

FAIR HAVEN BOROUGH COUNCIL
JANUARY 23, 2017

The meeting was called to order by Mayor Lucarelli at 7:05 p.m. The Flag Salute was followed by a Moment of Silent Meditation. Mayor Lucarelli read the Sunshine Law Statement.

ROLL CALL

On Roll Call the following were present: Councilmembers Humphreys, Jaeger, Marchese, Peters and Sorensen. Absent: Councilman Wilhelm. Others present: Administrator Casagrande and Attorney Alfieri.

PROCLAMATION

Mayor Lucarelli invited James Moody to the front of the room. He read a proclamation thanking Mr. Moody for his time on Council (1990-1992) and as Planning Board Attorney since 1997. Mr. Moody accepted the proclamation and thanked the governing body. He said that he enjoyed his time on the Board and as Councilman. He relayed a story of his family history. Fair Haven is a great place to live; he has been a resident for the last 55 years.

WORKSHOP SESSION

Mayor Lucarelli said that there were four street opening requests to be considered during the moratorium period per ordinance as follows:

-Street Opening Requests from NJ Natural Gas:

- 45 Laurel Drive - New Service
- 24 Woodland Drive – New Service

Motion to approve moved by Councilman Peters, second by Councilwoman Sorensen with Ayes by all present.

-Street Opening Requests from NJ American Water:

- 119 Hance Road – Test Hole/Service Material
- 179 Dartmouth Avenue – Replace Existing Water Service

Motion to approve moved by Councilwoman Sorensen, second by Councilwoman Humphreys with Ayes by all present.

Councilman Peters said that he would like someone from the Borough to follow up with the utilities to make sure the road is repaired in compliance with the Borough's ordinance. The Municipal Clerk advised that the Borough Engineer, Assistant Engineer or a DPW employee does go out and verify that the road is patched/repaired in compliance with Borough regulations. We also hold cash repair monies to ensure this.

Administrator Casagrande advised that proposed Council Committees were discussed at the December 19, 2016 meeting and both she and the Mayor felt that it would be best to have a committee vs. liaison to meet and bring recommendations to the rest of the Council in order to keep business moving. The proposed structure was sent out to Mayor and Council for their review. Councilwoman Humphreys has resigned her position on Council effective January 31, 2017. The make-up would be the Mayor with a Chairperson and Vice Chairperson. Councilwoman Sorensen asked that Recreation be changed for continuity; it shows she is the Chairperson and the new Councilmember would be the Vice Chairperson and both terms expire at the end of this year. This should be staggered so that there is continuity should someone not be re-elected or decide not to seek reappointment. There were ideas to move some people around or flip/flop some areas. Mayor Lucarelli suggested that this matter wait until the new person is appointed. Administrator Casagrande asked that the Personnel Committee be approved. Councilwoman Sorensen gave her thoughts/recommendations i.e. she would be Chair of Recreation and Councilman Wilhelm could be the Vice Chair, Councilman Peters could be Chair of Personnel and the newest Councilperson could be the Vice Chair (or vice versa). A majority could be kept as presented, but Personnel and Recreation could be changed. Councilman Peters said that it is important for the new member to observe and learn policy and procedures, etc. Mayor Lucarelli said that the Council can operate in the liaison capacity until the new member comes on board to decide Committees.

With regard to land use updates, Councilman Marchese said that a meeting was held about two weeks ago that included Administrator Casagrande, Attorney Alfieri, Assistant Engineer/Zoning Officer Nick Poruchynsky, Todd Lehder (Zoning Board Chair), Construction Personnel, the new Chairman and Vice Chairman of the Planning

Board, Jim Kennedy. It was a very constructive meeting on long term issues and resulted in two draft ordinances listed for this evening's discussion; they are small amendments, but significant. The first change is with regard to Habitable Attic Area. Our ordinance shows 7'3" with regard to height and we would like to put it into conformity with the Building Code which is 7' as recommended by the Construction Official. It could help with construction permits and zoning. This would make it difficult to make attic space habitable. The next change would be an amendment to Accessory Buildings and Structures which is a fairly new ordinance. This matter came up in terms of the interpretation of language; the intent was to be "pro porch". The current ordinance has generated creative designs of homes in town. By removing the language, it will portray what the original thought was. Councilman Peters said that we need to review the Land Use codes and understand what the issues are and are not. There is a large staircase on a front lawn which is an issue. Councilman Peters said people should be allowed a front porch. There is a need to correct the language. Attorney Alfieri said a suggestion was for the ordinance to say the front yard setback would not be totally relieved, but reduced by 3'. Alternatives can be discussed.

Attorney Alfieri said the two draft ordinances were listed for discussion for a fast fix to remedy issues that have arisen over time. Habitable Floor Area is being addressed according to the Master Plan. There is a telephone conference tomorrow between professionals and at a future meeting, the Planner can show the impact once the schedule is reviewed. The other matter to be considered is Certificates of Occupancy. Councilman Marchese said that they would be COs for resales so we are in conformity with Rumson which would tie in to the first drafted ordinance. Attorney Alfieri said that the ordinances are listed on workshop for discussion with an option to introduce them tonight, at the February 13th meeting or whenever Council decides; after introduction, the ordinance would have to be provided to the Planning Board for their review and recommendation. Administrator Casagrande said that she could send Council a list of properties that are new construction that have the noted concerns and issues which have arisen. There was further discussion among Council on this matter. Councilman Marchese asked that the list be sent around and this matter be listed on the February 13th Workshop. He asked that the attic ordinance be introduced at the next meeting. Administrator Casagrande said that professionals left the meeting two weeks ago with a better sense of what each person does; it was productive.

PUBLIC COMMENT ON AGENDA ITEMS

The meeting was opened to the public for comments or questions at 7:37 p.m. Susan O'Brien, River Road, asked if the Council Committee Structure with multiple members on it will ensure that the person will attend the meetings. Administrator Casagrande said it is more of an internal mechanism to move matters forward. Mayor Lucarelli said it would be best to have two people to cover meetings and relay thought processes. There being no further comments or questions, the meeting was closed to the public at 7:39 p.m.

APPROVAL OF MINUTES

Councilwoman Sorensen made a motion to approve the Regular Meeting minutes of December 19, 2016, second by Councilwoman Humphreys

Affirmative: Councilmembers Humphreys, Jaeger, Marchese, Peters, Sorensen

Negative: None

Abstain: None

Absent: Councilman Wilhelm

Executive Session minutes of December 19, 2016. Councilwoman Sorensen requested this be held and listed on Executive Session (Resolution No. 2017-34) for discussion. It was decided to list it under personnel. Motion to amend Resolution No. 2017-34 moved by Councilwoman Sorensen, second by Councilman Peters with Ayes by all present.

Councilwoman Sorensen made a motion to approve the Reorganization Meeting minutes of January 3, 2017, second by Councilman Jaeger

Affirmative: Councilmembers Humphreys, Marchese, Peters, Sorensen

Negative: None

Abstain: Councilman Jaeger

Absent: Councilman Wilhelm

NEW BUSINESS

INTRODUCTION OF ORDINANCES

1. Ordinance No. 2017-01, Index Rate Ordinance for 2017

**2017 ORDINANCE TO EXCEED THE MUNICIPAL BUDGET
APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK**

WHEREAS, the Local Government Cap Law, N.J.S.A. 40A:4-45.1 et seq., provides that in preparation of its annual budget, a municipality shall limit any increase in said budget to 0.5% unless authorized by ordinance to increase to 3.5% over the previous year's final appropriations, subject to certain exceptions; and

WHEREAS, N.J.S.A. 40A:4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and

WHEREAS, the Borough Council of the Borough of Fair Haven in the County of Monmouth finds it advisable and necessary to increase its CY 2017 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and

WHEREAS, the Borough Council hereby determines that a 3.5% increase in the budget for said year, amounting to \$192,543.12 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and

WHEREAS, Borough Council of the Borough of Fair Haven hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Fair Haven, in the County of Monmouth, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2017 budget year, the final appropriations of the Borough of Fair Haven shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5%, amounting to \$224,633.64 and that the CY 2017 municipal budget for the Borough of Fair Haven be approved and adopted in accordance with this ordinance; and

BE IT FURTHER ORDAINED, that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years, and

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of Local Government Services within 5 days of introduction; and

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days of such adoption.

Offered for introduction by Councilwoman Sorensen, second by Councilman Peters

Affirmative: Councilmembers Humphreys, Jaeger, Marchese, Peters, Sorensen

Negative: None

Abstain: None

Absent: Councilman Wilhelm

**CONSENT AGENDA
RESOLUTIONS**

1. Resolution No. 2017-27, Approve 2017 Contracts for Borough Attorney, Bond Counsel, Financial Advisor, Borough Auditor, Borough Planner, Special Counsel for COAH, Special Tidelands Counsel, Commercial Real Estate Appraiser

WHEREAS, the Borough of Fair Haven has a need to retain professional services pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, the Borough Administrator has determined and certified that the

value of some of the said services may exceed \$17,500 for the year 2017; and

WHEREAS, contract proposals for said professional services have been received by the Borough; and

WHEREAS, said professionals have completed and submitted a Business Entity Disclosure Certification, which certifies that said professional has not made any reportable contributions to a political or candidate committee in the previous one year, and that the contract will prohibit said professional from making any reportable contributions throughout the term of the contract; and

WHEREAS, funds for these purposes will be appropriated in the 2017 Municipal Budget; and

WHEREAS, said professionals have been duly appointed by the Borough Council of the Borough of Fair Haven pursuant to N.J.S.A. 40A:11-5;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Fair Haven that the Mayor and Municipal Clerk are hereby authorized to execute contracts with the following;

- Mr. Salvatore Alfieri, Esq., Borough Attorney
- Mr. John Cantalupo, Esq., Borough Bond Counsel
- Robert Allison, Borough Auditor
- Phoenix Associates, Financial Advisor
- Clarke Caton Hintz, Borough Planner
- Jeffrey R. Surenian, Esq., Special Counsel - COAH
- Edward Eastman, Esq., Special Counsel – Tidelands Matters
- Robert Gagaliano – Commercial Real Estate Appraiser

BE IT FURTHER RESOLVED that contracts for said services and the Business Disclosure Entity Certification and Determination of Value are on file with the Borough Clerk and available for public inspection; and

BE IT FUTHER RESOLVED that a copy of this resolution be forwarded to the following:

1. All professionals so named in this resolution
2. Chief Financial Officer
3. Borough Administrator

BE IT FUTHER RESOLVED that a copy of this resolution shall be published in the Asbury Park Press as required by law within ten (10) days of its passage.

Offered for adoption by Councilwoman Sorensen, second by Councilwoman Humphreys

Affirmative: Councilmembers Humphreys, Jaeger, Marchese, Peters, Sorensen

Negative: None

Abstain: None

Absent: Councilman Wilhelm

2. Resolution No. 2017-28, Authorize Contract with FSD Enterprises – Cell Tower Assessment

WHEREAS, Resolution No. 2017-01 appointed Declan O’Scanlon, FSD Enterprises, LLC. as the Borough’s Cell Tower Consultant for the year 2017; and

WHEREAS, there are times when there is a need for an assessment for modification of the equipment on the Borough’s cell tower or an amendment to a cell carrier’s contract with the Borough.

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that Theresa Casagrande, Borough Administrator, is hereby authorized to execute a contract with FSD Enterprises, LLC, attached as Exhibit A

Offered for adoption by Councilwoman Sorensen, second by Councilwoman Humphreys

Affirmative: Councilmembers Humphreys, Jaeger, Marchese, Peters, Sorensen

Negative: None

Abstain: None

Absent: Councilman Wilhelm

3. Resolution No. 2017-29, Authorize Contract with Kaplan Gaunt DeSantis – Architect Services

WHEREAS, the Borough of Fair Haven has a need to retain professional services pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, the Borough Administrator has determined and certified that the value of some of the said services may exceed \$17,500 for the year 2017; and

WHEREAS, contract proposals for said professional services have been received by the Borough; and

WHEREAS, said professionals have completed and submitted a Business Entity Disclosure Certification, which certifies that said professional has not made any reportable contributions to a political or candidate committee in the previous one year, and that the contract will prohibit said professional from making any reportable contributions throughout the term of the contract; and

WHEREAS, funds for these purposes will be appropriated in the 2017 Municipal Budget; and

WHEREAS, said professionals have been duly appointed by the Borough Council of the Borough of Fair Haven pursuant to N.J.S.A. 40A:11-5.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Fair Haven that the Borough Administrator is hereby authorized to execute a contract with the following;

- Kaplan Gaunt DeSantis

BE IT FURTHER RESOLVED that contracts for said services and the Business Disclosure Entity Certification and Determination of Value are on file with the Borough Clerk and available for public inspection; and

BE IT FUTHER RESOLVED that a copy of this resolution be forwarded to the following:

1. Kaplan Gaunt DeSantis
2. Chief Financial Officer
3. Borough Administrator
4. Borough Engineer

BE IT FUTHER RESOLVED that copy of this resolution shall be published in the Asbury Park Press as required by law within ten (10) days of its passage.

Offered for adoption by Councilwoman Sorensen, second by Councilwoman Humphreys

Affirmative: Councilmembers Humphreys, Jaeger, Marchese, Peters, Sorensen

Negative: None

Abstain: None

Absent: Councilman Wilhelm

4. Resolution No. 2017-30, Approve Garden State Municipal Joint Insurance Fund as Secondary Insurance for the Fair Haven Fire Company and Ancillary Members

WHEREAS, the Fair Haven Volunteer Fire Company carries a Selective Insurance Commercial General Liability policy and A Foremost Insurance Company Antique Automobile Liability Policy; and

WHEREAS, it has been agreed upon that since there is a budgetary relationship with the Fire Department that the Borough's insurance company, Garden State Municipal Joint Insurance Fund, will be excess liability coverage to the Selective Policy and

Foremost Policy secured by the Fair Haven Fire Company for the Fair Haven Fire Company, subject to policy terms and conditions; and

WHEREAS, the parties that will be covered will be the Fair Haven Volunteer Fire Company, Fair Haven Fire Department and all Ancillary Emergency Responders.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that it memorializes said coverage and directs the Borough's Risk Manager to present evidence of excess liability coverage under the Garden State Municipal Joint Insurance Fund.

BE IT FURTHER RESOLVED that this resolution shall be renewed annually.

Offered for adoption by Councilwoman Sorensen, second by Councilwoman Humphreys

Affirmative: Councilmembers Humphreys, Jaeger, Marchese, Peters, Sorensen

Negative: None

Abstain: None

Absent: Councilman Wilhelm

5. Resolution No. 2017-31, Bank Signatories for Construction Account - Two River Community Bank

WHEREAS, the Borough of Fair Haven has a Construction Code account with Two River Community Bank; and

WHEREAS, Denise Jawidzik, Chief Financial Officer, has retired and Colleen Lapp will hold the position of Chief Financial Officer for the Borough of Fair Haven through an Interlocal Service Agreement with the Township of Middletown; and

WHEREAS, the following Borough account requires said signature change:

- Construction Code Account (1218507491)

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that the Municipal Clerk provide a copy of this resolution to Two River Community Bank, the Borough's Finance Office and Construction Code Office.

BE IT FURTHER RESOLVED that Council authorizes the appropriate Borough Officials to execute the documents required by Two River Community Bank to institute this change.

Offered for adoption by Councilwoman Sorensen, second by Councilwoman Humphreys

Affirmative: Councilmembers Humphreys, Jaeger, Marchese, Peters, Sorensen

Negative: None

Abstain: None

Absent: Councilman Wilhelm

6. Resolution No. 2017-32, Approve Regular Fire Department Membership – Matthew DePonti

BE IT RESOLVED by the Borough Council of the Borough of Fair Haven that Matthew DePonti, 210 Branch Avenue, Red Bank, NJ having been duly accepted as a regular member of the Fair Haven Volunteer Fire Co., is hereby appointed to the Fair Haven Fire Department.

Offered for adoption by Councilwoman Sorensen, second by Councilwoman Humphreys

Affirmative: Councilmembers Humphreys, Jaeger, Marchese, Peters, Sorensen

Negative: None

Abstain: None

Absent: Councilman Wilhelm

7. Resolution No. 2017-33, Approve Affiliate Fire Department Membership (First Aid) – Jeff Kaltenbach

BE IT RESOLVED by the Borough Council of the Borough of Fair Haven that

Jeff Kaltenbach, 25 Oakes Lane, Rumson, NJ having been duly accepted as an affiliate member of the Fair Haven Volunteer Fire Co., is hereby appointed to the Fair Haven Fire Department/First Aid.

Offered for adoption by Councilwoman Sorensen, second by Councilwoman Humphreys

Affirmative: Councilmembers Humphreys, Jaeger, Marchese, Peters, Sorensen

Negative: None

Abstain: None

Absent: Councilman Wilhelm

8. Resolution No. 2017-34, Executive Session – Personnel and Contract Negotiations

WHEREAS, the Open Public Meetings, P. L. 1975, Chapter 231 permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist; and

WHEREAS, the Governing Body may wish to discuss the following matters:

Personnel

1. Planning and Zoning Staffing
2. Code Enforcement Staffing
3. December 19, 2016 Executive Session Minutes

Possible Litigation

1. Yachtworks

Contract Negotiations

1. Realty Data Services
2. M&S Waste Services
3. VNA Services

WHEREAS, minutes will be kept and once the matter involving the confidentiality of the above no longer requires that confidentiality, then the minutes can be made public.

NOW THEREFORE BE IT RESOLVED that the public be excluded from this meeting.

Offered for adoption by Councilwoman Sorensen, second by Councilwoman Humphreys

Affirmative: Councilmembers Humphreys, Jaeger, Marchese, Peters, Sorensen

Negative: None

Abstain: None

Absent: Councilman Wilhelm

9. Resolution No. 2017-35, Approve Escrow Refund to PCF Great Adventure (Dr. Paul Ferguson)-811 River Road

WHEREAS, Dr. Paul Ferguson d/b/a PCF Great Adventure submitted an application for Change of Use (2nd Floor Office Space) for 811 River Road, Block 50 Lot 19 to the Planning Board; and

WHEREAS, escrow money was posted by the applicant; and

WHEREAS, the Change of Use was granted and PCF Great Adventure has requested that any unused escrow from the application be refunded; and

WHEREAS, the Planning Board Secretary has calculated and provided, in writing, an escrow refund amounts as follows:

Unused Escrow funds in the amount of \$2,180.04

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Fair Haven that the Chief Financial Officer will refund the unused escrow fees as noted above for 811 River Road, Fair Haven, NJ.

Offered for adoption by Councilwoman Sorensen, second by Councilwoman Humphreys

Affirmative: Councilmembers Humphreys, Jaeger, Marchese, Peters, Sorensen
Negative: None
Abstain: None
Absent: Councilman Wilhelm

10. Resolution No. 2017-36, Payment of Vouchers

BE IT RESOLVED by the Governing Body of the Borough of Fair Haven that the vouchers listed for payment on the January 23, 2017 agenda are hereby approved and the Finance Department is hereby authorized to release payment to the various vendors.

2017 CURRENT ACCOUNT	\$ 5,698,839.68
2016 CURRENT ACCOUNT	\$ 116,512.11
OTHER TRUST	\$ 8,868.70
GENERAL CAPITAL	\$ 17,717.89
TOTAL	\$ 5,841,938.38

Offered for adoption by Councilwoman Sorensen, second by Councilwoman Humphreys

Affirmative: Councilmembers Humphreys, Jaeger, Marchese, Peters, Sorensen
Negative: None
Abstain: None
Absent: Councilman Wilhelm

Reports of Departments
November 2016

-Municipal Court
-Chief Financial Officer

December 2016

-Municipal Clerk
-Dog Licenses
-Planning Board and Zoning Board
-Municipal Court
-Tax Collector
-Chief Financial Officer
-Police Department

2016 Year End Reports

-Municipal Clerk

Motion to accept the reports as submitted moved by Councilwoman Sorensen, second by Councilwoman Humphreys with Ayes by all present.

GOOD OF THE BOROUGH

Mayor Lucarelli opened the meeting to the public for comments or questions at 7:43 p.m. Councilwoman Sorensen asked if there was an update on Bicentennial Hall; people are inquiring as to when the building can be used.

Administrator Casagrande said we are waiting on the Mason to address the front stoop. Walkways, etc are in the micro projects list that we have to go out to bid for. Lead paint removal needs to be done outside the kitchen. For safety reasons, a doorway to the cellar needs to be installed.

Councilman Marchese advised that there was a water main break on Third Street from Hance Road to Maple Avenue. An alert was received from Nixle about the road being closed. Chief McGovern advised that there was an accident and the fire hydrant was hit; the water company worked through the night and had everything completed by 11:30 a.m. Councilman Marchese said that he received the message around 5:30 a.m. and appreciated the system and that the situation was remedied quickly.

Susan O'Brien, River Road, asked if the front porch stoop of BIC Hall will encroach in the front yard. We are grandfathered.

Councilman Peters mentioned that most of the bill list amount were tax payments to the schools and County.

There being no further comments or questions, the meeting was closed to the public at 7:48 p.m.

Council went into executive session at 7:54 p.m. and this meeting was reconvened at 9:22 p.m.

ADJOURNMENT

Motion to adjourn moved by Councilwoman Humphreys, second by Councilwoman Sorensen with Ayes by all present.

Time of Adjournment: 9:23 p.m.

Respectfully submitted,

Allyson M. Cinquegrana, RMC/CMR
Borough Clerk