

Livingston, New Jersey
October 9, 2017
Meeting #11

The Regular meeting of the Township Council of the Township of Livingston was held on the above date at 8:15 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) Habitat for Humanity—Mayor Klein and the Council and Planning Director Jackie Hollis presented a Display Check to Habitat for Humanity, representing funds toward the construction of single-family homes at Grand Terrace and Burnet Street.

b) Bob Leopold – Planning Board Chair Peter Klein, in the presence of other past and current Planning Board members, recognized Bob Leopold on the occasion of his retirement following 25 years' service on the Board. Chair Klein and Mayor Klein each presented Mr. Leopold with a plaque in honor of the occasion.

Essex County Update/Questions

Eileen Fishman, Livingston Liaison to Essex County Executive Joseph DiVincenzo, gave updates and provide highlighted upcoming County events, including acquisition of a new Lion Exhibit at the Turtleback Zoo, and stated that next year a Grizzly Bear Exhibit would open.

Public Comments on Agenda Items

Consent Agenda R-17-190 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 October 9, 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) September 18, 2017

*Approval of Licenses

Final Hearing Ordinances

a) Ord. 20-2017 Zone Change Block 700 Lot 38, 39

ORDINANCE OF THE TOWNSHIP OF LIVINGSTON AMENDING CHAPTER 170 OF THE CODE OF THE TOWNSHIP OF LIVINGSTON was read by title. Robert Eisenberg, 24 Surrey Lane, asked "why now?" and questioned the passage of the Ordinance. Dan Klingler, 2 Ely Ct., objected to the passage of the Ordinance, asserting that it was "not a priority". He noted his neighbors in attendance who agreed with him. Councilmember Fernandez responded, reciting the history of the property, and Acting Township Manager Jones stated he would have Property maintenance Carl Pluchino, look at the property in response to the speakers' Property Maintenance concerns. Bernard Searle, 14 Washington Court, addressed the proposed Ordinance. Scott Kessel, 3 Ely Ct., stated he agreed with Mr. Klingler and spoke of the need to address property maintenance concerns regarding the house on the corner. Planning Board Chair Peter Klein stated that the Township had the right of first refusal of this property as it was on the Historical Properties list. There being no further 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.

b) Ord. 21-2017 Sewer Connection Fees

ORDINANCE OF THE TOWNSHIP OF LIVINGSTON AMENDING CHAPTER 251 OF THE TOWNSHIP OF LIVINGSTON CODE ENTITLED 'SEWERS' TO MODIFY THE SEWER CONNECTION FEE 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.

c) Ord. 22-2017 Water Connection Fees

ORDINANCE OF THE TOWNSHIP OF LIVINGSTON AMENDING CHAPTER 316 OF THE CODE OF THE TOWNSHIP OF LIVINGSTON ENTITLED 'WATER' TO MODIFY WATER CONNECTION FEE was read by title. 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 YES. The Ordinance was ordered advertised according to law.

d) Ord. 23-2017 Amending and Revising Health Department fees

ORDINANCE OF THE TOWNSHIP OF LIVINGSTON AMENDING AND REVISING THE CODE OF THE TOWNSHIP OF LIVINGSTON FOR HEALTH DEPARTMENT FEES was read by title. 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 YES. The Ordinance was ordered advertised according to law.

e) Ord. 24-2017 Traffic Ordinance Modifications—Foxcroft Drive

ORDINANCE OF THE TOWNSHIP OF LIVINGSTON AMENDING CHAPTER 29, ARTICLE 10.5 OF THE CODE OF THE TOWNSHIP OF LIVINGSTON ON A PORTION OF FOXCROFT DRIVE was read by title. 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 YES. The Ordinance was ordered advertised according to law.

Proposed Ordinances

a) Ord. 25-2017 Amending Chapter 170 of the Township Code (Split Zone Lots—Arden Road—Lots 25 and 26 in Tax Block 3700)

ORDINANCE OF THE TOWNSHIP OF LIVINGSTON AMENDING CHAPTER 29, ARTICLE 10.5 OF THE CODE OF THE TOWNSHIP OF LIVINGSTON ON A PORTION OF FOXCROFT DRIVE 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, November 6, 2017.

11. Resolutions

a) R-17-191 Authorizing Contract with Mott MacDonald, LLC (2018 Water Main Replacements)

WHEREAS, the Township of Livingston has a need to acquire professional engineering services for the 2018 water main replacements pursuant to the provisions of N.J.S.A. 19:44A-20.4 and 20.5; and

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

WHEREAS, the Township of Livingston solicited proposals from three companies qualified to provide professional engineering services for water main replacements; and

WHEREAS, Mott MacDonald, LLC submitted the lowest price proposal; and

WHEREAS, Mott MacDonald, LLC has completed and submitted a business Entity Disclosure Certification which certifies that Mott MacDonald, LLC has not made any reportable contributions to a political or candidate committee in the Township of Livingston in the previous one year, and that the contract will prohibit Mott MacDonald, LLC from making any reportable contributions through the term of the contract, and

WHEREAS, the Junior Utility Engineer and Acting Township Manager are recommending the award of a contract to Mott MacDonald, LLC to provide professional engineering services for the 2018 water main replacements as required by the Township in an amount not to exceed \$63,800.00; and,

WHEREAS, the Chief Financial Officer has certified that sufficient funds are available in account C-06-55-016-003-007; and

NOW THEREFORE, BE IT RESOLVED that the Township Council of the Township of Livingston authorizes the Acting Township Manager to enter into a contract with Mott MacDonald, LLC in an amount not to exceed \$63,800.00 as described herein.

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

BE IT FURTHER RESOLVED that a notice of this action shall be printed in the West Essex Tribune as required by law within ten (10) days of its passage.

b) R-17-192 Memorializing the Township's Commitment to the Goals of the Paris Climate Accord

WHEREAS, consensus exists among the world's leading climate scientists that climate change caused by emissions of greenhouse gases from human activities is among the most significant problems facing the world today; and

WHEREAS, documented impacts of climate change include but are not limited to increased occurrences of extreme weather events and adverse impacts on ecosystems; and

WHEREAS, the Township of Livingston, New Jersey is committed to its future generations of residents as demonstrated by its great schools and continuous improvement to the Township and its facilities and infrastructure; and

WHEREAS, responding to climate change provides communities an opportunity to access first mover advantages in the range of products, services, and know-how that transitioning to a climate-compatible future brings; and

WHEREAS, the Paris Climate Accord (also known as the Paris Agreement) resulted in a commitment from almost every nation in the world to take action and enact programs to limit the global temperature increase to less than 2 degrees Celsius, with an expectation that this goal would be reduced to 1.5 degrees Celsius in the future.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Township Council of the Township of Livingston that the Township of Livingston:

1. Joins other US cities in the Climate Mayors network (<http://climatemayors.org>) in adopting and supporting the goals of the Paris Climate Accord; and
2. Commits to exploring policies and programs that promote the long-term goal of greenhouse gas emissions reduction, while maximizing economic and social co-benefits of such action for the Township; and
3. Sign the open letter available at wearestillin.com.

BE IT FURTHER RESOLVED that copies of this resolution be forwarded to President Donald Trump, Senator Bob Menendez, Senator Cory Booker, Congressman Rodney Frelinghuysen, Governor Chris Christie, State Senator Richard J. Codey, Assemblywoman Mila M. Jasey, Assemblyman John F. McKeon, Municipalities in Essex County, and the League of Municipalities.

c) R-17-193 Authorizing Entering Into a Developer's Agreement with Columbia Bank

WHEREAS, Columbia Bank has made an Application No. 2017-39-PFSPV to the Livingston Planning Board to renovate and operate a bank on Block 4303, Lot 21; and

WHEREAS, the Livingston Planning Board passed a Resolution approving the application on September 12, 2017; and

WHEREAS, the Board's Model Condition of Approval #17 states: "Prior to the issuance of any permits the Applicant shall have entered into a Developer's Agreement negotiated with the Township Attorney in conjunction with the Township Engineer."; and

WHEREAS, the Township Attorney has negotiated the terms of the Developer's Agreement which has been approved by the Township Engineer.

NOW, THEREFORE, BE IT RESOLVED that the Township Council authorizes the Mayor on behalf of the Township Council, to execute the Developer's Agreement with Columbia Bank.

d) R-17-194 Authorizing Entering Into a Developer's Agreement with 39 West Northfield Ave., LLC (d/b/a Livingston Car Wash)

WHEREAS, 395 Northfield Ave. LLC has made an Application No. 2014-86-PFSPV to the Livingston Planning Board to construct and operate a carwash on Block 5700, Lot 1; and

WHEREAS, the Livingston Planning Board passed a Resolution approving the application on July 12, 2016; and

WHEREAS, the Board's Model Condition of Approval #17 states: "Prior to the issuance of any permits the Applicant shall have entered into a Developer's Agreement negotiated with the Township Attorney in conjunction with the Township Engineer."; and

WHEREAS, the Township Attorney has negotiated the terms of the Developer's Agreement which has been approved by the Township Engineer.

NOW, THEREFORE, BE IT RESOLVED that the Township Council authorizes the Mayor on behalf of the Township Council, to execute the Developer's Agreement with 395 Northfield Ave. LLC.

e) R-17-195 Authorizing Entering Into a Service Agreement with Good Energy

WHEREAS, Livingston Township Council is seeking to become a "Government Aggregator" in order to provide electric generation service; and

WHEREAS, the Township Council desires to engage a Service Provider to perform electricity consultancy services; and

WHEREAS, the Township Council has solicited proposals to assist in setting up its Government Aggregation Program; and

WHEREAS, Good Energy, L.P. has submitted such a proposal; and

WHEREAS, the Township Council has reviewed Good Energy's proposal and interviewed its principals and found that Good Energy has the expertise and experience to perform electricity consultancy services and procurement for Livingston in relation to the creation and management of its energy aggregation program.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Livingston that it agrees to enter into a service agreement with Good Energy, L.P. to perform electric consultancy Services at no cost to the Township of Livingston.

e) R-17-196 Authorizing Inclusion in Essex County Urban County Community Development Program for Program Years 2018-2020

WHEREAS, certain Federal funds are potentially available to the County of Essex under Title I of the Housing and Community Development Act of 1974, as amended and HOME Investment Partnership Act of 1990, as amended; and

WHEREAS, the Township of Livingston desires to participate in the Essex County Urban County for conducting certain community development activities for Program Years 2018-2020; and

WHEREAS, a letter has been drafted by the Mayor to the Essex County Division of Housing and Community Development notifying them of the Township's desire to participate in this process; and

WHEREAS, the Grantee or a unit of general local government that directly or indirectly receives CDBG funds may not sell, trade, or otherwise transfer all or any such portion of such funds to another metropolitan city, urban county, unit of general local government, or Indian tribe, or insular area that directly or indirectly receives CDBG funds in exchange for any other funds, credits or non-Federal considerations, but must use such funds for activities eligible under Title I of the Housing and Community Development Act of 1974, as amended; and

WHEREAS, the Emergency Shelter Grants program ("ESG") provided through Subtitle B of [Title IV](#) of the McKinney-Vento Homeless Assistance Act permits for substantial federal funds allocated to prevent homelessness and to enable homeless individuals and families to move toward independent living.

WHEREAS, the current Uniform Shared Services and Consolidated Act contains an automatic renewal clause to expedite the notification of the inclusion process; and

WHEREAS, by May 5, 2017 each municipality must notify the Essex County Division of Housing & Community Development of its intent to continue as a participant in the Urban County entitlement programs noted above; and

WHEREAS, it is in the best interest of the Township of Livingston and its residents to participate in said programs.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of Livingston that it hereby authorizes the Mayor to execute the attached Cooperation Agreement and notifies the Essex County Division of Community Development of its decision to be included as a participant municipality in the Urban County entitlement programs being the Community Development Block Grant Program and Home Investment Partnership Act Program for the Program Years 2018, 2019 and 2020 (June 1, 2018- that a copy to this resolution be forwarded to the Essex County Division of Housing & Community Development no later than June 28, 2017.

f) R-17-197 Appointments to Planning Board

BE IT RESOLVED by the Council of the Township of Livingston in the County of Essex, in accordance with the provisions of Section 16-4 et seq. of the Revised Ordinances of the Township of Livingston, that:

1. Michael Rieber is appointed as a Class IV member of the Planning Board filling an unexpired term ending December 31, 2017.
2. Jill Wishnew is appointed as Alternate #1 filling an unexpired term, ending December 31, 2018.
3. Sangeetha Nayak is appointed as Alternate #2 filling an unexpired term, ending December 31, 2017.

Resolution R-17-197 was withdrawn.

On motion duly made and seconded, and on roll call vote of Resolutions R-17-191 through R-17-196, inclusive, all members present voted YES.

Public Comment

Bernard Searle, 14 Washington Court, discussed energy aggregation. He thanked the Town Council for its step first step in completion of the Tennis Courts, and also thanked the Council for its cooperation in saving \$25,000 by going out to bid on the project for a second time.

He also thanked the Town Council for taking the first step towards completion of tennis courts; thanked the cooperation with saving \$25,000 by going out to bid the second time.

Brian Hepshutz, 224 W Hobart Gap Road, stated shortly after moving into town, that he was a new resident, and that he had received a letter from Property Maintenance Carl Pluchino, to correct the bamboo problem at his home. He stated the cost of \$25,000 was needed to correct the problem.. Township Attorney Mayor Klein and LEC Chair Walter LeVine responded, Mr. LeVine stressing that the "real problem is invasiveness."

Anthony Lane, 228 W. Hobart Gap Rd., also discussed the effect of the Ordinance on his property.

Regina Okafor, 159 Walnut St., discussed her suit in the OOA: regarding housing. Councilmember Fernandez asked her "what is your question", and Ms. Okafor stated she had filed a motion to stay hearing regarding "Livingston Municipal Welfare". Township Attorney Weiner noted that Ms. Okafor had used up her welfare, and that it is "now an Essex County issue."

Bob Hunter, 89 Elmwood Drive, thanked Police Chief Handschuch and Lt. Drumm; discussed the Roseland Trans-Williams Pipeline issue and the recent mass hooting tragedy in Las Vegas.

Dennis Duffy, 38 Bennington Rd., addressed the field drainage, lighting and noise issues regarding the Madonna playing field property.

Bernard Searle, 14 Washington Court, stated that he lived near playing fields, and that there was "no way" to mitigate the noise from the field, but that the lights do not shine through the trees.

Adjournment

At 9:15 p.m., the Regular Meeting adjourned.

SHAWN R. KLEIN, Mayor

GLENN R. TURTLETAUB, Township Clerk