

**FAIR HAVEN BOROUGH COUNCIL  
FEBRUARY 12, 2020**

The meeting was called to order by Mayor Lucarelli at 7:00 p.m. The Flag Salute was followed by a Moment of Silent Meditation. The Sunshine Law Statement was read.

**ROLL CALL**

On Roll Call the following were present: Councilmembers Banahan, Chrisner-Keefe (via telephone), Koch, and Sorensen. Absent: Councilmembers McCue and Rodriguez. Others present: Administrator Casagrande and Attorney Alfieri.

**WORKSHOP SESSION**

A tree removal appeal from 195 Lake Avenue was received. Bill Brooks, Borough Forrester, submitted a memo to the governing body regarding this permit and appeal. Motion to approve the appeal moved by Councilwoman Koch, second by Councilwoman Sorensen with Ayes by all present.

A request was received from the Fair Haven Education Foundation to hold their Color Run Event on November 1, 2020. The Borough Clerk advised that they have not made any request for lawn signs, they just want to secure their date. Motion to approve the request moved by Councilman Sorensen, second by Councilwoman Chrisner-Keefe with Ayes by all present.

Councilman Rodriguez arrived at 7:03 p.m.

The matter of JIF Ethics Training for governing body members was listed to see when Council would be available to view a video presentation on ethics. Administrator Casagrande said it would be easier to present the training video to the governing body at large either before or after a Council meeting. We would receive a credit on our bill from JIF for the governing body's training. Council was asked to come up with some dates to finalize at the next Council Meeting.

A resolution was received from Assemblyman Gerry Scharfenberger requesting the Borough's support for additional funding for the Shore Protection Fund. A supporting resolution will be listed on the February 24<sup>th</sup> agenda.

Mayor Lucarelli requested that the subject of Council Reporting be listed because there is a lot going on through the various Council Committees. Mayor and Council may want to consider listing reports so they can report back regarding their committee to the rest of the Council. This allows the opportunity to bring information to the public. Administrator Casagrande asked that the governing body discuss their thoughts with the Mayor. The consensus of Council was that this was a good idea.

Councilman McCue arrived at 7:06 p.m.

With regard to Buttonwood Drive Trees, some tree limbs have been falling. The Borough is having the trees analyzed. A purchase order was issued to Zig Panek who is a tree care professional. The residents, at large, have been advised that the trees will be marked/numbered with removable paint. Administrator Casagrande said that Shade Tree has a budget of \$9,400 (\$7,000 is for consulting). We have not had a request for a purchase order from the Shade Tree Commission in the last few years. The purchase order was issued out of the Shade Tree's consulting line item for Mr. Panek. Once Mr. Panek's report is received, it will be distributed. Mayor Lucarelli said that some of the trees are 100 years old and are starting to rot out. Some trees are healthy, and others are not which is why the evaluation is being done. We are also looking for methodology on how to remove and replace, maintain and manage the resources going forward.

**PUBLIC COMMENT ON AGENDA ITEMS**

The meeting was opened to the public for comments or questions at 7:08 p.m. Bea Sena, Lake Avenue, thanked the Borough for having the trees looked at. The trees are close to the road and some border Rumson and she asked if the Borough asked Rumson to assist with this evaluation. Administrator Casagrande said that she had not spoken with Tom Rogers, Rumson's Administrator. Councilman Rodriguez said that there are trees on Sycamore Avenue near Kemp Avenue which are part of the same landscape design; Rumson has a plan to take care of what belongs to them and we will take care of ours.

Susan O'Brien, River Road, asked why type of notice the residents were given. Administrator Casagrande said that notification went out on Facebook as soon as Zig Panek came to her office to advise of what his plan was to mark trees. What Mr. Panek is doing is just a study. Residents were given a "heads up" so they would not panic when they saw him. Mrs. O'Brien said that it is not just Buttonwood Drive; it goes along Park Lane and into McCarter Park. Councilman Rodriguez said that none of the trees from 1905 are in McCarter Park. Administrator Casagrande said that the trees for McCarter Park were evaluated last year.

Derek DeBree, owner of Canyon Pass, said that his lot is near Memorial Park which has trees that need to be removed and nothing has been done to date; a tree fell on his property and damaged his fence. He said it would be nice if the trees were addressed before something else falls and causes more damage. Administrator Casagrande said that she, Engineer Gardella and Bill Brooks, Borough Forrester, looked at the trees at Memorial Park and there is a buffer created between the park and the homes near it. She will have the area looked at again.

There being no further comments or questions, the meeting was closed to the public at 7:12 p.m.

**APPROVAL OF MINUTES**

Councilwoman Sorensen made a motion to approve the Regular Meeting minutes of December 16, 2019, second by Councilman Banahan

Affirmative: Councilmembers Banahan and Sorensen  
Negative: None  
Abstain: Councilmembers Chrisner-Keefe, Koch, McCue and Rodriguez  
Absent: None

Councilwoman Sorensen made a motion to approve the Executive Session minutes of December 16, 2019, second by Councilman Banahan

Affirmative: Councilmembers Banahan and Sorensen  
Negative: None  
Abstain: Councilmembers Chrisner-Keefe, Koch, McCue and Rodriguez  
Absent: None

Councilwoman Sorensen made a motion to approve the Regular Meeting minutes of January 27, 2020, second by Councilwoman Koch

Affirmative: Councilmembers Koch, McCue, Rodriguez and Sorensen  
Negative: None  
Abstain: Councilmembers Banahan and Chrisner-Keefe  
Absent: None

Councilwoman Sorensen made a motion to approve the Executive Session Meeting minutes of January 27, 2020, second by Councilwoman Koch

Affirmative: Councilmembers Koch, McCue, Rodriguez and Sorensen  
Negative: None  
Abstain: Councilmembers Banahan and Chrisner-Keefe  
Absent: None

**OLD BUSINESS**

There was no old business brought before the governing body.

**NEW BUSINESS - CONSENT AGENDA**

**RESOLUTIONS**

- 1. Resolution No. 2020-54, Approve Tax Appeal Refund for 174 Buttonwood Drive - Lehder

**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:

<b>Owner</b>	<b>Address</b>	<b>Block</b>	<b>Lot</b>	<b>Refund</b>
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.

Offered for adoption by Councilman Rodriguez, second by Councilwoman Koch

Affirmative: Councilmembers Banahan, Chrisner-Keefe, Koch, McCue, Rodriguez and Sorensen

Negative: None  
 Abstain: None  
 Absent: None

2. Resolution No. 2020-55, Amend 2020 Temporary Budget

**WHEREAS**, emergent conditions have arisen with respect to the payment of bills in a number 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
<b>Current Account</b>			
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
<b>TOTAL</b>		<b>\$ 12,064.29</b>	

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.

Offered for adoption by Councilman Rodriguez, second by Councilwoman Koch

Affirmative: Councilmembers Banahan, Chrisner-Keefe, Koch, McCue, Rodriguez and Sorensen  
 Negative: None  
 Abstain: None  
 Absent: None

3. Resolution No. 2020-56, Approve Mid-Jersey 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, 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.

Offered for adoption by Councilman Rodriguez, second by Councilwoman Koch

Affirmative: Councilmembers Banahan, Chrisner-Keefe, Koch, McCue, Rodriguez and Sorensen

Negative: None  
 Abstain: None  
 Absent: None

4. Resolution No. 2020-57, Award Bid for Improvements to Battin Road Project

**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 Black Rock, Industries.

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

Offered for adoption by Councilman Rodriguez, second by Councilwoman Koch

Affirmative: Councilmembers Banahan, Chrisner-Keefe, Koch, McCue, Rodriguez and Sorensen  
 Negative: None  
 Abstain: None  
 Absent: None

5. Resolution No. 2020-58, Approve Execution of Fair Share Housing Settlement Agreement

**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.

Offered for adoption by Councilman Rodriguez, second by Councilwoman Koch

Affirmative: Councilmembers Banahan, Chrisner-Keefe, Koch, McCue, Rodriguez and Sorensen  
Negative: None  
Abstain: None  
Absent: None

- 6. Resolution No. 2020-59, Approve Settlement Agreement between the Borough and M&M Realty, 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 Settlement Agreement; 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.

Offered for adoption by Councilman Rodriguez, second by Councilwoman Koch

Affirmative: Councilmembers Banahan, Chrisner-Keefe, Koch, McCue, Rodriguez and Sorensen  
Negative: None  
Abstain: None  
Absent: None

- 7. Resolution No. 2020-60, Executive Session - Pending Litigation, Acquisition of Property 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:

**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.

Offered for adoption by Councilman Rodriguez, second by Councilwoman Koch

Affirmative: Councilmembers Banahan, Chrisner-Keefe, Koch, McCue, Rodriguez and Sorensen  
Negative: None  
Abstain: None  
Absent: None

- 8. Resolution No. 2020-61, 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
<b>TOTAL</b>	<b>\$</b>	<b>199,205.65</b>

Offered for adoption by Councilman Rodriguez, second by Councilwoman Koch

Affirmative: Councilmembers Banahan, Chrisner-Keefe, Koch, McCue, Rodriguez and Sorensen  
Negative: None  
Abstain: None  
Absent: None

- 9. Resolution No. 2020-62, Authorize Application for a 2020 Sustainable Jersey Grant - Nativity 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.

Offered for adoption by Councilman Rodriguez, second by Councilwoman Koch

Administrator Casagrande explained the grant is for a rain garden at Church of the Nativity; it will be similar to the one in the Borough Hall lot and at Knollwood School. The amount being applied for is \$2,000.

Affirmative: Councilmembers Banahan, Chrisner-Keefe, Koch, McCue, Rodriguez and Sorensen  
Negative: None  
Abstain: None  
Absent: None

- 10. Resolution No. 2020-63, Appointments to the Environmental Commission - Brian Rice and Greg 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.

Offered for adoption by Councilman Rodriguez, second by Councilwoman Koch

Affirmative: Councilmembers Banahan, Chrisner-Keefe, Koch, McCue, Rodriguez and Sorensen  
Negative: None  
Abstain: None  
Absent: None

**Reports of Departments**

**2019 Year End**

-Librarian

**January 2020**

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

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

**GOOD OF THE BOROUGH**

Mayor Lucarelli opened the meeting to the public for comments or questions at 7:17 p.m. Councilwoman Sorensen read a public statement from the Police Department regarding their mobile and body worn cameras that are used by the Fair Haven Police Department. Chief McGovern advised that some officers are currently testing the body worn cameras which will be used by the entire department beginning in March. He thanked the governing body for allowing the purchase. Councilwoman Sorensen reminded everyone that the ordinance banning plastic bags goes into effect this weekend; everyone was encouraged to use reusable bags. The Devil's trip is sold out. Registration for the Father/Daughter dance is in effect for the end of this month, as well as, the Mother/Son Dance in March (registration is open). The Fair Haven Senior Group is collecting toiletry items for those in need and will give them to Lunch Break.

Girls on the Run would like to hold their annual event on June 7<sup>th</sup>. This matter will be listed on the February 24<sup>th</sup> agenda for consideration.

Councilwoman Koch reported that on February 6<sup>th</sup>, she and Councilwoman Sorensen attended a Pink Tea through the Monmouth County Clerk's Office to celebrate Women's Right to Vote (100<sup>th</sup> Anniversary). Taheesha Way, Secretary of State spoke. It was an interesting event.

Councilman McCue was congratulated on the birth of his son, Miller Perry, born last week.

There being no further comments or questions, the meeting was closed to the public at 7:22 p.m.

Council went into executive session at 7:25 p.m. and this meeting was reconvened at 8:08 p.m.

**ADJOURNMENT**

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

Time of Adjournment: 8:08 p.m.

Respectfully submitted,

Allyson M. Cinquegrana, RMC/CMR  
Borough Clerk