

AGENDA

Special Meeting

6:45 p.m.

February 19, 2013

1. Call to Order
2. Statement of Compliance with the Open Public Meetings Act
3. Roll Call
4. Closed Session Resolution – Risk Management Strategies
5. Miscellaneous Public Comments
6. Adjournment

NOTE: FORMAL ACTION MAY BE TAKEN AT REGULAR MEETINGS, WORK SESSIONS OR SPECIAL MEETINGS. AGENDAS ARE PUBLISHED 48 HOURS IN ADVANCE TO THE EXTENT KNOWN.

AGENDA

COUNCIL MEETING

7:30 P.M.

February 19, 2013

1. **Call to Order by Mayor**
2. **Statement of compliance with the Open Public Meetings Act**
3. **Roll Call**
4. **Flag Salute**
5. **PROCLAMATION: PYTHIAN WEEK
RED ACROSS AMERICA DAY**
6. **COUNCIL COMMENTS**
7. **MANAGER'S REPORT**
8. **ORDINANCES ON SECOND READING:**

**ORDINANCE NO. 2263-2013
(RESOLUTION NO. 88-2013)**

**AN ORDINANCE TO PROVIDE FOR A CERTAIN CAPITAL
IMPROVEMENT IN THE BOROUGH OF FAIR LAWN AND TO
PROVIDE FOR THE RECEIPT, ACCEPTANCE AND DEPOSIT
OF FUNDS THEREFORE (BERDAN AVENUE)**

- Mayor asks for a motion to read the Ordinance by title and open the time for public comments asking if anyone wishes to be heard. Mayor asks for Mover, Secunder, Roll Call.
- Mayor asks for a motion to close the time for public comments. Mayor asks for Mover, Secunder, Roll Call.
- Municipal Clerk reads the Resolution of Adoption. Mayor asks for Mover, Secunder, Discussion, Roll Call.

**ORDINANCE NO. 2264-2013
(RESOLUTION NO. 89-2013)**

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH
OF FAIR LAWN 2000, CHAPTER 111 ENTITLED "FOOD
HANDLING"**

- Mayor asks for a motion to read the Ordinance by title and open the time for public comments asking if anyone wishes to be heard. Mayor asks for Mover, Secunder, Roll Call.
- Mayor asks for a motion to close the time for public comments. Mayor asks for Mover, Secunder, Roll Call.
- Municipal Clerk reads the Resolution of Adoption. Mayor asks for Mover, Secunder, Discussion, Roll Call.

9. PUBLIC COMMENTS ON CONSENT AGENDA ITEMS ONLY

- Mayor calls for motion to open time for public comments on Consent Agenda items only. Mayor asks for a Mover, Secunder, Roll Call.
- Mayor opens time for public comments asking if anyone wishes to be heard.
- Mayor calls for motion to close the time for public comments. Mayor asks for Mover, Secunder, Roll Call.
- Mayor closes the time for public comments.

10. RESOLUTIONS BY CONSENT #5-2013

- Municipal Clerk reads Resolutions by Consent.
 - a. Resol. # 90-2013 – Approval of Minutes
 - Work Session 12/18/12
 - Special Meeting 12/18/12
 - Closed Session 12/18/12
 - Reorganization Meeting 1/3/13
 - Closed Session 1/8/13
 - Work Session 1/8/13
 - Closed Session 1/8/13
 - Regular Meeting 1/15/13
 - Closed Session 1/15/13
 - b. Resol. # 91-2013 - Authorizing Renewal of Massagist License:
Larisa Remennik
 - c. Resol. # 92-2013 - Authorizing Issuance of Massagist License to Wenfei Liu - Healthy Way

- d. Resol. # 93-2013 - Authorizing Submission of Recycling Tonnage Grant
 - e. Resol. # 94-2013 – Multi-year Contract with Clinical Services Management for Employee Assistance Program
 - f. Resol. # 95-2013 - FEMA Grant Application to Provide for Funding of the Office of Emergency Management Coordinator's Salary
 - g. Resol. # 96-2013 - Transfer of Funds
 - h. Resol. # 97-2013 - Provide Periodic Cost of Living Increase to LOSAP
 - i. Resol. # 98-2013 - Professional Services – Special Counsel for Specific Projects
 - j. Resol. # 99-2013– Refund of Overpayment of Taxes
 - k. Resol. #100-2013 - Cancel Taxes on Property Assessed in Error - Kestenbaum, Andrew & Cynthia - Block 4703, Lot 17 - 16-23 Elliott Terrace
 - l. Resol. #101-2013 - Cancel Year 2012 & 2013 Property Taxes Due to Property Classification Change from Ratable to Tax Exempt (440 Wagaraw Road)
 - m. Resol. #103-2013 - Appointment of Alternate Representative to the JIF
 - n. Resol. #103-2013- Open Space Grant Funds - Berdan Grove Inclusionary Playground
- Mayor asks for a Mover, Secunder, Roll Call.

11. PUBLIC COMMENTS

- Mayor calls for motion to open time for public comments. Mover, Secunder, Roll Call.
- Mayor opens time for public comments.
- Mayor calls for motion to close the time for public comments. Mover, Secunder, Roll Call.
- Mayor closes the time for public comments.

12. CLOSED SESSION RESOLUTION - PENDING LITIGATION: MESSINA, KNEER AND COOK

- Mayor asks Municipal Clerk to read resolution. Mover, Secunder, Roll Call.

13. ADJOURNMENT TO CLOSED SESSION

- Mayor calls for motion to adjourn to Closed Session. Mover, Secunder, Roll Call.

ORDINANCE NO. 2263-2013

AN ORDINANCE TO PROVIDE FOR A CERTAIN CAPITAL IMPROVEMENT IN THE BOROUGH OF FAIR LAWN AND TO PROVIDE FOR THE RECEIPT, ACCEPTANCE AND DEPOSIT OF FUNDS THEREFORE (BERDAN AVENUE)

WHEREAS, the Borough Fair Lawn has been approved to receive grant funding from the New Jersey Department of Transportation in the amount of \$300,000 for Berdan Avenue, Phase 2 – Local Aid Infrastructure Project, and;

WHEREAS, the receipt of the above grant requires no matching funds from the Borough of Fair Lawn and;

WHEREAS, at the direction of the Borough Manager and approval of the Mayor and Council, via this ordinance, the Borough of Fair Lawn's 10% required payment to Capital Alternatives for the above stated grant will be funded by the Borough of Fair Lawn Capital Account by Ordinance # 2244-2012 in the amount of \$ 30,000; and

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Fair Lawn, in the County of Bergen

SECTION 1. The Borough of Fair Lawn in the County of Bergen, shall proceed with the project, referred to as Berdan Avenue, Phase 2 – Local Aid Infrastructure, as detailed in the grant application authorized by Mayor and Council in Resolution # 311-2011.

Project: Berdan Avenue, Phase 2- (Section 4)

State Funds: \$300,000

Borough Match: \$ 0

SECTION 2. The cost of completing said improvement set forth in Section 1 is limited to 100 percent of the cost of completed construction work including construction supervision, inspection and material testing or the amount of the allotment, whichever is less.

SECTION 3. It is hereby determined and stated:

(a) That said purposes are not a current expense. That the same is an improvement which the Municipality may lawfully make or acquire and that no part of the cost of said improvement has been or shall be specifically assessed on properties specifically benefited.

(b) It is not necessary to finance said purpose by the issuance of obligations by the Borough of Fair Lawn pursuant to the Local Bond Law of the State of New Jersey, for

the reason that monies sufficient to cover the whole cost thereof shall be available through the State of New Jersey.

SECTION 4. It is hereby determined and stated that no supplemental debt statement is required to be made and signed in connections with said purpose, since the gross debt of the Municipality as defined under the Local Bond Law is not increased by this ordinance and no obligations in the matter of notes or bonds are authorized by this ordinance.

SECTION 5. This ordinance shall take effect after publication thereof and final passage as required by law.

Attest:

Approved:

Joanne M. Kwasniewski, RMC/CMC/MMC
Municipal Clerk

John Cosgrove, Mayor

Introduced: January 29, 2013

Adopted:

ORDINANCE NO. 2264-2013

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF FAIR LAWN 2000, CHAPTER 111 ENTITLED "FOOD HANDLING"

BE IT ORDAINED by the Mayor and Borough Council of the Borough of Fair Lawn, as follows:

SECTION 1: Chapter 111 of the Code of the Borough of Fair Lawn 2000 is hereby amended as follows:

1. Article I entitled "Food Handlers Certificates" is hereby deleted in its entirety and replaced with the following new Article 1:

Article I. Food Handlers Certificates

§ 111-1. Title.

This chapter shall be known as the "Food Handler's Ordinance of the Borough of Fair Lawn."

§ 111-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

FOOD means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

FOOD EMPLOYEE means the person-in-charge and/or any individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

RISK TYPE 1 FOOD ESTABLISHMENT means any retail food establishment that:

1. Serves or sells only pre-packaged, non-potentially hazardous foods;
2. Prepares only non-potentially hazardous foods; or
3. Heats only commercially-processed, potentially hazardous foods for hot holding and does not cool potentially hazardous foods. Such retail establishments may include, but *are* not limited to, convenience store operations, hot dog carts, and coffee shops.

RISK TYPE 2 FOOD ESTABLISHMENT means any retail food establishment that has a limited menu; and

1. Prepares, cooks, and serves most products immediately;

2. Exercises hot and cold holding of potentially hazardous foods after preparation or cooking; or
3. Limits the complex preparation of potentially hazardous foods, including the cooking, cooling, and reheating for hot holding, to two or fewer items. Such retail establishments may include, but are not limited to, retail food store operations, schools that do not serve a highly susceptible population, and quick service operations, depending on the menu and preparation procedures.

RISK TYPE 3 FOOD ESTABLISHMENT means any retail food establishment that:

1. Has an extensive menu which requires the handling of raw ingredients and is involved in the complex preparation of menu items that includes the cooking, cooling, and reheating of at least three or more potentially hazardous foods; or
2. Prepares and serves potentially hazardous foods including the extensive handling of raw ingredients and whose primary service population is a highly susceptible population. Such establishments may include, but are not limited to, full service restaurants, diners, commissaries and catering operations or hospitals, nursing homes and preschools preparing and serving potentially hazardous foods.

RISK TYPE 4 FOOD ESTABLISHMENT means a retail food establishment that conducts specialized processes such as smoking, curing, canning, bottling, acidification designed to control pathogen Proliferation or any reduced oxygen packaging intended for extended shelf-life where such activities may require the assistance of a trained food technologist. Such establishments include those establishments conducting specialized processing at retail.

§ 111-3. Food handler's initial registration required.

A.

- (1) No food employee shall engage in or be employed within the borough in the business of or service of preparing, selling or processing food intended for human consumption without having first registered as a food handler upon written application with the Department of Health and Human Services of the Borough.
- (2) Food establishment owners or managers shall apply for initial food handlers' registration for each currently employed food employee whose food handlers' card has expired or been revoked.
- (3) The Department of Health and Human Services of the Borough shall issue written notice and request for payment to food establishment owners or managers concerning expiring food handler's cards.

- (4) Persons not employed within the Borough may register as a food handler upon written application with the Department of Health and Human Services of the Borough.
- (5) The Department of Health and Human Services of the Borough will consider all those who have satisfied the requirements set forth in this Act as registered food handlers.

B. The following persons, however, are expressly excluded from the provisions of this chapter, to wit:

- (1) All persons engaged or employed in the manufacturing of foodstuffs where said manufacturing operations are subject to federal control under the Federal Food and Drugs Act, excepting, however, that where any such manufacturer shall maintain a cafeteria or food service for its employees within its manufacturing plant, all persons who are engaged in handling exposed food in connection with said cafeteria or food service shall not be exempt from the provisions hereof, but each such person shall be required to register as a food handler and successfully complete an approved food handlers' course in accordance with the provisions of this chapter.
- (2) All persons whose employment or duties are solely limited to clerical or administrative functions or whose employment or duties at no time involve contact with any exposed food or ware washing.

§ 111-4. Requirements for initial food handler registration and course completion.

- A. Initial food handler registration to be applied for under § 111-3 shall not be issued or granted to any person unless the person shall have first successfully completed a general course of instruction in health education, sanitation, personal hygiene, food poisoning, dishwashing procedures, germs, insects, rodents and other related health matters. The course of instruction shall be given by the Department of Health and Human Services of the borough or by such other organization as the Department of Health and Human Services of the Borough may direct or pre-approve.
- B. Food establishment owners shall apply for each initial food handler's registration within 14 days of employment or food handler card expiration. Initial registrations will expire December 31 of the current year, except that if the date of employment is November 1 or after of the current year, initial registrations will expire December 31 of the following year.

§ 111-5. Food Handler Class Attendance Certificates Available

Food handler class attendance certificate shall be made available from the Department of Health & Human Services of the Borough upon request by food establishment owner or manager or by the attendee.

§ 111-6. Inability to attend Borough course; permission to attend elsewhere.

Any person who is unable to attend the course of instruction as made available through the Department of Health and Human Services may, with written permission from the Department of Health and Human Services of the Borough, attend other comparable food handler courses furnished by the state, county, other municipalities or private-entity provided public health educator, and proof of having successfully completed such other comparable course or courses shall be deemed full compliance with the requirements of this chapter.

§ 111-7. Time permitted to attend course.

A.

- (1) Food establishment owners or managers shall assure that all employed persons newly engaged in the business of preparing, selling or processing food intended for human consumption, ware washing or supervision of these activities shall attend an approved food handlers' course within 60 days from the date of commencement of their employment.
- (2) If food establishment owners or managers fail to assure any employee's attendance at an approved food handlers' course within 60 days, the Department of Health and Human Services of the Borough may revoke that employee's food handler's registration.
- (3) Owners or managers shall assure that all food handlers re-attend an approved course within three years of employment and every three years thereafter.

B. Requirement of persons-in-charge to attend manager level course:

By January 2, 2015:

- (1) Any food establishment in the business of or service of preparing, selling or processing food intended for human consumption, including, but not exclusively all Risk type 2, 3, and 4 food establishments shall require a person-in-charge, who holds a current food manager's certificate approved by the New Jersey State Department of Health and Senior Services, to be on the premises of the food establishment at all times while open for business or preparation of food.

- (2) Supermarket owners or managers shall require a person-in-charge, who holds a current food manager's certificate approved by the New Jersey State Department of Health and Senior Services, to be on the premises in each department at all times while open for business or preparation of food.
- (3) Currently such certification can be obtained only through three approved agencies listed below.
 - a. National Restaurant Assoc. (Serve Safe) contact: at www.nraef.org or call: 312-715-5371.
 - b. National Registry of Food Safety Professionals at www.nrfsp.com or call: 407-352-3830
 - c. Thompson Pro Metric at www.prometric.com or call: 443-923-8200.

§ 111-8. Renewal of registrations:

- A. Owners or managers of all food establishments must renew all food handlers' registrations through the Department of Health and Human Services of the Borough annually. All food handler registrations will expire December 31 of each year.
- B. Any food handler's registration not renewed by January 31 of the next year shall be revoked. Therefore food establishment owners or managers shall re-apply for an initial food handler registration for all revoked registrations.
- C. The Department of Health and Human Services shall include the application for renewal of food handlers' registrations with food establishment license applications.

§ 111-9. Food handler's registrations may not be loaned or transferred.

A Food handler registration is granted to a food establishment owner or manager for a food employee as defined in 111-2 of this chapter and therefore may not be transferred to any other person for any purpose whatsoever.

§ 111-10. Employer's records: Food Handlers rosters required.

All employers engaged in the business of preparing, selling or processing food for human consumption shall be required at all times to keep and maintain accurate records of each employee listing the following information: the name and address of said employee; the date of employment; the date of application for the food handler's registration and course date for each employee. All such records shall be available at all times for inspection by the Department of Health and Human Services

of the Borough or its only authorized agents or representatives. All such records must also be provided from time to time upon written request of the Department of Health and Human Services of the Borough or its only authorized agents or representatives.

§ 111-11. Revocation of food handler registration.

The Department of Health and Human Services shall have the authority to revoke food handler registration status hereunder for failure to attend food handlers' course as required, failure to renew food handler registration, improper food handling or other good cause shown and after written notice to the food establishment owner or manager.

§ 111-12. Fees.

- A. Food establishment owners shall pay to the Borough a fee, as set from time to time by resolution of the Borough Council upon initial registration and an annual renewal fee, as set from time to time by resolution of the Borough Council.
- B. Food establishment owners or attendees shall pay a fee, as set from time to time by resolution of the Borough Council to obtain a food handlers class attendance certificate.

2. Article III entitled "Retail Food Establishments" is hereby amended as follows:

§ 111-19. Code established.

Delete:

A code regulating retail food establishments and fixing penalties for violations known as "Retail Food Establishments," Chapter XII of the State Sanitary Code (N.J.A.C. 8:24-1 et seq.), and any amendments and supplements thereto, is hereby established pursuant to N.J.S.A. 26:3-69.1 to 26:3-69.6. The aforesaid code is made a part hereof without the inclusion of the text thereof.

Add:

A code regulating retail food establishments and fixing penalties for violations known as "Sanitation in Retail Food Establishments and Food and Beverage Vending Machines," Chapter 24 of the State Sanitary Code (N.J.A.C. 8:24-1 et seq.), and any amendments and supplements thereto, is hereby established pursuant to N.J.S.A. 26:3-69.1 to 26:3-69.6. The aforesaid code is made a part hereof without the inclusion of the text thereof.

§ 111-20. Public record.

Delete:

Three copies of Chapter XII of the State Sanitary Code, entitled "Retail Food Establishments" (N.J.A.C. 8:24-1 et seq.), have been placed on file in the office of the Municipal Clerk. Three copies of Chapter XII of the State Sanitary Code, entitled "Retail Food Establishments" (N.J.A.C. 8:24-1 et seq.), and any amendments and supplements thereto, have also been placed in the office of the Department of Health and Human Services of the borough and shall remain on file in said office for the use and examination by the public.

Add:

Three copies of Chapter 24 of the State Sanitary Code, entitled "Sanitation in Retail Food Establishments and Food and Beverage Vending Machines" (N.J.A.C. 8:24-1 et seq.), have been placed on file in the office of the Municipal Clerk. Three copies of Chapter 24 of the State Sanitary Code, entitled "Sanitation in Retail Food Establishments and Food and Beverage Vending Machines" (N.J.A.C. 8:24-1 et seq.), and any amendments and supplements thereto, have also been placed in the office of the Department of Health and Human Services of the Borough and shall remain on file in said office for the use and examination by the public.

SECTION 2: Each section of this Ordinance and every subsection hereof shall be deemed independent, separate and distinct from all other sections, and the holding of any section or a part thereto to be unconstitutional, void, or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any section or part hereof.

SECTION 3: All ordinances, codes or parts thereof that are inconsistent with this Ordinance are repealed or otherwise modified.

SECTION 4: This Ordinance shall take effect upon passage and publication as required by law.

Attest:

Approved:

Joanne M. Kwasniewski, RMC/CMC/MMC
Municipal Clerk

John Cosgrove
Mayor

Introduced: January 29, 2013

Adopted:

Aye Nay Abstain

Baratta
Peluso
Swain
Trawinski
Cosgrove

February 19, 2013

CONSENT AGENDA 5-2013

By

Seconded by

WHEREAS, the following resolutions having heretofore been placed on this Resolutions by Consent Agenda which require no discussion and same having been previously reviewed by each Councilmember, be and are hereby adopted, ratified, and confirmed in their entirety by the Mayor and Council of the Borough of Fair Lawn:

- a. Resol. # 90-2013 – Approval of Minutes
 - Work Session 12/18/12
 - Special Meeting 12/18/12
 - Closed Session 12/18/12
 - Reorganization Meeting 1/3/13
 - Closed Session 1/8/13
 - Work Session 1/8/13
 - Closed Session 1/8/13
 - Regular Meeting 1/15/13
 - Closed Session 1/15/13
- b. Resol. # 91-2013 - Authorizing Renewal of Massagist License:
Larisa Remennik
- c. Resol. # 92-2013 - Authorizing Issuance of Massagist License to Wenfei Liu - Healthy Way
- d. Resol. # 93-2013 - Authorizing Submission of Recycling Tonnage Grant
- e. Resol. # 94-2013 – Multi-year Contract with Clinical Services Management for Employee Assistance Program
- f. Resol. # 95-2013 - FEMA Grant Application to Provide for Funding of the Office of Emergency Management Coordinator's Salary
- g. Resol. # 96-2013 - Transfer of Funds
- h. Resol. # 97-2013 - Provide Periodic Cost of Living Increase to LOSAP
- i. Resol. # 98-2013 - Professional Services – Special Counsel for Specific Projects
- j. Resol. # 99-2013– Refund of Overpayment of Taxes

- k. Resol. #100-2013 - Cancel Taxes on Property Assessed in Error -
Kestenbaum, Andrew & Cynthia - Block 4703, Lot 17
- 16-23 Elliott Terrace
- l. Resol. #101-2013 - Cancel Year 2012 & 2013 Property Taxes Due to
Property Classification Change from Ratable to
Tax Exempt (440 Wagaraw Road)
- m. Resol. #102-2013 - Appointment of Alternate Representative to the JIF
- n. Resol. #103-2013- Open Space Grant Funds - Berdan Grove Inclusionary
Playground

Aye Nay Abstain

Baratta
Peluso
Swain
Trawinski
Cosgrove

February 19, 2013

RESOLUTION NO. 90-2013

By

Seconded by

BE IT RESOLVED, by the Mayor and Council of the Borough of Fair Lawn that the Council Minutes of:

Work Session 12/18/12
Special Meeting 12/18/12
Closed Session 12/18/12
Reorganization Meeting 1/3/13
Closed Session 1/8/13
Work Session 1/8/13
Closed Session 1/8/13
Regular Meeting 1/15/13
Closed Session 1/15/13

are hereby approved.

Aye Nay Abstain

Baratta
Peluso
Swain
Trawinski
Cosgrove

February 19, 2013

RESOLUTION NO. 91-2013

By

Seconded by

WHEREAS, Larisa Remennik, 8A Townley Road, Fair Lawn, New Jersey 07410 has made application to the Borough pursuant to RGO144-3 to renew her massagist's licenses at BRC Sauna & Spa, Inc. located at 24-20 Broadway, Fair Lawn; and

WHEREAS, the applicant has complied with all of the requirements of the aforesaid ordinance, and there has been no just cause shown why the Mayor and Council should reject said application;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Lawn that pursuant to RGO 144-2, et. seq., the application for the renewal of the massagist license by the aforesaid applicant be and is hereby approved and the Municipal Clerk be and is hereby authorized to issue same.

Aye Nay Abstain

Baratta
Peluso
Swain
Trawinski
Cosgrove

February 19, 2013

RESOLUTION NO. 92-2013

By

Seconded by

WHEREAS, Wen Fei Liu, 45-15 Colden Street, Apt. 4Y, Flushing, New York 11355 has made application to the Borough pursuant to RGO144-3 for a massagist's licenses to work at Healthy Way located at 24-18 Maple Avenue, Fair Lawn, New Jersey; and

WHEREAS, the applicant has complied with all of the requirements of the aforesaid ordinance, and there has been no just cause shown why the Mayor and Council should reject said application;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Lawn that pursuant to RGO 144-2, et. seq., the application for the massagist license by the aforesaid applicant be and is hereby approved and the Municipal Clerk be and is hereby authorized to issue same.

Aye Nay Abstain

Baratta
Peluso
Swain
Trawinski
Cosgrove

February 19, 2013

RESOLUTION NO. 93-2013

By

Seconded by

WHEREAS, The Mandatory Source Separation and Recycling Act, P.L.1987, c.102, has established a recycling fund from which tonnage grant may be made to municipalities in order to encourage local source separation and recycling programs; and

WHEREAS, it is the intent and the spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue and to expand existing programs; and

WHEREAS, the New Jersey Department of Environmental Protection has promulgated recycling regulations to Implement the Mandatory Source Separation and Recycling Act; and

WHEREAS, the recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including but not limited to, making and keeping accurate, verifiable records of materials collected and claimed by the municipality; and

WHEREAS, a resolution authorizing this municipality to apply for the **2012 Recycling Tonnage Grant** will memorialize the commitment of this municipality to recycling and to indicate the assent of the Mayor and Council of the Borough of Fair Lawn to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations; and

WHEREAS, such a resolution should designate the individual authorized to ensure the application is properly completed and timely filed.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Fair Lawn that the Borough of Fair Lawn hereby endorses the submission of the recycling tonnage grant application to the New Jersey

Department of Environmental Protection and designates Ron Lottermann to ensure that the application is properly filed; and

BE IT FURTHER RESOLVED that the monies received from the recycling tonnage grant be deposited in a dedicated recycling trust fund to be used solely for the purposes of recycling.

Aye Nay Abstain

Baratta
Peluso
Swain
Trawinski
Cosgrove

February 19, 2013

RESOLUTION NO. 94-2013

By
Seconded by

WHEREAS, as required by N.J.S.A. 40A:4-57, N.J.A.C. 5:30-14.5, and any other applicable requirement, I, Karen Palermo, Chief Financial Officer of the Borough of Fair Lawn has ascertained that the 2013 Municipal Budget to award a contract to Clinical Services Management, P.C. 6 Prospect Street, Suite 3B and 3C, Midland Park, NJ 07432 to furnish and provide Employee Assistance Program to the Borough as detailed in the agreement signed and approved by the Mayor and Council in an annual amount of \$ 10,800. Funds for certification are therefore being made available and certified against the appropriation for Other Insurance, Account Number Y-01-23-212-000-920.

WHEREAS, pursuant to N.J.A.C. 5:30-14.5(c)4, multi-year contracts entered into for periods in excess of twelve (12) months shall be certified and charged to the respective budgets in accordance with the time(s) at which the respective work or services are performed or liability for payment is otherwise incurred. Accordingly, commitments and payments required in excess of the initial twelve (12) months are contingent upon necessary funds being appropriated in future budgets by a subsequent Governing Body.

Contract Period: May 15, 2012 to May 14, 2015.

Total Amount of Contract: \$32,400

Amount Certified for Initial Seven (7) months: \$6,300

Outstanding Balance(s) to be certified for the remainder of the contract for the:

Second Year:	2013	\$ 10,800
Third Year:	2014	\$ 10,800
Fourth Year:	2015	\$ 4,500

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Lawn, hereby authorizes the contract for a Clinical Services Management, P.C. 6 Prospect Street, Suite 3B and 3C, Midland Park, NJ 07432 to furnish and provide Employee Assistance Program to the Borough in an amount not to exceed \$32,400.

Aye Nay Abstain

Baratta
Peluso
Swain
Trawinski
Cosgrove

February 19, 2013

RESOLUTION NO. 95-2013

By
Seconded by

WHEREAS, the Emergency Management Performance Grant program that provides resources to assist State and local governments to sustain and enhance all-hazards emergency management capabilities. States have the opportunity to use EMPG funds to further strengthen their ability to support emergency management activities while simultaneously addressing issues of national concern as identified in the National Priorities of the National Preparedness Guidelines; and

WHEREAS, the FEMA Grant would allow for Federal funding in the amount of \$10,000.00; and

WHEREAS, the FEMA Grant agreement would require a Borough match of \$10,000.00; and

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Fair Lawn, County of Bergen that it hereby authorized the appropriate Borough officials to submit the FEMA Grant Application to provide for funding of the Office of Emergency Management Coordinator's salary.

Aye Nay Abstain

Baratta
Peluso
Swain
Trawinski
Cosgrove

February 19, 2013

RESOLUTION NO. 96-2013

By
Seconded by

WHEREAS, the Borough Treasurer has certified that it has become necessary to expend for the purposes of certain accounts herein set forth, amounts in excess of sums respectively appropriated therefore; and

WHEREAS, there is an excess of appropriations in other accounts herein set forth, over and above the amounts deemed to be necessary to fulfill the purposes of such appropriations;

NOW, THEREFORE, BE IT RESOLVED, that the transfers between appropriations of the 2012 Current Budget Appropriation Reserves, as per the list attached, are hereby approved by the Mayor and Council.

TO:

Insurance - Workers Comp	OE	25,000
Insurance - Liability	OE	80,000
Finance - Professional Fees	OE	10,000
Salaries & Wage Adjustment	S&W	275,500
Snow Trust	OE	10,000

FROM:

Mayor and Council	S&W	1,500
Mayor and Council	OE	30,000
Administration	S&W	5,000
Administration	OE	8,000
Purchasing	S&W	1,500
Purchasing	OE	4,000
Finance	S&W	2,500
Planning Board	OE	20,000
Board of Adjustment	OE	15,000
Mun Clerk	S&W	2,500
Mun Clerk	OE	4,000
Collector	S&W	5,000
Engineering	S&W	3,000
Legal	OE	50,000
Labor Council	OE	30,000
Police	S&W	8,000
Dispatchers	S&W	23,000
Fire	OE	10,000
Fire Prevention	S&W	10,000
Mun Court	S&W	12,000
Road Repair	S&W	1,500
Electric Services	S&W	5,000
Maint Garage	OE	10,000
Ambulance	OE	10,000
Shade Tree	S&W	2,000
Sewer System	S&W	2,000
Building & Grounds	S&W	3,000
Dept of Health	S&W	2,000
Dept of Health	OE	5,000
Social Services	S&W	5,000
Parks & Playgrounds	S&W	5,000
Postage	OE	10,000
Social Security	OE	70,000
Garbage & Trash Removal	OE	25,000

Aye Nay Abstain

Baratta
Peluso
Swain
Trawinski
Cosgrove

February 19, 2013

RESOLUTION NO. 97-2013

By
Seconded by

WHEREAS, the Borough of Fair Lawn adopted by ordinance a program known as Length of Service Awards Program (LOSAP); and

WHEREAS, the Borough of Fair Lawn has not provided for an annual CPI (consumer price index) adjustment to the LOSAP awards program; and

WHEREAS, without this provision, the Borough must authorize increases to the LOSAP contribution by resolution; and

WHEREAS, the New Jersey Department of Community Affairs has advised through the Director of Local Government Services to grant an increase based on the annual CPI (consumer price index);

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Fair Lawn do hereby authorize an annual CPI (consumer price index) adjustment to the LOSAP contribution for 2012 through 2016.

Aye Nay Abstain

Baratta
Peluso
Swain
Trawinski
Cosgrove

February 19, 2013

RESOLUTION NO. 98-2013

By
Seconded by

WHEREAS, the Borough of Fair Lawn has a need to acquire certain legal services for certain specific projects as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, the Borough Manager has determined and certified in writing that the value of the acquisition will exceed \$17,500; and

WHEREAS, Richard A. Lustgarten, Esq., of Goodman & Lustgarten, having offices at 12-28 Burbank Street, Fair Lawn, New Jersey 07410, has agreed to continue to provide legal services for specific projects as listed on Schedule "A";

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE BOROUGH OF FAIR LAWN that Richard A. Lustgarten, Esq. of Goodman and Lustgarten of 12-28 Burbank Street, Fair Lawn, New Jersey 07410 be and he is hereby appointed to handle the aforesaid matters.

BE IT FURTHER RESOLVED that the above referenced services shall be paid to Richard A. Lustgarten, Esq., at the rate of \$100 per hour plus out-of-pocket disbursements.

BE IT FURTHER RESOLVED that Richard A. Lustgarten, Esq. of Goodman and Lustgarten has complied with the Business Entity Disclosure Certification for non-fair and open contracts required pursuant to N.J.S.A. 19:44A-20.8.

BE IT FURTHER RESOLVED that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution; and

BE IT FURTHER RESOLVED that a notice of this resolution shall be published in The Record as required by law.

BE IT FURTHER RESOLVED that the award of this non-fair and open contract is contingent upon the Chief Financial Officer filing a Certificate of Availability of Funds with the Municipal Clerk's office.

Cases to be handled by Richard A. Lustgarten, Esq.:

Superior Court:

Goldhagen
Khersonsky (settled in 2013)
Konecky (settled in 2013)
Modlin (settled in 2013)
Harraka (if required)

Worker's Compensation:

Roskowsky
Raymond

Liability:

IDA Contract Issue

Aye Nay Abstain

Baratta
Peluso
Swain
Trawinski
Cosgrove

February 19, 2013

RESOLUTION NO. 99-2013

By
Seconded by

WHEREAS, the Tax Collector has requested permission from the Borough Council to make refunds of tax/water overpayments in accordance with the directive of the Director of Local Government Services;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Lawn that the Tax Collector be and is hereby authorized to make refunds to the following as listed;

BE IT FURTHER RESOLVED that the Treasurer/Chief Financial Officer be and is hereby authorized to make payments upon receipt of proper vouchers.

<u>Block</u>	<u>Lot</u>	<u>Name</u>	<u>Amount</u>
3326	5	Yermolin, Dimitriy 22-24 Raphael Street Fair Lawn, New Jersey 07410 (Refund of overpayment of 2009 taxes as a result of a Tax Court Judgment)	\$671.74
1602	22	David B. Wolfe, Esq. for Rajan, Abel G. & Dhanya K. 293 Eisenhower Parkway Livingston, New Jersey 07039 (Refund of overpayment of 2010 taxes as a result of a Tax Court Judgment)	\$2,198.53
3410	5	Markovic, John & Colette P.O. Box 28 Hawthorne, New Jersey 07507	\$1,217.99
2804	10	Gurovich, Dmitry & Marianna 30-26 Heywood Avenue Fair Lawn, New Jersey 07410	\$248.83

<u>Block</u>	<u>Lot</u>	<u>Name</u>	<u>Amount</u>
2718	4	Zurkovsky, Henry & Adelina 19-03 Angelo Terrace Fair Lawn, New Jersey 07410 (Refund of overpayment of 2012 taxes as a result of a Bergen County Tax Board Judgment)	\$93.14
6601	1	Power Tech, Inc. 0-02 Fair Lawn Avenue Fair Lawn, New Jersey 07410 (Refund of overpayment of Sewer User charges from Passaic Valley Sewerage Commission)	\$448.69

Aye Nay Abstain

Baratta
Peluso
Swain
Trawinski
Cosgrove

February 19, 2013

RESOLUTION NO. 100-2013

By
Seconded by

WHEREAS, an error was found to have been made in the assessment of the property located at 16-23 Elliott Terrace, Block 4704, Lot 17, assessed to Andrew and Cynthia Kestenbaum, by Appraisal Systems, Inc. during 2012 Reassessment of the Borough of Fair Lawn; and

WHEREAS, upon further investigation by the Borough Tax Assessor, the error resulted in an incorrect assessment of \$303,700 and should have been \$286,900 had the mistake not been made; and

WHEREAS, the 2012 Final/2013 Preliminary Tax Bill was generated to reflect the higher assessment of \$303,700;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Fair Lawn, County of Bergen, State of New Jersey, hereby authorizes the Borough Tax Collector to refund the amount of \$494.26 for the overpayment in 2012 with no adjustment being required for the 1st and 2nd quarter payments in 2013.

Aye Nay Abstain

Baratta
Peluso
Swain
Trawinski
Cosgrove

February 19, 2013

RESOLUTION NO. 101-2013

By
Seconded by

WHEREAS, Sovran Acquisition Limited Partnership, property located at 440 Wagaraw Road, Block 6802, Lot 5, as of March 7, 2012 transferred ownership to the Borough of Fair Lawn, is now Tax Exempt Borough of Fair Lawn property; and

WHEREAS, the Borough of Fair Lawn Tax Collector's office billed the fourth quarter taxes for the year 2012 in the amount of \$122.96 and the first and second quarter taxes for the year 2013 in the amount of \$274.00;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Fair Lawn, County of Bergen, State of New Jersey, hereby authorizes the Borough Tax Collector to cancel year 2012 property taxes in the amount of \$122.96 and year 2013 in the amount of \$122.96.

Aye Nay Abstain

Baratta
Peluso
Swain
Trawinski
Cosgrove

February 19, 2013

RESOLUTION NO. 102-2013

By

Seconded by

WHEREAS, the Borough is a member of the Bergen County Municipal Joint Insurance Fund (hereinafter the FUND) for its property and casualty coverages; and

WHEREAS, in accordance with the by-laws and requirements of membership in the Fund, the Borough must appoint a Fund Commissioner and Alternate Fund Commissioner to represent the Borough in all pertinent Fund affairs; and

WHEREAS, by Resolution No. 37-2013 adopted on January 3, 2013 the Mayor and Council of the Borough of Fair Lawn, County of Bergen, State of New Jersey, appointed the Borough Manager, Thomas Metzler, as Fund Commissioner for Fund Year 2013 and/or until a successor has been qualified and appointed.

NOW, THEREFORE, BE IT that James VanKruiningen is hereby appointed to serve as the Alternate Fund Commissioner for Fund Year 2013 and/or until a successor has been qualified and appointed, and

BE IT FURTHER RESOLVED, a certified copy of this Resolution shall be forwarded to the Fund through the Borough's Risk Management Consultant, Professional Insurance Associates, 429 Hackensack Street, P.O. Box 818, Carlstadt, NJ 07072.

Aye Nay Abstain

Baratta
Peluso
Swain
Trawinski
Cosgrove

February 19, 2013

RESOLUTION NO. 103-2013

By

Seconded by

WHEREAS, the Borough of Fair Lawn received a \$30,000 grant award from the 2009 Bergen County Open Space Trust Fund Municipal Program to fund the Warren Point Skate Park; and

WHEREAS, the Borough of Fair Lawn submitted an application for the 2012 Municipal Program Park Improvement for \$50,000 for Walsh Park - Phase I which was to be used for the construction of a skate park; and

WHEREAS, the Mayor and Council has determined that it is in the best interest of the Borough to incorporate the skate park in the plan presented by the All Sports Association; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Lawn that the \$80,000 matching funds required from the Borough for said grants be used for the Berdan Grove Inclusionary Playground (Phase 1) instead of the skate park.