

**FAIR HAVEN BOROUGH COUNCIL
SEPTEMBER 19, 2022**

The meeting was called to order by Mayor Halpern at 7:03 p.m. The Flag Salute was followed by a Moment of Silent Reflection. The following Sunshine Law Statement was read:

IN ACCORDANCE WITH THE PROVISIONS OF THE OPEN PUBLIC MEETINGS ACT, PUBLIC MEETINGS MAY BE HELD IN PERSON OR BY MEANS OF COMMUNICATION EQUIPMENT TO INCLUDE STREAMING SERVICES AND OTHER ONLINE MEETING PLATFORMS (NJSA 10:4-8(b)).

THIS MEETING IS BEING HELD IN-PERSON AND THROUGH THE ZOOM MEETING PLATFORM, BEING BROADCAST FROM BOROUGH HALL, 748 RIVER ROAD, FAIR HAVEN, NJ. PUBLIC PARTICIPATION FOR THIS REGULAR COUNCIL MEETING OF SEPTEMBER 19, 2022 IS AVAILABLE BY CALL IN PHONE NUMBER OR THROUGH WEB CONFERENCE (ZOOM). MEMBERS OF THE PUBLIC WILL BE ON MUTE UNTIL IT IS TIME FOR QUESTIONS AND COMMENTS, WHICH WILL BE ANNOUNCED. AT THAT TIME, THE PUBLIC HAS THE OPPORTUNITY TO QUESTION/COMMENT BY PHONE OR THROUGH ZOOM BY THE "RAISE HAND" BUTTON AND WILL BE CALLED ON AT THE APPROPRIATE TIME.

NOTICE OF THIS MEETING WAS INCLUDED IN A SCHEDULE OF MEETINGS WHICH WAS ADOPTED BY RESOLUTION NO. 2022-13 AND SENT TO THE ASBURY PARK PRESS, THE TWO RIVER TIMES, THE HUB AND THE STAR LEDGER ON JANUARY 6, 2022 POSTED ON THE BOROUGH WEBSITE, THE BULLETIN BOARD IN THE MUNICIPAL BUILDING AND HAS REMAINED CONTINUOUSLY POSTED AS REQUIRED UNDER THE STATUTE.

WITH ADEQUATE NOTICE HAVING BEEN GIVEN, THE BOROUGH CLERK IS DIRECTED TO INCLUDE THIS STATEMENT IN THE MINUTES OF THIS MEETING.

ROLL CALL

On Roll Call the following were present: Councilmembers Koch, McCue and Rodriguez. Absent: Councilwomen Chrisner-Keefe, Cole and Neff. Others present: Administrator Casagrande, Attorney Cannon, Engineer Gardella and Chief McGovern.

WORKSHOP SESSION

Mayor Halpern advised the first order of business was a request for the renewal of a Non-Domestic Animal License for chickens at 444 River Road. Councilwoman Koch said that it had come to her attention that the homeowner is selling the eggs and asked if that was granted as part of his license. She was advised that it was not granted; non-domestic animal permission is for personal use, not for profit. Other residents that have a non-domestic animal licenses were told it was not to profit from. Mr. de Quillacq was in attendance and explained that there are times that they give the eggs to the neighbors and from time to time, his son sells the eggs.

Councilwoman Cole arrived at 7:06 p.m.

The Mayor asked if they leave the eggs on a table and people leave money based on the number of eggs taken. Mr. de Quillacq explained how they have handled the sale of eggs. Councilwoman Koch stated that at the August 15th Council meeting, the request for additional chickens was denied and Mr. de Quillacq was supposed to reduce the number of chickens to the 5 that were approved, and she asked if he did so. Yes, the additional chickens were re-homed. Motion to Approve the renewal of a Non-Domestic Animal License for 2022/2023 moved by Councilman McCue, second by Councilwoman Cole with Ayes by all present.

A draft Architect RFP for Bicentennial Hall was circulated, by Administrator Casagrande, to the governing body for their review. October 4th was the "target due date" for submittal by perspective Architects; that date is fast approaching. Art Pavluk, Historic Preservation Chairman, was provided with a copy as well and he responded back.

Councilwoman Chrisner-Keefe arrived at 7:08 p.m.

Councilwoman Cole said there was a prior discussion and proposal from years ago; she would like to include a public participation session for this matter, at least once. Councilman Rodriguez asked if Councilwoman Cole if she is looking to have open session discussion at the Historic Preservation Commission meeting; yes. Councilwoman Koch asked if the proposed meeting should be after the RFP goes out and if this will delay the RFP. Councilwoman Cole felt it should be done in conjunction with the Architect creating a barrier free access. There was discussion on accepting the \$174,000 grant money and paying separately for the Architect with Borough funds. Councilwoman Koch suggested doing the RFP, seeing the responses and then holding a public meeting. There was

discussion on work for the Architect to do. Administrator Casagrande advised she drafted the RFP to include this information; she can include the Historic Preservation Commission meeting as part of the scope of work (optional services). She will update the RFP and incorporate Art Pavluk's e-mail and what was discussed at this meeting. This is a specific purpose so it will not be advertised; we can forward to the professionals recommended with a turn-around time for two or three weeks.

Engineer Gardella was in attendance to give a presentation on the Improvements to Third Street, Phase II Project. Council was given 11X17 handouts showing the project. The Borough received an NJDOT grant for this project in the amount of \$240,000 and the time to award the bid is no later than November 16th. He met with the Mayor and his Council liaisons regarding scope of work as it ties to the grant and funding. The project design was reviewed. This is Third Street, Phase II which will address the intersection of Maple Avenue west to Hance Road including intersection improvements at Hance Road and Knollwood School's parking lot for pedestrian safety. The bulk of work is milling and paving. Engineer Gardella met with the school and some Board of Education members to receive their feedback on student pick up and drop off and the interface with Sportsman's Field. The Phase I project had sidewalks on Third Street from Knollwood School to Sickles School. The current striping on Hance Road has two crosswalks, however, the school only uses the north side; they cone off and do not utilize the other crosswalk because it creates confusion. The plan is to add an additional crossing at Hunting Lane to assist with safe pedestrian passage. Bond Ordinance No. 2022-10 was adopted in July and there is a portion in the ordinance to fund this project. The Engineer estimate totals \$450,000 so with the \$240,000 grant, our cost share would be \$210,000. The next step is to finalize the bid specs (we will need to rewrite the front end of the specifications); he will work on them with Attorney Cannon and Nancy Britton, QPA. The project plans need to be submitted to the DOT for their review and feedback and then we can go to bid. The plan is to award the bid at the October 24th Council meeting, so we are not against a tight timeframe.

Councilwoman Chrisner-Keefe asked if the project is strictly milling and paving; there will be some curbs, the crosswalk and a possible bump out at Hance Road for traffic calming. She asked if there are any cartway changes on Third Street; minor, at the end of Gentry Drive near the subdivision. Engineer Gardella spoke with developer to match projects and help straighten the road in that area. It was asked if the proposed crosswalk, at Hunting Lane, would be part of this project; no, it will be part of the micro road projects. There will be no decorative crosswalks. Councilwoman Chrisner-Keefe suggested adding an additional crosswalk at one of the intersections along Third Street. Currently, the only crosswalk is at Church Street before getting to Hance Road. Engineer Gardella advised there is no sidewalk on the northside of Third Street from Church Street to Hance Road and no right-of-way; he agreed it would be nice to have a crosswalk at Allen Street, however, it is dangerous/tricky because of diagonal parking for the Community Center Fields. This design ties into both, the Community Center Fields and DPW property. The crosswalk should be at an intersection, not mid-block. Engineer Gardella will look at Third Street Councilwoman Chrisner-Keefe asked once the bid is awarded, when the work needs to be completed by; she was advised, the last phase was done during school when students were in class and residents at work.

Councilman Rodriguez was supportive of the presented plans and thanked Engineer Gardella for his work as well as Councilmembers Cole and McCue.

Councilwoman Koch asked if the plans are eliminating the southern crosswalk; yes, because there has been confusion for the students. One will be added at Hunting Lane.

Councilman McCue said Councilwoman Chrisner-Keefe brought up a good opportunity for a crosswalk at the Gentry Subdivision. He understood the need to figure out what is going on with the DPW facility and if there is going to be a parking lot. We may be able to add a crosswalk. There is a concern for bikers and seniors; we need to consider our own residents. A crosswalk placed at Hunting Lane is a good idea but is down the road. Councilman McCue requested that we keep the southern crosswalk in play because it will be needed on non-school days. The bump out is great as a calming measure and asked if the radius near the bump out will be wide enough for SUVs to make the turn; yes, it is a 15' radius.

Councilwoman Cole said a fair amount of time has been spent on this. To lose a crosswalk is countering what we want in Fair Haven. She was pleased with tightening up the driveway entrance to Knollwood by narrowing the wide curb cut; this will be safer. She asked Engineer Gardella to re-examine the southern crosswalk and not eliminating it. Third Street is an important pedestrian connector from Fair Haven Road to Hance Road. The Borough needs the right infrastructure in place so the crosswalk should remain. Engineer Gardella advised that he and Assistant Engineer Poruchynsky looked at this project (as a whole) and cleaning up the school entrance is going to be a great help with crossing and the area.

PUBLIC COMMENT ON AGENDA ITEMS

The meeting was opened to the public for comments or questions at 7:41 p.m. Andrew LaBarbera, Cedar Avenue, asked if there are any new stop signs going on Third Street. He felt there should be a stop sign along Third Street especially at the intersection of Cedar. Engineer Gardella said the plan is not proposing stop signs as we are not allowed to control speed that way. Chief

McGovern agreed and advised that his department is looking at streets in the area with regard to stop signs. Attorney Cannon advised legally there are only two requirements for stop signs to be installed; the first is it needs to be supported by an Engineer’s Report and the second is the proximity to a recreational area or a school. Mr. LaBarbera offered some suggestions for improvement.

Carolyn Ferguson, Colonial Court, saw the restaurant ordinance listed on the agenda and asked if it was added tonight. She asked what the changes are. Attorney Cannon advised that, legislatively, most remains the same; the Mayor and Council desired to have a factual record in the recitals which were added from discussion that came from the last Council meeting and it also mentions the traffic study. Councilwoman Cole said the ordinance provides context (more than a definition and cleans up the ordinance). Mrs. Ferguson advised Heyer Gruel provided a memo and asked if it was taken into consideration because it shared the concerns that the Business Association had. Councilwoman Cole said the Master Plan is mentioned in the ordinance and there is a list of permitted uses as well. Mrs. Ferguson said the Heyer Gruel memo advised that the ordinance, as written, would prohibit pizza places, bagel shops, coffee shops which is a concern. She does not want it to affect the current businesses we have. Mayor Halpern advised that the current businesses will not be affected by this ordinance change. Councilwoman Chrisner-Keefe understood Mrs. Ferguson’s concerns, but the governing body and professionals have vetted the ordinance and what we can do legally. The Borough is trying to avoid the issues that occurred in the 1970s with McDonalds and in 2019 with Dunkin Donuts. This ordinance is fluid and there might be more work to be done.

Mayor Halpern said the ordinance is a living/breathing document; we are trying to make improvements and may not be 100% positive at the end of the day. Progress for Fair Haven is the goal. Attorney Cannon said no one can guarantee it is going to work. What the residents want is consistent and the ordinance will assist the Land Use Boards to make determinations as well as our Zoning Officer. Mrs. Ferguson said there is value in the business district and going to the Land Use Board has been an issue for some time and has not proven successful for the Business Association members. Councilwoman Chrisner-Keefe appreciated Mrs. Ferguson’s feedback. We cannot guarantee it will be perfect, but it is progress and will also help our Zoning Officer to handle and determine applications which is a difficult job.

Liz McNeill, Third Street, said she and her neighbors have concerns regarding lack of stop signs at the top of the hill on Third Street heading east at Church Street (blind spot). Traffic on Third Street goes fast and stop signs can assist with slowing traffic. Mayor Halpern said bikers will also have to stop at the stop sign being proposed at the top of a hill. It was felt that cars and bikers should stop at Church because there are a lot of kids in this area. Councilman McCue thanked Ms. McNeill for her comments; there are many cars that do stop thinking there is a stop sign. He asked Chief McGovern if this is an intersection that Traffic Safety was looking into; no, just at Cedar Avenue, but he will have them look at all of Third Street to be sure it fits the criteria. Ms. McNeill said kids ride bikes down the middle at all times because they are used to Third Street being closed to traffic during school.

There being no further comments or questions, the meeting was closed to the public at 8:00 p.m.

APPROVAL OF MINUTES

Councilman Rodriguez made a motion to approve the Regular Meeting minutes of September 6, 2022, second by Councilwoman Koch

Affirmative: Councilmembers Chrisner-Keefe, Cole, Koch, McCue and Rodriguez
 Negative: None
 Abstain: None
 Absent: Councilwoman Neff

Councilman Rodriguez made a motion to approve the Executive Session minutes of September 6, 2022, second by Councilwoman Koch

Affirmative: Councilmembers Chrisner-Keefe, Cole, Koch, McCue and Rodriguez
 Negative: None
 Abstain: None
 Absent: Councilwoman Neff

OLD BUSINESS
HEARING AND ADOPTION OF ORDINANCES

1. Ordinance No. 2022-14, Amend Chapter 2 by adding Subsection 67, “Third-Party Payroll Disbursements”

**AMEND CHAPTER 2, BY CREATING SUBSECTION 67 TO ESTABLISH
 “THIRD-PARTY PAYROLL DISBURSEMENT”**

On motion of Councilman Rodriguez, second by Councilwoman Koch with Ayes by all

present, Mayor Halpern opened the meeting for comments or questions at 8:01 p.m. Councilwoman Chrisner-Keefe asked if the Assistant Chief Financial Officer should be listed in a section of the ordinance. Administrator Casagrande advised that it is a function of the CFO and there are no problems interfacing with her. Andrew LaBarbera, Cedar Avenue, asked about Cyber Security requirements of a third-party vendor being addressed in the ordinance. Administrator Casagrande advised with a payroll vendor, there are no residents involved. The Borough Clerk advised that cyber security was part of the RFP for third-party service.

There being no further comments or questions, the Hearing was closed to the public at 8:04 p.m. on motion of Councilman Rodriguez, second by Councilwoman Koch with Ayes by all present.

Offered for adoption by Councilman Rodriguez, second by Councilwoman Koch

Affirmative: Councilmembers Chrisner-Keefe, Cole, Koch, McCue and Rodriguez

Negative: None

Abstain: None

Absent: Councilwoman Neff

NEW BUSINESS

Council Committee Reports

Finance - Councilwoman Neff was absent. Councilman Rodriguez advised that the Finance Committee has not met since the September 6th Council Meeting.

Borough Facilities - Councilman Rodriguez advised that there have been conversations led by the Mayor that have not been briefed to the Facilities Committee at this time. The Facilities Committee may meet before the next Council Meeting.

Personnel - Councilwoman Chrisner-Keefe advised Personnel remains extremely busy with interviews for various roles. There is a new crossing guard appointment being made this evening. October 12th is the next Fair Haven Natural Area Advisory meeting. Administrator Casagrande advised that there was no need to trim the Oak tree at the driveway to Fair Haven Fields. Per both JCP&L and Bill Brooks, it will not impact the wires for quite some time.

Planning & Zoning - Councilwoman Koch advised the Planning Board is meeting tomorrow, in person, at 7:30 p.m. (the main topic being the restaurant ordinance). The ordinance was sent to the Planning Board members for review and discussion tomorrow. The Zoning Board's next meeting will be held on October 6th.

Parks and Recreation - Councilwoman Koch reported the Townwide Camp Out will take place on Saturday, October 22nd and the Halloween parade will take place on Sunday, October 23rd. All information is posted on Facebook and the Borough website.

Police, Fire & OEM - Councilman McCue did not have anything to report.

Engineering and DPW - Councilman McCue advised that he and Councilwoman Cole had a long meeting with Administrator Casagrande and Engineer Gardella about the Third Street project. There are also other projects in queue (micro-projects, sidewalks, Hunting Lane). We are waiting on the contractor for pipe supplies to do the Hance and Cooney Road Improvements. Engineer Gardella advised there is not much pipe for the job, but we need the supply. He met with the contractor and will follow up with them; the pre-construction meeting still needs to be held. Engineer Gardella will meet with some of the residents as well regarding the project. There should be more information on the project for the October 11th meeting.

Borough Communications and Community Outreach - Councilwoman Cole advised an announcement will be sent to the neighborhoods impacted by the construction. The "Borough Buzz" will be the new name for the Constant Contact information sent out weekly. Councilman McCue noted that Constant Contact was personally addressed to him and lately has had information pertaining to the zone he lives in; he was grateful. Councilwoman Cole credited Betty Ann Berube who has done a great job with creating the information to better inform residents.

Environmental Commission hosted a great meeting last week. She thanked Nick Poruchynsky, Assistant Director of Engineering/DPW, Zoning and Floodplain Manager, for his great input. The American Littoral Society also attended the meeting. Both presenters helped everyone to understand green infrastructure. The Green Team has been hard at work. Their goal is to reach Sustainable Jersey Silver status which will help us receive grant money, in the future. They need assistance in the next 30-45 days because they are shy some points. Councilwoman Cole requested support from a few departments (deadline is November). She asked Chief McGovern for an Extreme Weather Event Plan and a plan for our vulnerable population. Councilman McCue

thanked Chief McGovern for his assistance to get points (especially in communications). Councilwoman Cole also advised that a Hazardous Tree Inventory is needed as well as the Borough's fleet inventory. The fleet inventory was provided by Administrator Casagrande, but there are updates needed. Administrator Casagrande will have Bryce Leonard, Mechanic, update the information and provide what is needed. It was asked if Shari Spero, CME Associates, would be able to assist with the hazardous tree inventory due to the information that is required to be provided.

Councilwoman Cole advised Attorney Cannon that the Shade Tree appreciates the summary of the tree preservation ordinance for their review. He is working on the summary.

INTRODUCTION OF ORDINANCES

1. Ordinance No. 2022-15, Amend Chapter 30 (Land Development) to Clarify Restaurant Definitions and Prohibit Certain Types of Restaurants

AN ORDINANCE AMENDING CHAPTER 30: "LAND USE AND DEVELOPMENT REGULATIONS" OF THE BOROUGH'S REVISED GENERAL ORDINANCES TO AMEND THE DEFINITIONS AND PROVISIONS ASSOCIATED WITH RESTAURANT USES AND TO CLEARLY PROHIBIT CERTAIN TYPES OF RESTAURANTS AND WAREHOUSES AND WHOLESALE/FULFILLMENT STORAGE USES

WHEREAS, for many years, the residents and community of the Borough of Fair Haven (the "Borough") have been engaged and concerned about the development of the Borough's business district and the Borough's implementation of planning objectives to enhance and ensure the business district's compatibility with adjacent residential neighborhoods; and

WHEREAS, dating back to the 1970's, the protection and preservation of residents' quality of life in residential neighborhoods adjacent to the Borough's business district has been a paramount concern for the Borough, particularly as related to the intensity of uses within the business district, as well as the traffic generated thereby in such a residential area; and

WHEREAS, in 1972, to address the Fair Haven community's concerns regarding the intensification of traffic in the Borough's business district by new drive-through uses, the Borough adopted Ordinance B-95, which excluded drive-through and quick-serve restaurants from the Borough's business district; and

WHEREAS, thereafter, the Borough's Ordinance B-95 was challenged via lawsuit in the matter of *McDonald's v. Borough of Fair Haven*, wherein the Court ruled in December 1972 that, although the Borough's Ordinance B-95 was impermissibly vague in its terminology, "the essence of zoning is to provide a balanced and well-ordered scheme essential for the general welfare of the community and that consideration could be given to physical, economic and social aspects", especially since the "zoning was to serve the general welfare and that it was of no moment if a private interest simultaneously benefited or was restricted"; and

WHEREAS, following the Court's December 1972 ruling, the Borough adopted Ordinance B-99 in accordance therewith, specifically prohibiting intense and traffic-generating uses, such as diners, lunch wagons, road stands, drive-ins, and fast-food uses, within the Borough's business district to protect residents' quality of life in adjacent residential neighborhoods; and

WHEREAS, on December 26, 1978, the Borough again amended its zoning ordinances in response to the Fair Haven community's concerns about development of the Borough's business district, and thereunder, specifically and unequivocally prohibited "fast food establishment[s] designed for over-the-counter service of quickly prepared or pre-prepared foods whether or not interior seating facilities are provided" under then-Borough Code Section 15-3.9; and

WHEREAS, the specific prohibition of "fast food establishments" within the business district under Borough Code Section 15-3.9 remained within the Borough's zoning regulations for nearly twenty years until the adoption of Ordinance B-417 on December 14, 1998; and

WHEREAS, the Borough's Ordinance B-417, effective December 14, 1998, removed the specific prohibition of "fast food establishments" from Borough Code Section 15-3.9, and instead, listed and defined "categories" of restaurants under new Borough Code Section 30-2.4, seeking to functionally describe the same prohibition of drive-through and quick-serve restaurants within the Borough's business district adjacent to quiet residential neighborhoods; and

WHEREAS, despite the revisions to the Borough's zoning regulations as to restaurant uses under Ordinance B-417 in 1998, the Borough's concerns about intense and traffic-generating uses

within its business district continued to remain the same since the 1970's; and

WHEREAS, since the adoption of Ordinance B-417 in 1998, the Fair Haven community's concerns regarding restaurant uses within the Borough's business district have been consistently discussed and addressed during the Borough's Master Plan Reexaminations; and

WHEREAS, the Borough's 2005 Master Plan Reexamination Report identifies that traffic safety is an outstanding issue within the Borough's business district, and further recommends that planning objectives be implemented to enhance the business district's "compatibility with adjacent residential neighborhoods"; and

WHEREAS, the 2005 Master Plan Reexamination Report further expresses that "[t]he Borough has concern with the future of the B-1 Business District" and "foresees a need to improve the district for reasons of traffic safety, compatibility with adjoining residential zones, enhancing the community image, and for developing or redeveloping new uses that would be beneficial to the Borough"; and

WHEREAS, the 2005 Master Plan Reexamination Report recommends that "[w]ith respect to the edges of the B-1 district, adjoining single family residential zone districts, buffer and screening requirements should be set to better protect the residential neighborhoods from the impact of commercial use and operation during the night, lighting, traffic movements, visual impact and related planning concerns"; and

WHEREAS, the 2005 Master Plan Reexamination Report specifically notes that "[t]he character of the business district and the design of commercial buildings is an issue" because "[t]he image projected by the business district is not uniform, its visual environment is variable, and the circulation system is not pedestrian friendly" insofar as "[p]edestrian and vehicle movements between commercial sites in the B-1 district can be difficult and conflicting"; and

WHEREAS, with respect to the Borough's business district overall, the 2005 Master Plan Reexamination Report recommended that it be improved and redeveloped as the "Main Street" of the Fair Haven community for commercial and civic activities, while noting that, in order to do so, the Borough must "[p]lan for and make improvements that support a safe, convenient, and efficient circulation pattern for pedestrians and bicyclists"; and

WHEREAS, in response to issues raised by the 2005 Master Plan Reexamination Report, the Borough adopted a myriad of ordinances revising its zoning regulations to address the scope of development and compatibility of uses within the Borough, including Ordinance 9-26-05E, effective October 24, 2005, which increased the rear yard setback required for properties in the business district that are adjacent to residential properties; and

WHEREAS, a decade later, the Borough's 2016 Master Plan Reexamination Report continued to identify issues and concerns within the Borough's business district that detrimentally affected residents' quality of life in adjacent residential neighborhoods; and

WHEREAS, the Borough's 2016 Master Plan Reexamination Report restudied and determined that traffic safety remained a major issue within the Borough's business district, and again, recommended the implementation of planning objectives to enhance the business district's "compatibility with adjacent residential neighborhoods"; and

WHEREAS, the Borough's 2016 Master Plan Reexamination Report incorporated a resident and business owner survey conducted in October 2015, wherein respondents were asked to identify uses or activities they "would like to see in the business district that are not currently there", to which most respondents identified "small retail or restaurant uses such as a pharmacy, bakery, sit down restaurants, and an ice cream shop" and "more than 60% of respondents stated they were not in favor of allowing drive-through businesses in the business district"; and

WHEREAS, the Borough's 2016 Master Plan Reexamination Report specifically noted that "[a]lthough the Borough has increased the buffer widths to 30 feet, the need for protection of the neighborhoods adjacent to the B-1 District, with respect to negative impacts from non-residential uses, persists"; and

WHEREAS, the Borough's 2016 Master Plan Reexamination Report further noted that "[c]oncerns regarding vehicular traffic and integration of bicycle and pedestrian movements within the streets continue to be relevant" and included "connectivity between the business district and the adjacent neighborhoods and the need for traffic calming ... remains valid"; and

WHEREAS, the Borough's 2016 Master Plan Reexamination Report recommended parking

regulation improvements within the Borough’s business district, including “shared parking arrangements and linking parking areas together to make more efficient use of the limited space within the business district”; and

WHEREAS, the Borough’s 2017 Active Transportation Plan echoed the concerns of the 2016 Master Plan Reexamination Report, and identified six (6) recent vehicular incidents along River Road – three involving pedestrians and three involving bicyclists, in which one of the bicyclists and one of the pedestrians were tragically and fatally injured on separate occasions; and

WHEREAS, the Borough’s 2017 Active Transportation Plan noted that Fair Haven is a small, 1.5 square-mile, predominantly residential community, with no highway access and only local routes for truck, vehicular, cyclist, and pedestrian transportation; and

WHEREAS, the Borough’s 2017 Active Transportation Plan likewise noted that the Borough’s Master Plan calls for traffic calming measures, and that Fair Haven has committed to safe routes to school, as well as being a complete streets community; and

WHEREAS, in response to the transportation and safety concerns raised by the Borough, Monmouth County and the New Jersey Department of Transportation introduced traffic calming measures and reduced the speed limit to 25 MPH on River Road; and

WHEREAS, in September 2019, after certain applications pending before the Fair Haven Planning Board and Zoning Board of Adjustment again highlighted the Fair Haven community’s concerns regarding intense and traffic-generating uses, such as diners, lunch wagons, road stands, drive-ins, and fast-food uses, within the Borough’s business district, the Borough established a Restaurant Committee (the “Committee”) to study and recommend legislation and/or administrative action(s) to address the zoning regulations attendant to such uses within the Borough; and

WHEREAS, following intensive work and community engagement, and despite the COVID-19 pandemic, the Committee dutifully completed its work and presented its findings and recommendations to the Borough’s Mayor & Council on May 9, 2022, which findings again echoed the issues and concerns raised by the Borough’s litigation and ordinances circa 1970’s, its 2005 and 2016 Master Plan Reexamination Reports, as well as its 2017 Active Transportation Plan and the objections raised before the Borough’s municipal land use boards in September 2019; and

WHEREAS, the Committee found that the Borough’s business districts are limited in size and scope and are surrounded by heavily developed residential areas, and further concluded that commercial users are generators of high traffic, litter, and noise, and those that tend to be open for business over extended hours on a daily basis are inconsistent with adjacent residential neighborhoods within the Borough; and

WHEREAS, the Committee determined that fast-food restaurants are generally limited or uniform in design, often requiring substantial parking areas and significant site lighting, all of which have an adverse impact upon the aesthetics of the site and surrounding environment; and

WHEREAS, *inter alia*, the Committee recommended ordinance revisions to replace and clarify certain definitions and provisions within the Borough Code relating to permitted and prohibited restaurant uses within the Borough.

NOW, THEREFORE, BE IT ORDAINED that the Mayor & Council of the Borough of Fair Haven, in the County of Monmouth, in the State of New Jersey hereby extend their sincere appreciation and gratitude to all of the Restaurant Committee members, as well as the Borough’s administration, for their hard work on this matter of significant community importance; and

BE IT FURTHER ORDAINED that the Mayor & Council of the Borough of Fair Haven, County of Monmouth, State of New Jersey hereby accept the recommendations of the Restaurant Committee, and implement the Committee’s recommended ordinance revisions as follows:

SECTION 1. Subsection 30-2.4 entitled “Definitions” of Section 30-2 entitled “Definitions” of Chapter 30 entitled “Land Use and Development Regulations” of the Revised General Ordinances of the Borough of Fair Haven is hereby supplemented and amended to include the following definitions (~~stricken~~ text deleted; underlined text added):

CHAPTER 30: “LAND USE AND DEVELOPMENT REGULATIONS”

* * *
§ 30-2 DEFINITIONS.
* * *

§ 30-2.4 Definitions.

DRIVE-IN RESTAURANT

An establishment or business essentially designed so that food is both served to and consumed by patrons while they are parked in vehicles on the premises (regardless of whether or not seating may also be provided at the premises).

DRIVE-THROUGH WINDOW

A Drive-Through Window is a window or portal through which patrons may pick up food or beverage orders from an establishment without exiting their vehicle.

RESTAURANT

An establishment or business where food and/or beverages are prepared and served or dispensed to patrons and consumed at the establishment and/or taken out and/or delivered for off-premises consumption; but expressly excluding from this definition, however, the following: (a) Fast-Food Restaurants, which is a separately defined use; and (b) Drive-In Restaurants, which is a separately defined use. Further, no Restaurant may contain a Drive-Through Window.

FAST-FOOD RESTAURANT

An establishment or business, which is essentially designed to quickly prepare, package, and dispense to customers for quick or ready consumption, a limited, uniform, or standardized variety of food and beverage products, and where the menu and/or practices of such an establishment or business are generally prescribed by contractual, franchise, or other such agreements, to facilitate rapid service and turnover of customers. Such establishments or businesses may or may not have tables, and the food and beverage products may be sold for consumption inside the building and/or on or off the premises.

RESTAURANT, DRIVE-IN; see, DRIVE-IN RESTAURANT

RESTAURANT, FAST-FOOD; see, FAST-FOOD RESTAURANT

SECTION 2. The following existing definitions contained in Subsection 30-2.4 entitled “Definitions” of Section 30-2 entitled “Definitions” of Chapter 30 entitled “Land Use and Development Regulations” of the Revised General Ordinances of the Borough of Fair Haven are hereby deleted in their entirety (~~stricken text deleted; underlined text added~~):

CHAPTER 30: “LAND USE AND DEVELOPMENT REGULATIONS”

* * *
§ 30-2 DEFINITIONS.
* * *
§ 30-2.4 Definitions.

~~DRIVE-IN RESTAURANT~~

~~The same as “restaurant, drive-in.”~~

RESTAURANT

~~Any establishment, however designated, at which food is sold for consumption on the premises, normally to patrons seated within an enclosed building. However, a snack bar at a public or community playground, playfield, park, or swimming pool operated solely by the agency or group operating the recreation facilities, and for the convenience of patrons of the facility, shall not be deemed to be a restaurant.~~

RESTAURANT, CATEGORY ONE; CATEGORY ONE RESTAURANT

~~A restaurant which is designed for and whose primary function and operation is the preparation and service by employees of meals to a customer or customers seated at the table at which the meal is consumed. A category one restaurant operates without substantial carry-out service; with no delivery service; with no drive-thru, drive-in or service in vehicles; and without service at counters or bars unless the restaurant is licensed to serve alcoholic beverages.~~

RESTAURANT, CATEGORY THREE; CATEGORY THREE RESTAURANT

~~A restaurant whose primary function is the preparation and service by employees of food or drink to customers as part of an operation which may be designed with carry-out service; delivery service; self-service; on-premises consumption; or customer pick-up service utilizing a vehicular drive-thru.~~

RESTAURANT, CATEGORY TWO; CATEGORY TWO RESTAURANT

~~A restaurant whose primary function is the preparation and service by employees of food or drink to customers as part of an operation which may be designed with carry-out service; delivery service; self-service; or on-premises consumption, except that no drive-in, drive-thru, or service in vehicles is permitted.~~

RESTAURANT, DRIVE-IN; DRIVE-IN RESTAURANT

~~An establishment where the majority of the patrons purchase food, soft drinks, ice cream, and similar confections for takeout or consumption on the premises but outside the confines of the principal building, or in automobiles parked upon the premises, regardless of whether or not, in addition thereto, seats or other accommodations are provided for the patrons.~~

SECTION 3. Subsection 30-5.3 entitled “Permitted and Prohibited Uses” of Section 30-5 entitled “Zoning District Regulations” of Chapter 30 entitled “Land Use and Development Regulations” of the Revised General Ordinances of the Borough of Fair Haven is hereby revised and amended as follows (~~stricken~~ text deleted; underlined text added):

CHAPTER 30: “LAND USE AND DEVELOPMENT REGULATIONS”

* * *

§ 30-5 ZONING DISTRICT REGULATIONS.

* * *

§ 30-5.3 Permitted and Prohibited Uses.

a. Permitted principal uses, accessory uses, and conditional uses within each zone district are set forth in the schedules of permitted uses. The letter "P" means that the use is a permitted principal use in the zone. The letter "C" means the use is a permitted conditional use. The letter "A" means permitted accessory use in the zone. Any use, except for essential services, which is not specifically listed as a permitted use, an accessory use or a conditional use on the schedule of uses shall be deemed a prohibited use.

1. For a portion of Block 45, Lots 10 and 12 in the R-5 Zone, the only permitted use is a 100% affordable housing development consistent with the following parameters:

- (a) One two-family dwelling consisting of affordable residential units with a minimum lot area of 5,000 square feet. A "two-family dwelling" is defined as a building occupied or intended for occupancy as separate living quarters for no more than two families, with separate access, cooking, sleeping and sanitary facilities for the exclusive use of the occupants of each unit, which units are separated from each other either by vertical walls to the underside of the roof or by horizontal floors.
- (b) All bulk, design, and other applicable standards in the R-5 Zone shall apply.
- (c) One unit shall be an affordable for-sale family unit and one unit shall be a very-low-income rental unit as that term is defined in the Fair Housing Act.
- (d) Affordable housing units shall be subject to the standards in the Borough's Affordable Housing Ordinance.

b. Prohibited uses shall include but not be limited to the following:

- 1. All billboards, signboards, advertising signs and devices not expressly related to the business being conducted on the premises or otherwise specifically permitted by this section.
- 2. Camping sites, trailer camps, trailer courts or trailer coaches used as dwellings, offices or storage facilities or commercial activities related to the outdoor storage or display of trailer coaches, except that during development construction trailers may be permitted specifically limited as to the extent of time such use and requiring the payment of an annual fee to the municipality for the granting of such license for such use.
- 3. Auction markets.
- 4. Junk yards, automobile wrecking yards or disassembly yards, or the sorting or baling of scrap metal, paper, rags, or other scrap or waste material, except for recycling operations operated by or with the approval of the Borough.
- 5. Privately operated dumps for the disposal of garbage, trash, refuse, junk, or other such material.
- 6. Adult bookstores.

- 7. Peep shows.
- 8. Massage parlors as defined in Section 30-2 of this chapter.
- 9. Amusement arcade.
- 10. Explosive storage, except small arms ammunition, or by special permit, where explosives are to be used on the premises.
- 11. Incineration, reduction, storage or dumping of slaughterhouse refuse, rancid fats, garbage, or dead animals.
- 12. Slaughtering and slaughterhouses for fowl or animals.
- 13. Any use of any building or premises in such a manner that the health, morals, safety or general welfare of the community may be endangered.
- 14. Keeping or raising of pigs, sheep, horses, donkeys, mules, cattle, goats, chickens, and other such livestock, unless a waiver is obtained in accordance with the provisions of subsection 5-18.4 of these Revised General Ordinances.
- 15. Asphalt plants, concrete plants, asphalt batching plants, concrete batching plants, asphalt mixing plants, concrete mixing plants, asphalt manufacturing plants, concrete manufacturing plants.
- 16. Auto, horse or dog racetracks.
- 17. Keeping or raising of mink, fox or similar fur bearing animals.
- 18. Open air drive-in motion picture theaters.
- 19. Seasonal resort cottages.
- 20. Any use which emits excessive and objectionable amounts of dust, fumes, noise, odor, vibration, smoke, glare or waste products.
- 21. The use of boats or vehicles as residential dwellings.
- 22. ~~Restaurants, category three~~ Fast-Food Restaurants, Drive-In Restaurants, and Drive-Through Windows, as defined in Section 30-2 of this chapter.
- 23. Heliports, helistops or aviation field.
- 24. The operation of Cannabis Cultivators, Cannabis Distributors, Cannabis Manufacturers, Cannabis Wholesalers, Cannabis Retailers, Cannabis Delivery Services.

25. Warehouses and wholesale/fulfillment storage facilities.

SECTION 4. Attachment 2 entitled “Schedule of Permitted Uses – Nonresidential Districts” of Chapter 30 entitled “Land Use and Development Regulations” of the Revised General Ordinances of the Borough of Fair Haven is hereby amended as follows (~~stricken~~ text deleted; underlined text added):

CHAPTER 30: “LAND USE AND DEVELOPMENT REGULATIONS”

* * *
30 Attachment 2

**Table B (Subsection 30-5.1)
SCHEDULE OF PERMITTED USES—NONRESIDENTIAL DISTRICTS**

P = Permitted Use
C = Conditional Use
A = Accessory Use

Type of Use	B-1	B-2	PB
Residential			
Single-family detached dwelling ^{(1)*}	P	P	

Retail/Service/Office			
Restaurant, category one	P	P	
Restaurant, category two	P	P	
Retail sale or rental of goods, merchandise, or equipment, art galleries, artist studios, except for the following: (i) Uses requiring storage or display of goods outside a fully enclosed building, except that this shall not be construed to prohibit temporary sidewalk sales or other temporary special promotional events utilizing a sidewalk area provided the Zoning Office is notified in writing at least ten (10) days in advance of such sale or event; that there is adequate provision for the safe and convenient circulation of pedestrians; and further provided that there are no sales of goods from trucks.	P	P	
(ii) Motor vehicle sales			
(iii) Lumberyards			
(iv) Auction markets			
Personal service establishments, having as their primary function the rendering of service to a client within a building. Such services may include, but are not limited to, barber and beauty shops; dry cleaning drop-off/pick-up shops; self-service laundromats; tailor shops; weight loss centers; portrait studios; interior decorating services; personal fitness centers; and mail centers.	P	P	
Business service establishments, having as their primary function the rendering of a service to a business client. Such services may include, but not be limited to, document reproduction, duplication and administrative services.	P	P	
Product service establishments, having as their primary function the servicing or repair of a product, including, but not limited to, the repair or servicing of shoes, audio and visual equipment, appliances, jewelry and watches. Motor vehicle body shops shall not be permitted.	P	P	
Business offices whose operations are designed to attract and service customers or clients on the premises, including, but not limited to, insurance agents; travel agencies; realtor; finance companies; and tax preparation services.	P	P	
Banks, including drive-in facilities	P	P	
Professional offices	P	P	
Churches and places of worship	C	C	
Indoor athletic, exercise, or recreation facilities	P	P	P
Motor vehicle service stations and public garage	C		
Motor Vehicle repair garage	C		
Funeral homes	P	P	
Childcare center	P	P	P
Public/Quasi-Public			
Municipal facilities operated by the Borough, volunteer fire house, first aid station	P	P	P
Municipal parks and recreation	P	P	P
Public utilities/local utilities			C
Post office	P	P	P
Public library	P	P	P
Other			
Mixed use residential	C	C	
Private garages (See subsection 30-7.26)	A	A	A
Signs (See subsection 30-7.24)	A	A	A
Fences and walls (See subsection 30-7.25)	A	A	A
Off-street parking ⁽¹⁾	A	A	A
Loading and unloading areas ⁽²⁾	A	A	A
Essential services	A	A	A
Wireless telecommunications facilities			P

SECTION 5. Attachment 7 entitled “Schedule of Permitted Uses – Affordable Housing (AH) District” of Chapter 30 entitled “Land Use and Development Regulations” of the Revised General Ordinances of the Borough of Fair Haven is hereby amended as follows (~~stricken~~ text deleted; underlined text added):

CHAPTER 30: “LAND USE AND DEVELOPMENT REGULATIONS”

* * *
30 Attachment 7

**Borough of Fair Haven Table AH (Subsection 30-5.1)
Schedule of Permitted Uses - Affordable Housing (AH) District**

P = Permitted Use
C = Conditional Use
A = Accessory Use
NP = Not Permitted

Type of Use	AH Zone
Mixed-use residential with required commercial on the ground floor	P
Restaurant, category one	P
Restaurant, category two	P
Retail sale or rental of goods, merchandise, or equipment, art galleries, artist studios, except for the following:	P
(i) Uses requiring storage or display of goods outside a fully enclosed building, except that this shall not be construed to prohibit temporary sidewalk sales or other temporary special promotional events utilizing a sidewalk area provided the Zoning Office is notified in writing at least 10 days in advance of such sale or event; that there is adequate provision for the safe and convenient circulation of pedestrians; and further provided that there are no sales of goods from trucks	NP
(ii) Motor vehicle sales	NP
(iii) Lumberyards	NP
(iv) Auction markets	NP
Personal service establishments, having as their primary function the rendering of service to a client within a building. Such services may include, but are not limited to, barber and beauty shops; dry cleaning drop-off/pick-up shops; self-service	P
Business service establishments, having as their primary function the rendering of a service to a business client. Such services may include, but not be limited to, document reproduction, duplication, and administrative services	P
Product service establishments, having as their primary function the servicing or repair of a product, including, but not limited to, the repair or servicing of shoes, audio and visual equipment, appliances, jewelry, and watches. Motor vehicle body shops shall not be permitted	P
Business offices whose operations are designed to attract and service customers or clients on the premises, including, but not limited to, insurance agents; travel agencies; realtor; finance companies; and tax preparation services	P
Banks, with no drive-through services	P
Professional offices	P
Indoor athletic, exercise, or recreation facilities	P
Childcare center	P
Drive thru uses	NP
Type of Use	AH Zone
Other Uses Incidental and Accessory to the Principal Permitted Use	
Seasonal Outdoor Café and/or Outdoor Dining subject to § 4-2 of the Borough Code	A
Private garages	NP
Home occupations	NP
Drive-through services	NP
Signs (pursuant to § 30-7.24 of the Borough Code)	A
Fences and walls	A
Off-street parking	A
Loading and unloading areas	A
Essential services	A

SECTION 6. Attachment 8 entitled “Schedule of Permitted Uses – Affordable Housing Overlay Districts” of Chapter 30 entitled “Land Use and Development Regulations” of the Revised General Ordinances of the Borough of Fair Haven is hereby amended as follows (~~stricken~~ text deleted; underlined text added):

CHAPTER 30: "LAND USE AND DEVELOPMENT REGULATIONS"

* * *
30 Attachment 8

**Borough of Fair Haven Table AHO (Subsection 30-5.1)
Schedule of Permitted Uses- Affordable Housing Overlay Districts**

P = Permitted Use
C = Conditional Use
A = Accessory Use
NP = Not Permitted

Type of Use	AHO-1 Zone	AHO-2 Zone	AHO-3 Zone	AHO-4 Zone	AHO-5 Zone
Residential/Mixed-Use					
Mixed-use residential with required commercial on the ground floor (1)(2)	P	P	P	P	NP
Inclusionary multifamily residential	NP	P	NP	NP	NP
Inclusionary age-restricted residential consisting of market-rate townhouses and affordable townhouses or apartment flats, provided the exterior design of the apartment flats is consistent with the design of the townhouses. "Townhouses" are defined as a one-family dwelling in a row of units in which each unit has its own front and rear access to the outside, no unit is located over another units and each unit is separated from any other unit by one or more common fire-resistant walls.	NP	NP	NP	NP	P(4)
Inclusionary residential consisting of market-rate townhouses and affordable townhouses or apartment flats, provided the exterior design of the apartment flats is consistent with the design of the townhouses, as defined above.	NP	NP	NP	NP	P(3)(4)
Retail/Service/Office					
Restaurant, category one	P	P	P	P	NP
Restaurant, category two	P	P	P	P	NP
Retail sale or rental of goods, merchandise, or equipment, art galleries, artist studios, except for the following:	P	P	P	P	NP
(i) Uses requiring storage or display of goods outside a fully enclosed building, except that this shall not be construed to prohibit temporary sidewalk sales or other temporary special promotional events utilizing a sidewalk area provided the Zoning office is notified in writing at least 10 days in advance of such sale or event; that there is adequate provision for the safe and convenient circulation of pedestrians; and further provided that there are no sales of goods from trucks.	P	P	P	P	NP
(ii) Motor vehicle sales	NP	NP	NP	NP	NP
(iii) Lumberyards	NP	NP	NP	NP	NP
(iv) Auction markets	NP	NP	NP	NP	NP
Personal service establishments, having as their primary function the rendering of service to a client within a building. Such services may include, but are not limited to, barber and beauty shops; dry cleaning drop-off/pick-up shops; self-service	P	P	P	P	NP

Business service establishments, having as their primary function the rendering of a service to a business client. Such services may include, but not be limited to, document reproduction, duplication, and administrative services.	P	P	P	P	NP
Product service establishments, having as their primary function the servicing or repair of a product, including, but not limited to, the repair or servicing of shoes, audio and visual equipment, appliances, jewelry, and watches. Motor vehicle body shops shall not be permitted	P	P	P	P	NP
Business offices whose operations are designed to attract and service customers or clients on the premises, including, but not limited to, insurance agents; travel agencies; realtor; finance companies; and tax preparation services.	P	P	P	P	NP
Banks, with no drive-through services	P	P	P	P	NP
Professional offices	P	P	P	P	NP
Indoor athletic, exercise, or recreation facilities	P	P	P	P	NP
Childcare center	P	P	P	P	NP
Public/Quasi-Public					
Municipal facilities operated by the Borough, volunteer fire house, first aid station	P	P	P	P	NP
Municipal parks and recreation	P	P	P	P	NP
Post Office	P	P	P	P	NP
Public Library	P	P	P	P	NP
Other Uses Incidental and Accessory to the Principal Permitted Use					
Private garages (pursuant to § 30-7.25)	NP	NP	NP	NP	A
Home occupations	NP	NP	NP	NP	NP
Drive-through services	NP	NP	NP	NP	NP
Signs (pursuant to the applicable Zone standards)	A	A	A	A	A
Fences and walls (pursuant to the applicable Zone standards)	A	A	A	A	A
Off-street parking	A	A	A	A	A
Loading and unloading areas	A	A	A	A	A
Essential services	A	A	A	A	A
Private swimming pools	NP	NP	NP	NP	A
Shed	NP	NP	NP	NP	A

SECTION 7. The purpose of this Ordinance is to dispel any ambiguity or confusion within the Borough Code as to permitted and prohibited restaurant uses within the Borough going forward, regardless of whether any such ambiguity or confusion arose from prior legislation, codification, litigation, or determination or ruling of a court or other tribunal.

SECTION 8. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

SECTION 9. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of Fair Haven, the provisions hereof shall be determined to govern. All other parts, portions and provisions of The Revised General Ordinances of the Borough of Fair Haven are ratified and confirmed, except where inconsistent with the terms hereof.

SECTION 10. After introduction, the Borough Clerk is directed to submit a copy of the within Ordinance to the Planning Board of the Borough of Fair Haven for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Mayor & Council, within 35 days after referral, a report including identification of any provisions in this ordinance which are inconsistent with the master plan and recommendations concerning any inconsistencies and any other matter the Board deems appropriate.

SECTION 11. This Ordinance shall take effect immediately upon (1) adoption; (2) publication in accordance with the laws of the State of New Jersey; and (3) filing of the final form of adopted ordinance by the Clerk with the Monmouth County Planning Board pursuant to N.J.S.A. 40:55D-16.

Offered for introduction by Councilwoman Koch, second by Councilwoman Cole

Affirmative: Councilmembers Chrisner-Keefe, Cole, Koch, McCue and Rodriguez
Negative: None
Abstain: None
Absent: Councilwoman Neff

This ordinance will be listed for Hearing and Adoption on the Tuesday, October 11th Council Agenda. The Planning Board has a copy of the ordinance and will be considering it at their September 20th meeting so they can provide any comments or recommendations they may have.

CONSENT AGENDA
RESOLUTIONS

- 1. Resolution No. 2022-202, Executive Session - Contract Negotiations and Personnel

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:

Contract Negotiations

- 1. Facilities Contract
- 2. PBA Negotiation
- 3. Borough Engineer

Personnel

- 1. Tax and Finance Office Assistant
- 2. Administrative Investigation Report

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 Chrisner-Keefe, Cole, Koch, McCue and Rodriguez
Negative: None
Abstain: None
Absent: Councilwoman Neff

- 2. Resolution No. 2022-203, Award Engineer Service Proposal to Leon S. Avakian, Inc: Hydro-raking for McCarter Pond

WHEREAS, a proposal dated August 22, 2022 was received from Leon S. Avakian, Inc., Consulting Engineers, to provide project coordination for the hydro-raking of McCarter Pond; and

WHEREAS, the proposal states that the total cost for Phase 1 through 3, broken down as follows, shall not exceed a total of \$30,500:

Phase 1	Provide Project Coordination	\$16,500
	Aquatic Expert	\$ 3,000
Phase 2	Secure Necessary Permits and Approvals	\$ 4,500
Phase 3	Provide Project Oversight	<u>\$ 7,000</u>
	Total	<u>\$30,500</u>

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven, that the proposal received from Leon S. Avakian, Inc., Consulting Engineers be accepted and awarded for the Phases 1-3 at a cost not to exceed \$30,500 and the Mayor is authorized to execute the appropriate paperwork required for this project.

Offered for adoption by Councilman Rodriguez, second by Councilwoman Koch

Affirmative: Councilmembers Chrisner-Keefe, Cole, Koch, McCue and Rodriguez
Negative: None
Abstain: None

Absent: Councilwoman Neff

3. Resolution No. 2022-204, Approve a Block Party to be Held on Dartmouth Avenue on October 1st

WHEREAS, a request was received to hold a Block Party on Dartmouth Avenue on October 1, 2022 from 3 pm to 11 pm; and

WHEREAS, Police Chief McGovern reviewed the application and submitted his approval on August 30, 2022; and

NOW THEREFORE BE IT RESOLVED by the Governing Body of the Borough of Fair Haven that approval is hereby granted for a block party to be held on Dartmouth Avenue on Saturday, October 1, 2022 from 3 pm to 11 pm.

BE IT FURTHER RESOLVED that Permit No. BP 2022-10 will be issued for said event.

Offered for adoption by Councilman Rodriguez, second by Councilwoman Koch

Affirmative: Councilmembers Chrisner-Keefe, Cole, Koch, McCue and Rodriguez

Negative: None

Abstain: None

Absent: Councilwoman Neff

4. Resolution No. 2022-205, Approve a Block Party to be Held on First Street on October 1st

WHEREAS, a request was received to hold a Block Party on First Street between Lexington Avenue and Lincoln Avenue on Saturday October 1, 2022 from 1 pm to 11 pm (rain date October 8, 2022); and

WHEREAS, Police Chief McGovern reviewed the application and submitted his approval on September 6, 2022; and

NOW THEREFORE BE IT RESOLVED by the Governing Body of the Borough of Fair Haven that approval is hereby granted for a block party to be held on First Street between Lexington Avenue and Lincoln Avenue on Saturday, October 1, 2022 from 1 pm to 11 pm (rain date October 8, 2022).

BE IT FURTHER RESOLVED that Permit No. BP 2022-11 will be issued for said event.

Offered for adoption by Councilman Rodriguez, second by Councilwoman Koch

Affirmative: Councilmembers Chrisner-Keefe, Cole, Koch, McCue and Rodriguez

Negative: None

Abstain: None

Absent: Councilwoman Neff

5. Resolution No. 2022-206, Approve a Block Party to be Held on Poplar Avenue on October 22nd

WHEREAS, a request was received to hold a Block Party on Poplar Avenue on Saturday October 22, 2022 from 3 pm to 11 pm (rain date October 23, 2022); and

WHEREAS, Police Chief McGovern reviewed the application and submitted his approval on September 6, 2022; and

NOW THEREFORE BE IT RESOLVED by the Governing Body of the Borough of Fair Haven that approval is hereby granted for a block party to be held on Poplar Avenue on Saturday, October 22, 2022 from 3 pm to 11 pm (rain date October 23, 2022).

BE IT FURTHER RESOLVED that Permit No. BP 2022-12 will be issued for said event.

Offered for adoption by Councilman Rodriguez, second by Councilwoman Koch

Affirmative: Councilmembers Chrisner-Keefe, Cole, Koch, McCue and Rodriguez

Negative: None

Abstain: None

Absent: Councilwoman Neff

6. Resolution No. 2022-207, Cancel Unfunded Bond Authorization Balances (Borough Facilities)

WHEREAS, the Borough of Fair Haven (the “Borough”) adopted Bond Ordinance No. 2018-21 and Bond Ordinance No. 2019-02 for various municipal improvements and purposes, including the potential purchase of certain real properties by the Borough; and

WHEREAS, the Borough has determined that there are unfunded balances remaining in said Bond Ordinances, which are no longer needed for the items specified;

NOW, THEREFORE, BE IT RESOLVED that the Mayor & Council of the Borough of Fair Haven hereby cancels the unfunded and authorized balances of the aforesaid Bond Ordinances as follows:

<u>Ordinance Name and Date of Adoption</u>	<u>Description of Project</u>	<u>Amount of Appropriation to be Cancelled</u>
<p>BOND ORDINANCE PROVIDING FOR VARIOUS 2018 CAPITAL IMPROVEMENTS AND THE ACQUISITION AND THE PAYMENT OF THE PURCHASE PRICE(S) OF REAL PROPERTIES LOCATED ON RIVER ROAD, BY AND IN THE BOROUGH OF FAIR HAVEN, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY; APPROPRIATING \$3,218,750 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$3,057,812 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF</p> <p>Adopted: September 24, 2018</p> <p>As Amended By: BOND ORDINANCE AMENDING AND SUPPLEMENTING BOND ORDINANCE NUMBER 2018-21 (WHICH PROVIDES FOR VARIOUS 2018 CAPITAL IMPROVEMENTS AND THE ACQUISITION AND THE PAYMENT OF THE PURCHASE PRICE(S) OF REAL PROPERTIES LOCATED ON RIVER ROAD), HERETOFORE FINALLY ADOPTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF FAIR HAVEN, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY ON SEPTEMBER 24, 2018, AS PREVIOUSLY AMENDED AND SUPPLEMENTED HERETOFORE, TO AMEND THE DESCRIPTION, TO INCREASE THE APPROPRIATION BY \$1,700,000 AND TO INCREASE THE AUTHORIZATION OF BONDS OR NOTES BY \$1,619,047</p> <p>Adopted: February 25, 2019</p>	<p>Acquisition and the Payment of the Purchase Price(s) of Real Properties, Lawful Public Purposes, Such Real Properties Located on River Road in the Borough, Including But Not Limited to Block 25, Lots 29, 30, and 31, On The Tax Map Of The Borough, And All Improvements Thereon</p>	<p>\$3,571,750.00</p>

BE IT FURTHER RESOLVED that the authorization of bonds or notes in the amount of \$3,571,750.00 for Account # C-04-55-709-002 which has not been previously funded is hereby canceled; and

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Borough Chief Financial Officer and the Borough Auditor.

Councilman Rodriguez explained that a bond ordinance was passed in 2018 which authorized \$3 million for the purchase of property, and we did not use the money to purchase River Road property so we need to cancel the ordinance.

Offered for adoption by Councilman Rodriguez, second by Councilwoman Koch

Affirmative: Councilmembers Chrisner-Keefe, Cole, Koch, McCue and Rodriguez
 Negative: None
 Abstain: None
 Absent: Councilwoman Neff

7. Resolution No. 2022-208, Approve Dedication by Rider - Environmental Commission

WHEREAS, permission is required of the Director of the Division of Local Government Services for approval as Dedication by Rider of revenues received by a municipality when the revenue is not subject to reasonably accurate estimates in advance; and

WHEREAS, NJSA 40A:12A-3 et seq. provides for receipt of Environmental Commission Trust Funds by the municipality to provide for the operating costs to administer this act; and

WHEREAS, NJSA 40A:4-39 provides the dedicated revenues anticipated from Environmental Commission donated monies are hereby anticipated as revenue and are hereby appropriated for the purpose to which said revenue is dedicated by statute or other legal requirement.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven, County of Monmouth, State of New Jersey as follows:

1. The Mayor and Council do hereby request permission of the Director of the Division of Local Government Services to pay expenditures of the Environmental Commission Trust Fund as per NJSA 40A:12A-3 et seq.
2. The Municipal Clerk of the Borough of Fair Haven, County of Monmouth is hereby directed to forward two certified copies of this resolution to the Director of the Division of Local Government Services.

Offered for adoption by Councilman Rodriguez, second by Councilwoman Koch

Affirmative: Councilmembers Chrisner-Keefe, Cole, Koch, McCue and Rodriguez

Negative: None

Abstain: None

Absent: Councilwoman Neff

8. Resolution No. 2022-209, Approve Dedication by Rider - Police Department

WHEREAS, permission is required of the Director of the Division of Local Government Services for approval as Dedication by Rider of revenues received by a municipality when the revenue is not subject to reasonably accurate estimates in advance; and

WHEREAS, NJSA 40A:12A-3 et seq. provides for receipt of Police Department Trust Funds by the municipality to provide for the operating costs to administer this act; and

WHEREAS, NJSA 40A:4-39 provides the dedicated revenues anticipated from Police Department donated monies are hereby anticipated as revenue and are hereby appropriated for the purpose to which said revenue is dedicated by statute or other legal requirement.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven, County of Monmouth, State of New Jersey as follows:

1. The Mayor and Council do hereby request permission of the Director of the Division of Local Government Services to pay expenditures of the Police Department Trust Fund as per NJSA 40A:12A-3 et seq.
2. The Municipal Clerk of the Borough of Fair Haven, County of Monmouth is hereby directed to forward two certified copies of this resolution to the Director of the Division of Local Government Services.

Offered for adoption by Councilman Rodriguez, second by Councilwoman Koch

Affirmative: Councilmembers Chrisner-Keefe, Cole, Koch, McCue and Rodriguez

Negative: None

Abstain: None

Absent: Councilwoman Neff

Administrator Casagrande explained that the State only allows for certain trust funds to be set up. Resolution Nos. 2022-208 and 2022-209 are the actual form of authorization. A copy of each will be sent to the Department of Community Affairs and CFO Lapp will set up the appropriate accounts so we can accept donations.

9. Resolution No. 2022-210, Authorize Execution of Community Development Block Grant Allocation Acceptance

WHEREAS, the Borough of Fair Haven was awarded a FY2022 Community Development Block Grant (CDBG) in the amount of \$174,074.00 for Bicentennial Hall ADA Improvements; and

WHEREAS, the Borough of Fair Haven accepts the FY2022 CDBG allocation award.

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that Theresa S. Casagrande, Borough Administrator, is hereby authorized to execute the

FY2022 CDBG Allocation Acceptance Form on behalf of the Borough of Fair Haven.

Offered for adoption by Councilman Rodriguez, second by Councilwoman Koch

Affirmative: Councilmembers Chrisner-Keefe, Cole, Koch, McCue and Rodriguez

Negative: None

Abstain: None

Absent: Councilwoman Neff

10. Resolution No. 2022-211, Authorize Receipt of Bids for Improvements to Third Street, Phase II

BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that authorization is given to the Borough Administrator and Borough Engineer to advertise for receipt of bids for Improvements to Third Street, Phase II.

There was a request made to not have work commence when kids are off from school as well as when they are going to and coming from school. Chief McGovern advised that Engineer Gardella always does a good job in speaking with the contractor and voicing what we need and want. It would be best to do the project when the kids are in school because you know where they are for a majority of the day. There will also be police monitoring and directing traffic for the job. Councilman McCue asked if the contractor will be staging concrete at the brush site; Engineer Gardella said there will be a less amount of concrete for this job, so he does not anticipate the need to store it. Councilman McCue said concrete should not be staged at grinding site; we should have them remove it. Engineer Gardella did not see an issue with concrete in this phase, however, the contractor only has so much equipment; the process and how long it takes to get to and from Mazza was explained. Councilwoman Chrisner-Keefe echoed what Councilman McCue stated as his concerns. Engineer Gardella advised that this this project will be faster moving with only 7-10 days for milling and paving. Chief McGovern stated that we cannot control the weather or things that come up with the contractor so adjustments may need to be made. The plans will be finalized based on tonight's discussion.

Offered for adoption by Councilman Rodriguez, second by Councilwoman Koch

Affirmative: Councilmembers Chrisner-Keefe, Cole, Koch, McCue and Rodriguez

Negative: None

Abstain: None

Absent: Councilwoman Neff

11. Resolution No. 2022-212, Approve Irrevocable License Agreement for 8 Rutgers Drive also known as Block 4, Lot 45 - Utility Easement Encroachment

WHEREAS, the Borough of Fair Haven (the "Borough") maintains various easements and rights-of-way for the purpose of facilitating utility services to the residents and businesses of the Borough; and

WHEREAS, Richard Cramer and Melanie Cramer (the "Owners") are the titled owners of 8 Rutgers Drive, Fair Haven, NJ 07704, also known as Block 4, Lot 45 (the "Property"); and

WHEREAS, the Property was created by the filing of subdivision plat entitled "Map of DePierro Park" dated May 23, 1955, prepared by Frank E. Michell, Surveyor, recorded with the Monmouth County Clerk's Office as Subdivision Plat, Case 45-21 on December 5, 1955; and

WHEREAS, the subdivision plat denotes a 15-foot-wide utility easement on the Property, along the easterly property line; and

WHEREAS, soon after the filing of that subdivision plat, a single-family home (the "Structure") was constructed on the Property, with one wall of the Structure encroaching into the utility easement shown on the filed subdivision plat, said condition being shown on a survey of the Property prepared by Thomas H. Stuart, Jr., P.L.S., dated March 16, 1995; and

WHEREAS, the circumstances are unclear as to how a building permit was issued for the construction of the Structure on the Property with an encroachment into the utility easement shown; and

WHEREAS, a drainage pipe was constructed in the utility easement at the time of the subdivision, such pipe being located close to the easterly property line of the subject property and not located in the area of the easement under the Structure; and

WHEREAS, the Owners of the Property are desirous of selling the subject property, together with the Structure thereon; and

WHEREAS, the existence of the utility easement encroachment has proven to be an insurmountable obstacle in the sale of the Property.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Fair Haven hereby approve an Irrevocable License, attached to this Resolution as Exhibit "A", with the Owners of the Property to resolve the encroachment until such time as the Structure on the Property is demolished or destroyed, and the Mayor is hereby authorized to execute the appropriate paperwork to effectuate same.

Offered for adoption by Councilman Rodriguez, second by Councilwoman Koch

Affirmative: Councilmembers Chrisner-Keefe, Cole, Koch, McCue and Rodriguez
Negative: None
Abstain: None
Absent: Councilwoman Neff

12. Resolution No. 2022-213, Appoint PT School Crossing Guard - Ann Dupree

WHEREAS, there is a need for part-time School Crossing Guards; and

WHEREAS, Chief Joseph McGovern has recommended that Ann Dupree be appointed as a Part Time School Crossing Guard, effective September 20, 2022 at an hourly salary of \$20.00

BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that Ann Dupree is hereby appointed as part-time School Crossing Guard as noted above.

Offered for adoption by Councilman Rodriguez, second by Councilwoman Koch

Affirmative: Councilmembers Chrisner-Keefe, Cole, Koch, McCue and Rodriguez
Negative: None
Abstain: None
Absent: Councilwoman Neff

13. Resolution No. 2022-214, Payment of Vouchers

BE IT RESOLVED by the Governing Body of the Borough of Fair Haven that the vouchers listed for payment on the September 19, 2022 Bill List are hereby approved and the Finance Department is hereby authorized to release payment to the various vendors.

2021 CURRENT ACCOUNT	\$ 590.77
2022 CURRENT ACCOUNT	\$233,397.37
GENERAL CAPITAL	\$ 29,811.63
PAYROLL AGENCY	\$ 1,310.30
OTHER TRUST	\$ 42,392.46
DOG TRUST	\$ <u>9.60</u>
TOTAL	\$307,512.13

Offered for adoption by Councilman Rodriguez, second by Councilwoman Koch

Affirmative: Councilmembers Chrisner-Keefe, Cole, Koch, McCue and Rodriguez
Negative: None
Abstain: None
Absent: Councilwoman Neff

Reports of Departments
August 2022

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

Motion to accept the reports, as submitted, moved by Councilman Rodriguez, second by

Councilwoman Koch with Ayes by all present.

GOOD OF THE BOROUGH

Mayor Halpern opened the meeting to the public for comments or questions at 8:37 p.m. Bill Dorner, Spruce Drive, asked about the audio/visual (AV) for the Council Chambers and when it will be done, the status of DPW and Police Department facilities and when McCarter Pond will be addressed. Councilwoman Cole said that Council authorized the AV work and IT was asked to have the project completed by the end of October. Mayor Halpern advised with regard to McCarter Pond, the governing body just awarded the engineer service proposal for hydro-raking. It was asked when the project will start; we will have to get a timeline from Avakian. With regard to the Police Department and DPW, the governing body is accumulating information as far as its options. Mr. Doerner asked that any new business, not completed, be placed under old business on the following agenda. Councilman Rodriguez said that the updates are given under Committee Reports by the appropriate Council liaison. Mr. Doerner said the public needs more information from Mayor and Council; there was nothing reported on the DPW and Police Department facilities.

Carolyn Ferguson, Colonial Court, asked if there was an electronic copy of Ordinance 2022-15; yes, it is on the website. Clerk Cinquegrana said she will email it directly to Mrs. Ferguson. She clarified that Community Appeal money is to be spent for extras that the Borough does not cover; yes. The Fair Haven Natural Area Advisory Committee members met with Monmouth County to walk the Natural Area; they were joined by Nick Poruchynsky, (Assistant Director of Engineering/DPW) and Dave Karl (Buildings, Grounds and Parks Foreman). The meeting was held to form a relationship and make a connection with the County. Feedback was received for the Natural Area and green spaces. Administrator Casagrande will share the feedback with the Mayor and Council; she did not want to distribute it to other Boards and Commissions until the Natural Area Committee had a chance to review and form a plan based on the recommendations.

Susan O'Brien, River Road, advised that when anyone in the audience speaks, they are hard to hear and requested that those who wish to speak go to the front of the room. She advised of a concern from the last Zoning Board meeting where neighbors within 200' are required to be notified; there was an issue with the list for an application not being up to date). The Borough Clerk advised the Tax Assessor was made aware of the issue and he reached out to the County Board of Taxation who had a program update issue that has since been fixed. Drew LaBarbera, Zoning Board member, gave a synopsis of what occurred at the meeting.

Claudia Brady, Fair Haven Road, heard the pedestrian talk about Knollwood School, Third Street, etc. There is a need for consideration of bikes. With Third Street being closed during school times, the kids feel they own the street, so it is important to address traffic calming for the road. With regard to Hance Road and Cooney Terrace, the updated plans need to be posted on the website (the plans currently posted are pre the Special Meeting that was held). Engineer Gardella will review what is posted and work with Betty Ann to be sure the correct plan is posted.

There being no further comments or questions, the meeting was closed to the public at 8:50 p.m.

Council went into executive session at 8:56 p.m. and this meeting was reconvened at 10:48 p.m.

ADJOURNMENT

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

Time of Adjournment: 10:48 p.m.

Respectfully submitted,

Allyson M. Cinquegrana, RMC/CMR
Borough Clerk