



City of Lambertville
REGULARLY SCHEDULED SESSION
THURSDAY, August 22, 2019, 7:00 PM
PHILLIP L. PITTORE JUSTICE CENTER
MINUTES

STATEMENT OF COMPLIANCE WITH OPEN PUBLIC MEETINGS ACT

Mayor Fahl called the meeting to order at 7:02 p.m. and asked the City Clerk to read the statement of compliance with the Open Public Meetings Act into the record.

The City Clerk read the following statement:

This meeting is being held in compliance with the Open Public Meetings Act with notice provided to the Hunterdon County Democrat, the Trenton Times, various individuals on the list serve, department heads, the City Engineer and City Attorney and the posting of the agenda on the Bulletin Board at City Hall and the city's website.

ROLL CALL

The City Clerk called the roll as follows:

Present: Councilman Sanders, Councilwoman Warner, Councilwoman Taylor, Mayor Fahl.

Absent: Council President Asaro

PLEDGE OF ALLEGIANCE

Mayor Fahl led the public in the Pledge of Allegiance.

MOMENT OF SILENCE

The City Clerk led the public in a moment of silence in honor of those serving in the United States Armed Forces in Country and abroad.

APPROVAL OF MINUTES

Mayor Fahl asked for a motion to approve the following sets of minutes: 07-18-19 Regular Session Minutes, 08-01-19 Special Session Minutes, 08-01-19 Closed Session Minutes, 08/06/19 Work Session Minutes, and 08/06/19 Closed Session Minutes. Councilman Sanders made a motion to approve the minutes as submitted/amended. Councilwoman Warner seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present. MOTION CARRIED.

APPROVAL OF THE BILLS LIST

Mayor Fahl/Council President Asaro asked for a motion to approve the Bills List. Councilwoman Taylor made a motion to approve the Bills List as submitted. Councilwoman Warner seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present. MOTION CARRIED.

PROCLAMATIONS – No proclamations.

RESOLUTIONS

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CONSENT AGENDA: *The following resolutions on a consent agenda are considered routine and shall be enacted by one motion. Should any member of City Council seek separate discussion of any item, that item shall be removed and discussed separately.*

Mayor Fahl gave the following commentary on the resolutions listed on the consent agenda:

The city is working to memorialize the garbage and recycling and third can programs. The City experienced ongoing issues with contamination of all three streams, we have had ongoing conversations and worked with the Environmental Commission to produce a document to insure we are working to fix those issues and to come up with a cleaner, better recycling and composting program. She thanked the Council for their diligent work during the work sessions and recognized Liz Magill Peer for her work on the document.

Resolution Number 119-2019 is to authorize the story telling events at the Lambertville Hall (Bucks County Playhouse). The City can resolve for special occasions events to increase the number of participants to 150. These events are exciting and she introduced Michaela, the Director of Communications for the Playhouse. Michaela explained that the CAP approved by the Planning Board authorized an occupancy of 49. The story telling events are very popular and they would like to be able to accommodate the audience that wants to come.

Discussion ensued and the City Planner pointed out that the Planning Board authorized 150 seats for community events through Resolution Number 10-2015. Mayor Fahl commented that this is an opportunity for cultural engagement. Councilman Sanders responded that the building looks fantastic and he appreciates the contribution they made to the City. He said the issue is with the pressure around the parking impact. Councilwoman Taylor commented that she appreciates their willingness to work with the city and this is already approved.

RESOLUTION NUMBER 113-2019: *A Resolution to Authorize the Contract with the City Planner, Clarke Caton Hintz for the Rezoning of Two Parcels on North Union Street, in an Amount Not to Exceed \$2,000.00.*

RESOLUTION NUMBER 113-2019

A Resolution to Authorize the Contract with the City Planner, Clarke Cat on Hintz to Prepare the Ordinance and Attending the Meetings for the Rezoning of Two Parcels on North Union Street

WHEREAS, the City of Lambertville hired Clarke Caton Hintz as the City Planner through the fair and open process memorialized in Resolution Number 67-2019; and

WHEREAS, the Governing Body would like to rezone two parcels on North Union Street; and

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WHEREAS, the City Planner submitted a proposal in the amount of \$2,000.00 to write the ordinance and represent the City through the zoning process.

NOW THEREFORE BE IT RESOLVED BY THE Governing Body of the City of Lambertville, in the County of Hunterdon, in the State of New Jersey, that the contract amount with Clarke Caton Hintz to serve as the City Planner is hereby raised by \$2,000.00, or \$35,000.00.

ADOPTED: August 22, 2019

- a. RESOLUTION NUMBER 114-2019: *A Resolution to Memorialize the Garbage, Recycling and Third Can Programs.*

RESOLUTION NUMBER 114-2019

A Resolution to Memorialize the Changes to the Garbage, Recycling and Third Can Program

WHEREAS; The Mayor and Business Administrator have created, in conjunction with the Environmental Commission as well as with feedback from the Governing Body and the public, a document that lays out various next steps to take to help improve Lambertville's waste, recycling, and composting programs, with the goals of both reducing costs to the City and improving the City's environmental footprint.

THEREFORE, BE IT RESOLVED; that the Mayor and City Council hereby do accept this plan as general guidance on how best to proceed on this issue, which will be implemented under the purview of the Mayor and Business Administrator, with modifications as may be needed.

ADOPTED: August 22, 2019

RESOLUTION NUMBER 115-2019: *A Resolution to Authorize the Contract with the City Planner, Clarke Caton Hintz for the Planning and Zoning Board of Adjustment On-Call Service in an Amount Not to Exceed \$4,000.00.*

RESOLUTION NUMBER 115-2019

A Resolution to Authorize the Contract with the City Planner, Clarke Cat on Hintz for Planning and Zoning Board of Adjustment On-Call Service in an Amount Not to Exceed \$4,000

WHEREAS, the City of Lambertville hired Clarke Caton Hintz as the City Planner through the fair and open process memorialized in Resolution Number 67-2019; and

WHEREAS, there is a need for on call services to assist with Planning and Zoning Board of Adjustment applications; and

WHEREAS, the City Planner submitted a proposal in the amount of \$4,000.00 to provide on-call services.

NOW THEREFORE BE IT RESOLVED BY THE Governing Body of the City of Lambertville, in the County of Hunterdon, in the State of New Jersey, that the contract

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amount with Clarke Caton Hintz to serve as the City Planner is hereby raised by \$4,000.00, or \$48,000.00.

ADOPTED: August 22, 2019

RESOLUTION NUMBER 116-2019: A Resolution to Authorize the Submittal of a Grant Application, and to Execute a Grant Contract with the State of New Jersey Department of Transportation for the MA-2020-2020 Roadway Resurfacing Program 00715 Project.

*RESOLUTION NUMBER 116-2019
A Resolution to Authorize the Submittal of a Grant Application, and to Execute a Grant Contract with the State of New Jersey, Department of Transportation for the MA 2020 Roadway Resurfacing Program 00715 Project*

NOW, THEREFORE BE IT RESOVLED by Mayor and Council of the City of Lambertville formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED by the Mayor, City Engineer and Clerk are hereby authorized to submit an electronic grant application identified as MA-2020-2020 Roadway Resurfacing Program-00715 to the New Jersey Department of Transportation on behalf of the City of Lambertville.

BE IT FURTHER RESOLVED that Mayor, City Engineer and Clerk are hereby authorized to sign the grant agreement on behalf of the City of Lambertville and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approved the execution of the grant agreement.

ADOTPED: August 22, 2019

RESOLUTION NUMBER 117-2019: A Resolution Authorizing the Treasurer to Cancel Grant Balances in the Amount of \$1,318.99.

RESOLUTION AUTHORIZING THE TREASURER TO CANCEL GRANT BALANCES

WHEREAS, there exists various Grant Receivable and Grant Appropriations on the Balance Sheet and,

WHEREAS, it is necessary to formally cancel Federal and State Grant Receivable balances and Federal and State Grant Appropriation balances from the balance sheet,

NOW, THERFORE, BE IT RESOLVED that the Council of the City of Lambertville, that the following grant receivables and grant appropriation balances be cancelled:

Cancel Receivable Balances

Body Armor 2018	\$1,318.99
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Cancel Appropriation Balances

Body Armor 2018	\$1,318.99
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ADOPTED: August, 22, 2019

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RESOLUTION NUMBER 118-2019: *A Resolution Authorizing the Redemption of a Tax Lien for Block 1004, Lot 3 In the Amount of \$61,412.78, Plus a Premium in the Amount of \$54,700.00.*

RESOLUTION 118-2019

A Resolution Authorizing the Redemption of a Tax Lien for Block 1004, Lot 3 In the Amount of

\$61,412.78

WHEREAS, Tax Lien Certificate 18-00003 issued on Block 1004 Lot 3 was sold to US BANK CUST ACTLIEN HOLDING, 50 South 16th Street, Suite 2050, Philadelphia, PA 19102 on 08/02/2019 and

WHEREAS, payment has been received by the Tax Collector for redemption of the tax lien from a property owner.

NOW THEREFORE BE IT RESOLVED by Mayor and Council of the City of Lambertville, in the County of Hunterdon, in the State of New Jersey that the check is hereby authorized to US BANK CUST ACTLIEN HOLDING, 50 South 16th Street, Suite 2050, Philadelphia, PA 19102 for the redemption of tax lien certificate #18-0003 in the amount of: \$61,412.78

In addition, the City is holding a premium in the amount of \$54,700.00 and upon redemption this is due back to the lienholder.

2 checks for the lienholder –

Check 1= \$61,412.78

Check 2= for premium= \$54,700.00

ADOPTED: August 22, 2019

RESOLUTION NUMBER 119-2019: *A Resolution to Authorize the Story Telling Events at the Bucks County Playhouse on September 20, October 25, November 22 and December 13, in Accordance with the Resolution Enacted with the Planning Board.*

RESOLUTION NUMBER 119-2019

A Resolution to Authorize the Story Telling Events at the Lambertville Hall Foundation on September 20, October 25, November 22 and December 13, in Accordance with the Resolution Adopted by the Planning Board on November 18, 2015

WHEREAS; the Lambertville Hall Foundation made an application to the Planning Board in 2015 for preliminary and final site plan of block 1042, lot 28 which was conditionally approved on November 18, 2015; and

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WHEREAS the resolution grants approval for mixed use of classroom community events with a maximum of 150 persons could be in the building at any one time.

THEREFORE BE IT RESOLVED; that the Mayor and City Council of the City of Lambertville, in the County of Hunterdon authorize the following schedule of events for the Story Telling Performances as previously approved by the Planning Board on November 18, 2015: September 20, 2019, October 25, 2019; November 22, 2019; and December 13, 2019 beginning at 7:30 p.m. conditioned upon the maximum number of attendees/persons in the building being capped at 150 attendees.

BE IT FURTHER RESOLVED, that the City Council directs the Business Administrator, Construction Official and Zoning Official to coordinate with the Lambertville Hall Foundation to monitor expected attendees and to assess possible unintended parking impact for further consideration by the City’s governing body, Planning Board and Zoning Board.”

ADOPTED: August 22, 2019

RESOLUTION NUMBER 120-2019: A Resolution to Accept the 2018 Audit as prepared by Suplee Clooney, the City Auditor.

GOVERNING BODY CERTIFICATION OF THE ANNUAL AUDIT

RESOLUTION NUMBER 120-2019

WHEREAS, N.J.S.A. 40A:5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions, and

WHEREAS, the Annual Report of Audit for the 2018 Calendar Year has been filed by a Registered Municipal Accountant with the Municipal Clerk pursuant to N.J.S.A. 40A:5-6, and a copy has been received by each member of the governing body; and,

WHEREAS, R.S. 52:27BB-34 authorizes the Local Finance Board of the State of New Jersey to prescribe reports pertaining to the local fiscal affairs; and,

WHEREAS, the Local Finance Board has promulgated N.J.A.C. 5:30-6.5, a regulation requiring that the governing body of each municipality shall by resolution certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled “Comments and Recommendations, and,

WHEREAS, the members of the governing body have personally reviewed as a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled “Comments and Recommendations, as evidenced by the group affidavit form of the governing body attached hereto; and,

WHEREAS, such resolution of certification shall be adopted by the Governing Body no later than forty-five days after the receipt of the annual audit, pursuant to N.J.A.C. 5:30-6.5; and,

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WHEREAS, all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board, and

WHEREAS, failure to comply with the regulations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52, to wit:

R.S. 52:27BB-52: A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.

NOW, THEREFORE BE IT RESOLVED, That the *City* of the Lambertville, hereby states that it has complied with N.J.A.C. 5:30-6.5 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

I HEREBY CERTIFY THAT THIS IS A TRUE COPY OF THE RESOLUTION PASSED AT THE MEETING HELD ON August 22, 2019.

RESOLUTION NUMBER 121-2019: A Resolution Authorizing the Payment of Funds to the Lambertville Municipal Utilities Authority for the 2018 Tax Sale Held on August 15, 2019 in an Amount Not to Exceed \$4847.19 (principle 3805.16 and interest 1042.03).

RESOLUTION NUMBER 121-2019

A Resolution Authorizing the Payment of Funds to the Lambertville Municipal Utilities Authority for the 2018 Tax Sale Held on August 15, 2019 in an Amount Not to Exceed \$4,847.19

WHEREAS; the City of Lambertville held the annual 2018 tax sale for unpaid property tax and sewer fees on August 15, 2019; and

WHEREAS, the amount due and payable to the Lambertville Municipal Utilities Authority is \$4,847.19, with the principal amount of \$3,805.16 plus interest in the amount of \$1,042.03.

THEREFORE, BE IT RESOLVED; that the Mayor and City Council of the City of Lambertville, in the County of Hunterdon authorize the payment of funds to the Lambertville Municipal Utilities Authority for the 2018 tax sale held on August 15, 2019 in an amount not to exceed \$4,847.19.

ADOPTED: August 22, 2019

Mayor Fahl asked for a motion to adopt the resolutions listed on the consent agenda, and to amend Resolution Number 119-2019 to include language requiring the monitoring of parking issues for the special events held by the Lambertville Hall.

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Councilwoman Warner made the motion to adopt the resolutions. Councilwoman Taylor seconded the motions. An affirmative voice vote was taken in favor of the motion by all members present. MOTION CARRIED.

ORDINANCES – FIRST READING

ORDINANCE NUMBER 18-2019: An Ordinance to Establish a Community Aggregation Program in the City of Lambertville.

Mayor Fahl recused herself during the reading of this ordinance. In the absence of the Council President, Councilwoman Warner took the lead on this Ordinance.

Councilwoman Warner read the ordinance into the record by title. She informed the members of the public present that the City has previously adopted an ordinance to allow community aggregation. This will allow the City to continue to seek opportunities for community aggregation.

ORDINANCE NO. 18-2019

**AN ORDINANCE OF THE CITY OF LAMBERTVILLE
ESTABLISHING AN ELECTRIC AGGREGATION PROGRAM**

WHEREAS, the State of New Jersey has been engaged in a process to establish a competitive market place through deregulation and restructuring the electric utility market; and

WHEREAS, the establishment of a government aggregator and an energy aggregation program to purchase electric generation service pursuant to N.J.S.A. 48:3-93.1 et seq. and N.J.A.C. 14:4-6.1 et seq. will increase competition for the provision of electric power to residential and non-residential users, thereby increasing the likelihood of lower electric rates for these users without causing any interruption in service; and

WHEREAS, the City of Lambertville is interested in ensuring that a greater percentage of energy provided by the Program comes from renewable energy sources, and will therefore include provisions for the inclusion of renewable energy in the proposals for energy aggregation services; and

WHEREAS, the purchase of renewable energy will reduce the dependence on fossil fuels and under the aggregation process the residential and non-residential ratepayers will likely receive a direct reduction in their electric bills; and

WHEREAS, the realization of energy cost savings is in the interests of the health, safety and welfare of the residents and non-residents of the City of Lambertville, and

WHEREAS, the City of Lambertville hereby finds that it is in the best interests of residential and non-residential ratepayers for the City of Lambertville to create the opportunity for them to enter into an aggregation agreement in order to seek substantial savings on electric rates.

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NOW, THEREFORE, BE IT ORDAINED, by the Governing Body of the City of Lambertville in the County of Hunterdon and the State of New Jersey, duly assembled in public session, as follows:

1. The City publicly declares its intent to become an aggregator of electric power on behalf of its residential users of electricity pursuant to the Government Energy Act of 2003, N.J.S.A. 48:3-91.3 to -98, and implementing regulations.
2. The City will utilize approved vendors, Commercial Utility Consultants, Inc. and its subcontractor Concord Engineering Group dba Concord Energy Services pursuant to the NJ E-PROCUREMENT Pilot program (P.L. 2001, c.30) under the NJ Department of Community Affairs. The Reverse Energy auction will seek bids from licensed and appropriate third-party suppliers. If such winning bid is selected and agreement executed, individual residential consumers would retain the option not to participate and to choose any alternatives they desire.
3. The Mayor and Municipal Clerk are hereby authorized and directed to execute any documents necessary to carry out the purpose of the Ordinance.
4. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
5. If any portion of this ordinance shall be deemed invalid by any court of competent jurisdiction, the remainder shall survive in full force and effect.
6. This ordinance shall be effective immediately upon adoption and publication in accordance with law.

Councilwoman Warner informed the members of the public present that she has been working with Michael Heffler, a resident of our community, on this project. Mr. Heffler informed the public that he has been working with all of the towns along the PennEast Pipeline route to lower our cost for electricity and increase renewables, prices go down, the carbon footprint decreases, no cost to do this, no risk, and it is something in 50 towns. The plan is to join a co-op with the lead agency as Califon who has over 8,000 participants. In the last four months they have saved residents a combined total of \$150,000. There is no downside to this and everyone has an opportunity to save \$75 to \$150 per year. We have already added three neighboring towns (Delaware, Kingwood, and Frenchtown) and we are hoping to add Pennington. This should more than double the number of participants and lower the cost along with increase renewables.

Councilwoman Warner asked for questions or comments.

Kathy Williams asked what this had to do with PennEast Pipeline. Mr. Heffler responded, nothing per se except we will be reducing the amount of gas.

Art Legere asked if the electricity was coming from renewables. Mr. Heffler responded that there is an option to select 100% renewable energy.

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Judy Gleason asked if have a choice to opt in or out. Mr. Heffler responded that you would need to check the box and send it back.

Steve Chernoski, New Hope Free Press, asked what Mr. Heffler's title was. Councilwoman Warner responded that Mr. Heffler was kind enough to work with the Governing Body on this issue. The City is the lead agency in the South Hunterdon Renewable Energy Cooperative which is how it was accomplished the first two times. However, we have not had successful results in the last two bidding cycles.

Councilman Sanders responded that this does not get rid of the South Hunterdon Renewable Energy Cooperative.

Sandra Harris asked the length of the contract. Mr. Heffler said it was all dependent on the results of the auction.

Councilman Sanders commented that we do not need to commit if the market rates are not attractive.

Kathy Williams asked if this was similar to the process the city followed five years ago. Mr. Heffler commented it was.

Ms. Williams asked about the conflict of interest of Mayor Fahl. The City Attorney responded that there was a potential conflict with her employer and she didn't want to have anything to do with this in order to avoid an appearance of impropriety.

Steve Chernoski asked who was handling the bidding? Michael Heffler responded that it was Concord Engineering.

Councilwoman Warner asked for a motion to introduce on first reading Ordinance Number 18-2019. Councilman Sanders made the motion to introduce Ordinance Number 18-2019. Councilwoman Taylor seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present. MOTION CARRIED.

Councilwoman Warner informed the members of the public present that the public hearing will be on September 19, 2019.

Mayor Fahl rejoined the meeting.

ORDINANCE NUMBER 19-2019: An Ordinance to Amend Zone Line Change and the Zoning Map of the City of Lambertville for Properties Known as Block 1005, Lots 25 and 26

Mayor Fahl read the Ordinance into the record by title. She informed the members of the public present that this Ordinance will place two residents who are currently zoned in the commercial district into the residential district.

ORDINANCE NUMBER 19-2019

An Ordinance to Amend Zone Line Change and the Zoning Map of the City of Lambertville for Properties Known as Block 1005, Lots 25 and 26

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WHEREAS, the Zoning Board members and board professionals reviewed an application submitted by the Strumfels for 221 N. Union Street, block 1005, lot 26 at their November 29, 2018 regularly scheduled session for an addition to an existing dwelling within the C-3 District, and

WHEREAS, the C-3 District does not permit residential uses, and

WHEREAS, the Zoning Board members and board professionals advised the applicant they would need to seek either use variance approval or a rezoning of their parcel for a proposed addition to the existing residential dwelling on the premises, and

WHEREAS, the applicant met with their neighbors and identified two additional neighbors that have existing dwellings within the C-3 District, and

WHEREAS, the applicant requested the Governing Body consider rezoning their existing residential parcels from the C-3 District to the adjacent R-2 District, and

WHEREAS, the Mayor, Business Administrator, and City Planner met with the Strumfels and their surrounding neighbors to informally discuss the potential rezoning of three existing residential lots within the C-3 District to the adjacent R-2 District, and

WHEREAS, one of the neighbors indicated they would prefer to remain within the C-3 District, and

WHEREAS, the Governing Body introduced the rezoning ordinance on August 22, 2019, and

WHEREAS, the Planning Board members and board professionals recommended the properties in question be rezoned from the C-3 District to the R-2 District, and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY

OF LAMBERTVILLE, in the County of Hunterdon and the State of New Jersey, that the "Zoning Ordinance", of the Code of the City of Lambertville (2014) (hereinafter "Code") is hereby amended and supplemented as follows:

SECTION 1. Amend Subsection 301, "Zoning Map", of the Code of the City of Lambertville (2014) to read as follows:

§301 ZONING MAP

- A. The boundaries of these districts are hereby established as shown on the map entitled "Zoning Map of the City of Lambertville", dated September 19, 2019 and as it may be amended pursuant to law.

Editor's Note: The Zoning Map may be found at the end of this Zoning Ordinance.

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B. Zoning Map Amendments.

1. No Change
2. No Change
3. No Change
4. Strumfels Rezoning

An Ordinance to rezone Block 1005, Lots 25 and 26 from the C-3 District to the R-2 District.

SECTION 2. If any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the Courts to be invalid, such adjudication shall apply only to the subsection, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

SECTION 3. This Ordinance shall take effect upon final adoption, publication and the filing of a copy of said Ordinance with the Hunterdon County Planning Board, all in accordance with the law.

INTRODUCED: August 22, 2019

PUBLIC HEARING AND FINAL ADOPTION: September 19, 2019

Mayor Fahl informed the members of the public present that there are three residential homes on North Union Street that are in the commercial zone even though they are residential units and have always been a residential unit. We couldn't figure out the historical significance and it was causing the property owners a higher cost when remodeling because of the zoning rules that apply. So, this was brought to our attention, we had a community meeting, two of the three residents agree this was an undue burden and asked to have their homes changed to the residential district. One property owner liked that it was in the commercial district and didn't want to change it. We want to honor their wishes. They will save quite a bit of money and there is no reason or reasonable explanation for this zoning.

Mayor Fahl asked for any questions or comments.

Councilman Sanders asked if the properties in question look like homes. Mayor Fahl responded that they look like a house.

Mayor Fahl asked for a motion to introduce on first reading Ordinance Number 19-2019. Councilman Sanders made a motion to introduce on first reading Ordinance Number 19-2019. Councilwoman Taylor seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present. MOTION CARRIED.

Mayor Fahl informed the members of the public present that the public hearing is scheduled for September 19, 2019.

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ORDINANCE NUMBER 20-2019: An Ordinance to Amend the Lambertville City Code, 2014, Chapter 7, 15 Minute Parking on York Street, Changing the First Two Parking Spaces west of Main Street, and Handicapped Parking, to Reconfigure the Parking to Accommodate the Lambertville Academy and the St. Andrews Church.

Mayor Fahl/Council President Asaro read the Ordinance into the record by title. They informed the members of the public present that Lt. Brown has been working with the Lambertville Academy and St. Andrews Church to resolve a long-term traffic issue. By swapping the 15-minute parking spaces with the handicapped parking spaces, it will allow for an easier traffic flow during the morning drop off.

ORDINANCE NUMBER 20-2019

An Ordinance to Amend the Lambertville City Code, 2014, Chapter VII Traffic, Section 4.5 Parking Time Limited on Certain Streets, 15 Minute Parking on York Street, Changing the Two First Spaces West of Main Street, and Moving the Handicapped Parking Space to Accommodate the Needs of the Lambertville Academy and the St. Andrews Church

NOW THEREFORE BE IT RESOVLED by the Governing Body of the City of Lambertville, in the County of Hunterdon, in the State of New Jersey, that Chapter VII Traffic as follows:

Section 4.5 Parking Time Limited on Certain Streets, 15-minute parking on York Street from:

York Street, North Side, 15 Minutes, All Hours, First two parking spaces west of Main Street

To:

York Street, North Side, 15 Minutes, Monday through Friday from 7 am to 6 pm, second and third parking space west of Main Street.

Section 4.7 Parking Restricted for Use by Handicapped Persons, York Street, to the first space on the west side of North Main Street.

FIRST READING AND INTRODUCTION: August 22, 2019

PUBLIC HEARING AND ADOPTION: September 19, 2019

Mayor Fahl asked for questions or comments from the public.

Councilman Sanders asked if this was just reorienting the parking spaces. Mayor Fahl responded yes.

Mayor Fahl asked for a motion to introduce Ordinance Number 20-2019. Councilman Sanders made the motion and Councilwoman Warner seconded the motion. An

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affirmative voice vote was taken in favor of the motion by all members present.
MOTION CARRIED.

Mayor Fahl/Council President Asaro informed the members of the public present that the public hearing is scheduled for September 19, 2019.

ORDINANCE NUMBER 21-2019: An Ordinance to Amend the Lambertville City Code, 2014, Chapter 7, Section 4.7 Handicapped Parking, Adding One Additional Handicapped Parking Space on the George Street Side of 18 Jefferson Street.

Councilman Sanders recused himself as he resides within 200 feet of this property.

Mayor Fahl/Council President Asaro informed the members of the public present that this Ordinance will move the handicapped parking space in front of 31 Jefferson Street to the George Street side of 18 Jefferson Street.

ORDINANCE NUMBER 21-2019

An Ordinance to Amend the Lambertville City Code, 2014, Chapter VII Traffic, Section 4.7 Parking Restricted for Use by handicapped Persons, to Include a Handicapped Parking Space on the George Street Side of 18 Jefferson Street

NOW THEREFORE BE IT RESOVLED by the Governing Body of the City of Lambertville, in the County of Hunterdon, in the State of New Jersey, that Chapter VII Traffic, Section 4.7 Parking Restricted for Use by Handicapped Person is hereby amended to include the following handicapped parking space:

George Street side of 18 Jefferson Street

FIRST READING AND INTRODUCTION: August 22, 2019

PUBLIC HEARING AND ADOPTION: September 19, 2019

Mayor Fahl asked for questions or comments.

Mayor Fahl asked for a motion to introduce on first reading Ordinance Number 21-2019. Councilwoman Taylor made the motion and Councilwoman Warner seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present and eligible (Councilman Sanders recused himself). MOTION CARRIED.

Mayor Fahl informed the members of the that public hearing is scheduled for September 19, 2019.

ORDINANCE NUMBER 22-2019: An Ordinance Amending and Supplementing the “Zoning Ordinance” of the Code of the City of Lambertville (2015), County of Hunterdon, State of New Jersey And Specifically, Subsections 300 Zoning Districts, 301 Regarding the Zoning Map, 404 Entitled “Residential 2 (R@) Downtown Residential District” To

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Establish One New Inclusionary Overlay Zone, and 406 Entitled “Central Business District” To Establish One New Inclusionary Overlay Zone.

Mayor Fahl/Council President Asaro read the ordinance into the record by title. They informed the members of the public present that this ordinance will amend the Zoning Ordinance of the City of Lambertville to create one new inclusionary overlay zone in the Residential District.

ORDINANCE NO. 22-2019

**AN ORDINANCE AMENDING AND SUPPLEMENTING
THE “ZONING ORDINANCE”, OF THE
CODE OF THE CITY OF LAMBERTVILLE (2014)
COUNTY OF HUNTERDON, STATE OF NEW JERSEY
AND SPECIFICALLY, SUBSECTIONS 300 ZONING DISTRICTS,
301 REGARDING THE ZONING MAP,
404 ENTITLED “RESIDENTIAL 2 (R-2) DOWNTOWN RESIDENTIAL DISTRICT” TO
ESTABLISH ONE NEW INCLUSIONARY OVERLAY ZONE**

WHEREAS, the Planning Board of the City of Lambertville, Hunterdon County, State of New Jersey, adopted its current Housing Element and Fair Share Plan pursuant to N.J.S.A. 40:55D-28 on December 3, 2008; and

WHEREAS, the Governing Body endorsed the Housing Element and Fair Share Plan on December 29, 2008; and

WHEREAS, the Governing Body subsequently petitioned the Council on Affordable Housing (COAH) for substantive certification but said substantive certification was not received prior to COAH’s rules being overturned in In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 By the Council on Affordable Housing; and

WHEREAS, as COAH failed to adopt new constitutionally compliant rules, the NJ Supreme Court entered an order of March 10, 2015 which transferred responsibility to review and approve housing elements and fair share plans from COAH to designated Mount Laurel trial judges within the Superior Court; and

WHEREAS, the City filed for Declaratory Judgment with the New Jersey Superior Court on July 8, 2015; and

WHEREAS, the City executed a Settlement Agreement with Fair Share Housing Center (FSHC) on May 22, 2018 that identified the City’s affordable housing obligation and a preliminary indication of how the City would satisfy the affordable housing obligation; and

WHEREAS, the Settlement Agreement was subject to a Fairness Hearing on September 13, 2018 during which the Court found that the Settlement Agreement was fair to the interests of low- and moderate-income households; and

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WHEREAS, the Court’s review and approval of the Settlement Agreement is reflected in an Order on Fairness and Preliminary Compliance Hearing signed by the Honorable Thomas C. Miller, P.J.Civ. and filed on October 11, 2018; and

WHEREAS, said Order requires the City to adopt Inclusionary Overlay Zone ordinances that are consistent with the Settlement; and

WHEREAS, the Governing Body can no longer adopt an Inclusionary Overlay Zone on the Closson Farmstead property and is required to adopt alternative Inclusionary Overlay Zones to satisfy the Settlement Agreement; and

WHEREAS, the Governing Body introduced the Inclusionary Overlay Zone ordinances on August 22, 2019;

WHEREAS, the Planning Board has determined that the Inclusionary Overlay Zone ordinances are consistent with the goals and objectives of City of Lambertville’s 2018 Housing Element and Fair Share Plan on September 4, 2019; and

WHEREAS, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Governing Body held a public hearing(s) on the Inclusionary Overlay Zoning ordinances on September 19, 2019; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY

OF LAMBERTVILLE, in the County of Hunterdon and the State of New Jersey, that the "Zoning Ordinance", of the Code of the City of Lambertville (2014) (hereinafter “Code”) is hereby amended and supplemented as follows:

SECTION 1. Amend Subsection 300, “Zoning Districts”, of the Code of the City of Lambertville (2014) to read as follows:

§300 Zoning Districts.

A. For purposes of this Ordinance, the City of Lambertville is hereby divided into the following zoning districts:

Symbol	Zone
R-C	Residential - Conservation
R-L	Residential Low Density
R-1	Residential 1
R-2	Residential 2
R-3	Townhouse Residential
CBD	Central Business District
C-2	Service Commercial (Ord. No. 2014-28)
C-3	General Commercial
	Residential Overlay Option 1 (Ord. No. 2001-15)
IO-1	Inclusionary Overlay Zone 1
IO-2	Inclusionary Overlay Zone 2

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IO-3	Inclusionary Overlay Zone 3
LHSRA	Lambertville High School Redevelopment Area

B. No change.

SECTION 2. Amend Subsection 301, “Zoning Map”, of the Code of the City of Lambertville (2014) to read as follows:

§301 ZONING MAP

A. The boundaries of these districts are hereby established as shown on the map entitled “Zoning Map of the City of Lambertville”, dated September 19, 2019 and as it may be amended pursuant to law.

Editor’s Note: The Zoning Map may be found at the end of this Zoning Ordinance.

B. Zoning Map Amendments.

1. No change.
2. Overlay Zones.

An Ordinance to Amend the Zoning Map of the City of Lambertville to repeal the Residential Option 2 Overlay District and create two Inclusionary Overlay Zones that create realistic opportunities for housing that is affordable to very-low-, low-, and moderate-income households.

IO-1 Inclusionary Overlay Zone 1	Block 1072, Lot 3 and 3.01 Block 1058, Lot 15
IO-2 Inclusionary Overlay Zone 2	Block 1022, Lot 8
IO-4 Inclusionary Overlay Zone 3	Block 1028, Lot 20

3. No Change.
4. No Change.

Editor’s Note: See §1600 for the Connaught Hill Redevelopment Plan. See the Appendix for the Zoning Map

SECTION 3. Create Subsection 404.2K of Subsection 404.2 of the Code of the City of Lambertville (2014) containing the zoning requirements for “Residential 2 (R-2), Downtown Residential District” to read in its entirety as follows:

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K. IO-3 Inclusionary Overlay Zone District.

1. Purpose and area of application.

To address its affordable housing unmet need obligation, the City through the implementation of an Inclusionary Overlay Zone Ordinance that creates a realistic opportunity for housing that is affordable to very-low, low-, and moderate-income households on Block 1028, Lot 20 This Ordinance establishes the Inclusionary Overlay Zone 3 – the IO-3 District – and permits non-residential uses on the first floor and a maximum of eight (8) apartments on the property identified above provided that such housing complies with a required inclusionary set-aside requirement for affordable housing and with the requirements of this ordinance.

2. Special Rules.

- (a) In any inclusionary development permitted by this ordinance, in the case of affordable rental units, at least 15% of the residential units must be affordable to very-low, low-, and moderate-income households and, in the case of owner-occupied affordable units, at least 20% of the residential units must be affordable to very-low, low-, and moderate-income households.
- (b) Where this Ordinance contradicts §1200-6 of the City’s Affordable Housing Ordinance, the effects and requirements of this Ordinance shall supersede the requirements of §1200-6.

3. Permitted uses.

- (a) Apartment dwellings such that access to each apartment shall be by means of an entrance to the exterior of the building or by common hallway.
- (b) Retail sales including retail services incidental to such sales.
- (c) Personal services.
- (d) General and professional offices.

4. Restriction on conditional uses. No development utilizing the provisions of the IO-3 Inclusionary Overlay District shall include any conditional use permitted in §404.4.

5. Accessory Uses Permitted.

- (a) Landscaping features including benches, trellises, gazebos and other such features customarily associated with the permitted principal uses.
- (b) Fences and walls in accordance with the design provisions specified in §507.

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- (c) Patios and balconies.
 - (d) Off-street parking in accordance with §404.2K.10 and §509.
 - (e) Signs in accordance with §515.
 - (f) Lighting in accordance with §511.
 - (g) Stormwater management and other utilities.
 - (h) Conservation areas, recreation, open space, and public purpose uses.
 - (i) Temporary construction trailers and one (1) sign not exceeding thirty-two (32) square feet in area, either attached to the trailer or freestanding, which advertises the prime contractor, subcontractor(s), architect, financing institution and similar data for the period of construction beginning with the issuance of a construction permit and ending with the issuance of a Certificate of Occupancy or one (1) year, whichever time period is less. The temporary construction trailer(s) and temporary sign shall be located on the site where the construction is taking place and shall be set back at least thirty feet (30') from all lot lines and from the right-of-way lines of all existing and proposed streets. There shall be at least one (1) operating telephone within the trailer.
 - (j) Other accessory uses customarily incidental to a principal use.
6. Maximum Number of Residential Units. The maximum number of residential units permitted shall be eight (8) residential units.
 7. Maximum Non-Residential Floor Area Ratio. The maximum non-residential floor area shall be 0.35.
 8. Maximum Building Height.
 - (a) No principal building shall exceed forty (40) feet in height and three (3) stories as measured from the proposed finished grade except as further allowed in §400.8, entitled "Height Exceptions".
 - (b) No accessory building shall exceed twelve (12) feet in height.
 9. Area, Yard, and Coverage Requirements
 - (a) The following regulations, area, bulk, setback and intensity requirements for the principal dwelling and permitted accessory structures applies for the IO-3 District:

IO-3 Area, Yard and Coverage Requirements, §404.2K.8	
Min. Lot Size	0.15 acres
Min. Lot Frontage	75 feet

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Min. Lot Depth	75 feet
Max. Building Coverage	40%
Max. Lot Coverage	80%
Principal Building	
Min. Front Yard Setback	0 feet
Min. Side Yard Setback	5 feet
Min. Rear Yard Setback	N/A
Accessory Buildings or Structures	
Min. Front Yard	N.P.
Min. Side Yard	5 feet
Min. Rear Yard	N/A

N.P. = Not a permitted location.

- (b) No parking area, loading area, driveway or other structure (except for approved access ways, signs and fencing) shall be permitted within five feet (5') of any tract boundary line, and such areas shall be planted and maintained in lawn area or ground cover and shall be landscaped with trees and shrubbery as approved by the Board.

10. Off-Street Parking.

- (a) Each dwelling unit shall be provided a minimum number of parking spaces according to the provisions of the Residential Site Improvement Standards (RSIS), *N.J.A.C. 5:21*.
- (b) Each non-residential unit shall be provided a minimum number of parking spaces in accordance with the off-street parking provisions identified for the Central Business District (CBD), §406.7A.
- (c) See §509 for additional standards.

11. Affordable Housing Standards.

- (a) The affordable housing unit shall be a two-bedroom unit.
- (b) The affordable housing shall be affordable to a moderate-income household.
- (c) The affordable housing unit cannot be age-restricted.
- (d) The affordable housing unit shall be developed in accordance with the length of controls required and deed restriction pursuant to *N.J.A.C. 5:80-26.11*.
- (e) The affordable housing unit shall be developed in accordance with the accessibility and adaptability requirements pursuant to *N.J.A.C. 5:97-3.14* and *N.J.S.A. 52:27D-123.15*.

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SECTION 5. If any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the Courts to be invalid, such adjudication shall apply only to the subsection, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

SECTION 6. This Ordinance shall take effect upon final adoption, publication and the filing of a copy of said Ordinance with the Hunterdon County Planning Board, all in accordance with the law.

INTRODUCED: August 22, 2019

PUBLIC HEARING AND FINAL ADOPTION: September 19, 2019

Mayor Fahl asked for questions or comments from the Governing Body. There being no questions or comments from the Governing Body, she asked for comments from the public.

Jeff Campbell, 31 York Street, asked about page 2, he was curious if the Governing Body was no longer pursuing the Closson Farmstead. Mayor Fahl responded that there was significant push back and the Closson Family asked to be excluded from the overlay zone. Mr. Campbell asked if the CBD was off the table. Mayor Fahl responded yes, it is just the R2 Zone.

Judy Gleason said she was just trying to understand the ordinance and asked if this was the space on Delevan and Clinton Street, the old Auto Parts Store. Is this telling me that if this is made, that an apartment, or apartments, could be there and that they are designed for low income, low to moderate income renters. Mayor Fahl responded that this is an overlay zone on various properties, basically, these are not requirements to build, we have to provide to fair share housing and the court that we are making it possible to address affordable house. Ms. Gleason responded that if the property owner wanted to? The City Planner, Emily Goldman, responded that if the apartments were to be rental, 15% would need to be affordable housing and that would generate 8 apartments with 1 unit set aside for affordable housing. If they were for sale units, 20% set aside would be required and it still would result in 1 unit as affordable housing. Ms. Gleason asked if this meant you could use the overlay but the rest of the uses in the R2 would be permissible. Mayor Fahl responded yes, and they would then be able to take advantage of the overlay.

Mayor Fahl asked for a motion to introduce on first reading Ordinance Number 22-2019. Councilwoman Taylor made the motion and Councilwoman Warner seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present. MOTION CARRIED.

Mayor Fahl/Council President Asaro informed the members of the public present that the public hearing is scheduled for September 19, 2019.

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ORDINANCE NUMBER 23-2019: An Ordinance to Amend Ordinance Number 07-2019, the Salary & Wage Ordinance to Include the Position of Qualified Purchasing Agent with Salary Ranges from \$1,000.00 to \$5,000.00.

Mayor Fahl read the Ordinance into the record by title. She informed the members of the public present that this allows the City to establish the position of Qualified Purchasing Agent which will raise the bid threshold from \$17,500 to \$40,000 and save the City money.

ORDINANCE NUMBER 23-2019

“AN ORDINANCE TO AMEND ORDINANCE NUMBER 07-2019, THE SALARY RANGE FOR THE OFFICIALS AND EMPLOYEES OF THE CITY OF LAMBERTVILLE, COUNTY OF HUNTERDON, STATE OF NEW JERSEY TO ADD THE POSITION OF QUALIFIED PURCHASING AGENT”

BE IT ORDAINED by the Mayor and Council of the City of Lambertville, County of Hunterdon, State of New Jersey that Ordinance Number 07-2019 is hereby amended as follows:

SECTION ONE: The following shall be the range of compensation for the officials and employees of the City of Lambertville not covered by separate bargaining units to include a Qualified Purchasing Agent:

Qualified Purchasing Agent	1,000.00 to \$5,000.00
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INTRODUCED: August 22, 2019

ADOPTED: September 19, 2019

Mayor Fahl asked for any questions or comments.

Sandra Harris asked if this was a part time position. The Business Administrator responded that the City is looking to hire a Certified Municipal Finance Officer with the preference on someone who has their Qualified Purchasing certificate. This will allow the City to have the ability to hire someone to fill the position.

Mayor Fahl/Council President Asaro asked for a motion to introduce on first reading Ordinance Number 23-2019. Councilman Sanders made the motion to introduce and Councilwoman Warner seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present. **MOTION CARRIED.**

Mayor Fahl/Council President Asaro informed the members of the public present that the public hearing is scheduled for September 19.

ORDINANCES – SECOND READING

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ORDINANCE NUMBER 17-2019: An Ordinance to Amend the Lambertville City Code, 2014, Chapter III, Article IV, Shade Tree Commission.

Mayor Fahl read the Ordinance into the record by title. She informed the members of the public present that this will amend the Administrative Code, Chapter III, Shade Tree Commission, to bring it into conformity with the actions that need to be taken to protect street trees.

ORDINANCE NUMBER 17-2019

An Ordinance to Amend the Lambertville City Code, 2014, Chapter 3, Article IV, Boards, Committees, Commissions, Section 16, Shade Tree Commission

ARTICLE IV

BOARDS, COMMITTEES, COMMISSIONS

3-16 SHADE TREE COMMISSION.

3-16.1 Members; Appointment.

- a. The Mayor is hereby authorized to appoint seven (7) persons to act and be known as the Shade Tree Commission for the City of Lambertville, N.J. In the event of a vacancy, the appointment of the new member shall be made to complete the unexpired term. All appointments, except to fill vacancies, shall take effect on January 1, and shall be for five (5) years. (1990 code §3-16.1; Ord. No. 10-2018)
- b. Ord. No. 10-2018 creates two (2) additional positions on the Shade Tree Commission, changing the board from a five (5) member to a seven (7) member board. For the first year of the appointment, the first position shall be for five (5) years, expiring on 12/31/2023 and the second position shall be for a four (4) year appointment expiring on 12/31/2022. (Ord. No. 10-2018)

3-16.2 Statutory Authorization.

The provisions of N.J.S.A. 40:64-1 to 40:64-14 as amended wherein the amendments apply to a municipality shall be part of this section. (1990 code § 3-16.2)

3-16.3 Purpose.

The mayor and council of the City of Lambertville have determined that the preservation of Shade Trees and Shrubs within the City is beneficially linked to the health, safety, and well-being of the City's inhabitants, and enhances the aesthetic and historic character of the City. It is also recognized that Trees perform beneficial ecological functions related to air quality, temperature and noise modulation as well as control of storm water run-off. This article provides for the protection of Trees and Shrubs within the Shade Tree Commission's Jurisdiction Zone from indiscriminate destruction, harm to, or removal as set forth below.

The establishment of standards for the removal and maintenance of Trees and Shrubs existing on private property, that also share space within the Commission's Jurisdiction Zone, is in keeping with the recognition that actions undertaken on individual properties can have significant impact on neighboring properties. Land use and zoning regulations provide the framework for establishment and preservation of

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beneficial standards of environmental, social, economic and aesthetic land use management, which benefit the maintenance of a healthy urban forest and Tree canopy.

3-16.4 Authority.

The Shade Tree Commission shall have authority over policy, planning, management and maintenance of any and all Trees, Shrubs and vegetation that exist wholly within or whose drip line extends from private property into the Shade Tree Commission's Jurisdiction Zone. This authority will include but not be limited to entering onto private property for the purpose of inspection, advising, planting, removal, bracing, shaping, trimming, watering, fertilizing and treatment for disease.

- a. Private Property within the Jurisdiction Zone – Property owner is responsible for all matters pertaining to Shade Tree planting, removal, disease control and maintenance subject to Commission review and approval pursuant to terms and conditions set forth herein at the property owner's sole expense.
- b. City/Public Owned Property – The Shade Tree Commission is responsible for all matters pertaining to Shade Tree planting, removal, disease control and maintenance at the City's sole expense.

3-16.5 Definitions.

Applicant – The Person submitting Shade Tree Action Request Form to the Commission.

Authorized Representative—Any employee of City law enforcement, streets department or any member of the shade tree commission.

Caliper – The measurement of the diameter of a Shade Tree at 12 inches above the ground. This measurement is used to determine the Shade Tree size for planting.

Commission – The Lambertville Shade Tree Commission

Diameter at Breast Height (DBH) – The diameter of the main stem of a Tree or the combined diameters of a multi-stemmed Tree measured 4.5 feet above the surface of the uphill side of the Shade Tree. Where roots have girdled upward, the measurement shall be taken from the beginning of the clearest uphill vertical trunk line. The top diameter of a stump less than 4.5 feet tall shall be considered the "DBH" of an illegally destroyed Shade Tree for the purpose of calculating recompense.

Drip Line - The radius of the Tree or Shrub extending from the trunk to the tip of the outermost branch.

Jurisdiction Zone – The area or space required or used for any public street, sidewalk or pedestrian walk way. The Jurisdiction Zone shall extend from the outer edge of the sidewalk or walkway to the outer edge of the opposite sidewalk or walkway. Where no opposite sidewalk or walkway exists, the Jurisdiction Zone shall extend to eight (8) feet beyond the edge of the street.

Letter of Approval—An official letter from the Commission which grants approval and /or sets conditions for actions applied to a specific Shade Tree.

Root Barrier – A physical barrier that is designed to redirect root growth down and away from sidewalks and other infrastructure.

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Shade Tree – Any Tree located wholly or in part within the Jurisdiction Zone, or on private property, which has a drip line or roots extending into the Jurisdiction Zone.

Shade Tree Action Request Form – A standardized form available from the Commission that Shade Tree owners must submit to request approval for any Commission regulated action within the Jurisdiction Zone.

Shade Tree Safety Hazard—A Shade Tree that requires immediate removal or other mitigating actions to reduce the level of risk posed to persons or property that could potentially be damaged or injured should a failure occur.

Shrub – A woody plant of relatively low height, having several stems arising from the base and lacking a defined single trunk which has a Drip Line or roots extending into the Jurisdiction Zone.

Stump – The part of the tree and its surface roots remaining after felling.

Tree – A woody perennial plant having a singular usually elongated main stem generally with few or no branches on its lower part.

3-16.6 Tree Maintenance Regulations.

- a. The maintenance, care or removal of any existing or newly planted Shade Tree or Shrub as defined herein, which requires compliance with any provision of this ordinance shall be the responsibility of the property owner on whose property the Shade Tree or Shrub is located or whose property abuts the Jurisdiction Zone in which the Shade Tree is located. When a Shade Tree trunk is on a property line, the responsibility for compliance shall be with the Person whose property contains the largest percentage of Shade Tree trunk circumference.
- b. All mature Shade Trees shall be kept trimmed to a minimum branching height of ten (10) feet over streets and seven (7) feet over sidewalks, except where the Commission may require greater height clearances to eliminate traffic and other hazards. Shrubbery and any vegetation shall be trimmed back behind the edge of the sidewalk.
- c. Whenever, in the opinion of the Commission, Safety Hazard is caused by a Shade Tree or Shrub, whether dead or alive, the Commission may issue a written order to the responsible property owner to take action to correct the condition. If after thirty (30) days from the date of receipt of written notification from the Commission, the responsible property owner fails to take corrective action, the City may have the recommended work accomplished to address the Safety Hazard and may bill the responsible property owner for the completed work.

3-16.7 Acts Requiring Permission from the Commission.

No Person shall do, or cause to be done, any of the following acts within the Jurisdiction Zone without the written approval of the Commission pursuant to the Shade Tree Action Request procedures detailed in Section 3-16.9 below.

- a. Plant any Tree or Shrubbery.
- b. Remove any Tree or Shrubbery
- c. Cut or trim branches greater than seven (7) feet above a walkway or greater than ten (10) feet above a street.

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- d. Install or repair a sidewalk within four (4) feet of an existing Shade Tree or Shrub. (Ord. 9/21/53, §3)
- e. Install plants, or place planting containers, edging borders, structures, brick, stone, concrete, or any other hard material or surface about the base of Shade Trees or anywhere within the Jurisdiction Zone.
- f. Fasten or attach any sign, notice, rope, wire, electric attachment or any item to a Shade Tree.
- g. Close or obstruct any open space provided about the base or within the Drip Line of a Shade Tree.
- h. Engage in any actions, which, in the opinion of the commission, might cause harm or death to a Shade Tree or Shrub.

3-16.8 Conditions Applicable to Shade Tree or Shrub Removal.

The removal of a Shade Tree or Shrub, if approved by the Commission, shall be conditioned upon the following:

- a. **Planting of Replacement Shade Trees or Shrubs**
The size and number of replacement Shade Trees shall be consistent with the approved Shade Tree Replacement Schedule per Section 3-16.10 and planted at the direction of the Commission, within one year of tree removal.
- b. **Contribution in Lieu of Tree Replacement**
Alternatively, upon approval of the Commission, a contribution shall be made to the Shade Tree Trust Fund within thirty (30) days of the approval date, the amount being based on the Shade Tree Replacement Schedule in Section 3-16.10. Failure to submit the contribution will constitute a violation of this section and be subject to the same penalty as if the Shade Tree in question had been removed without approval.
- c. **Stump Removal**
The stump of any Shade Tree or Shrub shall be removed or ground down to twenty (20) inches below grade. Failure to remove the stump within one (1) year of Shade Tree removal may result in the City undertaking the stump removal process with the property owner being responsible for reimbursement to the City for any and all associated costs incurred.

3-16.9 Shade Tree Action Request Procedures for Property Owners.

- a. **Submission of Shade Tree Action Request Form**
Persons wishing to undergo any of the above regulated activities, must first submit a Shade Tree Action Request Form via the City’s website or by hard copy with the Commission. No request will be considered without a Shade Tree Action Request Form. All requests will be reviewed and considered at the first regularly scheduled meeting of the Commission occurring at least seven (7) days after the submission of the Shade Tree Action Request Form.
- b. **Applicant Attendance at Commission Meeting**
Applicants are encouraged to attend the Commission meeting to present supporting documentation for their requests and to provide clarification where necessary, but attendance is not mandatory.
- c. **Commission Determination**

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1. The Commission shall review each Shade Tree Action Request Form and shall grant or deny said request within ninety (90) days of first review. If the request is granted, it shall state in a Letter of Approval the type or species of Shade Tree to be planted or removed, cut, trimmed or pruned or other action involving a Shade Tree and may set forth specifications for doing the same. It shall then be unlawful to take any action contrary to any and all specifications set forth in the Letter of Approval. Applicants will be notified in writing by regular mail of the Commission’s decision.

2. The Commission may determine to waive or modify the requirements set forth herein where it finds that the site constraints impose significant limitations to the chances of survival or the long-term health of a replacement Shade Tree or of interference with utilities or pedestrian accessibility to the sidewalk.

- d. **Duty to Post Authorization During Approved Shade Tree Work**
Persons issued a Letter of Approval by the Commission are required to post a copy of said letter in a visible location or present it upon request to any Authorized Representative of the City while work is being done by a contractor or by the property owner. Failure to produce a Letter of Approval upon request will be cause for the Authorized Representative to direct that all work being performed on the Shade Tree is to immediately cease. Until such time that a Letter of Approval is presented, this directive shall remain in effect.

- e. **Duty to Comply with Commission Conditions and Requirements**
Failure to comply with any or all conditions set forth in the Letter of Approval by the Commission may result in enforcement action by the Commission as if none of the conditions were met and the Shade Tree action had taken place without any prior approval.

3-16.10 New and Replacement Shade Tree Requirements.

- a. **Replacement Shade Tree Size and Number**
The Shade Tree Commission shall require that all new and replacement Shade Trees be of a size of a minimum of two and one-half (2 ½) inch caliper and be planted in accordance with accepted planting practices as directed by the Commission. Any replacement Shade Tree must be provided in accordance with the following Shade Tree Replacement Schedule:

Shade Tree Replacement Schedule		
Live Regulated Tree(s) Removed/Destroyed	Required No. of Replacement Tree(s) (2 ½ inch caliper) per Tree(s) Removed/Destroyed	Replacement Fee per Tree in Lieu of Planting
DBH of 1” to 4.99”	One (1)	\$400.00
DBH of 5” to 10.99”	Two (2)	\$800.00
DBH of 11” to 16.99”	Three (3)	\$1,200.00
DBH of 17” or greater	Four (4)	\$1,600.00

- b. Annual Adjustment of Replacement Fees

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The Shade Tree replacement fees contained in the Shade Tree Replacement Schedule may be reviewed annually and adjusted to reflect current pricing.

c. Shade Tree Selection and Placement

The Shade Tree Commission approval is required for determining the species, size and planting location of any new or replacement Shade Tree or Shrub within the Jurisdiction Zone.

d. Shade Tree Replacement Deadline

The property owner shall be required to replace any replacement Shade Tree or Shrub within one (1) year from date of notification of approval. Any replacement Shade Tree or Shrub must survive in good health for a period of two (2) years from the date of planting. If, in the opinion of the Commission, the replacement Shade Tree or Shrub dies or fails to thrive before two (2) years, that Shade Tree or Shrub must be replaced by the property owner. Any replacement Shade Tree or Shrub will be subject to the same conditions as contained in the original approval, for a period of two (2) years from the date of re-planting.

e. Payment in Lieu of Shade Tree Planting

When Tree removal permission is granted and the space on the property is inadequate for planting any or all of the new or replacement trees required, the Applicant shall make a monetary contribution to the City's Shade Tree Planting Trust Fund in lieu of planting. This contribution must be made within thirty (30) days of receiving permission for removal in the amount as defined under this section and pursuant to the Shade Tree Replacement Schedule in section 3-16.10.

f. Installation of Root Barrier

Whenever a new Shade Tree is planted within five (5) feet of the Jurisdiction Zone, a Root Barrier of a type and size approved by the Commission may be required.

3-16.11 Shade Tree Planting Trust Fund.

There is hereby established a "Trust Fund" account, which shall be known and designated as the "Shade Tree Planting Trust Fund."

- a. Funds from this account shall be separate and distinct from the Commission's annual budget and shall only be used for the purchase and planting of Trees and/or Shrubs for planting within the Jurisdiction Zone.
- b. Contributions or donations from individuals, groups or businesses, for memorial purposes or any other reason, may be made directly to the Shade Tree Planting Trust Fund.

3-16.12 Protection of Shade Trees and Shrubs

a. From Wires.

1. Duty to Protect Shade Trees

Any Person, having control over any wire for the transmission of electric current, telephone, cable or any other utility service along a public street, highway or Commission Jurisdiction Zone, shall at all times guard all Shade Trees and Shrubs from injury caused by the wires or from the current carried by them.

2. Duty to Provide Notice

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Prior to undertaking any work on the utility affecting any such Shade Tree or Shrub, the utility company shall provide at least ten (10) days' prior written notice to the zoning officer, Shade Tree Commission, and abutting property owner. The device or means used shall be subject to the approval of the zoning officer and/or Commission.

- b. From Injurious Chemicals.
No Person shall permit any brine, gas or injurious chemicals to come in contact with the stem or roots of any Shade Tree or Shrub within the Jurisdiction Zone. (Ord. 9/21/53, §5)
- c. From Actions Likely to Cause Tree Harm or Death.
No Person shall perform any intentional or negligent act that will more likely than not cause a Shade Tree or Shrub harm or death. Negligent damage shall include, but not be limited to, damage inflicted to the root system by machinery or cutting tools, storage of materials and soil compaction, change of natural grade above or below the root system or around the trunk; damage inflicted on the tree permitting fungus, pests or other infestation; pruning, which is so excessive that it threatens the health of the tree or thinning leading to the failure to thrive; paving over the root system with any impervious materials within such proximity as to be fatally harmful to the Shade Tree; or application of any toxic substance, including solvents, oils, gasoline and diesel fuel; trenching of roots; cutting, girdling or inflicting other severe mechanical injury to the trunk, roots or other vital sections of the Shade Tree; removing in excess of 20 percent of the live crown of the Shade Tree; causing damage by the operation of heavy machinery or vehicles; causing damage by the storage of materials; and/or deliberately or negligently setting fire to a Shade Tree. In addition, topping, tipping, or any similar improper pruning practices will automatically be deemed as harmful to, or destruction of a Shade Tree.
- d. From Tree Climbing and Trimming Practices.
No Person shall perform any intentional or negligent act causing damage to a Shade Tree, including various Tree climbing practices, spiking, trimming, flush cutting, incursion into a designated root save area, and the use of climbing spurs or gaffs on trees not subject to removal that exposes the cambium of a Shade Tree to insects, decay organisms or damages the tree bark.

3-16.13 Advisory Role of Shade Tree Commission.

The Shade Tree Commission shall be given a minimum of ninety (90) days to make timely review and determination to the Planning Board, City Council, City Engineer, and the Director of Public Works, as appropriate, regarding the following:

- a. The Shade Tree planting, location, number, species and size or Shade Tree removal as part of any City sidewalk and/or street construction projects.
- b. Shade Tree planting in connection with the site plan approval process for private developments.
- c. It shall not be necessary for the City to obtain approval to do any Shade Tree work on public areas owned in fee simple or rented by it, but no such work shall be done without consultation with the Commission.

3-16.14 Educational Role of the Shade Tree Commission.

- a. Shade Tree Maintenance Information

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The Shade Tree Commission shall provide information about trees to the public. This information will include, but not be limited to, proper planting and trimming practices, fertilizing, treatment and prevention of diseases and general maintenance of Shade Trees and Shrubs.

- b. Recommended Shade Tree List
The Commission will also maintain a publicly available recommended Shade Tree and Shrub list. The list will identify native species and will recommend their use where, when or if the species is appropriate, available and best for a particular location.
- c. Inter-agency coordination
The Commission may also participate in and coordinate with other agencies, Commissions, and organizations regarding the raising awareness of the importance of supporting an ecologically sensitive and biodiverse community.

3-16.15 Interference with Shade Tree Commission Prohibited.

No person shall prevent, delay or interfere with any lawful work undertaken by the Commission or its authorized agent. (1990 Code §3-16.6)

3-16.16 Penalty.

- a. Any person who shall violate any of the provisions of this section shall be liable to the penalty in Chapter I, Section 1-5 for each and every such violation to be recovered as provided by law. (1990 code §3-16.7) (NJSA 40:49-5) The ordinances shall be enforced by like proceedings and processes. Enforcement thereof shall be the same as that provided by law for the enforcement of the ordinances of the City.
- b. Any public utility or cable television company that clears, moves, cuts, or destroys any Shade Trees, Shrubs, or plants for the purpose of erecting, installing, moving, removing, altering or maintaining any structures or fixtures, necessary for the supply of electric light, heat, power, communication, or cable television services upon any lands in which it has acquired an easement or right-of-way, shall not be subject to any penalty. This subsection shall not exempt any public utility or cable television company from any penalty or replacement assessment imposed for negligent or injurious actions as determined by the Commission.

3-16.17 No liability for death or injury.

Nothing in this chapter contained shall be construed to make the Shade Tree Commission or any member thereof, or any volunteer participating in a community forestry program as provided for by section 4 of P.L. 1996, c.135 (C.13:1L-17.4), responsible for the death or injury of any person, or for an injury to any property or highway tree or shrub. Liability for any such death or injury shall be governed by the provisions of section 16 of P.L.1996, c.135 (C.59:4-10) and any other relevant provisions of the “New Jersey Tort Claims Act,” N.J.S.59:1-1 et seq.

3-16.18 Severability.

If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, section or parts of this ordinance.

3-16.19 Conflicting Ordinances.

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In the event this ordinance conflicts with or overlaps with any other ordinance, the provisions of this ordinance shall take precedence rendering inapplicable any conflicting or overlapping ordinance provisions.

3-16.20 Effective Date

The terms and conditions of this ordinance shall take effect upon adoption by the Lambertville City Council.

INTRODUCTION AND FIRST READING: July 18, 2019

PUBLIC HEARING AND SECOND READING: August 22, 2019

Mayor Fahl thanked Art Legere, the Vice Chair of the Shade Tree Commission who authored the Ordinance, for his leadership. This has been a decade long process of assessing the needs of the City of Lambertville. This ordinance strengthens the position of the Shade Tree Commission. She thanked Him for hearing out public concerns and the Mayor’s concerns. She thanked him for his hard work and efforts to make a stronger and shadier community.

Mayor Fahl opened the public hearing for Ordinance Number 17-2019 and asked for public comments. There being no public comments, Mayor Fahl asked for a motion to close the public hearing. Councilman Sanders made the motion to close the public hearing for Ordinance Number 17-2019. Councilwoman Taylor seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present. MOTION CARRIED.

Mayor Fahl/Council President Asaro asked for a motion to adopt on second reading, granting final approval of Ordinance Number 17-2019. Councilman Sanders made the motion and Councilwoman Warner seconded the motion. An affirmative voice vote was taken in favor of the motion by all members present. MOTION CARRIED.

ADMINISTRATIVE REPORT – Business Administrator

The Business Administrator gave the following update:

Garbage, Recycling and Food Waste/Third Can Collection: The Mayor and the Business Administrator had a long conversation about the challenges the City is dealing with. The Business Administrator and the Chair of the Environmental Commission recorded a short video which is on the city’s website as an educational tool. It is about 15 to 20 minutes.

Budget Issues: there are two major issues and a bunch of problem statements. The debt accrued over time and the existence of structural deficits; we have more commitments than funding. Mayor Fahl commented that we will continue to talk about the budget issues and she asked that people stay tuned. The Business Administrator referenced a pie chart created to show how city funds are used. 24% annually goes to paying debt. One of your four quarterly tax payments per year goes to fund the debt service. The Best

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Practice of the State of New Jersey suggests 5%. If we continued spending at that rate, by 2025 that 24% would be 38% so it is a significant jump (2.5million). We are in the process of laying out strategies to address the budget issues. The Business Administrator suggested that the public visit the city's website for additional information.

Parking Meter rates will increase from \$1.00 to \$1.25 per hour on August 28. The city will reprogram the meters on Monday and Tuesday. Parkmobile will change over on the 28th to the new rates. Mayor Fahl said she will visit local businesses to keep them updated.

Plastic bag recycling has been started with the Environmental Commission for the partnership with Trex for recycling. The boxes are in the hallway at City Hall and the Library. Residents are bringing their plastic bags and plastic wrap from toilet paper, paper towels, and dry-cleaning bags to recycle for the Trex partnership. The Business Administration informed the members of the public that Public Works will no longer accept recycling that is placed to the curb in plastic bags. They will instead place a note on the recycling bag. The plastic bags contaminate the recycling and this costs the city additional money and is bad for the environment.

Councilwoman Taylor asked if there were photos that showed what type of bags that were being recycled for the Trex partnership. The Business Administrator said they were posted and the City has received a good number of bags.

Third Can Recycling: the place the City took the waste was no longer accepting our food waste. We are now taking it to Waste Management. We have a couple of potential local options and may get some finished product out of it. We wanted to run through a couple of things we are working on with the Environmental Commission to create a blue print about the next steps. Short term the city may use bungie cords on the third can receptacles. This will help to prevent someone from tossing garbage inside the can once it is placed out to the curb for pick-up. Councilwoman Warner commented that bungie cords cause eye injuries and she expressed her concern for their use.

Go Hunterdon is honoring Lambertville for two projects. The first is the pedestrian street-smart education program which reinforces walkability and safety with the use of cell phones, and vehicle injuries. The second is the Route 29 project which will slow down traffic significantly.

ONGOING PROJECTS

Mayor Fahl gave an update on the following projects:

Route 29 Project: Mayor Fahl informed the members of the public present that the State has started to work on Route 29. Initially they were to scrap and paint but now they are milling the roadway. They are working to mitigate concerns. We expect that by the beginning of next week this work will be complete and are looking forward to the new traffic patterns. Mayor Fahl thanked Lt. Brown for his work on his own time to address

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the traffic issues. Councilman Sanders commented that he was surprised they were paving. Mayor Fahl said she was surprised too.

LMUA Force Main and Swan Creek Flood Gates Update: She put in a request to the DEP for an update. We are working on scheduling it right now; it may require a separate meeting or be part of a work session. She is working on the agenda now. She is asking DEP to come in and give us an update on where the project is and the hurdles that need to be accomplished.

Tom Eagan, a resident of Ferry Street, commented that over the course of a year, conversations have happened with the State and he is not sure why the State needs to come to the City to give an update. Mayor Fahl responded that there are a lot of questions that need to be answered. This is the largest capital project for the city. She has had several conversations with DEP. There is a disconnect between what she has heard from DEP and what the former administration heard. Time has changed it in some ways and in some ways it hasn't changed. Mayor Fahl is trying to reinvigorate the project and the best way to move it forward is to bring in DEP and to hear it directly from them. Mr. Eagan asked for a time frame. Mayor Fahl responded that she is working on scheduling it with DEP but doesn't have a time frame as of this date. We are on their clock.

John Franzini, 154 North Union Street, a former resident of 47 South Union Street commented that the project has been urgent for the past 15 years which is why the community is anxious to know when it will be scheduled. The night before the primary, the former Mayor held a meeting. He told us at the time that there was a parcel of land that the State wanted the City to acquire. Negotiations failed; can the city use the power of eminent domain to acquire that property. It is more urgent today than 15 years ago. We have been through four major floods in 2004 and 2011. The prospect of additional flooding looms over this neighborhood. Mayor Fahl responded that John and Caren Franzini were instrumental in moving this forward in the past and she asked for their understanding as she has been the Mayor for 8 months. She has had multiple conversations with DEP and the property owners. The notion to pull the trigger on condemnation which expensive when this is really a land swap is concerning. We continue to actively engage the landowner to acquire the land.

Robin Eagan commented that she appreciated the meeting and the attempt to schedule it. She expressed concern or the update being pulled from the agenda. Mayor Fahl apologized because she didn't catch it.

Steve Chernoski, New Hope Press, asked for the address of the property in question. Mayor Fahl responded that it was the Ferrell Gas property behind the Lambertville Station.

CONSTITUENT CONCERNS/NEW BUSINESS

Nothing to report.

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CORRESPONDENCE

ELIZABETHTOWN GAS: Public Hearings for the Rates and Tariff.

JCP&L: BPU Docket Numbers ER18080965 and 19060736

NEW JERSEY TRANSIT: intent to apply for Federal Fiscal Year 2019 federal financial assistance.

BARNETT REALTY: poor conditions of Washington Street.

STATE OF NJ DOT: Fiscal Year 2020 Local Freight Impact Fund/

NJ SOCIETY OF MUNICIPAL ENGINEERS: 2019 Engineering Project.

MEALS ON WHEELS: request for funding.

ANNOUNCEMENTS

OFFICE CLOSURES: All City offices will close on Friday, August 30 and reopen on Tuesday, September 3, 2019.

Garbage, Recycling and Food Waste Schedule is as follows:

Friday's Food Waste pick-up will be completed on Thursday, August 29;

Monday's Food Waste pick-up will be completed on Tuesday, September 3

Friday's Garbage and Recycling pick-up will be completed on Thursday, August 29.

RABIES CLINIC: The City will host a free rabies clinic for cats and dogs on Saturday, September 21st from 1 – 3 pm at the Union Fire House located at 230 North Main Street.

PUBLIC PARTICIPATION/PUBLIC CONCERN

Judy Gleason said she had two things. The first was a concern for pedestrians at the stop lights on Bridge Street not coming on unless you push the buttons. The second thing was the lack of signage for Parkmobile. Mayor Fahl responded that the former administration was concerned about the visual clutter in the city's downtown. It is worth revisiting.

Steve Chernoski, resident of Lincoln Avenue commented that the City is in search of new revenue and asked if there was a way to raise the amount on commercial vacant properties; raise the penalty, is there a state law you can't do too much? Mayor Fahl responding that the city is working diligently on the city code and other issues that deal directly with that.

Larry Imhoff, 2 Lincoln Avenue expressed concern for the two crosswalks for the bike path and how they get enforcement. He said he rides his bike and he gets part way across the street and often finds the vehicular traffic is unaware of him in the crosswalk. Mayor Fahl responded that the city intends on having a robust relationship with go

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Hunterdon to do a study in the CBD. We asked them to include Main Street on the north side, which they did. She expects that over the next two years we will work with them diligently to make the city more accessible for pedestrians and bicycles.

Sandra Harris asked if there was a rule about how high the speed bumps need to be. She finds she can't clear it. The Business Administrator responded that there are a couple speed humps that are high and they will be included in the capital planning. The quote she received to fix the speed humps was quite high. Mayor Fahl said this is one of the perks of having a Business Administrator who is full time managing our engineers.

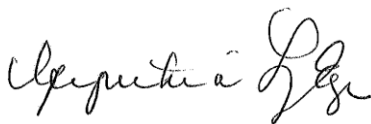
Tom Eagan asked if the city had an ordinance on the speed humps. Mayor Fahl responded that technically they are within the acceptable range. The concern is for emergency services and for the reliance on speed humps to slow traffic. She is working actively in all of our community meetings to push away from speed humps because it is a bad planning tool.

Councilwoman Warner asked why the City was closing on August 30th. Mayor Fahl said this was an opportunity to give the staff who work long and hard a long weekend off. Our staff works diligently and particularly over the past couple of months has put in a lot of time. This boost moral and says thank you. Councilwoman Warner asked that this be listed on the city's website, in the announcements because most missed it on Good Friday.

ADJOURNMENT

The meeting adjourned at 8:41 p.m. with a motion made by Councilman Sanders and seconded by Councilwoman Taylor. An affirmative voice vote was taken in favor of the motion to adjourn by all members present. MOTION CARRIED.

Respectfully submitted,



Cynthia L. Ege,
CMR, RMC, City Clerk



The August 22, 2019 Voting Session Minutes were approved at the September 19, 2019 Regularly Scheduled Voting Session held at the Phillip L. Pittore Justice Center located at 25 South Union Street in the City.