

**FAIR HAVEN BOROUGH COUNCIL
REGULAR MEETING AGENDA
JANUARY 25, 2021, 7:00 P.M.**

Zoom Link: <https://us02web.zoom.us/j/82729161650>

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

Webinar ID: 827 2916 1650

1. **Call to Order:** pm
2. **Salute to the Flag:**
3. **Moment of Meditation: Pierson Day, Stationed in Washington, D.C.**
4. **Sunshine Law Notice:**
5. **Roll Call:** Councilmembers Banahan Chrisner-Keefe Koch
McCue Neff Rodriguez

6. **Presentations**
 - Recognizing Robert Krueger (Recreation)
 - Recognizing Ex-First Aid Captains (William Lang and William Leonard)

Holiday Lighting Contest Winners

- 1st Place: Finnell Family (11 Country Lane)
- 2nd Place: Mieth Family (103 Jackson Street)
- 3rd Place: Patel Family (205 Fair Haven Road)

7. **Workshop Session**
 - Councilperson and Committee Protocol
 - Buttonwood Drive Tree Update
 - 2021 Budget Process
 - Borough Engineer:
 - Improvements to Harrison Avenue Plans
 - Improvements to Battin Road - Project Close Out
 - Architect Proposal for Police Headquarters
 - McCarter Park

8. **Public Comment on Agenda Items**

9. **Approval of Minutes**
 - December 14, 2020 Regular Meeting
 - December 14, 2020 Executive Session
 - January 4, 2021 Reorganization Meeting

10. **Old Business**

11. **New Business**

Council Committee Reports

Finance - Councilman Banahan

Personnel - Councilwoman Chrisner-Keefe

Planning & Zoning - Councilwoman Koch

Parks and Recreation and Communications - Councilwoman Koch

Police, Fire & OEM - Councilman McCue

Engineering, DPW and Borough Facilities - Councilman Rodriguez

Introduction of Ordinance

2021-01 Amend Affordable Housing Ordinance No. 2020-05

Consent Agenda

Resolutions

- 2021-34 Executive Session - Pending Litigation and Contract Negotiations
- 2021-35 Appoint Temporary PT Planning Board and Zoning Board Secretaries, Judith Fuller and Jennifer Johnson
- 2021-36 Approve Execution of Professional Contracts for 2021: Borough Attorney, Bond Counsel, Borough Planner, Fair Share Housing Special Counsel, Special Tidelands Counsel, Special Tax Counsel
- 2021-37 Approve Contract with FSD Enterprises for Cell Tower
- 2021-38 Approve Fire Department Membership - Eric S. Black
- 2021-39 Approve 4th Quarter Tax Overpayment Refund - 238 Hance Road
- 2021-40 Reappoint Building Maintenance Technician - Jared Okerson
- 2021-41 Reappoint DPW Foremen - David Karl and Marty Coy
- 2021-42 Appoint Mayor Benjamin Lucarelli as Deputy Emergency Management Coordinator
- 2021-43 Amend Resolution No. 2021-33 Awarding Deferred Compensation Program
- 2021-44 Authorize Engineer to go to Bid - Improvements to Harrison Avenue
- 2021-45 Approve Change Order - Improvements to Battin Road
- 2021-46 Appointments to the Green Team for 2021
- 2021-47 Appointments to the Facilities Committee for 2021
- 2021-48 Appointment of Historic Preservation Commission, Alt #2 Member – Steven Smith
- 2021-49 Authorize 2020 Budget Transfers
- 2021-50 Approve Temporary Emergency Budget Appropriation
- 2021-51 Approve Architect Proposal for Police Headquarters and authorize Administrator to Create Purchase Order
- 2021-52 Appoint Risk Manager for 2021 - Michael Avalone
- 2021-53 Appoint Fair Haven Fields Natural Area Advisory Committee Liaison - Councilwoman Chrisner-Keefe
- 2021-54 Appoint Planning Board Member, Class IV - Todd Lehder
- 2021-55 Payment of Vouchers
- 2021-56 Condemn Violence and Call for Unity - Aftermath of Insurrection at US Capitol
- 2021-57 Authorize hold over of various professional appointments

Department Reports

November 2020

- Chief Financial Officer
- Municipal Court

December 2020

- Municipal Clerk
- Dog License
- Planning Board and Zoning Board
- Chief Financial Officer
- Municipal Court
- Police Department
- Tax Collector
- Budget Status (December 2020 and January 1-21, 2021)

2020 Year End

- Municipal Court
- Municipal Clerk

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

13. Adjournment

PROCEDURE FOR CITIZEN PARTICIPATION AT COUNCIL MEETINGS

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

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

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

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

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

NEXT COUNCIL MEETING: WEDNESDAY, FEBRUARY 10, 2021

**BOROUGH OF FAIR HAVEN
ORDINANCE NO. 2021-01**

AN ORDINANCE AMENDING SECTION 15.2 TO CHAPTER 30 (LAND USE AND DEVELOPMENT REGULATIONS) IN THE FAIR HAVEN BOROUGH CODE, WHICH WILL BE ENTITLED “AFFORDABLE HOUSING ORDINANCE”, AND WILL ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE BOROUGH’S AFFORDABLE HOUSING OBLIGATIONS

NOW, THEREFORE, be it ordained by the Borough Council of the Borough of Fair Haven, County of Monmouth, State of New Jersey, as follows:

Section 1. Section 15.2 of Chapter 30 (Land Use and Development Regulations) of the Code of the Borough of Fair Haven entitled “Affordable Housing Ordinance”, under a new section entitled “Section 15 15 Affordable Housing Requirements,” is hereby created and established to read as follows:

Section 15: Affordable Housing Requirements

30-15.2 Affordable Housing Ordinance

A. Purpose.

1. This Section is intended to assure that very-low, low-, and moderate-income units ("affordable units") are created with controls on affordability and that very-low, low-, and moderate-income households shall occupy these units. This Section shall apply except where inconsistent with applicable law.
2. The Borough of Fair Haven Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. (hereinafter “Fair Share Plan”). The Fair Share Plan was endorsed by the Borough Council. The Fair Share Plan describes how the Borough of Fair Haven shall address its fair share of very-low, low-, and moderate-income housing as documented in the Fair Share Plan itself, the Settlement Agreement entered into between the Borough and Fair Share Housing Center (“FSHC”) on February 12, 2020 (hereinafter “FSHC Settlement Agreement”), the Superior Court Order approving same, which was entered by the Court on June 4, 2020 after a properly noticed Fairness Hearing.
3. The Borough of Fair Haven shall track the status of the implementation of the Fair Share Plan.

B. Monitoring and Reporting Requirements.

The Borough of Fair Haven shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its Superior Court-approved Housing Element and Fair Share Plan:

1. Beginning one year after the entry of the Borough’s Round 3 Judgment of Compliance and Repose, and on every anniversary of that date through 2025, the Borough shall provide an annual report of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center (FSHC) and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs (NJCA), Council on Affordable Housing (COAH), or Local Government Services (NJLGS). The report shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.

2. Beginning one year after the entry of the Borough's Round 3 Judgment of Compliance and Repose, and on every anniversary of that date through 2025, the Borough agrees to provide an annual report of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by COAH, or any other forms endorsed by the Superior Court Appointed Special Master and FSHC.
3. The Fair Housing Act includes two provisions regarding action to be taken by the Borough during its ten (10) year repose period. The Borough will comply with those provisions as follows:
 - a. For the midpoint realistic opportunity review due on July 2, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether the mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the Borough, with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether the mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the Superior Court regarding these issues.
 - b. For the review of very-low-income housing requirements required by N.J.S.A. 52:27D-329.1, within thirty (30) days of the third anniversary of the entry of the Borough's Judgment of Compliance and Repose, and every third year thereafter, the Borough will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its satisfaction of its very-low-income requirements, including the family very-low-income requirements referenced herein. Such posting shall invite any interested party to submit comments to the Borough and Fair Share Housing Center on the issue of whether the Borough has complied with its very-low-income housing obligation under the terms of this settlement.
 - c. In addition to the foregoing postings, the Borough may also elect to file copies of its reports with COAH or its successor agency at the State level.

C. Definitions.

The following terms when used in this Section shall have the meanings given in this Section:

“Act” means the Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.) as has been subsequently amended.

“Accessory Apartment” shall mean a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.

“Adaptable” means constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

“Administrative agent” means the entity designated by the Borough responsible for the administration of affordable units in accordance with this ordinance, applicable COAH regulations and the Uniform Housing Affordability Controls (UHAC)(N.J.A.C. 5:80-26.1 et seq.)

“Affirmative marketing” means a regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

“Affordability average” means the average percentage of median income at which restricted units in an affordable housing development are affordable to low- and moderate-income households.

“Affordable” means a sales price or rent within the means of a low- or moderate-income household as defined by COAH in its applicable regulations or an equivalent controlling New Jersey state agency; in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

“Affordable development” means a housing development all or a portion of which consists of restricted units.

“Affordable housing development” means a development included in the Borough’s Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.

“Affordable housing program(s)” means any mechanism in the Borough’s Fair Share Plan prepared or implemented to address the Borough’s fair share obligation.

“Affordable unit” means a housing unit proposed or created pursuant to the Act, credited pursuant to applicable COAH regulations, the FSHC Settlement Agreement, or an order of the Superior Court.

“Agency” means the New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1, et seq.).

“Age-restricted unit” means a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development where the unit is situated are 62 years or older; or 2) at least 80 percent of the units are occupied by one person that is 55 years or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as “housing for older persons” as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

“Alternative living arrangement” means a structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangements include, but are not limited to: transitional facilities for the homeless; Class A, B, C, D, and E boarding homes as regulated by the State of New Jersey Department of Community Affairs; residential health care facilities as regulate by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

“Assisted living residence” means a facility licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

“Certified household” means a household that has been certified by an Administrative Agent as a very-low-income household, low-income household or moderate-income household.

“COAH” means the New Jersey Council on Affordable Housing.

“The Department” means the Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

“DCA” means the State of New Jersey Department of Community Affairs.

“Deficient housing unit” means a housing unit with health and safety code violations that require the repair or

replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

“Developer” means any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land proposed to be included in a proposed development including the holder of an option to contract or purchase, or other person having an enforceable proprietary interest in such land.

“Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq.

“Inclusionary development” means a development containing both affordable units and market rate units. This term includes, but is not necessarily limited to: new construction, the conversion of a non-residential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

“Low-income household” means a household with a total gross annual household income equal to 50 percent or less of the median household income.

“Low-income unit” means a restricted unit that is affordable to a low-income household.

“Major system” means the primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building, which include but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement or load bearing structural systems.

“Market-rate units” means housing not restricted to low- and moderate-income households that may sell or rent at any price.

“Median-income” means the median income by household size for the applicable county, as adopted annually by the Department.

“Moderate-income household” means a household with a total gross annual household income in excess of 50 percent but less than 80 percent of the median household income.

“Moderate-income unit” means a restricted unit that is affordable to a moderate-income household.

“Municipal Housing Liaison” means the employee charged by the governing body with the responsibility for oversight and administration of the affordable housing program for Fair Haven.

“Non-exempt sale” means any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor’s deed to a class A beneficiary and the transfer of ownership by court order.

“Random selection process” means a process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

“Regional asset limit” means the maximum housing value in each housing region affordable to a four-person household with an income at 80 percent of the regional median as defined by the Department’s adopted Regional Income Limits published annually by COAH or a successor entity.

“Rehabilitation” means the repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

“Rent” means the gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

“Restricted unit” means a dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as may be amended and supplemented, but does not include a market-rate unit financed under UHORP or MONI.

“UHAC” means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.

“Very-low-income household” means a household with a total gross annual household income equal to 30 percent or less of the median household income.

“Very-low-income unit” means a restricted unit that is affordable to a very low-income household.

“Weatherization” means building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for rehabilitation.

D. Applicability.

1. The provisions of this Section shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Borough of Fair Haven pursuant to the Borough's most recently adopted Housing Element and Fair Share Plan.
2. This Section shall apply to all developments that contain very low-, low-, and moderate-income housing units, including any currently unanticipated future developments that will provide very low-, low-, and moderate-income housing units.

E. Alternative Living Arrangements.

1. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:
 - a. Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Superior Court;
 - b. Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).
2. With the exception of units established with capital funding through a twenty (20) year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least thirty (30) year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Superior Court.

3. The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

F. Phasing Schedule for Inclusionary Developments.

In inclusionary developments the following schedule shall be followed:

Maximum Percentage of Market-Rate Units Completed	Minimum Percentage of Low- and Moderate-Income Units Completed
25	0
25+1	10
8. 50	
75	75
90	100

G. New Construction.

1. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:
 - a. The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit. At least thirteen percent (13%) of all restricted rental units shall be very-low-income units (affordable to a household earning thirty percent (30%) or less of regional median income by household size). The very-low-income units shall be counted as part of the required number of low-income units within the development. At least fifty percent (50%) of the very-low-income units must be available to families.
 - b. In each development that includes affordable housing, thirteen percent (13%) of the restricted units overall shall be very-low-income units, and these very-low-income units may be counted toward the fifty (50%) percent low-income requirement. The very-low-income units shall be provided as follows: in developments that produce one (1) very-low-income unit, the very-low-income unit shall be a two- or three-bedroom unit; in developments that produce two (2) very-low-income units, no more than one (1) of the very-low-income units may be a one-bedroom unit; and in developments that produce three (3) or more very-low-income units, an equal number of very-low-income units shall be provided within each bedroom distribution, and any additional very-low-income units shall be two- or three-bedroom units.
 - c. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - i. The combined number of efficiency and one (1) bedroom units shall be no greater than twenty percent (20%) of the total low- and moderate-income units;
 - ii. At least thirty percent (30%) of all low- and moderate-income units shall be two (2) bedroom units;
 - iii. At least twenty percent (20%) of all low- and moderate-income units shall be three (3) bedroom units; and
 - iv. The remaining units may be allocated among two (2) and three (3) bedroom units at the discretion of the developer.

- d. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. This standard may be met by having all one (1) bedroom units or by having a two (2) bedroom unit for each efficiency unit.

2. Accessibility Requirements:

- a. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free SubCode, N.J.A.C. 5:23-7.
- b. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one (1) other dwelling unit shall have the following features:
 - i. An adaptable toilet and bathing facility on the first floor; and
 - ii. An adaptable kitchen on the first floor; and
 - iii. An interior accessible route of travel on the first floor; and
 - iv. An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
 - v. If all of the foregoing requirements in paragraphs b.i. through b.iv. above cannot be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of paragraphs b.i. through b.iv. above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and
 - vi. An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a, et seq.) and the Barrier Free SubCode, N.J.A.C. 5:23-7, or evidence that Fair Haven has collected funds from the developer sufficient to make ten percent (10%) of the adaptable entrances in the development accessible:
 - (1) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
 - (2) To this end, the builder of restricted units shall deposit funds into the Borough of Fair Haven's Affordable Housing Trust Fund sufficient to install accessible entrances in ten percent (10%) of the affordable units that have been constructed with adaptable entrances.
 - (3) The funds deposited under Paragraph vi. above shall be used by the Borough of Fair Haven for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
 - (4) The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Borough of Fair Haven for the conversion of adaptable to accessible entrances.
 - (5) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free SubCode,

N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough's Affordable Housing Trust Fund in care of the Borough Chief Financial Officer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.

vii. Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free SubCode, N.J.A.C. 5:23-7.

3. Design:

- a. In inclusionary developments, very-low, low-, and moderate-income units shall be integrated with the market units to the extent possible.
- b. In inclusionary developments, very-low, low-, and moderate-income units shall have access to all of the same common elements and facilities as the market units.

4. Maximum Rents and Sales Prices:

- a. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD.
- b. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than sixty percent (60%) of median income, and the average rent for restricted rental units shall be affordable to households earning no more than fifty-two percent (52%) of median income.
- c. The developers and/or municipal sponsors of restricted rental units shall establish at least one (1) rent for each bedroom type for both low-income and moderate-income units, provided that at least thirteen percent (13%) of all low- and moderate-income rental units shall be affordable to very-low-income households, which very-low-income units shall be part of the low-income requirement.
- d. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than seventy percent (70%) of median income, and each affordable development must achieve an affordability average of fifty-five percent (55%) for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three (3) different sales prices for each bedroom type, and low-income ownership units must be available for at least two (2) different sales prices for each bedroom type.
- e. In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:
 - i. A studio shall be affordable to a one (1) person household;
 - ii. A one (1) bedroom unit shall be affordable to a one and one-half (1.5) person household;
 - iii. A two (2) bedroom unit shall be affordable to a three (3) person household;
 - iv. A three (3) bedroom unit shall be affordable to a four and one-half (4.5) person household; and
 - v. A four (4) bedroom unit shall be affordable to a six (6) person household.

- d. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:
 - i. A studio shall be affordable to a one (1) person household;
 - ii. A one (1) bedroom unit shall be affordable to a one and one-half (1.5) person household; and
 - iii. A two (2) bedroom unit shall be affordable to a two (2) person household or to two (2) one (1) person households.
- e. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to ninety-five percent (95%) of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed twenty-eight percent (28%) of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- f. The initial rent for a restricted rental unit shall be calculated so as not to exceed thirty percent (30%) of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- g. Income limits for all units that are part of the Borough's Housing Element and Fair Share Plan, and for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1, shall be updated by the Borough annually within thirty (30) days of the publication of determinations of median income by HUD as follows:
 - i. The income limit for a moderate-income unit for a household of four shall be eighty percent (80%) of the HUD determination of the median income for COAH Region 4 for a family of four. The income limit for a low-income unit for a household of four shall be fifty percent (50%) of the HUD determination of the median income for COAH Region 4 for a family of four. The income limit for a very low income unit for a household of four shall be thirty percent (30%) of the HUD determination of the median income for COAH Region 4 for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than the previous year.
 - ii. The income limits are based on carrying out the process in Paragraph i. based on HUD determination of median income for the current Fiscal Year, and shall be utilized by the Borough until new income limits are available.
- h. In establishing sale prices and rents of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established by the Council:
 - i. The price of owner-occupied very-low, low-, and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region determined pursuant to Paragraph g. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.

- ii. The rents of very-low-, low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the Southern New Jersey Area, upon its publication for the prior calendar year. This increase shall not exceed nine percent (9%) in any one (1) year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.

H. Utilities.

1. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.
2. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by the NJDCA for its Section 8 program.

Occupancy Standards.

In referring certified households to specific restricted units, the Administrative Agent shall, to the extent feasible and without causing an undue delay in the occupancy of a unit, strive to:

1. Provide an occupant for each bedroom;
2. Provide children of different sexes with separate bedrooms;
3. Provide separate bedrooms for parents and children; and
4. Prevent more than two (2) persons from occupying a single bedroom.

J. Control Periods for Restricted Ownership Units and Enforcement Mechanisms.

1. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Section for a period of at least thirty (30) years, until Fair Haven Borough takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
2. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
3. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
4. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Section, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
5. The affordability controls set forth in this Section shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.

6. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

K. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices.

Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:

1. The initial purchase price for a restricted ownership unit shall be approved by the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer.
2. The Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
3. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers, unless the master deed for the inclusionary project was executed prior to the enactment of UHAC.
4. The owners of restricted ownership units may apply to the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

L. Buyer Income Eligibility.

- a. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to fifty percent (50%) of median income and moderate-income ownership units shall be reserved for households with a gross household income less than eighty percent (80%) of median income.
- b. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the Borough Council, and may be subject to approval by the Court appointed Special Master or the Court, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit.
- c. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.
- d. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed thirty-three percent (33%) of the household's eligible monthly income.

M. Limitations on Indebtedness Secured by Ownership Unit; Subordination.

1. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, shall issue such determination prior to the owner incurring such indebtedness.
2. With the exception of First Purchase Money Mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed ninety-five percent (95%) of the maximum allowable resale price of the unit, as such price is determined by the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, in accordance with N.J.A.C. 5:80-26.6(b).

N. Capital Improvements To Ownership Units.

1. The owners of restricted ownership units may apply to the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that add an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.
2. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to ten (10) year, straight-line depreciation, has been approved by the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer. Unless otherwise approved by the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

O. Control Periods for Restricted Rental Units.

1. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Section for a period of at least thirty (30) years, until Fair Haven Borough takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
2. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Atlantic. A copy of the filed document shall be provided to the Borough's Administrative Agent within thirty (30) days of the receipt of a Certificate of Occupancy.
3. A restricted rental unit shall remain subject to the affordability controls described in this Section despite the occurrence of any of the following events:
 - a. Sublease or assignment of the lease of the unit;

- b. Sale or other voluntary transfer of the ownership of the unit; or
- c. The entry and enforcement of any judgment of foreclosure on the property containing the unit.

Rent Restrictions for Rental Units; Leases.

1. A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer.
2. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer.
3. Application fees (including the charge for any credit check) shall not exceed five percent (5%) of the monthly rent of the applicable restricted unit and shall be payable to the Developer and/or Landlord or to the Borough's Administrative Agent appointed by a particular developer. If the fees are paid to the Borough's Administrative Agent or an Administrative Agent appointed by a particular developer they are to be applied to the costs of administering the controls applicable to the unit as set forth in this Section.
4. No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least fifteen percent (15%) of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

Q. Tenant Income Eligibility.

1. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
 - a. Very-low-income rental units shall be reserved for households with a gross household income less than or equal to thirty percent (30%) of the regional median household income by household size.
 - b. Low-income rental units shall be reserved for households with a gross household income less than or equal to fifty percent (50%) of the regional median household income by household size.
 - c. Moderate-income rental units shall be reserved for households with a gross household income less than eighty percent (80%) of the regional median household income by household size.
2. The Borough's Administrative Agent, or a qualified Administrative Agent appointed by a particular developer, shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed thirty-five percent (35%) (forty percent (40%) for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - a. The household currently pays more than thirty-five percent (35%) (forty percent (40%) for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;

- b. The household has consistently paid more than thirty-five percent (35%) (forty percent (40%) for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 - c. The household is currently in substandard or overcrowded living conditions;
 - d. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - e. The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
3. The applicant shall file documentation sufficient to establish the existence of the circumstances in 2.a. through 2.e. above with the Borough's Administrative Agent, or an Administrative Agent appointed by a particular developer, who shall counsel the household on budgeting.

R. Municipal Housing Liaison.

1. The position of Municipal Housing Liaison (MHL) for the Borough of Fair Haven is established by this Section. The Borough shall make the actual appointment of the MHL by means of a resolution.
 - a. The MHL must be either a full-time or part-time employee of Fair Haven.
 - b. The person appointed as the MHL must be reported to the Superior Court and thereafter posted on the Borough's website.
 - c. The MHL must meet all the requirements for qualifications, including initial and periodic training, if such training is made available by COAH or the DCA.
 - d. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of Fair Haven, including the following responsibilities which may not be contracted out to the Administrative Agent, or the Administrative Agent appointed by a specific developer:
 - i. Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
 - ii. The implementation of the Affirmative Marketing Plan and affordability controls;
 - iii. When applicable, supervising any contracting Administrative Agent;
 - iv. Monitoring the status of all restricted units in the Borough's Fair Share Plan;
 - v. Compiling, verifying and submitting annual reports as required;
 - vi. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
 - vii. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by the Affordable Housing Professionals of New Jersey (AHPNJ), if such continuing education opportunities are made available by COAH or the DCA.

2. Subject to the approval of the Superior Court, the Borough of Fair Haven shall designate one (1) or more Administrative Agent(s) to administer and to affirmatively market the affordable units constructed in the Borough in accordance with UHAC and this Section.

S. Administrative Agent.

An Administrative Agent may be either an independent entity serving under contract to and reporting to the Borough or reporting to a specific individual developer, or the municipality itself, through a designated municipal employee, department, board, agency or committee, pursuant to N.J.A.C. 5:80-26.14(c). ***The fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required.*** The Borough Administrative Agent shall monitor and work with any individual Administrative Agents appointed by individual developers. The Administrative Agent(s) shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which includes:

1. Affirmative Marketing:

- a. The administrative agent designated by the Borough of Fair haven shall assure the affirmative marketing of all affordable housing units consistent with the Affirmative Marketing Plan of the Borough of Fair Haven and applicable law, including posting of all affirmative units on the online New Jersey Housing Resource Center website; and
- b. The administrative agent shall provide counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

2. Household Certification:

- a. Soliciting, scheduling, conducting and following up on interviews with interested households;
- b. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
- c. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
- d. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
- e. Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located;
- f. Employing a random selection process as provided in the Affirmative Marketing Plan of the Borough of Fair Haven when referring households for certification to affordable units; and
- g. Notifying the following entities of the availability of affordable housing units in the Borough of Fair Haven: FSHC, the New Jersey State Conference of the NAACP, the Latino Action Network, STEPS, OCEAN Inc., the Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, Greater Long Branch, and Trenton Branches of the NAACP and the Supportive Housing Association

3. Affordability Controls:

- a. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
 - b. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
 - c. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Monmouth County Register of Deeds or the Monmouth County Clerk's office after the termination of the affordability controls for each restricted unit;
 - d. Communicating with lenders regarding foreclosures; and
 - e. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.
4. Resales and Re-rentals:
- a. Instituting and maintaining an effective means of communicating information between owners and the Borough's Administrative Agent, or any Administrative Agent appointed by a specific developer, regarding the availability of restricted units for resale or re-rental; and
 - b. Instituting and maintaining an effective means of communicating information to low- (or very-low-) and moderate-income households regarding the availability of restricted units for resale or re-rental.
5. Processing Requests from Unit Owners:
- a. Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Section;
 - b. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;
 - c. Notifying the Borough of an owner's intent to sell a restricted unit; and
 - d. Making determinations on requests by owners of restricted units for hardship waivers.
6. Enforcement:
- a. Securing annually from the Borough a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
 - b. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Borough's Administrative Agent, or any Administrative Agent appointed by a specific developer;
 - c. Posting annually, in all rental properties (including two (2) family homes), a notice as to the maximum permitted rent together with the telephone number of the Borough's Administrative

Agent, or any Administrative Agent appointed by a specific developer, where complaints of excess rent or other charges can be made;

- d. Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
- e. Establishing a program for diverting unlawful rent payments to the Borough's Affordable Housing Trust Fund; and
- f. Creating and publishing a written operating manual for each affordable housing program administered by the Borough's Administrative Agent, or any Administrative Agent appointed by a specific developer, to be approved by the Borough Council and the Superior Court, setting forth procedures for administering the affordability controls.

7. Additional Responsibilities:

- a. The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
- b. The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet the Court-approved monitoring and reporting requirements in accordance with the deadlines set forth in this Section. The Borough's Administrative Agent will be responsible for collecting monitoring information from any Administrative Agents appointed by specific developers.
- c. The Borough's Administrative Agent, or any Administrative Agent appointed by a specific developer, shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

T. Affirmative Marketing Requirements.

1. The Borough of Fair Haven shall adopt by resolution an Affirmative Marketing Plan that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
2. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs marketing activities toward Housing Region 4 and is required to be followed throughout the period of restriction.
3. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 4, comprised of Mercer, Monmouth and Ocean Counties.
4. The Borough has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and re-sales and re-rentals. The Borough's Administrative Agent designated by the Borough of Fair Haven, or any Administrative Agent appointed by a specific developer, shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.
5. In implementing the Affirmative Marketing Plan, the Borough's Administrative Agent, or any Administrative Agent appointed by a specific developer, shall provide a list of counseling services to very-low, low-, and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

6. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Borough's Administrative Agent, or any Administrative Agent appointed by a specific developer, shall consider the use of language translations where appropriate.
7. The affirmative marketing process for available affordable units shall begin at least one hundred and twenty days (120) prior to the expected date of occupancy.
8. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; and the municipal building in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.
9. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

U. Enforcement of Affordable Housing Regulations.

1. Upon the occurrence of a breach of any of the regulations governing an affordable unit by an Owner, Developer or Tenant, the Borough shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
2. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the Borough may take the following action(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of sixty (60) days after service of the written notice:
 - a. The Borough may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is adjudged by the Superior Court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one (1) or more of the following penalties, at the discretion of the Court:
 - i. A fine of not more than two thousand dollars (\$2,000.00) per day or imprisonment for a period not to exceed ninety (90) days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
 - ii. In the case of an Owner who has rented a very-low, low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of Fair Haven Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - iii. In the case of an Owner who has rented a very-low, low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
 - b. The Borough may file a court action in the Superior Court seeking a judgment that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of

the First Purchase Money Mortgage and shall constitute a lien against the low- or moderate-income unit.

- i. The judgment shall be enforceable, at the option of the Borough, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the Borough, including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.
- ii. The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the Borough for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the Borough in full as aforesaid, the violating Owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the Borough in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the Borough for the Owner and shall be held in such escrow for a maximum period of two (2) years or until such earlier time as the Owner shall make a claim with the Borough for such. Failure of the Owner to claim such balance within the two (2) year period shall automatically result in a forfeiture of such balance to the Borough. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the Borough, whether such balance shall be paid to the Owner or forfeited to the Borough.
- iii. Foreclosure by the Borough due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the very-low, low-, and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- iv. If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the Borough may acquire title to the very-low, low-, and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the very-low, low-, and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- v. Failure of the very-low, low-, and moderate-income unit to be either sold at the Sheriff's sale or acquired by the Borough shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the Borough, with such offer to purchase being equal to the maximum resale price of the very-low, low-, and moderate-income unit as permitted by the regulations governing affordable housing units.
- vi. The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

V. Appeals.

eals from all decisions of an Administrative Agent appointed pursuant to this Section shall be filed in writing with the Superior Court.

Section 2. 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 3. 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 hereby ratified and confirmed, except where inconsistent with the terms hereof.

Section 4. The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this ordinance to the Monmouth County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15, and N.J.S.A. 40:55D-63 (if required).

Section 5. After introduction, the Borough Clerk is hereby 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 Borough Council, within 35 days after referral, a report including identification of any provisions in the proposed ordinance which are inconsistent with the master plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

Section 6. This Ordinance shall take effect immediately upon (1) adoption; (2) approval by the Mayor pursuant to N.J.S.A. 40:69A-149.7; (3) publication in accordance with the laws of the State of New Jersey; and (4) filing of the final form of adopted ordinance by the Clerk with (a) the Monmouth County Planning Board pursuant to N.J.S.A. 40:55D-16, and (b) the Borough Tax Assessor as required by N.J.S.A. 40:49-2.1.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-34

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:

Pending Litigation

1. Yacht Works
2. River Rats Tax Appeal

Contract Negotiations

1. ILSA with Red Bank (Animal Control)
2. ILSA with Middletown (QPA)

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. 2021-35

TITLE: APPOINT TEMPORARY, PART-TIME PLANNING BOARD AND ZONING BOARD SECRETARIES - JUDITH FULLER AND JENNIFER JOHNSON

WHEREAS, there is currently a vacancy in the Planning Board and Zoning Board secretary position; and

WHEREAS, there is a need to temporarily fill that vacancy until a replacement can be found; and

WHEREAS, Judith Fuller has agreed to assist with the Planning Board and Zoning Board secretarial duties on a temporary, part-time basis.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that Judith Fuller be appointed as the Planning Board and Zoning Board Secretary on a temporary, part-time basis, retroactive to January 7, 2021 at an hourly rate of \$35.00 with hours not to exceed 20 hours per week.

BE IT FURTHER RESOLVED that Jennifer Johnson, former Planning Board and Zoning Board Secretary, be authorized to train the successful candidate who fills her vacancy at an hourly rate of \$35.00 with hours not to exceed 20 hours in total.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-36

**TITLE: AUTHORIZING AWARD OF CONTRACT FOR PROFESSIONAL SERVICES
PURSUANT TO N.J.S.A. 19:44A-20.5**

WHEREAS, the Borough of Fair Haven has a need to retain professional services pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, the Borough Administrator has determined and certified that the value of some of the said services may exceed \$17,500 for the year 2021; and

WHEREAS, contract proposals for said professional services have been received by the Borough; and

WHEREAS, said professionals have completed and submitted a Business Entity Disclosure Certification, which certifies that said professional has not made any reportable contributions to a political or candidate committee in the previous one year, and that the contract will prohibit said professional from making any reportable contributions throughout the term of the contract; and

WHEREAS, funds for these purposes will be appropriated in the 2021 Municipal Budget; and

WHEREAS, said professionals have been duly appointed by the Borough Council of the Borough of Fair Haven pursuant to N.J.S.A. 40A:11-5.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Fair Haven that the Mayor and Municipal Clerk are hereby authorized to execute contracts with the following:

- Gregory Cannon, Esq., Borough Attorney
- Christopher Walrath, Esq., Bond Counsel
- Heyer and Gruel, Borough Planner
- Jeffrey R. Surenian, Esq., Special Counsel - COAH
- John Van Dalen, Esq., Special Counsel - Tidelands Matters
- Salvatore Alfieri, Esq., Special Counsel - Tax Appeals
- Matthew Giacobbe, Esq., Special Counsel - Labor Relations

BE IT FURTHER RESOLVED that contract for said service and the Business Disclosure Entity Certification and Determination of Value are on file with the Borough Clerk and available for public inspection; and

BE IT FUTHER RESOLVED that a copy of this resolution be forwarded to the following:

All professionals so named in this resolution
Chief Financial Officer
Borough Administrator

BE IT FUTHER RESOLVED that a copy of this resolution shall be published in the Asbury Park Press as required by law within ten (10) days of its passage.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-37

**TITLE: AUTHORIZE EXECUTION OF A CONTRACT WITH FSD ENTERPRISES, LLC AS
 CELL TOWER CONSULTANT**

WHEREAS, Resolution No. 2021-01 appointed Declan O'Scanlon, FSD Enterprises, LLC, as the Borough's Cell Tower Consultant for the year 2021; and

WHEREAS, there are times when there is a need for an assessment for modification of the equipment on the Borough's cell tower or an amendment to a cell carrier's contract with the Borough.

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that Theresa Casagrande, Borough Administrator, is hereby authorized to execute a contract with FSD Enterprises, LLC, 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. 2021-38

**TITLE: RESOLUTION APPOINTING A MEMBER TO THE FAIR HAVEN
FIRE DEPARTMENT, Regular Member – Eric S. Black**

BE IT RESOLVED by the Borough Council of the Borough of Fair Haven that Eric S. Black, 95 Willow Street, Fair Haven, NJ having been duly accepted as a regular member of the Fair Haven Volunteer Fire Co., is hereby appointed to the Fair Haven Fire Department.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-39

TITLE: REFUND OF 4TH QUARTER, 2020 PROPERTY TAX OVERPAYMENT

WHEREAS, the Tax Collector, has provided a request for a tax overpayment refund for 4th Quarter 2020 and advises that the following property owners qualify for a refund as follows:

Refund to be sent to:	Address	Block	Lot	Refund
Christopher Dietz and C. Bonfiglio Payment to: Wells Fargo Real Estate Tax Svs. Attn: Financial Support Unit, Region 1 1 Home Campus MAC F2302-035 Des Moines, Iowa 50328-0001	238 Hance Road	12	4	\$ 9,459.83

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that the Tax Collector and Chief Financial Officer are hereby authorized to pay said refund in the amount listed above.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-40

TITLE: REAPPOINT DPW BUILDING MAINTENANCE TECHNICIAN – JARED OKERSON

WHEREAS, per the 2017-2021 Teamster’s contract, there is a stipend for the position of Building Maintenance Technician in the amount of \$7,500; and

WHEREAS, Resolution No. 2020-48 was adopted by the Mayor and Council on January 27, 2020 appointing Jared Okerson to the position through 2020; and

WHEREAS, Richard Gardella, Director of Engineering and Public Works Superintendent, has submitted his recommendation for the reappointment of Jared Okerson to this position and Theresa Casagrande concurs with the recommendations made.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that Jared Okerson be reappointed as Building Maintenance Technician and continue to receive said stipend of \$7,500.

BE IT FURTHER RESOLVED that this reappointment will be in effect for the year 2021.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-41

TITLE: APPROVE REAPPOINTMENTS FOR TWO FOREMAN POSITIONS IN THE PUBLIC WORKS DEPARTMENT

WHEREAS, Resolution No. 2017-235 was adopted on November 27, 2017 and authorized the Mayor to execute an amendment to the Agreement with Teamsters Local 177 to include Foreman position appointments; and

WHEREAS, per the Teamster's contract, there is a stipend for these positions in the amount of \$3,500.00 each; and

WHEREAS, David Karl and Marty Coy have held the Foreman positions since March 2016 and Richard Gardella, Director of Engineering and DPW has recommended they each be reappointed and Theresa Casagrande, Borough Administrator, concurs with the recommendations made.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that the following DPW employees be reappointed to the position of Foreman retroactive to January 1, 2020 for the year 2020:

David Karl – Buildings, Grounds and Parks Foreman

Marty Coy – Streets & Sanitation Forman

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-42

**TITLE: APPOINT DEPUTY EMERGENCY MANAGEMENT COORDINATOR –
 BENJAMIN J. LUCARELLI**

BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that effective January 26, 2021 the following individual be appointed as Deputy Emergency Management Coordinator for a term to expire on December 31, 2022:

Benjamin J. Lucarelli

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-43

**TITLE: AWARD AN RFP TO LINCOLN RETIREMENT SERVICES FOR A BOROUGH
EMPLOYEE DEFERRED COMPENSATION PLAN**

WHEREAS, the Borough of Fair Haven (hereinafter referred to as the “Employer”), by resolution, is adopting a Deferred Compensation Plan (hereinafter referred to as the “Plan”) for the purpose of making available to eligible employees the accrual of tax benefits under a Section 457 Deferred Compensation Plan; and

WHEREAS, the Economic Growth and Tax Relief Reconciliation Act of 2001, the 2005 final regulations issued under the Uniformed Services Employment and Reemployment Rights Act of 1994, the Pension Protection Act of 2006, final Treasury Regulation §1.457-4, the Heroes Earnings Assistance and Relief Tax Act of 2008 , the Worker, Retiree and Employer Recovery Act of 2008 and the Small Business Act of 2010 amended sections of the Internal Revenue Code (the “Code”) and the rules and/or regulations issued thereunder affecting Section 457 Deferred Compensation Plans (cumulatively referred to as the “Acts and Regulations”); and

WHEREAS, the Employer desires its Plan to conform the Code and Treasury regulations brought about by the Acts and Regulations; and

WHEREAS, the Employer desires to adopt a Plan that conforms with the changes in the Code and Treasury regulations resulting from the Acts and Regulations.

NOW, THEREFORE BE IT RESOLVED that the Employer hereby adopts Plan 92-PD-Lincoln-121316.

BE IT FURTHER RESOLVED that Lincoln Retirement Services, LLC (hereinafter referred to as “Lincoln”) has agreed to be the provider of the Deferred Compensation Program for employees and elected officials; and

BE IT FURTHER RESOLVED that Lincoln will provide for the benefit of the participants the Alliance LincOn account; and

BE IT FURTHER RESOLVED that in accordance with N.J.A.C. 5:37-7.1(a) the Borough of Fair Haven solicited proposals for a Deferred Compensation Plan and Service Agreement from three (3) providers of deferred compensation services. The vendors responding to the request for proposals were Lincoln and Valic Financial Advisors. The successful vendor is Lincoln. The Borough Administrator, Chief Financial Officer and the Borough’s Financial Advisor reviewed all of the proposals submitted and met with representatives of the responding companies. Lincoln was selected because of the high level of service, features and flexibility of the investment options for plan participants and recommendations from other municipal government units.

BE IT FURTHER RESOLVED that there has been no collusion, or evidence or appearance of collusion, between any local official and a representative of Lincoln in the selection of a provider pursuant to N.J.A.C. 5:37 - 5.7.

BE IT FURTHER RESOLVED that the Borough Administrator is authorized to execute an Administrative Services Agreement with Lincoln (92-SA-Lincoln-121316) and such other agreements as are necessary to implement the Deferred Compensation Program. It is implicitly understood that there is to be no cost or contribution by the Employer to the program; and

BE IT FURTHER RESOLVED that the Borough Administrator is authorized to serve as the “Administrator” of the plan, represent the Employer, and execute individual deferred compensation agreements with each said employee; and

BE IT FURTHER RESOLVED by the Employer that the Borough Clerk forward a certified true copy of this resolution to the Borough Administrator; and

BE IT FURTHER RESOLVED that a certified copy of this resolution shall be forwarded to the Director of the Division of Local Government Services at P.O. Box 803; Trenton, NJ 08625-0803.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-44

**TITLE: AUTHORIZE ADVERTISEMENT FOR RECEIPT OF BIDS FOR THE
 IMPROVEMENTS TO HARRISON AVENUE PROJECT**

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 the Improvements to Harrison Avenue Project.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-45

**TITLE: APPROVE CHANGE ORDER NO. 1 - IMPROVEMENTS TO BATTIN ROAD – BLACK
 ROCK INDUSTRIES**

WHEREAS, Resolution No. 2020-57 awarded a contract for the Improvements to Battin Road Project to Black Rock Industries, Old Bridge, NJ 08857 in the amount of \$291,650.00; and

WHEREAS, the Director of Engineering and Public Works requested a change order for additional items increasing the final contract amount by \$25,770.23.

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Fair Haven that Change Order #1 for the Improvements to Battin Road Project contract authorizes an increase to the contract between the Borough of Fair Haven and Black Rock Industries for a total contract amount of \$317,420.23.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-46

TITLE: APPOINT AND REAFFIRM FAIR HAVEN'S COMMITMENT AND OBJECTIVE OF THE FAIR HAVEN GREEN TEAM

WHEREAS, the Borough of Fair Haven's Green Team members serve as the Borough's agents for the Sustainable Jersey Municipal Certification Process and are composed as follows:

Stephanie Adams
Daniella Solomon
Bonnie Torcivia
Jacqueline Rice
John LoGioco
Myriam Bindas
Sonja Trombino
Erin Howard
Robert Thomson
Kelly Flanagan
Councilwoman Laline Neff

WHEREAS, these individuals are interested in advancing the efforts of Fair Haven in the Sustainable Jersey Municipal Certification program and will continue the work of the Green Team; and

WHEREAS, the Green Team has been creating and cataloging significant sustainability actions so that the Borough of Fair Haven may maintain its Bronze Level Certification under the Sustainable Jersey Program and pursue Silver Certification over the next 2-3 years.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Fair Haven that:

- The Green Fair Haven is active in the community and advancing sustainable practices and actions included in the Sustainable Jersey Municipal Certification Program;
- The Green Team has been and shall continue to be composed of individuals who have demonstrated interest in advancing the efforts of Fair Haven to pursue and maintain certification through the Sustainable Jersey Municipal Certification Program;
- The role of the Green Team has been and shall continue to be to lead and coordinate the sustainability activities of the community

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-47

TITLE: APPOINTMENT OF BOROUGH FACILITIES COMMITTEE MEMBERS

WHEREAS, there is a need to appoint members to a Borough Facilities Committee for the Borough of Fair Haven.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that the following Borough residents be appointed to the Borough Facilities Committee:

Mayor Lucarelli
Councilman Christopher Rodriguez
Councilman Michael McCue
Andrew Trocchia
Tina Iglesias-Stanley
Andrew Ashwal
Dan Busch
Annmarie Berger
Sonja Trombino
Robert Gasperini

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-48

**TITLE: APPROVE APPOINTMENT TO THE HISTORIC PRESERVATION COMMISSION,
 ALTERNATE #2 POSITION – STEVEN SMITH**

WHEREAS, there is a vacancy for the Historic Preservation Commission, Alternate #2 position that needs to be filled; and

WHEREAS, the Borough has found a volunteer willing to fill this Alternate #2 position as follows:

Steven Smith, Historic Preservation Commission, Alternate #2 member to a two-year unexpired term that will expire of 12/31/2021

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-49

TITLE: AUTHORIZING TRANSFERS IN THE 2020 MUNICIPAL BUDGET

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

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

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Fair Haven, County of Monmouth and State of New Jersey that the following transfers are made in the 2020 budget appropriations:

<u>FROM</u>	<u>ACCOUNT NAME</u>	<u>AMOUNT</u>
0-01-23-220-227	Health Benefits Medical	\$6,159.00
Total		\$6,159.00

<u>TO</u>	<u>ACCOUNT NAME</u>	<u>AMOUNT</u>
0-01-25-265-276	Fire Hydrants	\$6,159.00
Total		\$6,159.00

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-50

TITLE: APPROVE 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 2021 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 2021 for the Borough pursuant to the provisions of Chapter 96, PL 1951 (NJSA 40A:4-20) including this resolution total \$2,015,700.00 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			
1-01-27-335-299	Environmental Health	200.00	Add to Temp Budget
TOTAL		\$200.00	

2. That said emergency temporary appropriations will be provided for in the 2021 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. 2021-51

**TITLE: **AUTHORIZE BOROUGH ADMINISTRATOR TO ENTER PURCHASE
ORDERS FOR BOROUGH ARCHITECT TO PERFORM SERVICES****

WHEREAS, The Goldstein Partnership (“Architect”), a licensed architect in the State of New Jersey, was retained by the Borough of Fair Haven (the “Borough”) to perform certain architectural services (the “Work”) by way of Contracts for Professional Services, dated December 11, 2017 and October 9, 2018, which Contracts were most recently amended on February 12, 2020; and

WHEREAS, the Architect has already completed and/or undertaken several aspects of the Work under the aforementioned Contracts, with which Work the Borough has been satisfied to date; and

WHEREAS, the Borough desires that the Architect continue to perform said Work in connection with the design of the Borough’s new police building and recreational center; and

WHEREAS, the Architect has submitted a Proposal, revised as of January 21, 2021 and attached hereto as Exhibit A, for its continued design, inspection, and administration of construction for the Borough’s new police building and recreational center; and

WHEREAS, the Borough has bonded for various construction projects and will encumber funds to pay the Architect for the work.

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

- (1) Authorize the renewal of the Borough’s Professional Service Contracts with The Goldstein Partnership for a period not to exceed one year pursuant to N.J.S.A. 40A:11-5; and
- (2) Authorize the Borough Administrator to accept and execute the Proposal attached hereto as Exhibit A from The Goldstein Partnership pursuant to N.J.S.A. 40A:11-5; and
- (3) Provide notice that the retention of The Goldstein Partnership is exempt from public bidding as a professional service under N.J.S.A. 40A:11-5.1(a)(i), and is being awarded under a non-fair and open process in accordance with New Jersey’s Pay-to-Play law; and
- (4) Direct that Notice of this contract award shall be published in the designated official newspapers as required by law within ten (10) days of the passage of this Resolution; and
- (5) Direct that The Goldstein Partnership shall submit a Business Entity Disclosure Certification which certifies compliance with New Jersey’s Pay-to-Play law; and
- (6) Direct that the Borough Purchasing Agent shall ensure the appropriate public contracting language and documentary requirements are submitted by The Goldstein Partnership prior to commencement of the Work; and

- (7) Direct that a certified copy of this resolution be forwarded to the Borough Administrator, Chief Financial Officer, Borough Engineer, and The Goldstein Partnership; and

BE IT FURTHER RESOLVED that the Borough Administrator is hereby authorized to prepare the appropriate purchase order(s) for the full proposal amounts received from the Architect and draw down from those encumbered funds, inclusive of work performed to date on these projects; and

BE IT FURTHER RESOLVED that the necessary funds to pay the Architect for the work described in Exhibit A hereto will be encumbered from existing bonds obtained by the Borough and payment to the Architect will be made through purchase orders as services are provided.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-52

TITLE: APPOINT 2021 RISK MANAGEMENT CONSULTANT

WHEREAS, the Borough of Fair Haven has resolved to join the Mid Jersey Municipal Joint Insurance Fund (“MidJIF”) following a detailed analysis; and

WHEREAS, the Bylaws of MidJIF allow for an entity to designate a Risk Management Consultant to perform various professional services as detailed in the Bylaws and Risk Management Plan; and

WHEREAS, the Bylaws indicate that MidJIF shall pay each Risk Management Consultant a fee to be established annually by the Executive Committee.

NOW THEREFORE, BE IT RESOLVED that the Borough of Fair Haven does hereby appoint Michael Avalone of Conner Strong and Buckelew as its Risk Management Consultant in accordance with the Fund's Bylaws.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-53

**TITLE: APPOINTMENT OF LIAISON TO THE FAIR HAVEN FIELDS NATURAL AREA
 ADVISORY COMMITTEE**

BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that Councilwoman Chrisner-Keefe is hereby appointed as liaison to the Fair Haven Fields Natural Area Advisory Committee for the year 2021

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

Motion by

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-54

TITLE: APPROVE APPOINTMENT OF TODD LEHDER AS A PLANNING BOARD, CLASS IV MEMBER

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

WHEREAS, Todd Lehder will move from the Class II position to fill the unexpired term of a Class IV member with a term expiring on December 31, 2022; and

WHEREAS, there will be a vacancy in the Class II position with a term expiring on December 31, 2021.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that Todd Lehder be appointed as Planning Board, Class IV member.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-55

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 January 25, 2021 agenda are hereby approved and the Finance Department is hereby authorized to release payment to the various vendors.

2020 CURRENT ACCOUNT	\$ 234,167.75
2021 CURRENT ACCOUNT	\$ 1,633,330.36
GENERAL CAPITAL	\$ 33,070.00
PAYROLL AGENCY	\$ 13,252.52
OTHER TRUST	\$ 19,601.60
	\$ 1,933,422.23
LESS VOIDED CHECKS	\$ 6,166.45
TOTAL	\$ 1,927,255.78

2020 Current Check No. 60018, \$6,166.45

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

RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-56

TITLE: CONDEMNING VIOLENCE AND CALLING FOR UNITY IN THE AFTERMATH OF THE INSURRECTION AT THE UNITED STATES CAPITOL ON JANUARY 6, 2021.

WHEREAS, on January 6, 2021, thousands of rioters illegally entered and occupied the United States Capitol Building in an attempt to disrupt and thwart the final certification of the 2020 Presidential Election by the United States Congress under the United States Constitution; and

WHEREAS, the U.S. Capitol Police, D.C. Metro Police, and surrounding law enforcement agencies defended our Capitol Building and our duly elected legislators against this outrageous attack on our institutions of democracy; and

WHEREAS, the actions and violence of the rioters at the Capitol Building caused the untimely deaths of six (6) Americans, including U.S. Capitol Police Officer Brian Sicknick; and

WHEREAS, the Mayor and Council of the Borough of Fair Haven desire to honor the bravery and valor with which our American law enforcement officers defended our Capitol Building on January 6, 2021, as well as the lives lost in the ensuing violence; and

WHEREAS, although the First Amendment to the United States Constitution protects the rights of all citizens, regardless of political views, to peaceably assemble, protest, and exercise free speech, violence and destruction has no place in our society under any circumstance; and

WHEREAS, the events of January 6, 2021 demonstrate that law and order and domestic tranquility for all Americans is placed at risk when violence is in any way condoned or countenanced as a response to political, social, or legal disagreements in our society; and

WHEREAS, the Mayor and Council of the Borough of Fair Haven believe that condemning violence and calling for unity is the best way to honor our courageous law enforcement officers and the memories of those lives lost at our Capitol Building on January 6, 2021; and

WHEREAS, in doing so, and in expressing their desire for a more perfect union for our nation, the Mayor & Council of the Borough of Fair Haven take guidance from the Inaugural Address of President Thomas Jefferson, delivered March 4, 1801; and

WHEREAS, on March 4, 1801, President Jefferson said: *“Let us, then, fellow-citizens, unite with one heart and one mind. Let us restore to social intercourse that harmony and affection without which liberty and even life itself are but dreary things ... every difference of opinion is not a difference of principle ... If there be any among us who would wish to dissolve this Union or to change its republican form, let them stand undisturbed as monuments of the safety with which error of opinion may be tolerated where reason is left free to combat it.”*;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Fair Haven in the County of Monmouth, State of New Jersey call upon their fellow Borough residents and all American citizens to heed the words of President Jefferson expressing tolerance and dialogue as the antidote to violence, and freedom of thought, rather than unity of thought, as critical to our American democracy; and

BE IT FURTHER RESOLVED that the Mayor and Council of the Borough of Fair Haven in the County of Monmouth, State of New Jersey hereby condemn violence in all forms, and especially the violence and attack upon our democratic institutions perpetrated at our Capitol Building on January 6, 2021; and

BE IT FURTHER RESOLVED that the Mayor and Council of the Borough of Fair Haven in the County of Monmouth, State of New Jersey hereby honor the bravery with which our American law enforcement officers defended our Capitol Building, as well as the lives lost in the ensuing violence, by calling for unity, dialogue, and tolerance in our political discourse regardless of party, view, or opinion.

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

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2021-57

**TITLE: AUTHORIZING CONTINUED PAYMENT(S) TO CERTAIN PROFESSIONALS
 APPOINTED FOR CALENDAR YEAR 2020 UNTIL THEIR SUCCESSORS ARE
 APPOINTED IN 2021**

WHEREAS, on January 6, 2020, the Borough of Fair Haven (the “Borough”) appointed the following professional service contractors to the below-listed positions for terms not to exceed one year pursuant to N.J.S.A. 40A:11-5:

- | | | |
|----|----------------------|--------------------------------|
| 1. | Borough Auditor | Robert Allison, C.P.A., R.M.A. |
| 2. | Financial Advisor | Phoenix Associates |
| 3. | Prosecutor | Anthony Vecchio, Esq. |
| 4. | Alternate Prosecutor | Mitch Jacobs, Esq. |
| 5. | Public Defender | Maurice Maloney, Esq. |
| 6. | Consulting Engineer | Maser Consulting |

WHEREAS, notwithstanding the expiration of the above-listed professional service contracts under N.J.S.A. 40A:11-5, the Borough has continued to need and the foregoing professionals have continued to provide professional services to the Borough during 2021; and

WHEREAS, the Borough desires that the aforementioned professional service contractors are duly compensated for their work until their successors are appointed in 2021 and/or their respective contracts are renewed for the entirety of 2021;

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

- (1) Authorize the continued work of the Borough’s professionals listed hereinabove in their respective positions until such time as their successors are appointed in 2021 and/or their respective contracts are renewed for the entirety of 2021; and
- (2) Authorize the Borough Administrator to make payment(s) to the Borough’s professionals listed hereinabove in their respective positions until such time as their successors are appointed in 2021 and/or their respective contracts are renewed for the entirety of 2021 in the ordinary course; and
- (3) Direct that a certified copy of this resolution be forwarded to the Borough Administrator, Chief Financial Officer, Borough Engineer, and each of the Borough’s professionals listed hereinabove.