

**FAIR HAVEN BOROUGH COUNCIL
REGULAR MEETING AGENDA
WEDNESDAY, FEBRUARY 12, 2020, 7:00 P.M.**

1. **Call to Order:** pm

2. **Salute to the Flag:**

3. **Moment of Meditation:**

4. **Sunshine Law Notice:**

5. **Roll Call:** Councilmembers Banahan Chrisner-Keefe Koch
 McCue Rodriguez Sorensen

6. **Workshop Session**

- Tree Removal Appeal from 195 Lake Avenue
- Request from Fair Haven Education Foundation to hold the Color Run Event - November 1st
- JIF Ethics Training for Governing Body
- Resolution request from Assemblyman Scharfenberger for the Shore Protection Fund
- Council Reporting
- Buttonwood Trees

7. **Public Comment on Agenda Items**

8. **Approval of Minutes**

- December 16, 2019 Regular Meeting
- December 16, 2019 Executive Session
- January 27, 2020 Regular Meeting
- January 27, 2020 Executive Session

9. **Old Business**

10. **New Business
Consent Agenda**

Resolutions

- 2020-54 Approve Tax Appeal Refund for 174 Buttonwood Drive - Lehder
- 2020-55 Amend 2020 Temporary Budget
- 2020-56 Approve Mid-Jersey Municipal Joint Insurance Fund as Secondary Insurance for
the Fair Haven Fire Company and Ancillary Members
- 2020-57 Award Bid for Improvements to Battin Road Project
- 2020-58 Approve Execution of Fair Share Housing Settlement Agreement
- 2020-59 Approve Settlement Agreement between the Borough and M&M Realty, LLC.
- 2020-60 Executive Session: Pending Litigation &Acquisition of Property, Contract
Negotiations
- 2020-61 Payment of Vouchers
- 2020-62 Authorize Application for a 2020 Sustainable Jersey Grant - Nativity Rain Garden
- 2020-63 Appointments to the Environmental Commission - Brian Rice and Greg Wright

Department Reports

2019 Year End

-Librarian

January 2020

-Municipal Clerk

- Dog License
- Planning Board and Zoning Board
- Tax Collector
- Police Department

11. **Good of the Borough - Please stand and identify yourself by clearly stating your name and address for the record** (*Please observe a time limit of three minutes*)

12. **Adjournment**

PROCEDURE FOR CITIZEN PARTICIPATION AT COUNCIL MEETINGS

The Fair Haven Borough Council and the Mayor welcome comments, suggestions and inquiries from residents of Fair Haven. To that end, provision is made for a public discussion period at each meeting. It is listed as:

“Public Discussion” – near the end of the meeting where any topic may be addressed.

You must wait to be recognized by the Mayor. **IDENTIFY YOURSELF BY CLEARLY STATING YOUR NAME AND ADDRESS FOR THE RECORD.** Limit your comments to three (3) minutes. Once a particular topic has been addressed by a member of the public, he/she will not be recognized to talk again on the same topic until all others have been heard a first time.

If you wish to reserve time to speak in advance, you may address your request to Allyson Cinquegrana at 732-747-0241 extension *221, by noon on the Friday preceding the meeting.

You will **NOT** be recognized, **NOR SHOULD YOU COMMENT OR CARRY ON A DEBATE OR DIALOGUE WHILE BUSINESS OF THE BOROUGH IS BEING ADDRESSED BY MAYOR AND COUNCIL.**

**COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION**

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-54

**TITLE: APPROVE 2019 TAX ADDED/OMITTED APPEAL REFUND FOR 174
BUTTONWOOD DRIVE**

WHEREAS the property owner listed below filed an Added/Omitted Appeal with the County of Monmouth, New Jersey for the year 2019; and

WHEREAS, said appeal was considered and a judgment has been entered that the property owner below qualifies for a refund for 2019 property taxes as follows:

Owner	Address	Block	Lot	Refund
Todd Lehder	174 Buttonwood Drive	76	5	\$7,593.83

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that the Tax Collector and Chief Financial Officer are hereby authorized to pay said refund in the amount of \$7,593.83 to Wells Fargo Real Estate Tax Services, 1 Home Campus, MAC X2032-04D, Des Moines, Iowa 50325.

COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-55

TITLE: TEMPORARY EMERGENCY APPROPRIATION

WHEREAS, emergent conditions have arisen with respect to the payment of bills in a number of accounts and no adequate provision has been made in a Year 2020 temporary budget for the aforesaid purposes; and

WHEREAS, NJSA 40A:4-20 provides for the creation of an emergency temporary appropriation for the purposes above mentioned; and

WHEREAS, the total temporary emergency resolutions adopted in the year 2020 for the Borough pursuant to the provisions of Chapter 96, PL 1951 (NJSA 40A:4-20) including this resolution total \$1,977,264.29 for the Current Fund.

NOW, THEREFORE, BE IT RESOLVED that not less than two-thirds of all members of the Borough Council of the Borough of Fair Haven, New Jersey affirmatively concurring in accordance with the provisions of NJSA 40A:4-20:

1. An emergency temporary appropriation shall be and the same is hereby made for the following purposes:

Account Number	Description	Amount	Reason
Current Account			
0-01-26-300-216	Shade Tree Dues	\$ 3,000.00	Add to Temp Budget
0-01-27-335-299	Environmental Health Miscellaneous	\$ 400.00	Add to Temp Budget
0-01-41-700-202	Recycling Tonnage Grant	\$ 8,664.29	Add Grant to Budget
TOTAL		\$ 12,064.29	

2. That said emergency temporary appropriations will be provided for in the 2020 budget under the appropriate titles.

3. That one certified copy of this resolution will be filed with the Director of Local Government Services.

**COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION**

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-56

**TITLE: AUTHORIZE THE MID-JERSEY MUNICIPAL JOINT INSURANCE FUND TO
GRANT EXCESS LIABILITY COVERAGE FOR THE FAIR HAVEN VOLUNTEER
FIRE COMPANY, DEPARTMENT AND ANCILLARY EMERGENCY
RESPONDERS**

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, Mid-Jersey 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 Mid-Jersey Municipal Joint Insurance Fund.

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

COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-57

TITLE: RECOMMENDING AWARD FOR A CONTRACT FOR IMPROVEMENTS TO BATTIN ROAD

WHEREAS, the Borough of Fair Haven was awarded a 2018 NJDOT grant in the amount of \$350,000 for Improvements to Battin Road; and

WHEREAS, sealed bids were opened on February 11, 2020 in the Borough Hall Council Chambers for Improvements to Battin Road; and

WHEREAS, the following bids were received:

<u>CONTRACTOR</u>	<u>LOCATION</u>	<u>AMOUNT BID</u>
1. Black Rock	Old Bridge, NJ	\$291,650.00
2. Fernandes Construction	Monroe, NJ	\$296,321.99
3. Meco, Inc.	Millstone, NJ	\$308,851.25
4. JADs Construction	South River, NJ	\$329,950.00
5. Earle Asphalt Company	Wall, NJ	\$346,113.13
6. Fiore Paving	Oceanport, NJ	\$380,520.04
7. Diamond Construction	Brick, NJ	\$448,448.48

WHEREAS, Richard Gardella, PE, PP, CME, Borough Engineer and Salvatore Alfieri reviewed the bids and hereby recommend that a contract award be made to Black Rock, Industries, 1318 Englishtown Road, Old Bridge, New Jersey 08857 in the amount of \$291,650.00; and

WHEREAS, the Chief Financial Officer of the Borough of Fair Haven has certified that funds for the low bid are available in Capital Fund Appropriations, as attached; and

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Fair Haven that it hereby recommends award of a contract for Improvements to Battin Road to _____

BE IT FURTHER RESOLVED, the Mayor and Clerk are hereby authorized to execute NJDOT Form SA-22 and an agreement with Black Rock Industries.

COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-58

TITLE: AUTHORIZE THE EXECUTION OF AN AGREEMENT TO RESOLVE ISSUES BETWEEN THE BOROUGH OF FAIR HAVEN AND FAIR SHARE HOUSING CENTER CONCERNING THE BOROUGH’S MOUNT LAUREL FAIR SHARE OBLIGATIONS AND THE MEANS BY WHICH THE BOROUGH SHALL SATISFY SAME, In the Matter of the Borough of Fair Haven, County of Monmouth, Docket No. MON-L-893-19

WHEREAS, in Mount Laurel I, the New Jersey Supreme Court has mandated that each of the state’s municipalities “must, by its land use regulations, make realistically possible the opportunity for an appropriate variety and choice of housing for all categories of people who may desire to live there, of course including those of low and moderate income.” S. Burlington Cnty. NAACP v. Twp. of Mount Laurel (Mount Laurel I), 67 N.J. 151, 179, 187, appeal dismissed, and cert. denied, 423 U.S. 808, 96 S. Ct. 18, 46 L. Ed. 2d 28 (1975); and

WHEREAS, in 1983, the New Jersey Supreme Court reaffirmed the constitutional obligation as it relates to “developing municipalities, which are mandated to provide “a realistic opportunity for the construction of [their] fair share of the present and prospective regional need for low and moderate income housing.” S. Burlington Cnty. NAACP v. Twp. of Mount Laurel (Mount Laurel II), 92 N.J. 158, 205 (1983) (citing Mount Laurel I, supra, 67 N.J. at 174), (together with Mount Laurel I, the *Mount Laurel Doctrine*); and

WHEREAS, in an effort to limit litigation and incentivize voluntary municipal compliance, the Legislature codified the *Mount Laurel Doctrine* in enacting the Fair Housing Act, N.J.S.A. 52:27D-301, et seq. (“the Fair Housing Act”) and established the Council on Affordable Housing (“COAH”) as the entity charged with implementing and administering the legislative mandates of the Act; and

WHEREAS, COAH has not promulgated valid, effective rules since the Second Round Rules expired in 1999; and

WHEREAS, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), the Borough filed the above-captioned matter in on March 7, 2019 seeking, among other things, a judicial declaration that its Housing Element and Fair Share Plan (hereinafter “Fair Share Plan”), as may be further amended, satisfies its “fair share” of the regional need for low and moderate income housing pursuant to the Mount Laurel; and

WHEREAS, the Borough simultaneously sought and ultimately secured an Order protecting it from all exclusionary zoning lawsuits while it pursues approval of its Fair Share Plan; and

WHEREAS, the immunity secured by the Borough remains in place as of the date of this Agreement; and

WHEREAS, the Borough and FSHC have engaged in good faith negotiations and have reached an amicable accord on the various substantive provisions, terms and conditions delineated herein; and

WHEREAS, through that process, the Borough and FSHC agreed to settle the litigation and to present that settlement to the trial court, recognizing that the settlement of Mount Laurel litigation is favored because it avoids delays and the expense of trial and results more quickly in the construction of homes for lower-income households; and

WHEREAS, it is particularly appropriate where, as here, the Court has yet to make a determination of the Borough's fair share, to arrive at a settlement regarding a municipality's fair share obligation, instead of doing so through plenary adjudication of that obligation.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Fair Haven that the Mayor and Borough Clerk are authorized to sign the attached agreement between the Borough and FSHC; and

BE IT FURTHER RESOLVED, the Mayor, Borough Clerk, Special Counsel and Borough Attorney are further authorized to execute such other documents or agreements as are necessary to effectuate this settlement and dismissal of all pending litigation and to take any steps necessary in securing court-approval of this settlement: and

COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-59

**TITLE: AUTHORIZE THE EXECUTION OF A SETTLEMENT AGREEMENT BETWEEN THE
BOROUGH OF M&M REALTY PARTNERS AT FAIR HAVEN, LLC**

WHEREAS, M&M Realty Partners at Fair Haven, LLC, (“M&M”), is the contract purchaser of the property designated as Block 31, Lot 1 on the Tax Map of the Borough of Fair Haven, consisting of .7+/- acres with frontage on River Road (the “Property”); and

WHEREAS, M&M is an interested party in the Matter of the Borough of Fair Haven, County of Monmouth, Docket No. MON-L-893-19 and engaged in court ordered mediation sessions with the Borough resulting in an agreement under which its project shall provide inclusionary development as part of approved by the Affordable Housing Plan under an Agreement with FSHC; and

WHEREAS, through that process, M&M agreed to enter into a Settlement Agreement (“Agreement”) and to present that agreement to the trial court, recognizing that the settlement of Mount Laurel litigation is favored because it avoids delays and the expense of trial and it is particularly appropriate where, as here, the interested party has agreed to participate in the Affordable Housing Plan.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Fair Haven that the Mayor and Borough Clerk are authorized to sign the attached agreement between the Borough and M&M; and

BE IT FURTHER RESOLVED, that the Mayor, Borough Clerk, Special Counsel and Borough Attorney are further authorized to execute such other documents or agreements as are necessary to effectuate this settlement and dismissal of all pending litigation, which documents shall be in a form approved by the Borough Attorney and, if necessary take all actions necessary to secure court approval of the MOU; and

BE IT FURTHER RESOLVED by Mayor and Borough Council of the Borough of Fair Haven that the Borough Clerk is hereby authorized to forward a certified copy of the within Resolution to the Borough Attorney, Special Counsel, M&M LLC and M & M Properties, LLC.

**COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION**

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-60

TITLE: EXECUTIVE SESSION

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:

Pending Litigation

1. Yacht Works

Acquisition of Property

1. River Road

Contract Negotiations

1. Municipal Alliance 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.

COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-61

TITLE: PAYMENT OF VOUCHERS

BE IT RESOLVED by the Governing Body of the Borough of Fair Haven that the vouchers listed for payment on the February 12, 2020 agenda are hereby approved and the Finance Department is hereby authorized to release payment to the various vendors.

2019 CURRENT ACCOUNT	\$	16,980.38
2020 CURRENT ACCOUNT	\$	106,506.84
GENERAL CAPITAL	\$	48,413.31
GRANT FUND	\$	1,204.00
PAYROLL AGENCY	\$	13,120.58
OTHER TRUST	\$	12,656.54
DOG TRUST	\$	324.00
TOTAL	\$	199,205.65

**COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION**

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-62

**TITLE: SUPPORT AND AUTHORIZATION FOR THE 2020 SUSTAINABLE JERSEY
GRANT APPLICATION – FAIR HAVEN NATIVITY CHURCH RAIN GARDEN**

WHEREAS, a sustainable community seeks to optimize quality of life for its residents by ensuring that its environmental, economic and social objectives are balanced and mutually supportive; and

WHEREAS, the Borough of Fair Haven strives to save tax dollars, assure clean land, air and water, improve working and living environments; and

WHEREAS, the Borough of Fair Haven is participating in the Sustainable Jersey Program; and

WHEREAS, one of the purposes of the Sustainable Jersey Program is to provide resources to municipalities to make progress on sustainability issues and they have created a grant program called the Sustainable Jersey Small Grants Program.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Fair Haven has determined that Fair Haven should apply for the aforementioned grant.

BE IT FURTHER RESOLVED, that Mayor and Council of the Borough of Fair Haven, State of New Jersey, authorize the submission of the aforementioned 2020 Sustainable Jersey Grant application for the Fair Haven Nativity Church Rain Garden.

**COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION**

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-63

**TITLE: APPROVE APPOINTMENTS TO THE ENVIRONMENTAL COMMISSION,
REGULAR MEMBER (BRIAN RICE AND ALTERNATE #2 POSITION (GREGORY
WRIGHT))**

WHEREAS, there was a resignation from the Environmental Commission leaving a vacancy that needs to be filled; and

WHEREAS, Brian Rice will be moved from the Alternate #2 position to fill the unexpired term of a regular member with a term expiring on December 31, 2021; and

WHEREAS, the vacant Alternate #2 position with a term expiring on December 31, 2022 will be filled by Gregory Wright.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that the above appointments are hereby approved.