

**BOROUGH OF FOUNTAIN HILL
COUNCIL MINUTES
March 22, 2017
7:00 P.M.**

Council members present were: Mr. Rapp, Ms. Halleman, Ms. Jordan, Mr. Trotter, Jr., Mr. Trabel, Ms. Gifford and Mr. Blatt. Mayor Rosado was absent. Also in attendance was Bethany Sebesta, Chief Bachert, Scott Lipson, Jason Quarry, and visitors.

- 1. Roll Call & Pledge of Allegiance**
- 2. Council review of items for the Regular Meeting Agenda:**
 1. Minutes of February 15, 2017 the Work Session Meeting – DRAFT (Please submit revisions to Mr. Branco in writing)
 2. Minutes of the March 6, 2017 Regular Meeting – DRAFT (Please submit revisions Mr. Branco in writing)
- 3. Resolutions:**

**BOROUGH OF FOUNTAIN HILL
RESOLUTION NO. 2017-21**

A RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF FOUNTAIN HILL, LEHIGH COUNTY, PENNSYLVANIA, APPROVING THE AWARD OF BID FOR THE JETER AVENUE RECONSTRUCTION PROJECT

WHEREAS, Bids were received on March 17, 2017 for the Jeter Avenue Reconstruction Project as outlined on the attached bid summary; and

WHEREAS, The lowest bid received was from Gaver Industries Inc. DBA Barker Barker Paving; and

WHEREAS, Hanover Engineering has reviewed the bid documents and are recommending the award of the Base Bid to Gaver Industries Inc. DBA Barker Barker Paving, Inc. in the amount of \$286,864.00;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Fountain Hill that the bid for the Jeter Avenue Reconstruction Contract be awarded to Gaver Industries Inc. DBA Barker Barker Paving. in the amount of \$286,864.00.

Duly Adopted by Borough Council at a meeting held on the 22nd day of March, 2017.

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

- Council President Rapp asked Mr. Mike Mayrosh to explain the difference between the estimated budget and the bid amounts. Mr. Mayrosh stated that over the five plus years he has been working on this project and based on his extensive research, he believes he put the best estimate on the price he provided Council. Mr. Mayrosh believes that he underestimated prevailing wage rates by 10%-15% causing the extra costs. In addition, Mr. Mayrosh believes he underestimated the cost of the construction of the roof and that due to the constraints of the site and timeframe and lack of subcontractors available, the entire project was underestimated.
- Mr. Trotter asked Mr. Mayrosh if it would behoove Council to rebid the project with separate subcontractors and a General Contractor to reduce the cost. Mr. Mayrosh stated that a Construction Manager, although has additional costs, could potentially save the Borough money. Mr. Mayrosh received one estimate from a Construction Manager at 4.5%.
- Council President Rapp stated that all of the bids received were very close to one another and that prolonging this process and longer would just be kicking the can down the road. Mr. Trabel asked if there are potential, additional costs or if the base bid price is all-encompassing. Mr. Mayrosh answered that there could still be additional costs if, once excavation begins, there is rock excavating involved.
- Mr. Trotter asked Ms. Sebesta to explain the financing procedure to Council and stated that the additional costs would be the taxpayer's burden and that the tax rate will likely increase next year.
- Ms. Jordan stated that the Borough will lose the current interest rate on the loan if we have to being the entire process over again and that the only ones suffering are the Public Works employees. Ms. Jordan asked Council to consider the time that has been spent planning this project and believes there are no other options but to proceed. Council President Rapp asked for motion to accept Bracy's bid contingent on the new financing being accepted by the bank:

**BOROUGH OF FOUNTAIN HILL
RESOLUTION NO. 2017-22**

A RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF FOUNTAIN HILL, LEHIGH COUNTY, PENNSYLVANIA, APPROVING THE AWARD OF BID FOR THE FOUNTAIN HILL PUBLIC WORKS RENOVATION/ADDITION PROJECT

WHEREAS, Bids were received on March 17, 2017 for the Fountain Hill Public Works Renovation/Addition Project as outlined on the attached bid summary; and

WHEREAS, The lowest bid received was from Bracy Construction; and

WHEREAS, MJ Mayrosh Architecture LLC and Fountain Hill Borough Executive Administrator have reviewed the bid documents and are recommending the award of the Base Bid to Bracy Construction, in the amount of \$1,156,250.00;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Fountain Hill that the bid for the Fountain Hill Public Works Renovation/Addition Project be awarded to Bracy Construction, in the amount of \$1,156,250.00;

Duly Adopted by Borough Council at a meeting held on the 22nd day of March, 2017.

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

4. Presentation:

- Scott Lipson explained to Council that an Agreement of Sale proposing the Fire House be purchased for \$1 has additional costs. The property needs to be subdivided and Jill Smith, of Hanover Engineering is working on this process. Mr. Lipson asked for Council to make a motion to accept the AOS. Ms. Gifford made the motion and Mr. Blatt seconded. The motion passed unanimously. Ms. Halleman asked Mr. Lipson to note that she is upset that St. Luke’s did not donate the building when they were selling the property.

5. Ordinances

First Reading

ORDINANCE NO. 835

AN ORDINANCE INCREASING THE INDEBTEDNESS OF BOROUGH OF FOUNTAIN HILL, LEHIGH COUNTY, PENNSYLVANIA, BY THE ISSUE OF A GENERAL OBLIGATION NOTE IN THE AMOUNT OF \$1,000,000 FOR THE CONSTRUCTION AND RENOVATION OF A PUBLIC WORKS BUILDING; FIXING THE FORM, NUMBER, DATE, INTEREST, AND MATURITY THEREOF; MAKING A COVENANT FOR THE PAYMENT OF THE DEBT SERVICE ON THE NOTE; PROVIDING FOR THE FILING OF THE REQUIRED DOCUMENT; PROVIDING FOR THE APPOINTMENT OF A SINKING FUND DEPOSITORY FOR THE NOTE; AND AUTHORIZING EXECUTION, SALE AND DELIVERY THEREOF.

WHEREAS, the Borough of Fountain Hill (the “Borough”) is a municipal corporation organized and existing under the laws of the Commonwealth of Pennsylvania (the “Commonwealth”) and is a Local Government Unit, as defined in the Local Government Unit Debt Act, Act No. 185 of the 1972 General Assembly of the Commonwealth, approved July 12, 1972, as reenacted by Act No. 177 of 1996, as amended (the “Act”); and

WHEREAS, it is necessary that the indebtedness of the Borough be increased for the following purpose: to construct and renovate the public works building; and

WHEREAS, the Borough has received preliminary realistic cost estimates from professional consultants indicating the sum of One Million and 00/100 Dollars (\$1,000,000.00) will be needed to complete the aforementioned purchase; and

WHEREAS, the proposed increase of debt, together with its nonelectoral indebtedness and its lease rental indebtedness presently outstanding, will not cause the limitations of the Borough debt incurring power, pursuant to constitutional and statutory authority to be exceeded; and

WHEREAS, the Borough Council has determined that such Note will be issued and designated generally as “Borough of Fountain Hill, Lehigh County, Commonwealth of Pennsylvania, General Obligation Note, Series of 2017” (the Note); and

WHEREAS, the Note shall be issued in the aggregate principal amount of One Million and 00/100 Dollars (\$1,000,000.00); and

WHEREAS, the Borough Council will convey the Note to the holder, Lafayette Ambassador Bank, to be conditioned upon, among other things, the receipt of approval from the Department of Community and Economic Development of the Commonwealth (the “Department”) relating to the incurring of the indebtedness to be evidenced by the Note.

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the Borough of Fountain Hill, Lehigh County, Pennsylvania, and it is hereby ordained and enacted by the authority of same as follows:

SECTION 1. That the aggregate principal amount of the Note of the Borough, proposed to be issued is One Million and 00/100 Dollars (\$1,000,000.00), same to be issued for the foregoing purposes and same to be incurred as nonelectoral debt.

SECTION 2. The period of useful life of the improvements for which this obligation is to be issued is estimated to be in excess of 20 years.

SECTION 3. Said indebtedness shall be evidenced by one general obligation Note, in fully registered form, in the sum of One Million and 00/100 Dollars (\$1,000,000.00) dated and bearing

interest from the earliest date of possible issue of said Note under the statutory time requirements as set forth in the Act, at the rate of interest of Two and Seven Hundredth Sixtieth Percent (2.760%) per annum (computed on the basis of a 360-day year), payable on the unpaid balance of said Note on such dates as set forth in the Debt Service Schedule, attached hereto as Schedule "1", during the term of said Note, which Note shall mature in installments on the anniversary date of said Note as set forth in the Repayment Schedule, attached hereto as Schedule "2" and incorporated herein.

The Borough reserves the right to anticipate any or all installments of principal or any payment of interest at any time prior to the respective payments dates thereof, without notice or penalty.

The principal and interest of said Note shall be payable at the office of the Sinking Fund Depository selected for the Note as hereinafter provided.

SECTION 4. The said Note is hereby declared to be a general obligation of the Borough of Fountain Hill, Lehigh County, Pennsylvania. The Borough hereby covenants that it shall include the amount of debt service on the Note for each fiscal year in which such sums are payable in its budget for that year, shall appropriate such amounts to the payment of such debt service; and shall duly and punctually pay or cause to be paid the principal of the Note and the interest thereon at the dates and places and in the manner stated in the Note according to the true intent and meaning thereof, and for such proper budgeting, appropriation, and payment, the full faith, credit and taxing power to the Borough is hereby irrevocably pledged.

The amounts which the Borough hereby covenants to pay in each of the following fiscal years on the basis of an interest rate of Two and Seven Hundredth Sixtieth Percent (2.760%) are as set forth in the Debt Service Schedule, attached hereto as Schedule "1".

SECTION 5. The form of said Note shall be substantially as set forth in Exhibit "A", attached hereto and incorporated herein.

SECTION 6. The said Note shall be executed in the name and under the corporate seal of the Borough by the President of the Council and Mayor of the Borough and attested to by the Executive Secretary. The President of the Council is hereby authorized and directed to deliver said Note to the holder, and receive payment therefor on behalf of the Borough. The President of the Council and Executive Secretary of the Borough are authorized and directed to prepare, verify and file the debt statement required by Section 8110 of the Act and to take other necessary action, including, if necessary or desirable, any statements required to qualify any portion of the debt from the appropriate debt limit as self-liquidating or subsidized debt.

SECTION 7. Lafayette Ambassador Bank is hereby designated as the Sinking Fund Depository for the obligation herein authorized, and there is hereby created and established a Sinking Fund, to be known as "Sinking Fund 2017 General Obligation Note" for the payment of the principal and interest thereon which shall be deposited into the Sinking Fund no later than the date upon which the same becomes due and payable. The President of the Council shall deposit into the Sinking Fund, which shall be maintained until such obligation is paid in full, sufficient amounts for payment of principal and interest on the obligation no later than the date upon which such payments shall become due. The Sinking Fund Depository shall, as and when said payments are due, without further action by the Borough, withdraw available monies in the Sinking Fund and apply said monies to payment of principal and interest on the obligation.

SECTION 8. The President of the Council and Executive Secretary of the Borough are hereby authorized to contract with a Bank or lending institution for its services as Sinking Fund Depository for the Note and paying agent for the same.

SECTION 9. In compliance with Section 8161 of the Act, the Members of the Borough Council have determined that a private sale by negotiation rather than public sale is in the best financial interest of the Borough. Therefore, the general obligation Note in the amount of One Million and 00/100 Dollars (\$1,000,000.00), herein authorized to be issued and sold is hereby awarded and sold to Lafayette Ambassador Bank in accordance with its proposal to purchase the said Note at par; provided the said Note is dated the delivery thereof to Lafayette Ambassador Bank and is substantially in the form set forth in this Ordinance as Exhibit "A"; and further provided that the proceedings have been approved by the Department if such approval is required under the provisions of the Act.

SECTION 10. The action of the proper officers and the advertising of a summary of this Ordinance as required by law in the *Bethlehem Press*, a newspaper of general circulation, is ratified and confirmed. The advertisement in said paper of the enactment of the ordinance is hereby directed within fifteen (15) days following the day of final enactment.

SECTION 11. All ordinances or parts of ordinances not in accord with this Ordinance are hereby repealed insofar as they conflict herewith.

SECTION 12. The provisions of this Ordinance shall become effective on the fifth (5th) day following enactment.

DULY ORDAINED AND ENACTED, by Borough Council having a quorum in lawful session duly assembled this 3rd day of April, 2017.

GENERAL OBLIGATION NOTE FORM

UNITED STATES OF AMERICA
COMMONWEALTH OF PENNSYLVANIA
COUNTY OF LEHIGH
BOROUGH OF FOUNTAIN HILL
2017 GENERAL OBLIGATION NOTE

\$ 1,000,000.00

Dated: April __, 2017

KNOW ALL MEN BY THESE PRESENTS, that the Borough of Fountain Hill, Lehigh County, Commonwealth of Pennsylvania (“Borough”), a local government unit existing by and under the laws of said Commonwealth, for value received, hereby acknowledges itself indebted and promises to pay to the purchaser, or registered assigns, the sum of One Million Dollars (\$1,000,000.00) or, if less, the aggregate principal amount outstanding, in installments pursuant to Exhibit “A” attached hereto with initial interest on the unpaid principal balance at the initial rate of 2.760% per annum to be reset on April __, 2027 at a floating rate equal to 65% of the *Wall Street Journal* Prime Rate or a fixed rate agreed upon by the Borough and payee, which shall in no event be less than 3.250% or greater than 5.500%, payable beginning on _____ 1, 2017, together with interest on overdue principal, and to the extent permitted by law, on overdue interest, at the rate of 7.760% per annum (calculated by adding 5.00 percentage points per annum), as may be reset, (computed on the basis of 360 days to the year comprised of twelve (12) thirty (30) day months), with the option in the local government unit to anticipate any installment of principal or any payment of interest at any time prior to the respective payment dates thereof, without notice of penalty.

The principal amount of the Note shall be advanced to the Borough in installments upon request by the Borough, from time to time, on any date from the date hereof until April __, 2027. Both principal and interest are payable in such coin or currency as at the respective dates of payment thereof shall be legal tender for the payment of public and private debts, at the office of Lafayette Ambassador Bank.

It is hereby recited that this Note is authorized to be issued in accordance with the Act of the General Assembly of the Commonwealth of Pennsylvania approved the 28th day of April, 1978, being Act 52 of the 1978 Session.

It is hereby certified that all acts, conditions, and things required to be or be done, happen, and be performed precedent to and in the issuance of this Note or in the creation of the debt of which it is evidence, have been done, happened and been performed in regular and due form and manner as required by law; and that this Note, together with all other indebtedness of the said local government unit is not in excess of any constitutional or statutory limitation and for the proper budgeting, appropriation, and the prompt and full payment of all the obligations of this Note the entire full faith, credit and taxing power of said local government unit are hereby irrevocably pledged.

It is hereby further certified that the said local government unit has effectively covenanted to include the amount of the debt service on this Note in each fiscal year for which such sums are due, in its budget for that year, to appropriate such amounts to the payment of such debt service, and to periodically pay or cause to be paid the principal and interest thereon at the dates and places and in the manner stated herein, according to the true intent and meaning hereof.

If the date for payment of the principal of, premium, if any, or interest in this Note shall be Saturday or Sunday, legal holiday or a day on which banking institutions in the municipality where the principal office of the Fiscal Agent is located are authorized by law or executive order to close, then the date of such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such date shall have the same force and effect as if made on the normal date of payment.

The proceedings with respect to the issuance of this Note have been duly approved by the Department of Community and Economic Development of the Commonwealth of Pennsylvania, and all other acts have been duly taken and conditions have been fulfilled which are requisite in connection with the issuance of this Note, and in the creation of the debt of which this is evidence. The debt represented by this Note, together with all other debt of the Borough, as defined in the Act, is not in excess of any constitutional or statutory limitation. The Borough has covenanted in the Ordinance to include in each annual budget of the Borough amounts sufficient to pay debt service on the Note when due, to make annual appropriations of such amounts and to pay said debt service in full when due.

The full faith, credit and taxing power of the Borough are hereby irrevocably pledged for the prompt and full payment of the interest on and principal of this Note and the fulfillment of the covenants of the Ordinance.

The Borough in the Ordinance has elected under and for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the “Code”), to designate the Note as “Qualified Tax Exempt Obligation” as such term is defined in Section 265(b)(3)(B) of the Code.

The Borough has also covenanted in the Ordinance to make no investment of the proceeds of the Note, or money treated the same as such proceeds under applicable law, which would make the Note “arbitrage bond” under the Code, or any rule or regulation thereunder, and that it will not take any action or omit to any action which would cause the Note to become obligations the interest on which is not excludable from gross income for federal income tax purposes.

Every payment made on any indebtedness evidenced by this Note shall be applied first to interest computed to the effective date of payment and then to principal.

IN WITNESS WHEREOF, the Borough of Fountain Hill, Lehigh County, Pennsylvania, has caused this Note to be properly executed by the proper officers of the local government unit and its corporate seal to be hereto affixed, attested to by the Secretary as of the _____ day of April 2017.

Mr. Blatt made a motion to accept the Ordinance under the contingency of securing an amount of \$1.5million. Ms. Gifford seconded the motion and it passed unanimously.

6. Discussion Items:

1. Request from the Lechauweki Committee to set a up fund for donations. Council President Rapp asked for a motion for Ms. Sebesta to set up a budget line item for donations. Mr. Trotter made a motion, Ms. Jordan seconded the motion and it passed unanimously.
2. Arbor Day Celebration, April 28, 2017 starting at 1 PM at the corner of Stanley Ave. and Lynn St.
3. Easter Egg Hunt, April 15, 2017 starting at 10 AM at Stanley Ave. playground.

7. Adjourn:

Council President Rapp asked for a motion to adjourn. Councilwoman Gifford made the motion, Councilman Trotter seconded the motion, and it was passed unanimously.

Council adjourned at 7:44pm.

Respectfully Submitted,

Bethany Sebesta, Assistant to the Executive Administrator

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

By: _____
Lawrence E. Rapp, President of Council

ATTEST:

By: _____
Anthony Branco, Executive Administrator