

Livingston, New Jersey
June 12, 2017
Meeting #7

The Regular meeting of the Township Council of the Township of Livingston was held on the above date at 7:30 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) Presidential Awards—Susan Ridley and Patty Arnold participated as the Mayor and Council honored residents and organizations receiving the President's Volunteer Service Award. Gold medals and certificates were presented to Joel Lightner (Lifetime Award), to Livingston Citizens' Institute Board Members (Group Award), to Scott, Zanna, Macen, and Zane Lantzman (Family Award) and to Jack Toby (Teen Award).

b) Joel Lightner--The Mayor presented a plaque to Joel Lightner in recognition of his retirement following years of service on TV34 and LTV.

c) Gun Violence Awareness—Mayor Klein read and presented a plaque to Mandy Perlmutter and Christine McGrath in recognition of the Gun Violence Awareness campaign.

Essex County Update/Questions

Eileen Fishman, Livingston Liaison to County Executive Joseph DiVincenzo, discussed recent and upcoming County events, including a ribbon cutting for the new Lion/Hyena exhibit at the Turtleback Zoo, and the installation of a traffic light at the intersection of Chestnut and Northfield.

Public Comments on Agenda Items

Consent Agenda R-17-135 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 June 12, 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) May 22, 2017

*Approval of Licenses

Final Hearing Ordinances

Councilmember Meinhardt recused himself and left the room.

a) Ord. 11-2017 Amending Chapter 170 Code of the Township of Livingston To Create a New R-5K Residence District
ORDINANCE OF THE TOWNSHIP OF LIVINGSTON AMENDING CHAPTER 170 OF THE CODE OF THE TOWNSHIP OF LIVINGSTON TO CREATE A NEW R-5K RESIDENCE DISTRICT, was read by title.

Andrew Sewalt, attorney, spoke on behalf of Mark Goodman (owner of Lot 21), asking that the Council carry the matter so that more information could be submitted. He stated he objected to what he claimed was "short notice" and asserted that his client "was losing air space" and argued that the ordinance was "discriminatory".

Joel Jarman, 11 Trombley Drive, recited a history of the lots in question, and objected to the negative impact of the ordinance on the protections provided by the 2006 Planning Board determination and Consent Order.

Todd Sherman, 17 Trombley Drive, stated he was opposed to the ordinance, asserting that this was not the proper area for this type of development and was not in keeping with the neighborhood.

Matthew Cohen, 16 Thurston Drive, stated he was opposed to the ordinance, and that it was "at odds with sound planning". He urged the Councilmembers to visit the site.

Larry Stempler, 14 Trombley Drive, expressed concerns over traffic, in that Trombley and Thurston would "would become through streets", and he urged the Council to visit the site.

Howard Kastner, 18 Trombley Drive, discussed traffic concerns, and asserted that the Ordinance would "change the nature of the whole area".

Lawrence Cooper, 10 Trombley Drive, spoke in opposition to the Ordinance. He pointed out the number of people present at this meeting who were opposed to the Ordinance, and asked that they all stand. He discussed the letter received from the Mayor, and urged the Council to accommodate the citizens here tonight and to send the Ordinance back to the Planning Board for further consideration.

Michael Zirabe, 10 Thurston Drive, objected to the ordinance and expressed concern about crowding in the schools.

Seth Flaum, 7 Trombley Drive, said that the Mayor's letter to residents within 200 feet was "disingenuous". He expressed concern about traffic from Trombley going onto McClelland, and about noise.

Kershu Tan, 9 Trombley Drive, stated that he was a Civil Engineer, discussed drainage in the area, and urged the Council to come to the site and walk through it.

Merle Kalishman, 18 Trombley Drive, addressed the water problem and flooding at the location.

Amy Schonhaut, 6 Trombley Drive, stated that what was agreed upon in 2006 should control, that "we have a flooding problem already," and that she "thought we settled this eleven years ago".

Risa Levine, 8 Thurston Drive, claimed the residents had been "ambushed" with no opportunity to learn what is going on, and that the Council and Planning Board "only listened to developers." She said that contrary to the Mayor's letter, that "this does have an effect" on her property.

Mark Schonwetter, 5 Trombley Drive, expressed concerns about crime and safety.

Bernard Searle, 14 Washington Court, stated that the property does not meet even R-4 requirements.

Les Melnick, 6 Thurston Drive, addressed a safety issue and expressed concern over the access of emergency vehicles.

Seth Levine, 8 Thurston Drive, urged preserving the 2006 Resolution and agreement, addressed Stormwater Management, and urged that the Council, Planning Board and all parties work together in light of what had already been agreed to.

Ron Lustbader, 4 Thurston Drive, urged the Council to table the issue.

Seth Cohen, 9 Thurston Drive, addressed the Planning Board Resolution and the Superior Court Consent Decree.

Mark Goodman, owner of Lot 21, said he was not aware of the property being used as a detention basin.

There being no other speakers, on motion duly made and seconded and on voice vote, the hearing was closed.

On motion duly made and seconded, and on roll call vote, all members present voted NO.

Councilmember Meinhardt returned to the room.

b) Ord. 13-2017 Refunding Bond Ordinance Providing for Refunding of Certain General Obligation Refunding Bonds and Appropriating \$4,600,000 Therefor and Authorizing Issuance of \$4,600,000 Bonds or Notes for Financing

REFUNDING BOND ORDINANCE PROVIDING FOR THE REFUNDING OF CERTAIN GENERAL OBLIGATION REFUNDING BONDS OF THE TOWNSHIP OF LIVINGSTON, NEW JERSEY, APPROPRIATING \$4,600,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$4,600,000 BONDS OR NOTES OF THE TOWNSHIP FOR FINANCING THE COST THEREOF was read by title.

There being no speakers, on motion duly made and seconded and on voice vote, the hearing was closed. On motion duly made and seconded, and on roll call vote, all members present voted YES. The Ordinance was ordered advertised according to law.

Proposed Ordinances

a) Ord. 15-2017 Rezoning 4 Split-zoned Lots in Residential Districts

ORDINANCE OF THE TOWNSHIP OF LIVINGSTON AMENDING CHAPTER 170 OF THE CODE OF THE TOWNSHIP OF LIVINGSTON 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, July 10, 2017.

11. Resolutions

a) R-17-136 Annual Renewal Liquor Licenses

BE IT RESOLVED by the Township Council of the Township of Livingston, County of Essex, in accordance with the provisions of Legislature entitled "An Act concerning Alcoholic Beverages," passed December 6, 1933, and several amendments and supplements thereto and subject to the rules and regulations of the New Jersey Division of Alcoholic Beverage Control, that

1, There be issued to each of the following applicants a **Plenary Retail Consumption** license to be for the term of one year from the first day of July, 2017:

0710-33-020-011 Anthony's Coal Fired Pizza of Livingston, LLC	8119 Town Center Way
0710-33-009-008 Calabria's Pizzeria & Restaurant, Inc.	588 So. Livingston Ave.
0710-33-002-001 Cedar Hill Golf & Country Club, Inc.	100 Walnut St
0710-33-004-002 Crystal Plaza Inc.	307 W. Northfield Road
0710-33-006-005 GMRI (Olive Garden)	277 Eisenhower Parkway
9710-33-018-006 Lithos Estiatorio LLC	405 Eisenhower Parkway
0710-33-015-005 The Landmark Pub, LLC	259 W. Mt. Pleasant Ave
0710-33-008-012 Panevino, LLC	637 W. Mt. Pleasant Ave..
0710-33-001-008 Pizzeta Livingston LLC	62 W. Mt. Pleasant Ave.
0710-33-021-007 RTC Restaurant Corp. (Pocket)	No Livingston Location
0710-33-019-004 2 Chef's Inc. (Nero's)	618 So. Livingston Ave.

2. There be issued to each of the following applicants a **Plenary Retail Distribution** license to be for the term of one year from the first day of July, 2017:

0710-44-007-011 Beverage Department, LLC	(Inside Kings)	225 So. Livingston Ave
0710-44-016-007 Livingston Bottle King Inc.		343 W. Mt. Pleasant Ave.
0710-44-005-005 MAMUN, Inc. (Wine Legend)		277 Eisenhower Parkway
0170-44-017-005 Wine Depot of Livingston, Inc.		487 So. Livingston Ave..

3. There be issued to each of the following applicants a **Club** license to be for the term of one year from the first day of July, 2017:

0710-31-011-001 Columbian Association of Livingston	299 Eisenhower Parkway
0710-31-012-001 Livingston Lodge No. 1855 B.P.O. Elks	19-21 W. Mt. Pleasant Ave.
0710-31-022-001 Livingston Lodge No. 11 Free and Accepted Masons	19 Burnet St.

b) R-17-137 Auth. 2017 Recreational Opportunities for Individuals with Disabilities (ROID) Grant Application (Memorialization)

WHEREAS, the Township of Livingston desires to apply for and obtain a grant from the New Jersey Department of Community Affairs for approximately \$15,000 to carry out a project to provide recreational activities for school age children with special needs; and

BE IT THEREFORE RESOLVED,

- 1) that the Township of Livingston does hereby authorize the application for such a grant; and
- 2) recognizes and accepts that the Department may offer a lesser or greater amount and therefore, upon receipt of the grant agreement from the New Jersey Department of Community Affairs, does further authorize the execution of any such grant agreement; and also, upon receipt of the full executed agreement from the Department, does further authorize the expenditure of funds pursuant to the terms of the agreement between the Township of Livingston and the New Jersey Department of Community Affairs.

BE IT FURTHER RESOLVED that the persons whose names, titles and signatures appear below are authorized to sign the application, and that they or their successors in said titles are authorized to sign the agreement, and any other documents necessary in connection therewith:

c) R-17-138 Authorizing Award of Contract to Shauger Property Services, Inc.

WHEREAS, the Township of Livingston has a need for the catch basin repair/rebuild pursuant to the provisions of N.J.S.A. 19:44A-20.4 et seq.; and,

WHEREAS, a request for quotes was advertised using the fair and open process on the Township of Livingston website on May 15, 2017; and

WHEREAS, on May 31, 2017, one (1) response was received by the deadline and publicly read; and

WHEREAS, the Superintendent of Public Works has evaluated the quotation for qualifications, experience, and cost reasonableness, and recommends the award of a contract to Shauger Property Services, Inc.; and

WHEREAS, Shauger Property Services, Inc.'s schedule of pricing is attached; and

WHEREAS, the Acting Township Manager is recommending the award of a contract to Shauger Property Services, Inc.; and

WHEREAS, prior to incurring the liability by placing the order, the certification of availability of funds shall be made by the chief financial officer, as appropriate, per N.J.A.C. 5:30-5.5 (b) 2; and

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 Shauger Property Services, Inc.

d) R-17-139 Authorizing Contract with D & L Paving Contractors, Inc.

WHEREAS, the Township of Livingston ("Township") has a need for town-wide reconstruction of granite block curbing that cannot otherwise be performed by its regular employees; and

WHEREAS, on May 11, 2017, the Township of Livingston issued Bid No. 12-2017, as an open ended contract, to solicit bids from contractors experienced in granite block curbing; and

WHEREAS, the bid was advertised on the Township of Livingston website and West Essex Tribune on May 11, 2017 and as a result sixteen (16) bid packages were requested; and

WHEREAS, on May 31, 2017, seven (7) bids were received by the bid deadline and publicly read; and

WHEREAS, D & L Paving Contractors, Inc. was identified as the lowest responsive and responsible bidder whose bid meets all of the requirements of the bid specifications, complies with the requirements of N.J.S.A. 10:5-31 et seq. and N.J.S.A. 17:27 et seq., is responsive and responsible; and

WHEREAS, D & L Paving Contractors, Inc. submitted a unit price of \$31.75 per linear foot for curbing and \$45.00 per square yard for driveways; and

WHEREAS, the Superintendent of Public Works has evaluated the proposal for qualifications, experience, and cost reasonableness, and recommends the award of a contract to D & L Paving Contractors, Inc.; and

WHEREAS, the Acting Township Manager is recommending the award of a twenty-four (24) month contract to D & L Paving Contractors, Inc.; and

WHEREAS, prior to incurring the liability by placing the order, the certification of availability of funds shall be made by the chief financial officer, as appropriate, per N.J.A.C. 5:30-5.5 (b) 2; and

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 twenty-four (24) month contract with D & L Paving Contractors, Inc. at a cost of \$31.75 per linear foot for curbing and \$45.00 per square yard for driveways.

e) R-17-140 Authorizing Contract Extension With Water Works Supply Company, Inc.

WHEREAS, on July 18, 2016 the Township Council of the Township of Livingston authorized the Township Manager to enter into a twelve (12) month contract with Water Works Supply Company, Inc. for the purchase of fire hydrant parts as an open ended contract; and

WHEREAS, pursuant to 40A: 11-15 (45), the Township will extend its existing contract for an additional one-year with Water Works Supply Company, Inc. at the same prices bid; and

WHEREAS, Water Works Supply Company, Inc.'s schedule of pricing is attached; and

WHEREAS, the Junior Utility Engineer and Acting Township Manager are recommending a one-year extension of the contract with Water Works Supply Company, Inc. at the same prices bid; and

WHEREAS, prior to incurring the liability by placing the order, the certification of availability of funds shall be made by the chief financial officer, as appropriate, per N.J.A.C. 5:30-5.5 (b) 2; and

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 extend the contract with Water Works Supply Company, Inc. for one-year effective August 1, 2017.

f) R-17-141 Resolution of Participation—Safe and Secure Communities Program

RESOLUTION OF PARTICIPATION

**A RESOLUTION APPROVING PARTICIPATION WITH THE
STATE OF NEW JERSEY FEDERAL GRANT PROGRAM ADMINISTERED BY THE DIVISION OF CRIMINAL JUSTICE,
DEPARTMENT OF LAW AND PUBLIC SAFETY**

WHEREAS, the Township of Livingston desires to apply for and to accept funding in the amount of \$60,000.00 dollars, with a match of fringe benefits, under the Safe and Secure Communities Program, State Fiscal Year 2014, State Grant P-6077-14; and

WHEREAS, the Township of Livingston desires to apply for and to accept funding in the amount of \$60,000.00 dollars, with a match of fringe benefits, under the Safe and Secure Communities Program, State Fiscal Year 2015, State Grant P-6377-15; and

WHEREAS, the Township of Livingston desires to apply for and to accept funding in the amount of \$60,000.00 dollars, with a match of fringe benefits, under the Safe and Secure Communities Program, State Fiscal Year 2016, State Grant P-6677-16; and

WHEREAS, the Township of Livingston desires to apply for and to accept funding in the amount of \$60,000.00 dollars, with a match of fringe benefits, under the Safe and Secure Communities Program, State Fiscal Year 2017, State Grant P-6977-17; and

WHEREAS, the Township of Livingston has reviewed the accompanying applications and has approved said requests, and

WHEREAS, this project is a joint effort between the Department of Law and Public Safety and the Livingston Township Police Department for the purpose described in the application;

THEREFORE, BE IT RESOLVED this 12th day of June, 2017, by the Township Council of Livingston Township, Essex County, New Jersey that:

1. As a matter of public policy the Livingston Township Police Department wishes to participate to the fullest extent possible with the Department of Law and Public Safety.
2. The Attorney General will receive funds on behalf of the applicant.
3. The Division of Criminal Justice will be responsible for the receipt and review of the application for said funds.
4. The Division of Criminal Justice will initiate allocations to each applicant as authorized.

g) R-17-142 Authorizing Issuance of a New Liquor License By Public Sale

WHEREAS, the Township Council has determined it will be issuing a new liquor license as a hotel exception using the public sale option; and

WHEREAS, the requirements of the public sale are as follows:

1. The liquor license will be issued to a person or business entity who operates a hotel containing at least 100 guest sleeping rooms and may be only used in connection with a hotel.
2. All bidders must be qualified to have an interest in a retail license under the standards set forth in the Alcoholic Beverage Control Act and regulations thereof, N.J.S.A. 33:1-1 et seq. and N.J.A.C. 13:2-1.1 et seq. and any applicable municipal ordinances.
3. The license will be awarded to the highest qualified bidder.
4. The respective licensee must operate a restaurant, public accommodation or other facility.

5. Pursuant to N.J.S.A. 33:1-12.2, the minimum bid of \$36,000.00 is established with a deposit of 10% paid when the bid is submitted with the balance due upon the issuance of the liquor license.

6. The Township of Livingston reserves the right to reject all bids if the highest bid is not accepted.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Livingston, County of Essex, State of New Jersey that the Township will issue a new liquor license as a hotel exception using the public sale option as set forth in N.J.S.A. 33:1-19.3 through 19.6.

On motion duly made and seconded, and on roll call vote of Resolutions R-17-136 through R-17-142, all members present voted YES.

Public Comment

Walter LeVine, 345 Walnut Street, commended the Council for the manner of hearing and its decision to reject proposed Ordinance 11-2017. He questioned Acting Township Manager Jones regarding contributions to the Town Tree Fund, and Mr. Jones will check with Construction Official Martin Chiarolanzio.

Bernard Searle, 14 Washington Court, discussed the Tree Fund, and the maintenance of County roads.

Adjournment

At 10:10 p.m., the Regular Meeting adjourned.

Shawn R. Klein
Mayor

Glenn R. Turteltaub
Township Clerk