

**BOROUGH OF FOUNTAIN HILL
COUNCIL MEETING MINUTES
October 3, 2016
7:00 P.M.**

Council members present were: Mr. Rapp, Mr. Trabel, Ms. Jordan, Ms. Gifford, Mr. Trotter, Mr. Blatt and Mayor Rosado. Ms. Halleman was absent. Also in attendance were Anthony Branco, Executive Administrator, Mr. Peter Lehr, Esq., Chief Ed Bachert, Fire Chief Dave Boehner, Zoning Officer Albert Rohrbach, 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 August 24, 2016 the Work Session Meeting

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

2. Minutes of the September 6, 2016 Regular Meeting

| | Motion | 2nd | Yes | No | Abstain | Absent |
|-------------------|--------|-----|-----|----|---------|--------|
| Philip Trabel | | X | X | | | |
| Carolee Gifford | | | X | | | |
| Hellen Halleman | | | | | | X |
| Annamarie Jordon | X | | X | | | |
| Norman Blatt | | | 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.

- Members the Fountain Hill Exchange Club were present to present the Borough with a check of \$19,291.54. This amount is the balance of the scholarship fund and the donation account. Mr. Blatt, representing the membership explained that the Exchange Club was disbanding. The Exchange Club was formed in January of 1946. The money donated to the Borough was to be used for recreation in the Borough, with a caveat that any monies spent from this fund first be approved by the Bacchanalia Committee. Members of the Exchange club who were present were Michael Redding, Richard Milkovitz, Dorene Blatt, and Norman Blatt.
- Alan C. France of France, Anderson, Basile and Company presented the 2015 audit report. Overall the Borough is in a good financial position. Copies are available at Borough Hall for public examination.

Mayor's Report

Mayor Rosado informed Council that he received a complaint of a clown sighting at Stanley Avenue park. The Mayor recommended that sightings be reported to the Police Department.

Mayor Rosado read the Police report for September, and the District Judge report for August.

Executive Administrator’s Report:

- Electronic Recycling – GER Solutions \$2,864.34 for disposal of electronic equipment.
- Mr. Branco asked for a motion to approve an agreement with St. Lukes for the installation of a generator at the Brighten Street pumping station. Solicitor Lipson has reviewed the contract and made necessary corrections.

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

- Mr. Branco asked Council for permission to utilize the Borough Engineer for a Hazzard Mitigation Grant through FEMA. The grant would be for the replacement of a storm culvert under Broadway in the vicinity of Dodson Street, and the possibility of adding additional storm boxes along Broadway. Council gave their approval.

Presidents Report: N/R

Solicitor Report: N/R

Council President Rapp moved onto Resolutions: N/R

Council President Rapp moved onto Ordinances:

Second Reading

ORDINANCE NO. 827

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), BY APPROVING THE DELETION OF THE FOLLOWING HANDICAPPED PARKING SPACES

DELETE:

| STREET | SIDE | LOCATION |
|----------------|-------|----------|
| Russell Avenue | Front | #1229 |
| Russell Avenue | Front | #1120 |
| Seneca Street | Front | #748 |

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 November 3, 2014. The provisions of this Ordinance shall become effective immediately from the date of passage of this Ordinance.

Date of Borough Council Public Hearing: October 3, 2016

DULY ENACTED AND ORDAINED on this 3rd day of October, 2016, by the Borough of Fountain Hill in lawful session duly assembled.

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

ORDINANCE NO. 829

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE BOROUGH OF FOUNTAIN HILL BY AMENDING CHAPTER 10 TO ADD A NEW PART 5 RESTRICTED VEGETATION, PROVIDING FOR REGULATIONS GOVERNING THE CULTIVATION OF RUNNING BAMBOO AND OTHER ENUMERATED NOXIOUS PLANTS AND PROVIDING FOR THE ENFORCEMENT OF THIS ORDINANCE BY THE CODE ENFORCEMENT OFFICER, ABATEMENT OF THE RESTRICTED VEGETATION AND PENALTIES FOR VIOLATIONS

WHEREAS, the Borough of Fountain Hill (hereinafter the “Borough”) Code of Ordinances of the Borough of Fountain Hill, Chapter 10, Health and Safety provides for regulations designed to protect the health and safety of its citizens; and

WHEREAS, the presence of certain noxious vegetation, including species of running bamboo, poses a threat to the health and safety of citizens; and

WHEREAS, the Borough finds it necessary to control the planting, growing, or cultivating of certain species of plants to prevent the spread of noxious vegetation; and

WHEREAS, to protect the health, safety and welfare of the Borough, and to protect the Borough’s land, including its rights of way, as well as private property, the Borough Council has determined it is in the best interest of the Borough to adopt this ordinance regarding certain noxious vegetation.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Borough of Fountain Hill, Lehigh County, Pennsylvania, in lawful fashion duly assembled as follows:

The Code of Fountain Hill Borough is hereby amended by adding to Chapter 10, Health and Safety, a new Part 5 entitled Restricted Vegetation, which shall read as follows:

§501. Purpose. The provisions of this Part are enacted to control the planting, growing, or cultivating of certain species of plants in Fountain Hill Borough, so as to prevent the spread of noxious vegetation and its trespass onto public lands and rights of way, as well as private property. Therefore, it is the intent of this Part to ensure that the plant species named herein do not become a threat to the public health, safety and welfare.

§502. Definitions. The following words and terms as used in this Part, shall be construed and defined as follows, unless the context clearly indicates otherwise:

1. The word “plant” shall mean a living organism exemplified by trees, flowers, grasses, shrubs, herbs, mosses, and ferns; and shall be understood to mean any and all of its parts, including, but not limited to: the roots, stem and stalk, leaves, seed pods, flowers and fruit.

2. The word “restricted vegetation” shall mean any plant that is determined by the Fountain Hill Borough Council to be injurious to public health or property; and shall be understood to include running bamboo.

3. The word “running bamboo” shall mean all species of running bamboo, including, but not limited to: *Acidosasa*, *Arundinaria*, *Bashanla*, *Brachystachyum*, *Chimonobambusa*, *Gelidocalamus*, *Indocalanius*, *Indosasa*, *Ochlandra*, *Phyllostuchys*, *Pletoblostus*, *Pseudosasa*, *Sasa*, *Sasaella*, *Semiurundinaria*, *Shibutaca* and *Sinobumbusa*.

§503. Regulations Governing Restricted Vegetation.

1. No person owning, leasing, occupying, or having charge of any premises shall plant, grow, cause to grow, or in any way cultivate restricted vegetation thereon, subject to the following exceptions:

a. The root system of the Restricted Vegetation is entirely contained within an above-ground planter, barrel or other container of such design, material and location as to prevent the spread of the root system beyond the confines of said container; or

b. The root system of the Restricted Vegetation is in the ground, but is contained entirely within a barrier constructed in accordance with the following specifications:

i. The barrier shall be composed of a high density polypropylene or polyethylene, with a thickness of at least forty (40.0) mm;

ii. The barrier shall be secured and joined together by stainless steel clamps, or stainless steel closure strips, which are designed to be used with such a barrier according to manufacturer’s specifications;

iii. The depth of the barrier shall be at least thirty (30) inches below ground;

iv. The height of the barrier around its entire perimeter shall be at least three (3) inches above ground; and

v. The angle of the barrier shall slant outward from bottom to top.

2. For any Restricted Vegetation that is permitted under §503.1(a) or (b), no part of such Restricted Vegetation shall be located less than ten (10) feet from any lot line. Any person owning, leasing, occupying, or having charge of any premises containing Restricted Vegetation as permitted under §503.1(a) or (b) shall remove all parts thereof which are less than ten (10) feet from any lot line.

§504. Complaint; Notice; Order for Removal and Compliance.

1. Whenever a complaint is received by the Borough of the presence of Restricted Vegetation in violation of §503, or whenever the Borough on its own observations and inspections identifies the presence of Restricted Vegetation, the Borough shall take the necessary steps to verify that a violation of this Part has occurred. If a violation has occurred, the Borough shall give notice to the person owning, leasing, occupying, or having charge of the premises to control and/or remove the offending restricted vegetation.

2. The notice of violation shall be mailed by certified mail, return receipt requested, properly addressed and with sufficient postage. Notice by certified mail shall be deemed complete on the date of personal delivery. If the certified mail is marked “refused,” “unclaimed,” or otherwise undeliverable by the United States Postal Service, notice will be sent by regular mail and by posting the notice on the premises, and shall be deemed complete once the notice has been mailed and the premises posted.

3. The notice of violation shall specify the nature of the violation, and shall state specifically what must be done by the responsible party to correct the violation and come into compliance with this Part. The notice shall specify, as appropriate, the practices and processes to be followed and shall set a time frame for compliance. The notice shall state that failure to comply with the compliance time frame will result in the removal of the offending vegetation by the Borough and that the responsible party will be billed for all costs incurred by the Borough. The Borough may, in its discretion, elect to issue a citation daily until such time as the offending restricted vegetation is removed, and the notice should so advise the responsible party.

4. Compliance with the provisions of the notice of violation shall be subject to the inspection of the Borough Code Enforcement Officer.

§505. Violations and penalties. Any person violating the provisions of this Part shall, upon conviction thereof before any magisterial district justice, be subject to a pay a fine of One Hundred and 00/100 Dollars (\$100.00) per day for each day that the violation persists, as well as court costs, legal fees and any other fees incurred by the Borough to enforce this Part against the responsible party. Each day of a continuing violation shall constitute a separate offense, for which a separate fine shall be levied.

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

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.

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| | 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 moved onto Motions: none

Council President Rapp moved onto New Business: none

Council President Rapp moved onto Old Business:

- Ms. Jordan informed Council that at the last Council meeting 3Seed Marketing had made a presentation for a new web site. Council members were very interested in the prospect of the new site, but a motion was never taken. Ms. Jordan made a motion to hire 3Seed, seconded by Mr. Trotter and passed unanimously.

| | 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 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. Gifford and was approved unanimously.

Public Works Committee:

Ms. Jordan presented the September Public Works report.

Police Committee:

Chief Bachert informed Council that the drug drop off day will be on October 22 at Police Headquarters from 10 AM to 2 PM.

House & Ordinance Committee: N/R

Fire Committee:

Ms. Gifford read the September fire report.

Recreation Committee:

Mr. Trabel informed Council that the Bacchanalia Committee has agreed to purchase \$5,689.14 for replacement parts for the playground, and \$4,690.00 for the sealcoating of the Basket Ball court and the walking path.

Health & Sanitation Committee:

Mr. Rapp read the September Sewer and Sanitation report.

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

Chief Boeher stated that the Fire Department will have another haunted house at the Fire Station.

Mr. Trabel informed Council that he had received a complement from a resident praising the Public Works for their good job filling in the potholes in the alley between Clewell and Benner Streets.

Council President Rapp opened the meeting up to any public comments.

- Ms. Tracy McGuire of 602 Smiley Ave asked Council for permission to close off the alley behind her home for her yearly Halloween Night from 6 PM to 8 PM. This is an event that she has been hosting yearly for the children. It will be the last year because she will be moving. Council gave their approval, and Mr. Branco will have Mr. Quarry contact Ms. McGuire to schedule the closing.
- Mr. George Brodbeck of 1128 Russell Avenue questioned parking in the alleys off of Russell Avenue. Mr. Brodbeck was told that there should be no parking in the alleys because they are through streets. Mr. Branco was directed to have Public Works post the alleys in question as no parking.

Ms. Gifford made the motion to adjourn to executive session to discuss personnel matters at 7:46 P.M, no action will be taken, and the meeting would then be adjourned. 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

