educational or philanthropic **organizations upon or from:**
- 1) any street, alley, sidewalk or public place, or from house-to-house within the Borough; or
 - 2) a fixed location within the Borough, on a temporary basis, which shall include, but is not limited to, any activities conducted at the time of special occasions or celebrations, for seasonal purposes, or for or in advance of particular yearly holidays.
- § 302. License Required.**
- (a) No Person shall engage in any solicitation or Transient Retail Business in the Borough without registering with and obtaining a License from the Borough. With respect to non-profit corporations or other charitable organizations, only the organization is required to register with the Borough and obtain a License. Individual members are exempt from the requirements of this section.
- (b) Pursuant to 73 P.S. § 2011 et seq., no Person shall solicit the subscription of any magazine by the use of door-to-door salespersons without first obtaining a License from the Attorney General and complying with the applicable requirements of 73 P.S. § 2011 et seq.; provided that these provisions of 73 P.S. § 2011 et seq. shall not apply to any charitable or non-profit organization which solicits the subscription of magazines by the use of door-to-door salespersons.
- § 303. Application for License; Investigation.**
- (a) An Applicant for a License shall file with the Borough Executive Administrator an application, in writing, on a form to be provided by the Borough for that purpose, which form shall be approved by Resolution of Borough council. If such Person is also required to obtain a License from the Attorney General pursuant to 73 P.S. § 2011 or from any County Treasurer pursuant to 60 P.S. § 21, such Person shall exhibit said valid License(s) when making the application to the Borough.
- (b) The application shall be accompanied by the required License Fee as prescribed below in § 305 and a **photograph of the Applicant(s)**.
- (c) A list of any and all solicitors of an Applicant shall accompany all applications for a License.

- (d) All applications for a License shall be submitted to the Borough at least fifteen (15) days in advance of the date an Applicant plans to commence the solicitation or Transient Retail Business.
- (e) Within five (5) days after a complete application is filed, the Borough Executive Administrator shall direct the Borough Police Department to conduct an investigation of the Applicant and the information set forth in the application. Said investigation shall be completed within seventy-two (72) hours and the results reported to the Borough Executive Administrator.

§ 304. Issuance of License.

- (a) Within two (2) days of receiving the investigation results from the Borough Police Department, the Borough Executive Administrator may issue a License to the Applicant, provided the application conforms to the requirements of this Ordinance and all applicable laws and regulations and the Applicant has paid the required License Fee.
- (b) The Borough may attach any reasonable conditions to an issued License. The issued License must include the date(s) the License is valid or provide for a thirty (30) day period, whichever is shorter, and any time restrictions as to when a Person may solicit.

§ 305. License Fee; Waiver of License Fee.

- (a) A fee shall be charged for each License issued in an amount to be established by Resolution of Borough Council and as amended by Resolution from time to time by Borough Council. This fee may be waived for non-profit associations, at the Borough's discretion.
- (b) In the event a License is denied; the Borough shall return the License Fee less \$5.00. Any fees retained shall be used to partially reimburse the Borough for the expenses, of the investigation.
- (c) Any non-profit organization, even if the license fee is waived, is still required to register with the Borough and is subject to all other provisions of this Ordinance except pertaining to the payment of a License Fee.

§ 306. Exhibition of License.

Every Licensee shall carry a valid and unexpired License on their person or display it on their vehicle or from a fixed location, as applicable. The Licensee shall exhibit the License, immediately upon request, to any police officer, Borough official, or any citizen or resident of the Borough.

§ 307. License Non-transferable; Reporting Lost License.

- (a) No License shall be transferable from one Person to any other Person.
- (b) If a License is lost or stolen, the Licensee shall immediately report it to the Borough Executive Administrator who shall reissue the License, at no cost, for the duration of the License Period.

§ 308. Expiration of License.

Every License shall terminate automatically at the time of 6:00 p.m. on the day the License Period expires.

§ 309. Rules and Regulations; Violations; Penalties.

- (a) No Person engaged in any Transient Retail Business shall:
- 1) Sell any goods, wares, merchandise or service other than that provided for in the License;
 - 2) Hawk or cry the Licensee's wares upon any street, alley or public ground in the Borough or use any loudspeaker or horn or other device for announcing the Licensee's presence, which device may annoy the public;
 - 3) When selling from a vehicle, stop or park the vehicle upon any street, alley or public ground in the Borough for longer than necessary to make a sale;
 - 4) Be guilty of any false pretense or misrepresentation and particularly, shall not represent the Licensee's License to be an endorsement of the goods or services;
 - 5) Enter or attempt to enter any dwelling without the invitation or permission of the occupant and/or refuse to leave any premises upon request of the occupant; Engage in any house-to-house activity, except by prior appointment, before 9:00 a.m. or after 6:00 p.m. or dusk (whichever is earlier); or
 - 6) Transfer or attempt to transfer or permit any other Person to have possession of the License or cause or permit the License to be altered or defaced in any way.

(b) Any violation or failure to comply with any provision of this Ordinance shall constitute a summary offense. Any Person found guilty thereof shall, upon conviction, pay a fine of not more than \$600, plus costs and attorney's fees. In the event of nonpayment of said fine, the Person may be imprisoned for a period not to exceed thirty (30) days; provided a court shall not commit a Person to prison for failure to pay a fine or costs unless it appears after a hearing that the Person is financially able to pay the fine or costs. Each section of this Ordinance found to have been violated shall constitute a separate offense. Each day that a violation of a License or this Ordinance continues shall constitute a separate offense. In addition to the aforementioned penalties, all other actions are reserved to the Borough, including an action in equity for the proper enforcement of this Ordinance. The imposition of a fine or penalty for any violation shall not excuse the violation or non-compliance or permit further violations or non-compliance.

§ 310. Denial, Suspension and Revocation of License; Appeal.

- a) An application for a license may be denied, or, if issued, may be suspended for any of the following reasons:
 1. Failure of background check
 2. Receipt of three (3) or more citizen complaints within a 30-day period
 3. False or misleading information provided in the application
 4. Failure to present food/health inspection certifications (if applicable)
 5. Violation of any Ordinance provision
 6. When deemed to be in the interest of the public health, safety or morals.
- b) An applicant whose license is denied, revoked or suspended shall receive notice and an opportunity to be heard (to occur within five (5) days of the date of the notice). Any notice of suspension or revocation shall include the reasons therefor.
- c) Appeals from any suspension or revocation of a License must be made to the Borough Council within ten (10) days of said suspension or revocation. Appeals from the Borough Council's subsequent decision may be made to the Lehigh County Court of Common Pleas pursuant to the provisions of the Local Agency Law, 2 Pa.C.S.A. § 752.
- d) In the event a License is suspended or revoked, no portion of the License Fee shall be refunded to any Person.

§ 311. Applicability.

This Ordinance shall not apply to any Person who is beyond the legal power of the Borough under either the Constitution of the United States or the Constitution or Laws of the Commonwealth of Pennsylvania. This Ordinance shall not affect violations of any other ordinance, code or regulation existing prior to the effective date hereof, and any such violation shall be governed and punishable to the full extent of the law under the provisions of those ordinances, codes or regulations in effect at the time the violation was committed.

§ 312. 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 Borough Council that this Ordinance shall stand notwithstanding the invalidity of any part included herein.

§ 313. Effective Date.

The provisions of this Ordinance shall become effective 30 days after enactment.

§314. Repealer.

Any ordinance, in part or in whole, conflicting or inconsistent with the provisions of this Ordinance are hereby repealed insofar as the same may conflict with or be inconsistent with the terms of this Ordinance.

ORDAINED AND ENACTED this 5th day of December, 2016, in lawful session duly assembled.

	Motion	2nd	Yes	No	Abstain	Absent
Philip Trabel			X			
Carolee Gifford			X			
Norman Blatt		X	X			
Annmarie Jordan	X		X			
Larry Rapp			X			
Doug Trotter			X			
Helen Halleman			X			
Mayor Jose Rosado						

ORDINANCE NO. 832

**AN ORDINANCE AMENDING AND RESTATING CHAPTER 22 OF THE CODE OF
FOUNTAIN HILL, PROVIDING THAT THE BOROUGH COUNCIL OF FOUNTAIN
HILL SHALL HAVE FINAL REVIEW AND APPROVAL RIGHTS FOR ALL
SUBDIVISION AND LAND DEVELOPMENT APPLICATIONS WITHIN THE
BOROUGH OF FOUNTAIN HILL AS OPPOSED TO THE BOROUGH OF FOUNTAIN
HILL PLANNING COMMISSION; PROVIDING FOR THE SEVERABILITY OF
PARTS OF THIS ORDINANCE DEEMED TO BE INVALID; REPEALING
ORDINANCES, RESOLUTIONS, OR PARTS IN CONFLICT WITH THIS
ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.**

ENACTMENT. Under Authority of Law, Borough Council of Fountain Hill hereby enacts and ordains into an Ordinance the attached documents this date of December 5, 2016. The provisions of this Ordinance shall become effective immediately from the date of passage of this Ordinance.

Date of Borough Council Public Hearing: December 5, 2016.

DULY ENACTED AND ORDAINED on this 5th day of December 5, 2016, by the Borough of Fountain Hill in lawful session duly assembled.

	Motion	2nd	Yes	No	Abstain
Philip Trabel		X	X		
Carolee Gifford	X		X		
Norman Blatt			X		
Annamarie Jordan			X		
Larry Rapp			X		
Doug Trotter			X		
Helen Halleman			X		
Mayor Jose Rosado					

Council President Rapp moved onto Motions:

Introduction of 2017 Budget with no tax increase.

	Motion	2nd	Yes	No	Abstain	Absent
Philip Trabel		X	X			
Carolee Gifford			X			
Hellen Halleman			X			
Annamarie Jordon			X			
Norman Blatt			X			
Doug Trotter			X			
Larry Rapp	X		X			
Mayor Jose Rosado			X			

ORDINANCE # 830

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE BOROUGH OF FOUNTAIN HILL, ESTABLISHING THE REAL ESTATE AND OTHER TAXATION FOR BOROUGH PURPOSES FOR FY 2017.

SECTION I - The Real Estate Tax Rate for all Borough purposes for Fiscal Year 2016 is as follows:

General Fund	6.63 mills (Municipal government operations)
Fire Department	0.08 mills (Debt payment on fire apparatus)
Library Services	<u>0.40 mills</u> (Provision of Library services)
Total	<u>7.11 mills</u>

These taxes are to be levied on all properties in the Borough subject to taxation for Borough purposes.

GENERAL REPEALER

All Ordinances or parts of ordinances, especially Ordinance #822, and all resolutions or part 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 effect 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 that this Ordinance shall stand notwithstanding the invalidity of any part included herein.

EFFECTIVE DATE

The provision of this Ordinance shall become effective January 1, 2017.

DULY ENACTED AND ORDAINED on this 5 th day of December, 2016, by the Borough of Fountain Hill in lawful session duly assembled.

	Motion	2nd	Yes	No	Abstain	Absent
Phil Trabel		X	X			
Carolee Gifford			X			
Norman Blatt			X			
Annamarie Jordan			X			
Larry Rapp			X			
Doug Trotter			X			
Helen Halleman	X		X			
Mayor Jose Rosado			X			

Council President Rapp moved onto New Business: none
Council President Rapp moved onto Old Business: none

Council President Rapp proceeded to Committee Reports:

- Finance Committee:
Mr. Trotter reviewed the bills paid in each Fund, and made a motion for the approval of the bills. The motion was seconded by Ms. Jordan and was approved unanimously.

- Public Works Committee:
Ms. Jordan presented the November Public Works report.
Ms. Jordan informed Council that Mr. Brian Csaszar had not yet acquired his CDL-A license. Therefore, it is the recommendation of Mr. Quarry that Mr. Csaszar' s probation be extended another 6 months or until he receives the required CDL-A.
- Police Committee: N/R
- House & Ordinance Committee:
Mr. Blatt directed Mr. Branco to set up a House & Ordinance meeting.
- Fire Committee:
Ms. Gifford read the November fire report.
- Recreation Committee:

Mr. Trabel informed Council that the Christmas Tree lighting was a success, attended by many people. Mr. Trabel also thanked the following:

Mr. Branco for organizing the event and getting all the donations;
Jason Quarry and Public Works for getting the site ready, decorating the tree, and closing the streets;
The Fire Department for bringing Santa Clause;
The Fire Police for assisting in closing streets and directing traffic;
Mr. Rapp for being the MC for the event.

Mr. Trabel also thanked the following businesses and organizations for their donations;
Matey's, Lorenzo's, Just Born Candies, American Legion Post 406, The Fountain Hill Republican Club & Volunteers, Broughal Middle School Band, Mr. Brian Muh of Epic Church, Fountain Hill Girl Scout Troop #82048, Reverend Daniel Brettell of St. Paul's Lutheran Church, and Father Potts of St. Ursula's Roman Catholic Church.

- Personnel Committee: none
- Health & Sanitation Committee:
Ms. Halleman read the November Sewer and Sanitation report, as well as the Northeast Revenue Collections report for the preceding two weeks.

Council President Rapp asked if there were any reports from any Special or Select Committees.
none

Council President Rapp opened the meeting up to any public comments. none

Ms. Gifford made the motion to adjourn at 7:20 P.M. The motion was seconded by Mr. Trotter, and unanimously approved.

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

By: _____
Lawrence E. Rapp, President of Council

ATTEST:

By: _____
Anthony Branco, Secretary