

**FAIR HAVEN BOROUGH COUNCIL
REGULAR MEETING AGENDA
FEBRUARY 28, 2022, 7:00 P.M.
HYBRID MEETING (IN-PERSON AND ZOOM)**

Zoom Link: [HTTPS://US02WEB.ZOOM.US/J/86523786286](https://us02web.zoom.us/j/86523786286)

iPhone or Land Line Telephone Call In: 1-301-715-8592

Webinar ID: 865 2378 6286

1. **Call to Order:** pm
2. **Salute to the Flag:**
3. **Moment of Silent Reflection:**
4. **Sunshine Law Notice:**
5. **Roll Call:** Councilmembers Chrisner-Keefe Cole Koch
McCue Neff Rodriguez
6. **Workshop Session**
 - Request from Rumson-Fair Haven Youth Rugby Club to post lawn signs – Spring Registration Sign Up
 - Request from Ridge Road 5K to hold their 5th Annual Run - May 15, 2022 along Ridge Road
 - Street Opening Request from Brian Allen, 16 Battin Road repair driveway/sidewalk
 - Fair Haven Green Team’s Proposed Pollinator Pathways Project
 - 2022 Sidewalk Café Licenses
 - 2022 Budget Discussion
 - Borough Facilities Project Timeline
 - NJ American Water Lead Pipe Project
7. **Public Comment on Agenda Items**
8. **Approval of Minutes**
 - February 7, 2022 Regular Meeting
 - February 7, 2022 Executive Session
9. **Old Business**
 - 4 Rutgers Drive Tree Removal Appeal

Hearing and Adoption of Ordinances

2022-01 Index Rate (COLA) Ordinance

10. **New Business**

Council Committee Reports

Finance - Councilwoman Neff

Personnel - Councilwoman Chrisner-Keefe

Planning & Zoning - Councilwoman Koch

Parks and Recreation - Councilwoman Koch

Police, Fire & OEM - Councilman McCue

Engineering and DPW - Councilman McCue

Borough Facilities - Councilman Rodriguez

Borough Communications and Community Outreach - Councilwoman Cole

Consent Agenda

Resolutions

2022-55 Authorize Monmouth County Mosquito Control Division to Conduct Aerial Spray

- 2022-60 Executive Session: Personnel, Possible Litigation, Acquisition of Property, Contract Negotiations
- 2022-61 Authorize 1st Quarter 2022 Tax Payment Overpayment Refund for 100 Parker Avenue and 58 S. Woodland Drive
- 2022-62 Approve Temporary Budget Amendment
- 2022-63 Appoint Zoning Board of Adjustment Member - Andrew La Barbera
- 2022-64 Appoint Environmental Commission Member - Michal DiMiceli
- 2022-65 Approve Tax Appeal Refund for 42 Briarwood Road (2019-2021)
- 2022-66 Payment of Vouchers
- 2022-67 Authorize Lease of PostBase Vision Mailing System - Jersey Mail Systems
- 2022-68 Accept Escrow Payment from Halcyon Builders, LLC., 4 Rutgers Drive, for Certified Tree Expert Fee
- 2022-69 Accept Escrow Payment from Capital Homes Builders, Inc., 32 Fisk Street, for Certified Tree Expert Fee

Department Reports

2021 Annual Report

-Fair Haven Fields Natural Area Advisory Committee

January 2022

- Tax Collector
- Police Department
- Budget Status

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

12. Adjournment

PROCEDURE FOR CITIZEN PARTICIPATION AT COUNCIL MEETINGS

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

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

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

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

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

THE NEXT COUNCIL MEETING WILL BE HELD: MARCH 14, 2022

**BOROUGH OF FAIR HAVEN
ORDINANCE NO. 2022-01**

**2022 ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO
ESTABLISH A CAP BANK**

WHEREAS, the Local Government Cap Law, N.J.S.A. 40A:4-45.1 et seq., provides that in preparation of its annual budget, a municipality shall limit any increase in said budget to 2.5% unless authorized by ordinance to increase to 3.5% over the previous year's final appropriations, subject to certain exceptions; and

WHEREAS, N.J.S.A. 40A:4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and

WHEREAS, the Borough Council of the Borough of Fair Haven in the County of Monmouth finds it advisable and necessary to increase its CY 2022 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and

WHEREAS, the Borough Council hereby determines that a 3.5% increase in the budget for said year, amounting to \$74,529.97 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and

WHEREAS, Borough Council of the Borough of Fair Haven hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Fair Haven, in the County of Monmouth, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2020 budget year, the final appropriations of the Borough of Fair Haven shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5%, amounting to \$260,854.90 and that the CY 2022 municipal budget for the Borough of Fair Haven be approved and adopted in accordance with this ordinance; and

BE IT FURTHER ORDAINED, that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years, and

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of Local Government Services within 5 days of introduction; and

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days of such adoption.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2022-55

**TITLE: AUTHORIZING THE MONMOUTH COUNTY MOSQUITO CONTROL DIVISION TO
 CONDUCT AERIAL MOSQUITO CONTROL OPERATIONS WITHIN THE
 BOROUGH OF FAIR HAVEN**

WHEREAS, the Monmouth County Board of Chosen Freeholders, pursuant to NJSA 26:9-27, et seq., has elected through its Mosquito Control Division to perform all acts necessary for the elimination of mosquito breeding areas and/or to exterminate mosquitoes within the County; and

WHEREAS, the County has instituted an Integrated Pest Management Program consisting of surveillance, water management, biological control and chemical control to exterminate the mosquito population within the County of Monmouth; and

WHEREAS, prior to conducting aerial dispensing operations over a designated “congested area”, the County is required, pursuant to Federal Aviation Administration Regulation (FAR Part 137.51), to secure prior written approval from the governing body of the political subdivision over which the aircraft is to be operated; and

WHEREAS, the Borough of Fair Haven is designated as a “congested area” by the Federal Aviation Administration and the County has requested that this governing body consent to its proposed aerial dispensing operations.

NOW THEREFORE BE IT RESOLVED as follows:

1. The Mayor and Council of the Borough of Fair Haven hereby authorizes the County of Monmouth Mosquito Control Division or its agent to apply pesticides, by aircraft, for mosquito control in certain areas of the municipality designated by the County as being either larval mosquito habitat or areas harboring high populations of mosquitoes constituting either a nuisance, a health hazard or both with the understanding that:
 - a. The County shall utilize pesticides, application equipment and aircraft that are approved for aerial applications by the applicable Federal (USEPA) and State (NJDEP) agencies; and
 - b. Such operations will be performed in compliance with applicable Federal and State regulations; and
 - c. The County will notify the police department of each municipality over which aerial pesticide operations are planned prior to commencement of such operations.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2022-60

TITLE: EXECUTIVE SESSION

WHEREAS, the Open Public Meetings, P. L. 1975, Chapter 231 permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist; and

WHEREAS, the Governing Body may wish to discuss the following matters:

Personnel

1. Non-Aligned Employee Salary

Possible Litigation

1. Tree Removal

Acquisition of Property

1. 21 Fair Haven Road
2. Navesink River Parcel

Contract Negotiations

1. DPW Foreman Recommendations
2. PBA Negotiations
3. Teamster Negotiations
4. Borough Engineer Contract
5. Environmental Consultant
6. Facilities Owner Representative

WHEREAS, minutes will be kept and once the matter involving the confidentiality of the above no longer requires that confidentiality, then the minutes can be made public.

NOW, THEREFORE, BE IT RESOLVED that the public be excluded from this meeting.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2022-61

TITLE: REFUND OF 1st QUARTER, 2022 PROPERTY TAX OVERPAYMENTS

WHEREAS, the Tax Collector, has provided a request for a tax overpayment refund for 1st Quarter 2022 due to duplicate payment and advises that the following property owners qualify for a refund as follows:

Owner	Address	Block	Lot	Refund
Estate of Herbert Reed, Jr.	100 Parker Avenue	37	9	\$1,685.84

Payment to: Lereta

Attn: Refunds

901 Corporate Center Drive

Pamona, California 91768

Trent and Lauren Tennyson	58 S. Woodland Avenue	67	8	\$5,992.12
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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 refunds in the amounts listed above.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2022-62

TITLE: TEMPORARY EMERGENCY APPROPRIATION

WHEREAS, emergent conditions have arisen with respect to the payment of bills in a number of accounts and no adequate provision has been made in a Year 2022 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 2022 for the Borough pursuant to the provisions of Chapter 96, PL 1951 (NJSA 40A:4-20) including this resolution total **\$2,855,574.07** for the Current Fund.

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

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

Account Number	Description	Amount	Reason
Current Account			
2-01-25-265-276	Fire Department - Fire Hydrants	\$10,000.00	Temp Budget
2-01-26-290-208	Streets & Roads Chemicals	\$1,000.00	Temp Budget
2-01-26-290-256	Streets & Roads	\$7,500.00	Temp Budget
2-01-26-315-264	Vehicle Maintenance	\$20,000.00	Temp Budget
2-01-31-445-276	Water Utilities	\$5,000.00	Temp Budget
2-01-31-446-276	Natural Gas Utilities	\$15,000.00	Temp Budget
2-01-31-447-276	Fuel Oil Utilities	\$5,000.00	Temp Budget
2-01-31-460-276	Gasoline Utilities	\$5,000.00	Temp Budget
2-01-36-471-299	PERS Payment	\$207,321.00	Temp Budget
2-01-36-475-299	PFRS Payment	\$473,381.00	Temp Budget
TOTAL		\$749,202.00	

2. That said emergency temporary appropriations will be provided for in the 2022 budget under the appropriate titles.

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

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2022-63

TITLE: APPOINTMENT TO ZONING BOARD OF ADJUSTMENT FOR AN UNEXPIRED TERM – ANDREW LA BARBERA

WHEREAS, the Borough of Fair Haven has constituted and appointed a Zoning Board of Adjustment pursuant to N.J.S.A. 40:55D-69; and

WHEREAS, Borough of Fair Haven Municipal Code 30-3.2a provides that the Mayor may appoint Zoning Board members with the confirmation of the Borough Council; and

WHEREAS, a vacancy currently exists on the Zoning Board with a term that will expire on December 31, 2022.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that Andrew La Barbera is hereby appointed as a Zoning Board member with a term to expire on December 31, 2022.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2022-64

**TITLE: APPROVE APPOINTMENT TO THE ENVIRONMENTAL COMMISSION,
 ALTERNATE NO. 2 MEMBER – MICHAL DIMICELI**

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

WHEREAS, Michal DiMiceli will fill the Alternate No. 2 position with a term expiring on December 31, 2022.

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

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2022-65

TITLE: APPROVE TAX COURT APPEAL JUDGMENT REFUND FOR 42 BRIARWOOD ROAD (BLOCK 25, LOT 32.17)

WHEREAS the property owner listed below filed a Petition of Appeal with the Tax Court of New Jersey for the years 2019, 2020 and 2021; and

WHEREAS, said appeal was considered and a judgment has been entered that the property below qualifies for a refund for 2019, 2020 and 2021 property taxes as follows:

<u>Owner</u>	<u>Address</u>	<u>Block</u>	<u>Lot</u>	<u>Refund</u>
Kerrin C. Iorio	42 Briarwood Road	25	32.17	\$1,819.53 (2019) \$ 903.07 (2020) \$ 281.96 (2021)

Payable to:

Valerie Holfer, Esq. Trust Account

PO Box 787

Montville, New Jersey 07045

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 \$3,004.56.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2022-66

TITLE: PAYMENT OF VOUCHERS

BE IT RESOLVED by the Governing Body of the Borough of Fair Haven that the vouchers listed for payment on the February 28, 2022 Bill List are hereby approved and the Finance Department is hereby authorized to release payment to the various vendors.

2021 CURRENT ACCOUNT		\$ 19,825.19
2022 CURRENT ACCOUNT		\$221,883.06
GENERAL CAPITAL		\$ 58,497.32
GRANT FUND		\$ 4,779.50
OTHER TRUST		\$ 4,650.95
DOG TRUST		<u>\$ 280.20</u>
		\$309,916.22
LESS VOIDED CHECKS	-	<u>\$ 2,088.12</u>
TOTAL		\$307,828.10

CURRENT CHECK NO. 61551, \$ 88.00
CURRENT CHECK NO. 61723, \$ 88.00
CURRENT CHECK NO. 61816, \$ 118.00
CURRENT CHECK NO. 61834, \$1,340.00
CURRENT CHECK NO. 62249, \$ 454.12

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2022-67

TITLE: AUTHORIZE LEASE WITH JERSEY MAIL SYSTEMS FOR A POSTBASE VISION MAILING SYSTEM

WHEREAS, the Borough of Fair Haven currently has a lease with Jersey Mail Systems that will expire in March 2022; and

WHEREAS, it is necessary to have a mail machine to continue with the daily transactions of Borough business; and

WHEREAS, the Borough received a proposal for a new mail machine and has decided to enter into a five year lease with Jersey Mail Systems for a PostBase Vision Auto Feeder and Sealer Mailing System at a monthly cost of \$159.00 per month.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that the Borough Administrator is hereby authorized to execute a five-year lease agreement with Jersey Mail Systems, attached as Exhibit "A".

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2022-68

TITLE: INTERIM DECISION OF THE BOROUGH’S GOVERNING BODY IN THE PENDING APPEAL FILED BY HALCYON HOMES OF THE BOROUGH’S DECEMBER 23, 2021 DENIAL OF A TREE REMOVAL PERMIT FOR 4 RUTGERS DRIVE (BLOCK 4, LOT 47)

WHEREAS, on November 22, 2021, Halcyon Homes made application to the Borough of Fair Haven (the “Borough”) for a Tree Removal Permit to remove one (1) pin oak tree and one (1) red oak tree from the real property located at 4 Rutgers Drive, also known as Block 4, Lot 47; and

WHEREAS, after review and inspection by the Borough’s Forrester pursuant to Code Section 14-8, on December 23, 2021, the Borough’s Forrester denied the applicant’s request for a Tree Removal Permit, finding that the proposed removals, particularly removal of a more than 47” diameter pin oak (notably, listed as 30” in the underlying application), would constitute the loss of significant trees within the Borough, contrary to the Code; and

WHEREAS, by letter dated January 4, 2022, in accordance with Code Section 14-8(e)(7), Halcyon Homes appealed the Borough Forrester’s denial of its application for a Tree Removal Permit to the Borough’s Governing Body, cursorily stating therein that anticipated construction excavations would compromise the health and stability of the subject pin oak tree; and

WHEREAS, on February 7, 2022, the Borough’s Governing Body held a hearing and considered the appeal of Halcyon Homes, whereat the applicant/appellant failed to appear and/or present any evidence in support of said appeal beyond the statements set forth in its January 4, 2022 letter; and

WHEREAS, given the lack of information provided by the applicant/appellant, the Borough’s Governing Body was unable to determine on February 7, 2022 whether relief was appropriate under Code Section 14-8(f)(3), which provides that: “The Governing Body shall have authority to grant relief from the provisions of this section upon demonstrating that: (a) Alternate measures, including the planting of trees on other property within the Borough, achieve substantially similar benefits to the required measures; and (b) Literal compliance is technically impractical or presents a substantial economic hardship”; and

WHEREAS, rather than summarily denying the appeal filed by Halcyon Homes for lack of evidentiary support, the Borough’s Governing Body adjourned the hearing on February 7, 2022, pending review of the property at issue and trees in question by a certified tree expert as to potential “alternative measures” and/or the feasibility of protective or alternative methods of construction in this case;

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

- (1) The appeal of Halcyon Homes for a Tree Removal Permit for 4 Rutgers Drive, also known as Block 4, Lot 47, shall be adjourned without prejudice, pending the Governing Body's receipt of a report from the Borough's certified tree expert as to the subject matter of the appeal;
- (2) The appellant/applicant shall post an escrow in the amount of \$500.00 to pay for the costs of review by the Borough's certified tree expert, and the Borough Administrator is hereby authorized to take such administrative action(s) as may be necessary to collect the appellant's escrow and engage the Borough's certified tree expert in this matter; and
- (3) Direct that a certified copy of this Resolution be forwarded to the Borough Administrator, Borough Forrester, and Halcyon Homes.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2022-69

**TITLE: INTERIM DECISION OF THE BOROUGH’S GOVERNING BODY IN THE
PENDING RETROACTIVE APPEAL BY CAPITAL HOME BUILDERS AS
TO ITS TREE REMOVAL PERMIT FOR 32 FISK STREET (BLOCK 30, LOT 15)**

WHEREAS, on September 9, 2021, Capital Home Builders made application to the Borough of Fair Haven (the “Borough”) for a Tree Removal Permit to remove three (3) trees from the real property located at 32 Fisk Street, also known as Block 30, Lot 15; and

WHEREAS, after review and inspection by the Borough’s Forrester pursuant to Code Section 14-8, on September 29, 2021, the Borough’s Forrester granted the applicant’s request for a Tree Removal Permit, approving the removal of two (2) spruce trees and one (1) black cherry tree from the subject property; and

WHEREAS, thereafter, contrary to the approved Tree Removal Permit, Capital Home Builders clear-cut all trees and all vegetation across the entire subject property; and

WHEREAS, given its non-compliance with the approved Tree Removal Permit, and its failure to submit the tree replacement plan required by same, Capital Home Builders is likewise non-compliant with the conditions of its land use approvals issued by the Borough for 32 Fisk Street, also known as Block 30, Lot 15; and

WHEREAS, by letter dated January 28, 2022, Capital Home Builders objected to the Borough’s determination of non-compliance with the subject Tree Removal Permit, and sought a “meeting” with the Borough regarding the Permit and its resolution compliance for the underlying land use approvals; and

WHEREAS, notwithstanding its technical non-compliance as an appeal under Code Section 14-8, and in light of the fact that Capital Home Builders properly sought a Permit in accordance with the Code in the first place, the Borough’s Governing Body consented to consider the applicant’s January 28, 2022 letter as a retroactive appeal of the activities already performed at the subject property, rather than refer the matter to the Municipal Court; and

WHEREAS, on February 7, 2022, the Borough’s Governing Body held a hearing and considered the appeal of Capital Home Builders, whereat the applicant/appellant appeared and presented its case, but did not present, nor provide any tree replacement plan to remediate the unauthorized activities performed at 32 Fisk Street, also known as Block 30, Lot 15; and

WHEREAS, the Borough’s Governing Body held a hearing and considered the appeal of Capital Home Builders, whereat the applicant/appellant appeared and presented its case, but did not present or provide any tree replacement plan to remediate the unauthorized activities performed at 32 Fisk Street, also known as Block 30, Lot 15; and

WHEREAS, given the lack of information provided by Capital Home Builders at the hearing as to how many or wherefrom trees were removed from its property, and given that Capital Home Builders did not present or provide any tree replacement plan to remediate the unauthorized activities, the Borough’s Governing Body

was unable to determine on February 7, 2022 whether relief was appropriate under Code Section 14-8(f)(3), which provides that: “The Governing Body shall have authority to grant relief from the provisions of this section upon demonstrating that: (a) Alternate measures, including the planting of trees on other property within the Borough, achieve substantially similar benefits to the required measures; and (b) Literal compliance is technically impractical or presents a substantial economic hardship”; and

WHEREAS, rather than summarily denying the appeal filed by Capital Home Builders for lack of evidence of compliance with the original Permit and the lack of any remedial or tree replacement plan, the Borough’s Governing Body adjourned the hearing on February 7, 2022 upon consent, pending review of the unauthorized tree removals at the subject property by a certified tree expert, and the development of an appropriate tree replacement plan by a certified tree expert;

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

- (1) The appeal of Capital Home Builders for a Tree Removal Permit for 32 Fisk Street, also known as Block 30, Lot 15, shall be adjourned without prejudice, pending the Governing Body’s receipt of a report from the Borough’s certified tree expert as to the subject matter of the appeal;
- (2) The appellant/applicant shall post an escrow in the amount of \$500.00 to pay for the costs of review by the Borough’s certified tree expert, and the Borough Administrator is hereby authorized to take such administrative action(s) as may be necessary to collect the appellant’s escrow and engage the Borough’s certified tree expert in this matter; and
- (3) Direct that a certified copy of this Resolution be forwarded to the Borough Administrator, Borough Forrester, and Capital Home Builders.