

**BOROUGH OF FOUNTAIN HILL
COUNCIL MEETING MINUTES
September 6, 2016
7:00 P.M.**

Council members present were: Mr. Rapp, Mr. Trabel, Ms. Halleman, Ms. Jordan. Ms. Gifford, Mr. Trotter, Mr. Blatt and Mayor Rosado. Also in attendance were Anthony Branco, Mr. Peter Lehr, Esq., Chief Ed Bachert, Fire Chief Dave Boehner, Zoning Officer Albert Rohrbach, Jason Quarry, Public Works Supervisor, 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 July 20, 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	
Doug Trotter		X	X			
Larry Rapp			X			
Mayor Jose Rosado						

2. Minutes of the August 1, 2016 Regular Meeting

	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						

Council President Rapp opened the meeting to the public for any comments on Agenda items or by those persons registered to speak.

1. Mr. James Bicking of 614 S. Bergen St. – requested that Council look at the No Parking signs on Ronca St. Mr. Bicking states that the way the signs are facing you can't see them. Mr. Quarry will look at the sign placement and make the necessary changes.

Mayor's Report

Mayor Rosado read the Police report for August, and the District Judge report for July. Mr. Richmon Penn was sworn in as a new Part Time Police Officer for the Borough.

Executive Administrator's Report:

1. Mr. Branco informed Council that the Safety Committee has been formed and that the first meeting had been held. Members are Chief Bachert, Officer Dave Wood, Fire Chief Boeher, Joe Hart, Jason Quarry, Brian Morea, and Anthony Branco. Meeting will be held the last Monday of each month.

2. A request for a curb cut was received from Jonathon & Qiana Wert of 706 S. Bergen St. All necessary inquiries have been done by staff and it is recommended that the request be granted.

	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		X			
Larry Rapp			X			
Mayor Jose Rosado						

Presidents Report: N/R

Solicitor Report: N/R

Council President Rapp moved onto Resolutions:

RESOLUTION 2016-25

APPOINTMENT OF SEWAGE ENFORCEMENT OFFICERS IN THE BOROUGH OF FOUNTAIN HILL

WHEREAS, Act 247 requires that the Borough, by Resolution, appoint a Sewage Enforcement Officer(s); and

WHEREAS, Act 247 requires that in addition to the appointment, the Borough also approve the Engineer's rate schedule

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Fountain Hill appoint the following Sewage Enforcement Officers from the firm of Hanover Engineering Associates, Inc., for calendar year 2016:

Gregory C. Gray - 03945

Duly Adopted by Borough Council at a meeting held on the 6th day of September 2016.

	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 moved onto Ordinances:

Second Reading

ORDINANCE # 828

AN ORDINANCE OF THE BOROUGH OF FOUNTAIN HILL ADOPTING THE 2009 EDITION OF THE *INTERNATIONAL FIRE CODE* REGULATING AND GOVERNING THE SAFEGUARDING OF LIFE AND PROPERTY FROM FIRE AND EXPLOSION HAZARDS ARISING FROM THE STORAGE, HANDLING, AND USE OF HAZARDOUS SUBSTANCES, MATERIALS, AND DEVICES, AND FROM CONDITIONS HAZARDOUS TO LIFE OR PROPERTY IN THE OCCUPANCY OF BUILDINGS AND PREMISES IN THE BOROUGH OF FOUNTAIN HILL; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF

FEES THEREFORE; REPEALING ORDINANCE NO. 585, Sections 301, 302, 303, and 304 OF THE CODE OF THE BOROUGH OF FOUNTAIN HILL, AND ALL OTHER ORDINANCES AND PARTS OF THE ORDINANCES IN CONFLICT THEREWITH, EXCEPT THAT CHAPTER 7, PART 2 BURNING PROHIBITIONS, SECTIONS 201 – 204 SHALL NOT BE REPEALED BUT SHALL REMAIN IN FULL FORCE AND EFFECT AFTER THE ADOPTION OF THIS 2009 INTERNATIONAL FIRE CODE

BE IT ORDAINED AND ENACTED by the Council of the Borough of Fountain Hill, Lehigh County and Commonwealth of Pennsylvania:

SECTION 1: That Section 301 “Adoption of Fire Prevention Code” amended in its entirety to read as follows:

That a certain document, which is on file in the office of the Code Enforcement Officer of the Borough of Fountain Hill, being marked and designated as the *International Fire Code*, 2009 edition, including Appendix Chapters E through J (see *International Fire Code* Section 101.2.1, 2009 edition), as published by the International Code Council, be and is hereby adopted as the Fire Code of The Borough of Fountain Hill in the Commonwealth of Pennsylvania regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling, and use of hazardous substances, materials, and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises and herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Fire Code on file in the office of the Borough of Fountain Hill are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 2 of this ordinance.

SECTION 2: That Section 303 of the Fountain Hill Code, “Additions, Deletions, Insertions and Changes” be amended in its entirety to read:

That the following Sections of the 2009 *International Fire Code*, are hereby revised:

Section 101.1. Insert: Borough of Fountain Hill

Section 103.1 - Amend in its entirety to read: “Office of Code Enforcement. The administration of this and of the *International Fire Code* 2009, shall be carried out by the Zoning/ Code Enforcement Officer of the Borough of Fountain Hill, or the Fire Marshall of the Borough of Fountain Hill, in accordance with the provision established by Ordinance No.828, and by the *International Fire Code* 2009, hereby adopted.

Section 103.3 - Amend in its entirety to read: “The Building Official, the Zoning/Code Officer, the Fire Code Official, or the Fire Marshall may seek assistance of technical experts, inspectors and other persons for the administration of this code after request to and approval by Borough Council. The Executive Administrator may approve the use of such persons if the expense not exceed \$500.”

Section 105.6.30 - Amend the Exceptions to the general requirement to read as follows: “Exceptions: a) *Recreational fires*; and b) *bonfires* where approval for the same has been received from the Fire Chief.

Section 105.6.31 - Amend to add the following: “Exception: The requirement to obtain an operational permit to remove paint with a torch shall be applicable only to contractors for hire and shall not apply to property owners working on their own property.”

Section 105.6.32 relating to the use of candles is deleted in its entirety.

Section 108.3- Delete, in its entirety.

Section 109.3. - Insert: Summary Offense; \$1,000, less than \$100; 90 days

Section 111.4. - Insert: \$100 and \$1,000

Section 202 – Amend “General Definitions” as follows:

Board of Appeals shall mean “the Salisbury Township Hearing Board of Appeals”.

Building Official shall mean “the Zoning/Code Enforcement Officer of the Borough of Fountain Hill”.

Chief Appointing Authority shall mean “the Council of the Borough of Fountain Hill”.

Corporate Council shall mean “the Solicitor of the Borough of Fountain Hill”.

Department of Building Inspection shall mean “the Zoning/ Code Enforcement Officer of the Borough of Fountain Hill”, as established by Ordinance No. 736.

Fire Code Official shall mean “the Zoning/Code Enforcement Officer and Fire Marshall of the Borough of Fountain Hill or other designated authority, appointed by Borough Council and charged with the enforcement of the code, or a duly authorized representative”.

Section 2601.2 - Relating to permits for welding shall be deleted in its entirety.

Section 3804.2 – Amend to add the following subsection: “3804.2.1 – Maximum Above Ground Capacity. Notwithstanding any other provisions of this Section 3804, the aggregate capacity of any above ground installation shall not exceed a water capacity of 200 gallons (757 L) for residential properties and 1,000 gallons (3785L) for nonresidential properties.”

SECTION 3: That the geographic limits referred to in certain sections of the 2009 *International Fire Code* are hereby established as follows:

Section 3404.2.9.6.1 (geographic limits in which the storage of Class I and Class II liquids in above-ground tanks outside of buildings is prohibited): Prohibit in all Residential Zoning Districts

Section 3406.2.4.4 (geographic limits in which the storage of Class I and Class II liquids in above-ground tanks is prohibited): Prohibit in all Residential Zoning Districts

Section 3506.2 (geographic limits in which the storage of flammable cryogenic fluids in stationary containers is prohibited): Allow only in the Industrial and Institutional Zoning District

Section 3804.2 (geographic limits in which the storage of liquefied petroleum gas is restricted for the protection of heavily populated or congested areas): Prohibit in all Residential High Density Zoning Districts

SECTION 4: That Ordinance 585 of the Borough of Fountain Hill, Part 3 of the Fountain Hill Code, entitled “BOCA National Fire Prevention Code, latest edition, and all other ordinances or parts of ordinances in conflict herewith are hereby repealed, except that Chapter 7, part 2 Burning Prohibitions, Sections 201 – 204 shall not be repealed but shall remain in full force and effect after the adoption of this 2009 International Fire Code.

SECTION 5: That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Council of the Borough of Fountain Hill hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that anyone or more sections, subsections, sentences, and clauses and phrases be declared unconstitutional.

SECTION 6: That nothing in this ordinance or in the Fire Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 4 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

SECTION 7: That the Executive Administrator is hereby ordered and directed to cause this ordinance to be published.

SECTION 8: That this ordinance and rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect immediately from and after the date of its final passage and adoption.

ORDAINED and ENACTED this 6th day of September, 2016, in lawful session duly assembled:

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

First Reading

ORDINANCE NO. 829

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

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.

PROCEDURAL DEFECTS IN ENACTMENT. Any procedural challenge shall be filed in accordance with applicable law.

Council President Rapp opened the floor to discussion.

Ms. Gifford stated that she did not agree with the ordinance and that it would could be handled much better. It would not be appropriate to tell residents what they could and could not plant. Historically, the Borough gives its residents more freedom, and she has sympathy for the residents. The solution to this problem is not to enforce.

Mr. Trotter stated that he generally would agree with the comments made by Ms. Gifford, but not with the issue of bamboo. Bamboo is a huge problem, and the neighbors would be stuck with the problem.

Ms. Gifford stated that bamboo makes a good hedge. Also, what about the people who planted it, what about them?

Mr. Blatt stated that we make a criminal out of the person who planted the bamboo.

Mr. Rohrbach stated that people can still plant it, but it must be in a container that stops the spread of growth.

	Motion	2nd	Yes	No	Abstain	Absent
Philip Trabel		X	X			
Carolee Gifford				X		
Hellen Halleman	X		X			
Annamarie Jordon			X			
Norman Blatt				X		
Doug Trotter			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. Halleman asked/stated the following;

- asked when the Auditor report would be completed. Mr. Branco stated that the MMO that was at each Councilor's desk was given to the Auditor so that the audit could be completed. The Auditor will complete the report and schedule a meeting to present the audit to Council.
- asked Mr. Branco to get a copy of the Service Electric cable contract for her to review.
- asked Mr. Rapp where the representative from St. Lukes was. Mr. Rapp stated that he had a meeting scheduled and notified the Mr. Branco that he was not able to attend.
- Stated that a demolition permit had been issued for 902 Ostrum Street. The Borough would lose about \$1,600 in property taxes. Ms. Halleman informed Council that she had spoken to Mr. Seiple and he had stated that St. Lukes would be landscaping the lot and later would put in a parking lot.
- A demolition permit was requested for 807 Delaware Ave. but now it appears that someone has moved in.

Ms. Gifford and other Councilors informed Ms. Halleman that 902 Ostrum belongs to St. Lukes, and the Borough has no right to tell St. Lukes what they can and can't do with their property.

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 August Public Works report.

Police Committee: N/R

House & Ordinance Committee: N/R

Fire Committee:

Ms. Gifford read the August fire report.

Recreation Committee:

Mr. Trabel read the pool revenue/expense report prepared by Ms. Sebesta

Health & Sanitation Committee:

Ms. Halleman read the August Sewer and Sanitation report.

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.

Mr. Fred Capuano asked if the electronics recycling event was on September 10, 2016. Mr. Rapp stated that it was and the time would be from 10 AM to 2 PM.

Ms. Gifford made the motion to adjourn to executive session to discuss personnel matters and a potential lease agreement at 7:35 P.M, no action will be taken, and the meeting would then be adjourned. The motion was seconded by Mr. Trotter, and unanimously approved.

LEHIGH COUNTY, PENNSYLVANIA

By: _____
Lawrence E. Rapp, President of Council

ATTEST:

By: _____
Anthony Branco, Secretary