

**FAIR HAVEN BOROUGH COUNCIL
REGULAR MEETING AGENDA
TUESDAY, MAY 28, 2019, 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 Koch Peters
Rice Rodriguez Sorensen
6. **Presentation**
-Proclamation: First Aid Squad
7. **Workshop Session**
-Draft Ordinance Consideration for Restaurant Use
8. **Public Comment on Agenda Items**
9. **Approval of Minutes**
-May 13, 2019 Regular Meeting
-May 13, 2019 Executive Session
10. **Old Business**
-**Public Hearing on Amendment to 2019 Municipal Budget**

Hearing and Adoption of Ordinances
2019-05 Renew Consent for COMCAST Contract
11. **New Business**
Consent Agenda
Resolutions
2019-110 Award Fair Haven Day Fireworks Contract to Garden State Fireworks (\$15,000)
2019-111 Approve Purchase Authorization for DeNormandie Park Landscaping Project
2019-112 Appoint 2019 Summer Rec N Crew Counselors
2019-113 Authorize Reappointment of Registrar – Betty Ann Berube
2019-114 Approve adoption of 2019 Municipal Budget
2019-115 Executive Session: Personnel and Acquisition of Property
2019-116 Payment of Vouchers
12. **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*)
13. **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.**

ORDINANCE NO. 2019-05

AN ORDINANCE GRANTING RENEWAL OF MUNICIPAL CONSENT TO COMCAST OF MONMOUTH COUNTY, LLC. TO CONSTRUCT, CONNECT, OPERATE AND MAINTAIN A CABLE TELEVISION AND COMMUNICATIONS SYSTEM IN THE MUNICIPALITY OF FAIR HAVEN, MONMOUTH COUNTY, NEW JERSEY

BE IT ORDAINED AND ENACTED BY THE MAYOR AND COUNCIL OF THE BOROUGH OF FAIR HAVEN, MONMOUTH COUNTY, NEW JERSEY, AS FOLLOWS:

SECTION 1. PURPOSE OF THE ORDINANCE.

The Borough hereby grants to Comcast renewal of its non-exclusive Municipal Consent to place in, upon, across, above, over and under highways, streets, alleys, sidewalks, easements, public ways and public places in the Borough, poles, wires, cables, underground conduits, manholes and other television conductors, fixtures, apparatus, and equipment as may be necessary for the construction, operation and maintenance in the Borough of a cable television and communications system.

SECTION 2. DEFINITIONS.

For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. Such meaning or definition of terms in supplemental to those definitions of the Federal Communications Commission ("FCC") rules and regulations, 47 C.F.R. Subsection 76.1 et seq., and the Cable Communications Policy Act, 47 U.S.C. Section 521 et seq., as amended, and the Cable Television Act, N.J.S.A. § 48:5A-1 et seq., and shall in no way be construed to broaden, alter or conflict with the federal and state definitions:

- a. "Borough" is the Borough of Fair Haven, County of Monmouth, State of New Jersey.
- b. "Company" or "Comcast" is the grantee of rights under this Ordinance and is known as Comcast of Monmouth County LLC.
- c. "Act" or "Cable Television Act" is Chapter 186 of the General Laws of New Jersey, and subsequent amendments thereto, N.J.S.A. § 48:5A-1, et seq.
- d. "FCC" is the Federal Communications Commission.
- e. "Board" or "BPU" is the Board of Public Utilities, State of New Jersey.
- f. "Office" or "OCTV" is the Office of Cable Television of the Board.
- g. "Basic Cable Service" means any service tier, which includes the retransmission of local television broadcast signals as defined by the FCC.
- h. "Application" is the Company's Application for Renewal of Municipal Consent.
- i. "Primary Service Area" or "PSA" consists of the area of the Borough currently served with existing plant as set forth in the map annexed to the Company's Application for Municipal Consent.

SECTION 3. STATEMENT OF FINDINGS.

Public hearings conducted by the Borough, concerning the renewal of Municipal Consent herein granted to the Company were held after proper public notice pursuant to the terms and conditions of the Act and the regulations of the Board adopted pursuant thereto. Said hearings, having been fully open to the public, and the Borough, having received at said public hearings all comments regarding the qualifications of the Company to receive this renewal of Municipal Consent, the Borough hereby finds that the Company possesses the necessary legal, technical, character, financial and other qualifications and that the Company's operating and construction arrangements are adequate and feasible.

SECTION 4. DURATION OF FRANCHISE.

The non-exclusive Municipal Consent granted herein shall expire 10 years from the date of expiration of the

previous Certificate of Approval issued by the Board.

In the event that the Borough shall find that the Company has not substantially complied with the material terms and conditions of this Ordinance, the Borough shall have the right to petition the OCTV, pursuant to N.J.S.A. § 48:5A-47, for appropriate action, including modification AND/OR termination of the Certificate of Approval; provided, however, that the Borough shall first have given the Company written notice of all alleged instances of non-compliance and an opportunity to cure same within ninety (90) days of that notification.

SECTION 5. FRANCHISE FEE.

Pursuant to the terms and conditions of the Act, the Company shall, during each year of operation under the consent granted herein, pay to the Borough two percent (2%) of the gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for cable television reception service in the Borough or any higher amount permitted by the Act or otherwise allowable by law, whichever is greater.

SECTION 6. FRANCHISE TERRITORY.

The consent granted under this Ordinance for the renewal of the franchise shall apply to the entirety of the Borough and any property subsequently annexed hereto.

SECTION 7. EXTENSION OF SERVICE.

The Company shall be required to proffer service to any residence along any public right-of-way in the Primary Service Area, as set forth in the Company's Application. Any extension of plant beyond the Primary Service Area shall be governed by the Company's Line Extension Policy, as set forth in the Company's Application, with a HPM ("homes-per-mile") of 35 dwellings per linear mile from the nearest active trunk or feeder line.

SECTION 8. CONSTRUCTION REQUIREMENTS.

- a. Restoration: In the event that the Company or its agents shall disturb any pavement, street surfaces, sidewalks, driveways, or other surface in the natural topography, the Company shall, at its sole expense, restore and replace such places or things so disturbed in as good a condition as existed prior to the commencement of said work.
- b. Relocation: If at any time during the period of this consent, the Borough shall alter or change the grade of any street, alley or other way or place the Company, upon reasonable notice by the Borough, shall remove, re-lay or relocate its equipment, at the expense of the Company prior to approval of the board.
- c. Removal or Trimming of Trees: During the exercise of its rights and privileges under this franchise, the Company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks or other public places of the Borough so as to prevent the branches of such trees from coming in contact with the wires and cable of the Company. Such trimming shall be only to the extent necessary to maintain proper clearance of the Company's wire and cables.
- d. Temporary removal of cables: The Company shall, upon request of the Borough, at the company's expense, temporarily raise, lower or remove its lines in order to facilitate the moving of buildings or machinery or in other like circumstances, subject to the prior approval of the board.
- e. Installation of equipment: The Company shall install equipment in the same location and manner as existing public utilities whenever possible, in order to minimize the impact of same on surrounding property.

SECTION 9. CUSTOMER SERVICE.

In providing services to its customers, the Company shall comply with N.J.A.C. § 14:18-1, et seq. and all applicable state and federal statutes and regulations. The Company shall strive to meet or exceed all voluntary company and industry standards in the delivery of customer service and shall be prepared to report on it to the Borough upon written request of the Borough Administrator or Clerk.

- a. The Company shall continue to comply fully with all applicable state and federal statutes and regulations regarding credit for outages, the reporting of same to regulatory agencies and notification of same to customers.
- b. The Company shall continue to fully comply with all applicable state and federal statutes and regulations

regarding the availability of devices for the hearing impaired and the notification of same to customers.

c. The Company shall use every reasonable effort to meet or exceed voluntary standards for telephone accessibility developed by the National Cable Television Association (“NCTA”).

d. Nothing herein shall impair the right of any subscriber or the Borough to express any comment with respect to telephone accessibility to the Complaint Officer, or impair the right of the Complaint Officer to take any action that is permitted under law.

SECTION 10. MUNICIPAL COMPLAINT OFFICER.

The Office of Cable Television is hereby designated as the Complaint Officer for the Borough pursuant to N.J.S.A. § 48:5A-26(b). All complaints shall be received and processed in accordance with N.J.A.C. § 14:17-6.5. The Borough shall have the right to request copies of records and reports pertaining to complaints by Borough customers from the OCTV.

SECTION 11. LOCAL OFFICE.

During the term of this franchise, and any renewal thereof, the Company shall maintain a business office or agent in accordance with N.J.A.C. § 14:18-5.1 for the purpose of receiving, investigating and resolving all local complaints regarding the quality of service, equipment malfunctions, and similar matters. Such a business office shall have a publicly listed toll-free telephone number and be open during standard business hours.

SECTION 12. PERFORMANCE BOND.

During the life of the franchise the Company shall give to the Borough a bond in the amount of Twenty-Five Thousand Dollars (\$25,000). Such bond shall be to insure the faithful performance of all undertakings of the Company as represented in its application for municipal consent incorporated herein.

SECTION 13. SUBSCRIBER RATES.

The rates of the Company shall be subject to regulation as permitted by federal and state law.

SECTION 14. COMMITMENTS BY THE COMPANY.

a. The Company shall provide Expanded Basic or a similar tier of cable television service to one (1) outlet at no cost to each qualified existing and future school in the Borough, public and private, elementary, intermediate and secondary, provided the school building is within two hundred (200) feet of active cable distribution plant or through customer owned conduit. Each additional outlet installed, if any, shall be paid for on a materials plus labor basis by the school requesting service.

b. The Company shall provide Expanded Basic or a similar tier of cable television service at no cost to one (1) outlet to each qualified existing and future municipal building, police, fire, emergency management facility and public library in the Borough, provided the facility is located within two hundred (200) feet of active cable distribution plant or through customer owned conduit. Each additional outlet installed, if any, shall be paid for on a materials plus labor basis by the Borough.

c. Within six months of the issuance of a Renewal Certificate of Approval by the BPU, the Company shall provide to the Borough a one-time Technology Grant in the amount of \$5,500 to meet the technology and/or cable related needs of the community.

d. The Communications Act of 1934, as amended [47 U.S.C. § 543 (b)], allows the Company to itemize and/or identify: (1.) the amount on the subscriber bill assessed as a franchise fee and the identity of the governmental authority to which the fee is paid; (2.) the amount on the bill assessed to satisfy any requirements imposed on the Company by the cable franchise to support public, education, and/or governmental access channels or the use of such channels; and (3.) any grants or other fees on the bill or any tax, assessment, or charge of any kind imposed by any governmental authority on the transaction between the operator and the subscriber. The Company reserves its external cost, pass-through rights to the full extent permitted by law.

SECTION 15. EMERGENCY USES.

a. The Company will comply with the Emergency Alert System (“EAS”) rules in accordance with applicable state and federal statutes and regulations.

b. The Company shall in no way be held liable for any injury suffered by the Borough or any other person, during an emergency, if for any reason the Borough is unable to make full use of the cable television system as contemplated herein.

SECTION 16. LIABILITY INSURANCE.

The Company shall at all times maintain a comprehensive general liability insurance policy with a single limit amount of One Million Dollars (\$1,000,000) covering liability for any death, personal injury, property damages or other liability arising out of its construction and operation of the cable television system, and an excess liability (or “umbrella”) policy in the amount of Five Million Dollars (\$5,000,000).

SECTION 17. INCORPORATION OF THE APPLICATION.

All of the statements and commitments contained in the Application or annexed thereto and incorporated therein, and any amendment thereto, except as modified herein, are binding upon the Company as terms and conditions of this consent. The Application and other relevant writings submitted by the Company shall be annexed hereto and made a part hereof by reference provided same do not conflict with application State or Federal law.

SECTION 18. COMPETITIVE EQUITY.

Should the Borough grant municipal consent for a franchise to construct, operate and maintain a cable television system to any other person, corporation or entity on terms materially less burdensome or more favorable than the terms contained herein, the Company may substitute such language that is more favorable or less burdensome for the comparable provision of this Ordinance subject to the provisions of N.J.A.C. § 14:17-6.7.

SECTION 19. SEPARABILITY.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or federal or state agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and its validity or unconstitutionality shall not affect the validity of the remaining portions of the Ordinance.

SECTION 20. THIRD PARTY BENEFICIARIES.

Nothing in this Franchise or in any prior agreement is or was intended to confer third-party beneficiary status on any member of the public to enforce the terms of such agreements or Franchise.

SECTION 21. EFFECTIVE DATE.

This Ordinance shall take effect immediately upon issuance of a Renewal Certificate of Approval from the BPU.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2019-110

**TITLE: AUTHORIZE BOROUGH ADMINISTRATOR TO EXECUTE THE FIREWORKS
 DISPLAY CONTRACT WITH GARDEN STATE FIREWORKS, INC. FOR FAIR
 HAVEN DAY**

WHEREAS, the Borough of Fair Haven solicited quotes for a fireworks display during Fair Haven Day on June 15, 2019 (rain date of June 16, 2019); and

WHEREAS, the following quote was received:

Garden State Fireworks submitted a quote in the amount of \$15,000.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that the Mayor and Borough Clerk are hereby authorized to execute a contract with Garden State Fireworks, Inc. in the amount of \$15,000 for Fair Haven Day which will take place on June 15, 2019 (rain date of June 16, 2019).

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2019-111

**TITLE: PURCHASE AUTHORIZATION FOR A CAPITAL ITEM EXPENDITURE
DENORMANDIE PARK LANDSCAPING**

WHEREAS, Ordinance No. 2017-07 was adopted on July 10, 2017 and provides for the acquisition of various equipment, infrastructure improvements and improvements to public buildings, grounds and parks; and

WHEREAS, Capital Item requests have been made as follows:

DeNormandie Park

- Landscaping for a passive park \$31,680.00

Total \$31,680.00

WHEREAS, one company responded with a quote for this capital project from Absolute Quality Lawn Care, Inc. for the above amount; and

WHEREAS, this work will be charged to Capital Account 04-55-707-004 (\$25,546.99) and Capital Account C-04-56-971-000 (\$6,133.01).

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that the above capital item expenditure is hereby approved with a Certification of Funds executed by Colleen Lapp, Chief Financial Officer.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2019-112

TITLE: APPOINT COUNSELORS FOR THE 2019 REC-N-CREW SUMMER CAMP PROGRAM IN THE PARKS & RECREATION DEPARTMENT

WHEREAS, the Borough of Fair Haven will be offering a Rec-N-Crew Summer Camp Program through the Parks and Recreation Department for the 2019 summer season; and

WHEREAS, DJ Breckenridge, Parks and Recreation Director has recommended the following individuals be appointed as part time Counselors for the 2019 program:

Camp Employee	Hourly Salary	Title/Notes	Term
Alex Componile	\$19.00	Head Counselor	July 1 – August 2
Edward Messigner	\$19.00	Head Counselor	July 1 – August 2
Jacob Black	\$12.00	Assistant Head Counselor	July 1 – August 2
Cam Lewis	\$12.00	Assistant Head Counselor	July 1 – August 2
TJ Bull	\$11.00	Trip Supervisor Counselor	July 1 – August 2
Jack Benedetto	\$10.00	Counselor	July 1 – August 2
Kelly Cusick	\$10.00	Counselor	July 1 – August 2
Christian Danielczyk	\$10.00	Counselor	July 1 – August 2
Giavonna Darcy	\$10.00	Counselor	July 1 – August 2
Thomas Friedman	\$10.00	Counselor	July 1 – August 2
Jason Hall	\$10.00	Counselor	July 1 – August 2
Declan Kearns	\$10.00	Counselor	July 1 – August 2
Dana Liberi	\$10.00	Counselor	July 1 – August 2
Brody McGowan	\$10.00	Counselor	July 1 – August 2
Grace Niro	\$10.00	Counselor	July 1 – August 2
Jane Pavluk	\$10.00	Counselor	July 1 – August 2
Mike Piperno	\$10.00	Counselor	July 1 – August 2
Christopher Pozzuto	\$10.00	Counselor	July 1 – August 2
Emily Pozzuto	\$10.00	Counselor	July 1 – August 2
Greer Shanley	\$10.00	Counselor	July 1 – August 2
Luke Alex Turoczi	\$10.00	Counselor	July 1 – August 2
Katherine Stephens	\$10.00	Counselor	July 1 – August 2

WHEREAS, the Summer Playground Program is offset through the fees paid by participants of the programs by way of the Recreation Trust Fund.

NOW THEREFORE BE IT RESOLVED by the Borough Council of the Borough of Fair Haven that the above Counselors be appointed for the 2019 Summer Rec-N-Crew Camp Program at the program salaries listed above for the program beginning July 1, 2019 through August 2, 2019.

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

Motion by:

Seconded by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2019-113

TITLE: APPOINT REGISTRAR OF VITAL STATISTICS – BETTY ANN BERUBE

WHEREAS, the State of New Jersey through NJSA 26:8-13 requires that a Registrar of Vital Statistics be appointed every three years; and

WHEREAS, Betty Ann Berube, Borough Administrator, has successfully completed the requirements for a Certified Municipal Registrar by the NJ Department of Health and Senior Services; and

WHEREAS, Betty Ann Berube has served in the Registrar of Vital Statistics position for the Borough of Fair Haven since May 11, 2015.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council, of the Borough of Fair Haven, that Betty Ann Berube is hereby reappointed as Registrar of Vital Statistics for a three-year term to expire on December 31, 2021.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2019-115

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:

Personnel

1. DPW Staffing

Acquisition of Property

1. River Road

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. 2019-116

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 May 28, 2019 agenda are hereby approved and the Finance Department is hereby authorized to release payment to the various vendors.

2018 CURRENT ACCOUNT	\$	1,224.62
2019 CURRENT ACCOUNT	\$	152,543.91
GENERAL CAPITAL	\$	3,414.83
OTHER TRUST	\$	14,856.21
TOTAL	\$	172,039.57