

**BOROUGH OF FANWOOD  
REGULAR MEETING OF THE MAYOR AND COUNCIL  
JANUARY 21, 2020**

The Regular Meeting of the Mayor and Council was held on January 21, 2020 at Borough Hall 75 N Martine Avenue, Fanwood NJ 07023 at 7:30pm

Mayor Colleen Mahr, presided and stated: I hereby announce and request that such be included in the minutes of the meeting that notice of the time, place and date of this meeting has been prominently posted on the bulletin board at Borough Hall, mailed to the Times, the Courier News and Star Ledger, filed with the Borough Clerk by January 10, 2020 and mailed to any person requesting same in accordance with the requirements of the Open Public Meetings Act.

**PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE**

The Pledge of Allegiance and moment of silence was let by Mayor Mahr

**ROLL CALL:**

Present: Jeffrey Banks, Anthony Carter, Francine Glaser, Erin McElroy Barker, Katherine Mitchell, Patricia Walsh

Absent: None

Also Present: Mayor Colleen Mahr, Colleen Huehn, Russell Huegel, Frederick Tomkins

**REVIEW AND APPROVAL OF MINUTES**

Carter/Mitchell moved to adopt the minutes presented. Motion carried

Regular Meeting: December 16, 2019

Downtown Redevelopment Meeting: December 16, 2019

Special Meeting: January 5, 2020

**APPOINTMENTS AND ANNOUNCEMENTS**

Mayor Mahr made the following committee appointments:

Ruth Eshak-Gillespie – Recreation Commission

Michael Laumbach – Environmental Commission

McElroy Barker/Banks moved the appointments. Motion carried  
Mayor Mahr introduced Ms. Megan Avallone, Health Officer for the Borough of Fanwood to review and discuss an ordinance recently introduced by the Board of Health relative to adding a new chapter to regulate the sale and manufacture of electronic smoking devices.

Ms. Avallone gave an overview of the statistics related to “vaping” and the health hazards related to the use of electronic smoking devices.

### **PRESENTATIONS AND COMMUNICATIONS AND REFERRAL**

1. Resident request for handicapped parking space at 232 N Martine Avenue  
Disposition: Police Department to respond

2. Youth Art Month Announcement  
Disposition: Note and File

### **STANDING COMMITTEE REPORTS**

A. Administration and Finance (Councilwoman McElroyBarker)  
McElroy Barker/Mitchell moved to accept the Tax Collectors Report for the Month of December 2019. Motion carried

B. Public Safety (Councilman Carter)  
Councilman Carter reported for the Police Department

C. Public Works (Councilwoman Mitchell)  
Councilwoman Mitchell reported for Public Works, Rescue Squad and Library. Ms. Mitchell announced that boxes will be placed in Borough Hall and the Municipal Library for the purpose of collecting plastic bags.

D. Land Use and Historic Preservation (Councilwoman Walsh)  
No Report  
Ms. Walsh did report on Fire Department activities for the month of December 2019.

E. Recreation and Community Services (Councilman Banks)  
Councilman Banks reported for Recreation.

F. Health and Senior Services (Councilwoman Glaser)  
Councilwoman Glaser reported on the Board of Health activities and Services and spoke about new ordinance relative to electronic smoking devices.

### **SPECIAL COMMITTEE REPORTS**

None

**PRESENTATION OF CLAIMS**

McElroy Barker/Carter moved the Payment of Claims for the month of January. Motion carried on the following roll call vote:

**BE TI RESOLVED** that claims in the amount of \$2,186,524.00 having been listed on the bill list and recoded in the files of the Borough Hall and approved by the Chairman of the appropriate Committee, be paid.

FOR: McElroy Barker, Carter, Banks, Glaser, Mitchell, Walsh

AGAINST: None

ABSTAIN: None

ABSENT: None

**AUDITING OF CLAIMS BY RESOLUTION**

None

**PRIVILEGE OF THE FLOOR BY THE PUBLIC (Agenda Items Only)**

Mitchell/McElroy Barker moved to open the meeting to the public. Motion carried.

No one spoke

Mitchell/McElroy Barker moved to close the meeting to the public. Motion carried.

**OLD BUSINESS**

None

**CONSENT AGENDA**

None

**NEW BUSINESS**

**A. A&F COMMITTEE (ERIN MC ELROY BARKER)**

**Resolution 20-01-33 – Transfer Resolution**

McElroy Barker/Mitchell moved to adopt Resolution 20-01-33. Motion carried on the following roll call vote:

**WHEREAS**, various 2019 bills have been presented for payment this year, which bills were not covered by order number and/or recorded at the time of transfers between the 2019 Budget Appropriation Reserve in the last two months of 2020; and

**WHEREAS**, N.J.S. 40A:4-59 provides that all unexpected balances carried forward after the close of the year are available, until lapsed at the close of the succeeding year, to meet specific claims, commitments or contracts incurred during the preceding fiscal year, and allow transfers to be made from unexpended balances which are expected to be insufficient during the first three months of the succeeding year;

**NOW, THEREFORE BE IT RESOLVED** by the Council of the Borough of Fanwood that the transfers in the amount of \$24,178.64 be made between the 2019 Budget Appropriation Reserve as follows:

<b>FROM:</b>		<b>TO:</b>	
Administration O&E	\$500.00	Administration S&W	\$500.00
Architect Services	\$3,000.00	Reserve Tax Appeals	\$2,460.00
Finance S&W	\$10,000.00	CIF	\$20,000.00
NJPEOSHA	\$900.00	Police S&W	\$1,218.64
Right to Know S&W	\$900.00		
Right to Know O&E	\$900.00		
Court O&E	\$4,760.00		
Downtown Revitalization	\$3,218.64		

FOR: McElroy Barker, Mitchell, Banks, Carter, Glaser, Walsh

AGAINST: None

ABSENT: None

ABSTAIN: None

**Resolution 20-01-34** – Termination pay Eleanor McGovern

McElroy Barker/Mitchell moved Resolution 20-01-34. Motion carried on the following roll call vote:

**WHEREAS**, Eleanor McGovern has served the residents of the Borough of Fanwood for 35 years and has decided to retire from service as of December 31, 2019. The following are some of the examples of her career and dedicated service to the Borough:

After settling in Fanwood in 1966 with her late husband, Jack, Eleanor worked her way through the ranks at the Fanwood Municipal Office, starting with the role of payroll clerk and ultimately being appointed to the joint position of Borough Clerk & Administrator; and

Eleanor was the hardest working woman in Fanwood; not only did she put in the expected 35-hour work week; but regularly came in early, stayed late, attended countless meetings and was often sighted at borough offices on Saturday and Sunday; and

This mother of five and grandmother has boundless energy for tasks relating to borough administration, keeping her finger on the pulse of the community and assisting in all public celebrations such as Memorial Day Services, 911 Remembrance, Arbor Day, Holiday Celebrations and much more; and

As Clerk, Eleanor has coordinated and attended over 800 meetings of the Mayor & Council and over 28 budget meetings. As the Borough Election Official she had overseen over 100 local elections; and

As Administrator Ms. McGovern was involved of all aspects of Borough activity, overseeing the management of Administration, Police, Fire and Public Works departments. She served on many borough committees, such as Shared Services and Community Assessment, a committee which was formed to address the needs of Borough residents; and

Outside of the office Eleanor has always been dedicated to her profession, as evidenced by her service as President of the Union County Clerk's Association. She demonstrated rare sensitivity and dedication to residents when she quietly made herself available to help residents through times of personal hardship. In addition to her commitment to members of this community, Eleanor is a volunteer for Contact We Care and reads for the blind; and

While Eleanor did not occupy a position that gained much appreciation or attention, her steady service over such a long period demonstrated a professional dedication and professionalism that are an example for us all; and

**WHEREAS**, the community of Fanwood held a retirement party to show its affection and admiration for the many years of dedicated service Eleanor gave to the Borough;

**WHEREAS**, the governing body wishes to memorialize, commemorate, acknowledge and celebrate the retirement of Eleanor by the foregoing description so that it can forever be part of the Borough's official archives;

**NOW THEREFORE BE IT RESOLVED**, that in consideration for her many years of service, the governing body presents to Eleanor McGovern her longevity and unused time pursuant to New Jersey law and the laws and policies of the Borough, the amount of **\$46,019.42**.

**BE IT FURTHER RESOLVED**, that the governing body authorizes the Borough's Acting Administrator to enter into a memorandum setting forth the terms of Eleanor McGovern's retirement.

FOR: McElroy Baker, Mitchell, Banks, Carter, Glaser, Walsh

AGAINST: None

ABSENT: None

ABSTAIN: None

**Resolution 20-01-35** Tax Appeal Refund – 2 South Avenue

McElroy Barker/Walsh moved resolution 20-01-35. Motion carried on the following roll call vote:

**WHEREAS**, a State Tax Court Judgment was entered to reduce the assessed value on the following

Sandberg Enterprises  
2 South Avenue  
Block 56 Lot 1

**2019 Original Assessment**

393,800

**Judgment**

378,000

**NOW, THEREFORE, BE IT RESOLVED** the Mayor and Council of the Borough of Fanwood hereby authorizes the Tax Collector to refund \$2,314.70 the total amount overpaid in taxes in 2019 due to the successful appeal.

FOR: McElroy Barker, Walsh, Banks, Carter, Glaser, Mitchell

AGAINST: None  
ABSENT: None  
ABSTAIN: None

**Resolution 20-01-40 – 2019 Contract Amendment – Russell Huegel, Borough Attorney**

**WHEREAS**, Russell J. Huegel, Esq. was appointed the Borough Attorney for the year commencing January 1, 2019; and

**WHEREAS**, the 2019 invoices from Russell J. Huegel, Esq. exceed the authorized amount in the contract by \$565.00 for the year 2019;

**WHEREAS**, the governing body wishes to remain current with its obligations;

**NOW THEREFORE BE IT RESOLVED**, that the contract of Russell J. Huegel, Esq. is hereby amended by the governing body to accommodate the amount of \$565.00

Attached hereto is the certification of the Chief Financial Officer of the Borough of Fanwood which states that there are legally appointed funds to cover the costs of amended contract.

FOR: McElroy Barker, Walsh, Banks, Carter, Glaser, Mitchell  
AGAINST: None  
ABSENT: None  
ABSTAIN: None

**Resolution 20-01-41 – Supporting OPRA Study and Reform**

McElroy Barker/Walsh moved resolution 20-01-41. Motion carried.

**WHEREAS**, the Borough of Fanwood strongly believes in and supports open transparent government, and that citizens and residents have the right to be informed about the workings of government in order to best participate in a democracy; and

**WHEREAS**, on January 8, 2002 then Acting Governor DiFrancesco signed into law the Open Public Records Act (OPRA) which mandates that government records shall be available, with limited exceptions, for public access and simplifying the procedures for requesting such specific records; and

**WHEREAS**, the intent of the law was to provide the public with easy access to government records with an uncomplicated process for obtaining the records and eliminating bureaucratic red tape; and

**WHEREAS**, over the course of 18 years OPRA has been a positive light, but it has also been fraught with abuse and misuse, and has become an unanticipated financial cost to the taxpayers of New Jersey; and

**WHEREAS**, the Borough of Fanwood has labored under a well-intended law that has spiraled out of control, due to the volume and nature of requests, the cost to taxpayers in responding to the requests, and the potential liability in having to pay disproportionate prevailing party attorney's fees should the requests turn into litigated matters, as well as the liability in determining which documents shall be released, with or without redaction, while attempting to maintain individual privacy; and

**WHEREAS**, it is not only the volume of OPRA requests that challenge our resources, but it is also the cost associated with reviewing, retrieving, and processing the OPRA request(s) by public entity personnel and counsel and possibly defending our action(s) before the Government Records Council or in Superior Court; and

**WHEREAS**, the Borough of Fanwood received and responded to 428 OPRA requests in 2018, 482 OPRA requests in 2019, 31 OPRA requests to date in 2020 and

**WHEREAS**, the Borough of Fanwood municipal staff has spent approximately 930 hours responding to OPRA requests received in 2020 to date, and a yearly average of approximately 13,650 hours in 2018 and 2019 and

**WHEREAS**, with limited exceptions OPRA has not been amended to address the clear and apparent advancement in technology that has changed the way government records are created, stored, and/or transmitted; the various interpretive decisions; privacy concerns; abuse for commercial gain; and/or the ever increasing cost to taxpayers; and

**WHEREAS**, as the current law approaches its twentieth (20<sup>th</sup>) anniversary it has outgrown its original intended use and has become ripe for comprehensive review and reform;

**NOW, THEREFORE BE IT RESOLVED** that the governing body of Fanwood appeals to the legislature to form a Commission comprised of Mayors, Municipal Clerks, Municipal Managers, Attorneys, Police Chiefs, open government advocates, privacy experts, members of the media, citizens and other appropriate stakeholders, to review and examine the effects of OPRA on local government and the needs to be fulfilled by the law, and use the Commission's findings to perform a comprehensive reform of OPRA; and

**BE IT FURTHER RESOLVED**, that copies of this resolution be forwarded to Assemblyman James Kennedy, Assemblywoman Linda Carter, Senator Nicholas Scutari, Assembly Speaker Craig Coughlin, Senate President Stephen Sweeney, Senator Weinberg, Executive Director of the Government Records Council, the Governor of the State of New Jersey, the Municipal Clerks Association of New Jersey and New Jersey State League of Municipalities.

**Ordinance 20-01-S**

McElroy Barker/Mitchell moved to adopt Ordinance 20-01-S on first reading. Motion carried. Second reading and public hearing will be held on February 18, 2020.

**ORDINANCE 20-01-S**

**BOND ORDINANCE AMENDING BOND ORDINANCE NUMBER 17-12-S FINALLY ADOPTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF FANWOOD NEW JERSEY ON AUGUST 7, 2017**

**Ordinance 20-02-R**

McElroy Barker/Mitchell moved to adopt Ordinance 20-02-R on first reading. Motion carried. Second reading and public hearing will be held on February 18, 2020.

**ODINANCE 20-02-R**

**AN ORDINANCE OF THE BOROUGH OF FANWOOD, COUNTY OF UNION, AND STATE OF NEW JERSEY ESTABLISHING WHEN DIRECT DEPOSIT IS REQUIRED**

**Ordinance 20-04-S**

McElroy Barker/Mitchell moved to adopt Ordinance 20-04-S on first reading. Motion carried. Second reading and public hearing will be held on February 18, 2020

**ORDINANCE 20-04-S**

**AN ORDINANCE AUTHORIZING SPECIAL EMERGENCY APPROPRIATION  
PURSUANT TO N.J.S.A. 40A:4-53 FOR SERVERANCE LIABILITIES RESULTING  
FROM ACCRUED LEAE IN CONNECTION WITH THE RETIREMENT OF  
EMPLOYEES**

**B. PUBLIC SAFETY (ANTHONY CARTER)**

**Resolution 20-01-36**

Carter/McElroy Barker moved to adopt resolution 20-01-36. Motion carried.

**BE IT RESOLVED**, by the Mayor and Council of the Borough of Fanwood that the below “Fanwood Emergency Management Council Ledger” be adopted for year 2020:

**FANWOOD EMERGENCY MANAGEMENT COUNCIL LEDGER  
DATE OF APPOINTMENT BY MAYOR JANUARY 21, 2020**

	<b>WORK GROUP</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
John Piccola	EM Coordinator		x			
Clint Dickson					x	
Colleen Mahr	Mayor		x			
Anthony Carter	Police Commissioner		x			
Richard Trigo	Police Chief		x			
Richard Trigo	Deputy EM Coordinator			x		
Eugene Chin	Deputy EM Coordinator			x		
David Clausen	Business					x
Clinton Dickson	Director of Public Works			x		
John Piccola	Fire Chief			x		
Christian Roman	Rescue Squad Captain			x		

**GROUP REPRESENTATION KEY**

1. Elected Officials (Mayor/Freeholders)

2. Police, Fire, Emergency Management, First Aid, Health, Environmental, Hospital and Public Works
3. Broadcast and Print Media
4. Community Groups (Red Cross etc)
5. Owner/Operators of Facilities subject SARA TITLE III

**PREPARED BY:** John Piccola  
Emergency Management Coordinator

**Resolution 20-01-37**

Carter/McElroy Barker moved to adopt Resolution 20-01-37. The motion carried on the following roll call vote.

**WHEREAS**, Timothy Green has completed the necessary requirements for an in grade promotion to Probationary A, and

**WHEREAS**, the Chief of Police certifies that the prerequisites for in grade promotion have been accomplished and has recommended that Timothy Green be promoted to Probationary A on December 13, 2019

**NOW THEREFORE BE IT RESOLVED** the Mayor and Council do hereby authorize Timothy Green's promotion to Probationary A effective December 13, 2019.

**BE IT FURTHER RESOLVED** that a copy of this resolution be forwarded to the Borough Treasurer to make the necessary salary adjustments.

FOR: Carter, McElroy Barker, Banks, Glaser, Mitchell, Walsh

AGAINST: None

ABSENT: None

ABSTAIN: None

**Resolution 20-01-38**

Carter/Mitchell moved to adopt resolution 20-01-38. Motion carried on following roll call vote:

**WHEREAS**, Daniel Piccola has completed the necessary requirements for an in grade promotion to Patrolman C, and

**WHEREAS**, the Chief of Police certifies that the prerequisites for in grade promotion have been accomplished and has recommended that Daniel Piccola be promoted to Patrolman C on January 1, 2020.

**NOW THEREFORE BE IT RESOLVED** the Mayor and Council do hereby authorize Daniel Piccola's promotion to Patrolman C on January 1, 2020

**BE IT FURTHER RESOLVED** that a copy of this resolution be forwarded to the Borough Treasurer to make the necessary salary adjustments.

FOR: Carter, Mitchell, Banks, Glaser, Mitchell, Walsh

AGAINST: None

ABSENT: None

ABSTAIN: None

**Resolution 20-01-42**

Carter/Mitchell moved to adopt resolution 20-01-42. The motion carried.

**WHEREAS**, by New Jersey law, specifically *N.J.S.A. 52:27D-126* every municipality in the State of New Jersey is required to have an individual serve as a Fire Sub Code Official to insure the safety and well being of its residents;

**WHEREAS**, the Borough of Fanwood's ("Borough") Fire Sub Code Official will be unavailable for a lengthy and unspecified period of time;

**WHEREAS**, the Borough's Construction Code Official has identified and recommended a qualified individual with the appropriate license to serve in this important capacity;

**WHEREAS**, the Mayor and Council have determined to appoint an Acting Fire Sub Code Official for this purpose.

**NOW, THEREFORE BE IT RESOLVED**, by the Mayor & Council of the Borough of Fanwood, have determined that Joe Coughli is hereby appointed Acting Fire Sub Code Official for the Borough.

**Ordinance 20-03-R**

Carter/Banks moved to adopt Ordinance 20-03-R on first reading. Motion carried. Second reading and public hearing will be held on February 18, 2020

**ORDINANCE NO. 20-03-R**

**AN ORDINANCE OF THE BOROUGH OF FANWOOD COUTNY OF UNION AND  
STATE OF NEW JEREY ESTABLISHING PARKING PERMIT REFUND FEE**

**C. PUBLIC WORKS (KATHERINE MITCHELL)**

**Resolution 20-01-39**

Mitchell/Walsh moved to adopt resolution 20-01-39. Motion carried on the following roll call vote.

**BE IT RESOLVED** the Mayor and Clerk are hereby authorized to sign a contract with Valley Health System/Workplace Connection, 1400 MacArthur Blvd. Mahwah, NJ 07430 for the CDL Random Alcohol and Drug Testing program in the amount of \$68.00 per CDL license holder. Contract term January 1, 2020 to December 31, 2020

FOR: Mitchell, Walsh, Banks, Carter, Glaser, McElroy Barker

AGAINST: None

ABSENT: None

ABSTAIN: None

**D. RECREATION AND COMMUNITY SERVICES (JEFFREY BANKS)**

**Resolution 20-01-44 – TABLED**

**Resolution 20-01-45**

Banks/Walsh moved to adopt Resolution 20-01-45. The motion carried on the following roll call vote:

**WHEREAS**, the Borough of Fanwood is responsible for the Fanwood Memorial Library and the roof of the Library building is in need of emergency repair, specifically, the chimney, gutters and other related aspects of the building, in order to prevent leaking and deterioration of its structure;

**WHEREAS**, New Jersey law under *N.J.S.A.* 40A 4-48 permits local governments to make emergency appropriations to address such situations that arise unexpectedly;

**WHEREAS**, the governing body has received an estimate from a local roofing company in the amount of \$1,100.00 to make the necessary repairs;

**BE IT RESOLVED**, that the governing body of the Borough of Fanwood hereby declares an emergency with regard to the Library's roof and appropriates the funds to make the necessary repairs to Deegan Roofing, 61 Terrill Rd., Plainfield, NJ 07062.

in accordance with the terms of this Resolution and the attached Notice approved by the Borough Attorney.

Attached hereto is the certification of the Chief Financial Officer of the Borough of Fanwood which states that there are legally appointed funds to cover the costs of this contract.

FOR: Banks, Walsh, Carter, Glaser, McElroy Barker, Mitchell

AGAINST: None

ABSENT: None

ABSTAIN: None

**E. HEALTH AND SENIOR SERVICES (FRANCINE GLASER)**

**Resolution 20-01-43**

Carter/Glaser moved to adopt Resolution 20-01-43. The motion carried on the following roll call vote:

**WHEREAS**, the Mayor and Council have a need to acquire a service to gather lost or abandoned domestic animals and remove other wildlife for the Borough of Fanwood in for the year 2020 ("Service") by means of a fair and open contract procedure pursuant to the provisions of *N.J.S.A.* 19:44A-20.5, and

**WHEREAS**, the Borough Clerk has determined that the value of the Services may exceed \$17,500.00 and

**WHEREAS**, Animal Control Services, LLC, 2 Marshall Drive, Flemington, NJ submitted a response to the RFQ issued by the Mayor and Council for this Service, and

**NOW, THEREFORE BE IT RESOLVED**, Animal Control Services, LLC, 2 Marshall Drive, Flemington, NJ is hereby appointed by the Mayor & Council of the Borough of Fanwood as the Animal Control service for the Borough for the year 2020, and

**BE IT FURTHER RESOLVED**, that a copy of the attached notice be printed and advertised once consistent with the publication requirements of the law within 10 days of this date, and

**BE IT FURTHER RESOLVED**, that the Mayor and Borough Clerk be, and hereby are authorized to enter into a contract with Animal Control Services, LLC, 2 Marshall Drive, Flemington, NJ in accordance with the terms of this Resolution and the attached Notice approved by the Borough Attorney.

Attached hereto is the certification of the Chief Financial Officer of the Borough of Fanwood which states that there are legally appointed funds to cover the costs of this contract.

FOR: Carter, Glaser, Banks, McElroy Barker, Mitchell, Walsh

AGAINST: None

ABSENT: None

ABSTAIN: None

### **PRIVILEGE OF THE FLOOR BY THE PUBLIC**

McElroy Barker/Mitchell moved to open the floor to the public. The motion carried.

Michael Lewis – 41 Beech Avenue – Wanted to follow up on previous discussions regarding density related to new construction in the downtown corridor. Mayor Mahr responded Planning Board looking at issues.

Gary Morris – 405 South Avenue – Complaint about the early hour of trash pick up at the Fanwood Crossing Building. Claims haulers are coming at 4:30 AM.

McElroy Barker/Banks moved to close the meeting to the public. The motion carried.

### **MAYOR AND COUNCIL COMMENTS**

Erin McElroy Barker – Looking forward to working with members of the Truth & Racial Healing committee.

Katherine Mitchell – Happy New Year to all

Anthony Carter – Happy Birthday to Mom – January 19<sup>th</sup>

Patricia Walsh – None

Jeffrey Banks – Have a happy week – Looking forward to April 18<sup>th</sup> – Rockin for Autism event

Francine Glaser – Happy to be serving on Council. Happy Birthday to Dad and Husband.

Mayor Colleen Mahr – Looking forward to a great year ahead. Follow Fanwood on their website, twitter, facebook and TV 35.

**ADJOURNMENT**

Carter/Mitchell moved the meeting be adjourned. The motion carried.

The meeting adjourned at 9:30PM

Respectfully submitted,

*Colleen M. Huehn*

Colleen M. Huehn  
Acting Borough Clerk