

**FAIR HAVEN BOROUGH COUNCIL
REGULAR MEETING AGENDA
NOVEMBER 25, 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. **Workshop Session**
 - Tree Removal Appeal from 118 Lincoln Avenue
 - DPW Safety Procedure Report (Engineer Gardella and Chief McGovern)
7. **Public Comment on Agenda Items**
8. **Approval of Minutes**
 - November 12, 2019 Regular Meeting
 - November 12, 2019 Executive Session
 - November 13, 2019 Special Meeting
 - November 13, 2019 Executive Session
9. **Old Business**
10. **New Business**
 - Consent Agenda**
 - Resolutions**
 - 2019-221 Executive Session: Personnel, Pending Litigation, Acq. of Property, Contract Negotiations
 - 2019-222 Call for a Study Commission to Review the Open Public Records Act
 - 2019-223 Authorize Execution of Memorandum of Agreement with Teamsters
 - 2019-224 Approve 2019 Budget Transfers
 - 2019-225 Set Meeting Date for 2020 Council Reorganization Meeting
 - 2019-226 Payment of Vouchers
 - Department Reports**
 - October 2019**
 - Tax Collector
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.**

THE NEXT COUNCIL MEETING WILL BE 12/16/2019

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2019-221

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. Police Chief

Pending Litigation

1. Yacht Works

Acquisition of Property

1. River Road

Contract Negotiations

1. ILSA with Rumson
2. ILSA with Monmouth County
3. 2020 Professional Contracts

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. 2019-222

TITLE: RESOLUTION CALLING FOR STUDY COMMISSION TO REVIEW THE OPEN PUBLIC RECORDS ACT

WHEREAS, the Borough of Fair Haven strongly believes in and supports open transparent government, and that citizens and residents have the right to be informed about the workings of government in order to best participate in a democracy; and

WHEREAS, on January 8, 2002 then Acting Governor DiFrancesco signed into law the Open Public Records Act (OPRA) which mandates that government records shall be available, with limited exceptions, for public access and simplifying the procedures for requesting such specific records; and

WHEREAS, the intent of the law was to provide the public with easy access to government records with an uncomplicated process for obtaining the records and eliminating bureaucratic red tape; and

WHEREAS, over the course of 18 years OPRA has been a positive light, but it has also been fraught with abuse and misuse, and has become an unanticipated financial cost to the taxpayers of New Jersey; and

WHEREAS, the Borough of Fair Haven has labored under a well-intended law that has spiraled out of control, due to the volume and nature of requests, the cost to taxpayers in responding to the requests, and the potential liability in having to pay disproportionate prevailing party attorney's fees should the requests turn into litigated matters, as well as the liability in determining which documents shall be released, with or without redaction, while attempting to maintain individual privacy; and

WHEREAS, it is not only the volume of OPRA requests that challenge our resources, but it is also the cost associated with reviewing, retrieving, and processing the OPRA request(s) by public entity personnel and counsel and possibly defending our action(s) before the Government Records Council or in Superior Court; and

WHEREAS, the Borough of Fair Haven received and responded to 244 OPRA requests in 2017, there were 202 OPRA requests in 2018, and to date has received and responded to 241 OPRA requests as of October 31, 2019; and

WHEREAS, the Borough of Fair Haven's staff, collectively, has spent approximately 400 responding to OPRA requests received in 2019 to date, and a yearly average of approximately 950 hours since 2017; and

WHEREAS, due to the often, conflicting case law and Government Record Council decisions, as well as the unique characteristics of OPRA request, the Borough of Fair Haven must oftentimes rely on the municipal attorney to review certain OPRA requests; and

WHEREAS, some examples of OPRA requests that interrupted work day operations or were voluminous in nature:

1. Request for information from 1966 to February 2019 (e-mails, voice mails, all letters, memorandums, correspondence between governing body members, Borough Staff, County Staff, State agencies pertaining to applications, permits, licenses, minutes, etc.
2. History of Ordinances (including copies of the first Land Use Ordinance through current times).
3. Multiple Requests from the same person for same information that were provided numerous times.

4. Past and current Land Use applications that include resolutions, correspondence, exhibits, memorandums, reports and plans.
5. Businesses/solicitors looking for vendor information (award of contract, billing, services) and also include animal licensing information and security companies.
6. Requests for Borough employees e-mail history correspondence (sent and/or received) for a single year or decades.
7. Media requests for Police Internal Affairs reports, Disciplinary action and Settlements (for particular employee or department as a whole).
8. Documents involving Borough Facilities and pertaining to its history, etc.
9. Vendor Contracts, expenditures, change orders, resolutions.
10. Revaluation/Reassessment information for various years.
11. History of professionals (appointments, contracts, bills/vouchers, reimbursements).
12. Coordinating information between various departments to provide a response to the requestor.

WHEREAS, with limited exceptions OPRA has not been amended to address the clear and apparent advancement in technology that has changed the way government records are created, stored, and/or transmitted; the various interpretive decisions; privacy concerns; abuse for commercial gain; and/or the ever-increasing cost to taxpayers; and

WHEREAS, as the current law approaches its twentieth (20th) anniversary it has outgrown its original intended use and has become ripe for comprehensive review and reform.

NOW, THEREFORE BE IT RESOLVED that the governing body of the Borough of Fair Haven appeals to the legislature to form a Commission comprised of Mayors, Municipal Clerks, Municipal Managers, Attorneys, Police Chiefs, open government advocates, privacy experts, members of the media, citizens and other appropriate stakeholders, to review and examine the effects of OPRA on local government and the needs to be fulfilled by the law and use the Commission's findings to perform a comprehensive reform of OPRA; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded to Senator Declan O'Scanlon and Assemblypersons Amy Handlin and Serena DiMaso, Assembly Speaker Craig Coughlin, Senate President Stephen Sweeney, Senator Weinberg, Executive Director of the Government Records Council, the Governor of the State of New Jersey, the Municipal Clerks Association of New Jersey and New Jersey State League of Municipalities.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2019-223

**TITLE: AUTHORIZE MAYOR AND BOROUGH CLERK TO EXECUTE A MEMORANDUM
 OF AGREEMENT WITH TEAMSTER LOCAL #177**

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 Memorandum of Agreement with Teamster Local #177 which will settle a Public Employment Relations Commission matter (CO-2019-309).

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2019-224

TITLE: AUTHORIZING TRANSFERS IN THE 2019 MUNICIPAL BUDGET

WHEREAS, pursuant to N.J.S.A. 40A:4-58, appropriation transfers are allowable during the last two months of a fiscal year; and

WHEREAS, it is deemed necessary that said transfers be done through various accounts.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Fair Haven, County of Monmouth and State of New Jersey that the following transfers are made in the 2019 budget appropriations:

<u>FROM</u>	<u>ACCOUNT NAME</u>	<u>AMOUNT</u>
9-01-20-130-101	Finance-Salary & Wages	\$ 300.00
9-01-20-150-211	Tax Assessment-Contractual	\$ 8,000.00
9-01-20-165-211	Engineering-Contractual	\$10,000.00
9-01-21-186-101	Zoning Officer-Salary & Wages	\$ 300.00
9-01-23-215-228	Workers Comp Insurance	\$ 421.00
9-01-23-220-227	Health Benefits-Medical	\$62,756.00
9-01-23-333-227	Waiver-Medical	\$ 1,500.00
Total		\$ 83,277.00

<u>TO</u>	<u>ACCOUNT NAME</u>	<u>AMOUNT</u>
9-01-20-100-101	Administration-Salary & Wages	\$ 2,275.00
9-01-20-150-101	Tax Assessment-Salary & Wages	\$ 1.00
9-01-20-165-101	Engineering-Salary & Wages	\$ 2,500.00
9-01-21-180-211	Planning Board-Contractual	\$ 7,500.00
9-01-28-370-101	Recreation-Salary & Wages	\$ 1.00
9-01-32-465-299	Reclamation Fees-Misc.	\$ 65,000.00
9-01-36-472-299	Social Security-Misc	\$ 4,000.00
9-01-43-494-202	Recycling Tax-Contractual	\$ 2,000.00
Total		\$ 83,277.00

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2019-225

TITLE: SET DATE FOR 2020 COUNCIL REORGANIZATION MEETING

BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that the Annual Council Reorganization Meeting will be held on Monday, January 6, 2020 at 7:00 p.m. in the Council Chambers, 748 River Road.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2019-226

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 November 25, 2019 agenda are hereby approved and the Finance Department is hereby authorized to release payment to the various vendors.

2018 CURRENT ACCOUNT	\$	23.02
2019 CURRENT ACCOUNT	\$	283,005.82
GENERAL CAPITAL	\$	5,088.00
GRANT FUND	\$	2,596.00
OTHER TRUST	\$	9,033.50
TOTAL	\$	299,746.34