

Livingston, New Jersey
February 6, 2017
Meeting #2

The Regular meeting of the Township Council of the Township of Livingston was held on the above date at 8:10 p.m. at Town Hall, 357 Livingston Avenue, Livingston, New Jersey. The Mayor stated that all the requirements of the "Open Public Meetings Act" had been met. "Annual Notice" was faxed to the West Essex Tribune and the Star Ledger on January 4, 2017.

Present: Mayor Klein; Councilmembers Anthony, Fernandez, Meinhardt, Silverman; Acting Township Manager Jones; Township Attorney Weiner; Township Clerk Turtletaub

Silent Meditation and Pledge of Allegiance

Mayor Klein asked everyone to stand for a moment of silent meditation, followed by the Pledge of Allegiance.

Presentations

a) Livingston Library—Mayor Klein read and presented a Proclamation to Library Director Amy Babcock-Landry and members of the Library Board of Trustees in recognition of the Library's "Turning the Page on the Next 100 Years".

b) Livingston Chinese Culture Day—Mayor Klein read and presented a Proclamation in honor of Livingston Chinese Culture Day.

Essex County Update/Questions

Public Comments on Agenda Items

Consent Agenda R-17-68 Approving Consent Agenda (Includes All Items Marked (*))

WHEREAS, the Township Council of the Township of Livingston has determined that certain items on its agenda which have the unanimous approval of all Councilmembers and do not require comment shall be termed the "Consent Agenda"; and

WHEREAS, the Township Council has determined that to increase its efficiency, the Consent Agenda shall be adopted with one resolution;

NOW, THEREFORE, BE IT RESOLVED by the Township Council that the items on the regular agenda for February 6, 2017, attached hereto, which are preceded by an "*" are the Consent Agenda and are hereby accepted, approved and/or adopted.

On motion duly made and seconded, and on roll call vote, all members present voted YES.

*Approval of Minutes

a) January 23, 2017

*Approval of Licenses

Final Hearing Ordinances

a) Ord. 1-2017 Bond Ordinance Providing An Appropriation of \$6,000,000 For Improvements to Sewer Utility System and Authorizing the Issuance of \$6,000,000 Bonds or Notes of the Township for Financing Part of the Appropriation

BOND ORDINANCE PROVIDING AN APPROPRIATION OF \$6,000,000 FOR IMPROVEMENTS TO SEWER UTILITY SYSTEM IN AND BY THE TOWNSHIP OF LIVINGSTON, IN THE COUNTY OF ESSEX, NEW JERSEY AND AUTHORIZING THE ISSUANCE OF \$6,000,000 BONDS OR NOTES OF THE TOWNSHIP FOR FINANCING PART OF THE APPROPRIATION was read by title. There being no speakers, on motion of Councilmember Fernandez, seconded by Councilmember Meinhardt, and on voice vote, the hearing was closed. On motion of Councilmember Fernandez, seconded by Councilmember Meinhardt, and on roll call vote, all members present voted YES. The Ordinance was ordered advertised according to law.

b) Ord. 2-2017 Bond Ordinance Providing An Appropriation of \$27,000 for Improvements to Swimming Pool and Authorizing Issuance of \$27,000 Bonds or Notes of the Township for Financing Part of the Appropriation

BOND ORDINANCE PROVIDING AN APPROPRIATION OF \$27,000 FOR IMPROVEMENTS TO SWIMMING POOL IN AND BY THE TOWNSHIP OF LIVINGSTON, IN THE COUNTY OF ESSEX, NEW JERSEY AND AUTHORIZING THE ISSUANCE OF \$27,000 BONDS OR NOTES OF THE TOWNSHIP FOR FINANCING PART OF THE APPROPRIATION was read by title. There being no speakers, on motion duly made and seconded, and on voice vote, the hearing was closed. On motion of duly made and seconded, and on roll call vote, all members present voted YES. The Ordinance was ordered advertised according to law.

c) Ord. 3-2017 Bond Ordinance Providing an Appropriation of \$2,620,000 for Improvements to Water Utility System and Authorizing Issuance of \$2,620,000 Bonds or Notes of the Township for Financing Part of the Appropriation

BOND ORDINANCE PROVIDING AN APPROPRIATION OF \$2,620,000 FOR IMPROVEMENTS TO WATER UTILITY SYSTEM IN AND BY THE TOWNSHIP OF LIVINGSTON, IN THE COUNTY OF ESSEX, NEW JERSEY AND AUTHORIZING THE ISSUANCE OF \$2,620,000 BONDS OR NOTES OF THE TOWNSHIP FOR FINANCING PART OF THE APPROPRIATION was read by title. There being no speakers, on motion of Councilmember Fernandez, seconded by Councilmember Anthony, and on voice vote, the hearing was closed. On motion of Councilmember Fernandez, seconded by Councilmember Anthony, and on roll call vote, all members present voted YES. The Ordinance was ordered advertised according to law.

d) Ord. 4-2017 Bond Ordinance Providing an Appropriation of \$4,819,000 for Various Improvements in and By the Township of Livingston Authorizing the Issuance of \$4,589,000 Bonds or Notes of the Township for Financing Part of the Appropriation
BOND ORDINANCE PROVIDING AN APPROPRIATION OF \$4,819,000 FOR VARIOUS IMPROVEMENTS IN AND BY THE TOWNSHIP OF LIVINGSTON, IN THE COUNTY OF ESSEX, NEW JERSEY AND AUTHORIZING THE ISSUANCE OF \$4,589,000 BONDS OR NOTES OF THE TOWNSHIP FOR FINANCING PART OF THE APPROPRIATION was read by title. There being no speakers, on motion of Councilmember Fernandez, seconded by Councilmember Silverman, and on voice vote, the hearing was closed. On motion of Deputy Mayor Fernandez, seconded by Councilmember Silverman, and on roll call vote, all members present voted YES. The Ordinance was ordered advertised according to law.

e) Ord. 5-2017 Authorizing Private Sale of Township Owned Real Property to Habitat for Humanity, Inc., Grand Terrace (Block 3894, Lot 3) Burnet Street (Block 4803, Lot 12)
ORDINANCE OF THE TOWNSHIP OF LIVINGSTON AUTHORIZING THE PRIVATE SALE OF TOWNSHIP OWNED REAL PROPERTY TO HABITAT FOR HUMANITY, INC., GRAND TERRACE (BLOCK 3804, LOT 3) BURNET STREET (BLOCK 4803, LOT 12) was read by title.

Joe Lombardo, 8 Charles St., displayed nine pictures of the area and described drainage problems on his property. He presented a written request, dated January 22, 2017, that Township Engineering Department survey the property and provide a report delineating tangible actions the Township will take to mitigate the potential of flooding. Township Attorney Weiner stated that the Township experts were not present this evening, but had previously explained that they were convinced the problem will get better, that the Township was aware of the issues and that the Township's experts believed the situation would improve.

Alfred Freilich, 7 Grand Terrace, said he supported the request for an Engineer's report. Township Attorney Weiner stated that Mr. Lombardi and attendees of the informational meeting held last Thursday, that the Habitat for Humanity was not going to affect their property, and that the Township Engineer had explained that their property would not be adversely affected.

Mayor Klein explained that the Township experts had told the residents that there would be no adverse effect.

Bernard Searle, 14 Washington Court, asked where the structure would be located and how many trees would be impacted.

The hearing was continued to the Regular Meeting of March 6, 2017 at which time the Township Engineer would be present to answer questions and address concerns.

f) Ord. 6-2017 Amending and Supplementing Ch. 203 Nuisance Regulating the Planting, Growing, Maintenance and/or Cultivating of Bamboo
ORDINANCE OF THE TOWNSHIP OF LIVINGSTON AMENDING AND SUPPLEMENTING CHAPTER 203 NUISANCE REGULATING THE PLANTING, GROWING, MAINTENANCE AND/OR CULTIVATING OF BAMBOO was read by title.

Margaret Rieger, 190 E. Northfield Rd., stated she had brought the bamboo issue to the Town Council in 2006 and 2007. She read a 2011 letter she had written to the Council urging an Ordinance against bamboo.

Katherine Politi, 40 Washington Court, spoke in support of the Ordinance and distributed supporting photographs.

Karen Scott, 4 Wellington Rd., stressed the invasive nature of the bamboo, encroaching seven to ten feet onto her property.

Kevin Lastorino, 10 Putnam Drive, stated he had planted bamboo lawfully on his property, but was now facing considerable expense by what he described as a "retroactive ordinance" giving a private right of action to his neighbors.

Paul Carillo, 30 Fordham Rd., asked for names of contractors who can help those addressing bamboo concerns. He asked why these affected homeowners were not "grandfathered in". He stated that he needed the names of two or three suppliers, but that "nobody wants to get involved". He stated that "my neighbor and I both want to get rid of (the bamboo)," and asked the Township to "give us a roadmap to get rid of this stuff."

Walter LeVine, 345 Walnut Street, Chair of the Livingston Environmental Commission, gave a history of the development of the proposed Ordinance, and differentiated the types of bamboo ("running" versus "static"). He explained that the existing bamboo would be grandfathered, but that the homeowner is responsible to see it doesn't spread. Mr. LeVine stated the Ordinance may need to be amended to provide that if a resident can't maintain the bamboo, the resident may need to barrier it. The hearing was continued until the Town Council's Regular Meeting of March 20.

Proposed Ordinances

a) Ord.7-2017 Banning the Sale of Certain Dogs and Cats from Pet Shops

ORDINANCE OF THE TOWNSHIP OF LIVINGSTON BANNING THE SALE OF DOGS AND CATS FROM PET SHOPS was read by title and introduced on first reading. On motion duly made and seconded, and on roll call vote, all members present voted YES. It was ordered advertised according to law, to come up for public hearing second reading and final consideration at a Regular Meeting of the Township Council on Monday, March 6, 2017.

Resolutions

a) R-17-69 Purchase New Fire Engine/Pumper

WHEREAS, the Township of Livingston ("Township") has the need to purchase a new fire engine; and

WHEREAS, P.L. 2011, c. 139 authorizes a municipality to use a nationally-recognized and accepted cooperative purchasing agreement that has been developed utilizing a competitive bidding process by another contracting unit with the State of New Jersey or within any other State; and

WHEREAS, the Township of Livingston entered into an interlocal contract with the Houston-Galveston Area Council (H-GAC) for cooperative purchasing; and

WHEREAS, the Township of Livingston requested pricing from Spartan Motors USA, Inc. through the H-GAC for a new fire engine; and

WHEREAS, Spartan Motors USA, Inc.'s proposal meets all of the Township's requirements and complies with the requirements of N.J.S.A. 10:5-31 et seq. and N.J.S.A. 17:27 et seq.; and

WHEREAS, the Fire Chief has evaluated the proposal for qualifications, experience, and cost reasonableness, and recommends the award of a contract to Spartan Motors USA, Inc.; and

WHEREAS, the Acting Township Manager is recommending the award of a contract to Spartan Motors USA, Inc. in an amount not to exceed \$475,427.00; and

WHEREAS, the Chief Financial Officer has certified that sufficient funds are available.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Livingston, in the County of Essex, State of New Jersey, that it authorizes the Acting Township Manager to enter into a contract with Spartan Motors USA, Inc. in an amount not to exceed \$475,427.00.

b) R-17-70 Authorizing Approval of Change Order 1 and Final with S Brothers, Inc.

WHEREAS, the Township Council of the Township of Livingston entered into a contract ("Contract C1600004") with S. Brothers, Inc. for the Milling and Paving of Belvedere, Canoe Brook, Hastings, North Baums, Stratford and Westgate (from Wynnewood to Cul-De-Sac); and

WHEREAS, the initial Contract was not to exceed One Million, Six Hundred and One Thousand, Three Hundred Sixty Nine Dollars and Eighty Cents (\$1,601,369.80);

WHEREAS, due to field conditions which resulted in changed quantities, a Change Order has been requested for the following:

A.	SUPPLEMENTAL	
	Milling, Less Than 3"	\$2,966.00
	Milling, More Than 3", Less Than 6"	\$5,377.60
	Hot Mix Asphalt Surface Course Mix I-5	\$30,981.58
	8" PVC Pipe, Sch. 40	\$4,239.00
	Reconstructed Inlet, Type B , Using New Casting	\$4,000.00
	Concrete Sidewalk, 4" Thick	\$100.10
	Hot Mix Asphalt Sidewalk, 4" Thick (As Needed for Restoration)	\$942.24
	Detectable Warning Surface	\$210.00
	Total	\$48,816.52
B.	REDUCTIONS	

Fuel Price Adjustment	-\$2,557.25
Asphalt Price Adjustment	-\$31,686.84
Excavation, Unclassified	-\$25.50
Excavation , Test Pits (If and Where Directed)	-\$5.00
Dense Graded Aggregate Base Course, Variable Thickness	-\$12.80
Hot Mix Asphalt Base Course Mix I-2	-\$126.38
Roof Leader and Drain Connection to 8" PVC Pipe	-\$16.00
Under Drain	-\$2,750.00
12 " Reinforced Concrete Pipe, Class IV	-\$900.00
Bicycle Safety Grate	-\$1,500.00
Curb Piece, Type N-Eco	-\$1,800.00
Reconstructed Manhole, Using New Casting	-\$500.00
Yard Drain (If and Where Directed)	-\$50.00
Hot Mix Asphalt Driveway, 2" Thick	-\$9.48
Driveway Restoration, Concrete Block	-\$5.50
Granite Block Curb	-\$118,846.00
Concrete Curb (Full Faced and Depressed at ADA Curb Ramps)	-\$2,496.00
Steel Root Plate	-\$300.00
Traffic Stripes, Long Life, Thermoplastic, 6" Width	-\$1,299.00
Traffic Stripes, Long Life, Thermoplastic, 12" Width	-\$25.00
Traffic Markings, Thermoplastic	-\$2,400.00
Sign	-\$1,200.00
Topsiiling, 4" Thick	-\$77.58
Fertilizing and Seeding, Type "1"	-\$77.58
Total	-\$168,665.91

WHEREAS, the total change order decreased the contract amount by 7.48% or \$119,849.39 making the new contract sum \$1,481,520.41; and

WHEREAS, this Change Order has been recommended by the Township Engineer and Acting Township Manager; and

NOW, THEREFORE, BE IT RESOLVED, the Township Council of the Township of Livingston, Essex County, approves the execution and payment of Change Order Number 1 and Final to the Contract with S. Brothers Inc. for the Milling and Paving of Belvedere, Canoe Brook, Hastings, North Baums, Stratford, and Westgate (from Wynnewood to Cul-De-Sac); that this resolution is without prejudice to any rights of the Township of Livingston, that the Township has, had, or may have to charge back or to seek cost of said change orders from third-party and the Township hereby reserves all of its rights hereto.

BE IT FURTHER RESOLVED that a copy of this resolution shall be published in the West Essex Tribune as required by law.

c) R-17-71 Introducing Business Improvement District (BID) Budget

BE IT RESOLVED by the Township Council of the Township of Livingston, in the County of Essex and State of New Jersey, that the attached annual budget submitted by the Livingston Community Partnership Corporation, in the amount of \$380,269 is hereby approved.

BE IT FURTHER RESOLVED that:

1. This approval shall constitute a first reading.
2. The budget be published in the West Essex Tribune in the issue of February 9, 2017.
3. A public hearing be scheduled for March 20, 2017 at Town Hall, 357 South Livingston Avenue, Livingston, New Jersey at 8:00 p.m.

d) R-17-72 Appointing Certifying Officer for Division of Pensions and Benefits

WHEREAS, the State of New Jersey, Department of Treasury, Division of Pensions and Benefits requires all municipalities to designate a Certifying Officer and Supervising Certifying Officer to certify the accuracy and validity of all documents and forms sent to the Division of Pensions and Benefits;

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Livingston, in the County of Essex, State of New Jersey as follows, effectively immediately:

1. The Certifying Officer for the Township of Livingston Public Employees Retirement System and Police and Fire Retirement System shall be Nada Akmal, Finance Specialist;
2. The Supervising Certifying Officer for the Township of Livingston Public Employees Retirement System and Police and Fire Retirement System shall be Kimberly Kientz, Assistant Chief Financial Officer;
3. A certified copy of this resolution shall be filed with the State of New Jersey, Department of Treasury, Division of Pensions and Benefits.

e) R-17-73 Habitat for Humanity

WHEREAS, the Township of Livingston has an obligation to provide low and moderate income housing; and

WHEREAS, pursuant to N.J.A.C. 5:97-65 et seq., the Township of Livingston may elect to provide affordable housing through a market to affordability program; and

WHEREAS, the Township of Livingston has chosen to satisfy a portion of its affordable housing obligation by entering into an agreement with Habitat for Humanity, Newark for the purchase and development of two (2) single family homes on two (2) vacant parcels owned by the Township; and

WHEREAS, the Township will include the two (2) Habitat homes within its affordable housing plan as permitted by COAH's rules as a compliance mechanism for meeting a portion of the Township's fair housing obligation as determined by COAH.

NOW, THEREFORE, BE IT RESOLVED that the Township of Livingston agrees to enter into an agreement between the Township and the Habitat for Humanity, Newark, Inc. subject to certain conditions and terms including grants from the Township of Livingston's Affordable Housing Trust Fund: \$360,000.00 for the purchase of the properties, and \$200,000.00 for development of the homes, and approximately \$32,490.00 (the exact amount to be calculated at time of construction) for a payment to the Trees Trust Fund in satisfaction of the requirements of Chapter 306 Trees of the Code of the Township of Livingston, in a form of agreement acceptable to the Township Attorney and authorizes the Mayor to execute such agreement on behalf of the Township of Livingston.

f) R-17-74 Authorizing Entering Into Agreement with Millburn for Delivery of Municipal Services and Public Utilities by Livingston Via Wilshire Drive

WHEREAS, Millburn and Livingston are contiguous municipalities located in the County of Essex, State of New Jersey; and

WHEREAS, Wilshire Drive, LLC, obtained preliminary and final major subdivision approval by Order of the Superior Court of New Jersey dated May 11, 2016; and

WHEREAS, said subdivision created a single family residential lot being Lot 19, Block 4407 on the Tax Map of the Township of Millburn; and

WHEREAS, there is no direct access from Millburn public streets to said premises, thus making the delivery of municipal services to the site by Millburn impractical and onerous; and

WHEREAS, the delivery of municipal services and public utilities by Livingston via Wilshire Drive is desirable and appropriate; and

WHEREAS, the parties hereto desire to memorialize the understanding between them as to the provision of services and allocation of tax revenue pertaining to the same; and

WHEREAS, the respective governing bodies of the parties authorize the respected Mayors to execute said agreement.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Livingston, County of Essex, State of New Jersey that the Township of Livingston hereby agrees to enter into an agreement with the Township of Millburn to provide municipal services and public utilities to Lot 19, Block 4407 on the Tax Map of the Township of Millburn and allocation of tax revenue pertaining to the same.

R-17-75 Authorizing the Entering Into a Right of Way Agreement With Cross River Fiber (Provider) to Permit the Installation, Use and Maintenance of Telecommunications Facilities Within the Public Rights of Way

WHEREAS, Cross River is authorized to provide local exchange and interexchange telecommunications throughout the State of New Jersey pursuant to an Order of Approval and Docket No. TE11050320 on July 14, 2011, Docket No. TE1204029 on June 18, 2012, and Docket No. TM14080906; and

WHEREAS, it is deemed in the best interest of the Township of Livingston and its citizens for the Township to grant municipal consent to the "Provider" to occupy the public rights of way within the Township of Livingston for this purpose; and

WHEREAS, the granting of such consent is and shall be conditioned upon the "Provider" continued compliance with all existing and future ordinances of the Township of Livingston and its entering into a written agreement in a form acceptable to the Township Attorney with the Township of Livingston which indemnifies and hold the Township of Livingston harmless as to all claims and liabilities resulting from any injury or damage which may arise from the construction, installation, operation, repair, maintenance, disconnect, replacement and removal of its telecommunication system within certain public rights of way and provide liability insurance coverage, personal injury and damage.

NOW, THEREFORE, BE IT RESOLVED that the Township Council of the Township of Livingston, County of Essex, State of New Jersey hereby grants nonexclusive consent to the "Provider" to occupy the public rights of way within the Township of Livingston for the purpose of construction, installation, operation, repair, maintenance and replacement of a telecommunication system for a period of 50 years.

BE IT FURTHER RESOLVED that the within granted permission is conditioned upon the providers entering into a form of agreement acceptable to the Township Attorney and the Mayor and Municipal Clerk are hereby authorized to execute the approved agreement.

BE IT FURTHER RESOLVED that a copy of this Resolution and the approved agreement shall be filed in the Office of the Municipal Clerk.

R-17-73 was withdrawn. On motion duly made and seconded, and on roll call vote of Resolutions R-17-69, 70, 71, 72, 74 and 75, all members present voted YES.

Public Comment

Bernard Searle, 14 Washington Court, asked about the status of the Letter of Interpretation for the proposed DPW site. Mayor Klein stated that Township Engineer Jeannette Harduby was working on the project, which would be going into the next phase. Mr. Searle suggested entering into a Shared Services Agreement with the Livingston Board of Education for tree removal, as a way to reduce costs. He also urged the Town Council to adopt a "Fair and Welcoming" Ordinance. Township Attorney Weiner stated that the Police Chief needed to be consulted with regarding those issues and his review of a Maplewood Ordinance referenced by Mr. Searle.

Laurie Beacham, 37 S. Ashby, spoke in favor of a "Fair and Welcoming" Ordinance.

Fred Friedman, 1304 Pointe Gate Drive, discussed the recently held "Four Chaplains" ceremony.

Robert Hunter, 89 Elmwood Drive, discussed a Township resident's receipt of a letter from the Township, advising that the property be left alone. Township Attorney Weiner pointed out that the Property was Open Space, and that the Township wanted to go back to its natural state. Mr. Hunter expressed concerns about Orchard Hill, and urged the Township to hire an arborist one day a week.

Margaret Rieger, addressed trees on the island on East Northfield Road that have been struck by cars. Mayor Klein asked Acting Township Manager Jones to look into the matter.

Adjournment

At 9:40 p.m., the Regular Meeting adjourned.

Shawn R. Klein
Mayor

Glenn R. Turtletaub
Township Clerk