

Livingston, New Jersey  
January 27, 2020  
Meeting #2

The Regular meeting of the Township Council of the Township of Livingston was held on the above date at 7:40 p.m. at Town Hall, 357 South 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 2, 2020."48-hr. Notice" was faxed to these same publications on January 24, 2020.

Present: Mayor Fernandez; Councilmembers Klein, Anthony, Meinhardt, Vieira; Township Manager Lewis; Deputy Township Manager Jones, Township Attorney Weiner; Township Clerk Turtletaub

Absent: None

Silent Meditation and Pledge of Allegiance

Mayor Fernandez asked everyone to stand for a Moment of Silence, followed by the Pledge of Allegiance. Livingston Police Chief Marshuetz spoke about the passing of former Fire Chief and long-time Township employee Charlie Schilling, praising him for all he had done for the Township.

Presentations

Chief Marshuetz introduced new Livingston Police Officer Savino Balducci. Township Clerk Turtletaub administered the Oath of Office in the presence of Officer Balducci's family and members of the Livingston Police Department.

Essex County Update/Questions

Public Comments on Agenda Items

Justin Alpert, 56 Amherst Place, addressed the American Water contract, asking about its long term benefits. Mr. Alpert asked about the benefits of designating the area in Need of Rehabilitation, and Township Manager Lewis explained how the Rehabilitation designation provides the Township with flexibility. Mr. Alpert also asked about the Antonelli Kanter appointment, and Township Manager Lewis explained that the Special Counsel would be handling the same case as previously.

Resolution—Consent Agenda (Includes All Items Marked \*\*\*) R-20-67

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 January 27, 2020, attached hereto, which are preceded by an "\*\*\*" are the Consent Agenda and are hereby accepted, approved and/or adopted.

Approval of Minutes

- a) January 6, 2020

Approval of Licenses

Final Hearing Ordinances

a) Ord. 1-2020 Amending Chapter 170, Land Use, Article X, Flood Hazard Areas of the Code of the Township of Livingston  
ORDINANCE OF THE TOWNSHIP OF LIVINGSTON AMENDING CHAPTER 170, LAND USE, ARTICLE X, FLOOD HAZARD AREAS, OF THE CODE OF THE TOWNSHIP OF LIVINGSTON was read on second reading. 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. It was ordered advertised according to law.

b) Ord. 2-2020 Repealing Section 170-71 and Enacting a New Section 170-71 Subdivision Plat and Site Plan  
ORDINANCE OF THE TOWNSHIP OF LIVINGSTON REPEALING SECTION 170-71 OF THE CODE OF THE TOWNSHIP OF LIVINGSTON AND ENACTING A NEW SECTION 170-71 was read on second reading. 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. It was ordered advertised according to law.

Proposed Ordinances

- a) Ord. 3-2020 Amending and Supplementing Chapter 29 Traffic and Parking.

ORDINANCE OF THE TOWNSHIP OF LIVINGSTON AMENDING AND SUPPLEMENTING CHAPTER 29 TRAFFIC AND PARKING was read by title and introduced on first reading. 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, February 24, 2020.

b) Ord. 4-2020 Amending and Supplementing Chapter 316 Water by Adding an Amended Section Special Permit from Division of Water and Sewers

ORDINANCE OF THE TOWNSHIP OF LIVINGSTON AMENDING AND SUPPLEMENTING CHAPTER 316 WATER was read by title and introduced on first reading. 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, February 24, 2020.

#### Resolutions

##### a) R-20-68 Approving Commodity-Demand Regional Water Sales Agreement

**WHEREAS**, the Township of Livingston ("Township") has the need to acquire bulk quantities of treated drinking water for its water system and utility; and

**WHEREAS**, the Township has negotiated a Commodity Demand Regional Water Sales Agreement (the "Commodity Demand Agreement") with New Jersey American Water Company, Inc. ("NJAW") pursuant to and as approved by the New Jersey Board of Public Utilities, whereby the Township is converting its prior General Metered Service Water Sales Agreement with NJAW dated January 16, 2012; and

**WHEREAS**, the Township Engineer and Township Manager have advised that the Commodity Demand Agreement will result in significant annual recurring water purchase savings for the Water Utility and its customers and are therefore recommending the approval of the attached Commodity Demand Agreement.

**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 hereby approves and authorizes the Township Manager to enter into the attached Commodity Demand Regional Water Sales Agreement with New Jersey American Water Company, Inc..

##### b) R-20-69 Designating Area in Need of Rehabilitation Pursuant to N.J.S.A. 40A:12A-14

**WHEREAS**, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.* (the "LRHL") authorizes municipalities to determine that certain parcels of land in the municipality, or the entirety of the municipality, constitute areas or an area in need of rehabilitation; and

**WHEREAS**, the Township Engineer has prepared and submitted a report on the age and condition of the water and sewer infrastructure informing that a majority of the water and sewer infrastructure in the proposed Rehabilitation Area, depicted on the attached Exhibit A, (the "Rehabilitation Area") is at least 50 years old and is in need of repair or substantial maintenance satisfying the criteria of N.J.S.A. 40A:12-14.a.(6) for the Rehabilitation Area to be designated as an area in need of rehabilitation; and

**WHEREAS**, N.J.S.A. 40A:12A-14 requires that, prior to adoption, the governing body shall refer a proposed Resolution designating an area in need of rehabilitation to the Planning Board for review; and

**WHEREAS**, on December 16, 2019, the Township Council, in Resolution #2019-230, referred a copy of this Designation Resolution, together with the Township Engineer's report on the age and condition of the Water and Sewer infrastructure to the Township of Livingston Planning Board for review and comment pursuant to N.J.S.A. 40A:12A-14; and

**WHEREAS**, on January 7, 2020, the Planning Board reviewed this proposed Designation Resolution and the report of the Township Engineer and reported back to the Township Council that the Planning Board found, based upon the Township Engineer's report, that the eligibility criteria for designation of the Rehabilitation Area as an Area in Need of Rehabilitation pursuant to N.J.S.A. 40A:12A-14 had been met and concurred in the recommendation that the Township Council adopt the proposed Designation Resolution designating the Rehabilitation Area as an Area in Need of Rehabilitation.

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Council of the Township of Livingston as follows:

1. **Eligibility of the Area.** Based upon the facts reported by the Township Engineer and the recommendation of the Planning Board, the Township Council finds that the entire Rehabilitation Area, consisting of all of the properties depicted on the attached Exhibit A in the Township of Livingston, meets the eligibility criteria of N.J.S.A. 40A:12A-14.a(6) in that a majority of the water and sewer infrastructure in the Rehabilitation Area is at least 50 years old and is in need of repair or substantial maintenance, for designation as an Area in Need of Rehabilitation, and further finds that the designation of the Rehabilitation Area as an area in need of rehabilitation is expected to prevent further deterioration and promote the overall development of the Township in accordance with the requirements of N.J.S.A. 40:12A-14.

2. **Designation of the Area.** The Township Council hereby designates the Rehabilitation Area as depicted in Exhibit A, and all of the properties therein, as an area in need of rehabilitation, which designation allows the Township Council to, among other

things, enter into Redevelopment Agreements and grant tax exemptions pursuant to the Five Year Exemption and Abatement Law, N.J.S.A. 40A:21-1 et seq., upon the adoption of an ordinance setting forth the eligibility requirements.

3. **Transmittal of Resolution to State Department of Community Affairs.** The Township Council hereby directs that the Township Clerk shall transmit a copy of this Resolution to the Commissioner of the Department of Community Affairs in accordance with the LRHL.

4. **Effective Date.** This resolution shall take effect immediately.

Adopted: January 27, 2020

c) R-20-70 Authorizing Approval of Change Order 1 and Final with Iron Hills Construction, Inc.

WHEREAS, the Township Council of the Township of Livingston entered into a contract ("Contract C1800019") with Iron Hills Construction, Inc., for the Primary Digester Upgrades; and

WHEREAS, the initial Contract was not to exceed One Million, One Hundred Forty-One Thousand, Two Hundred Fifty Dollars and no cents (\$1,141,250.00), and

WHEREAS, due to a change in field conditions, a Change Order has been requested for the following:

A. REDUCTIONS

Structural Steel Repairs	-\$139,328.00
Repairs to Drainage Channel	-\$8,100.00
Township Defined Work	-\$10,469.14
Total	-\$157,897.14

WHEREAS, the total change order decreased the contract amount by 13.84%% or \$157,897.14 making the new contract sum \$983,352.86; and

WHEREAS, this Change Order has been recommended by the Township Engineer and 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 Iron Hills Construction, Inc. for the Primary Digester Upgrades; 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.

d) R-20-71 Authorizing Participation in Section 10 Program for Procurement of Federal Surplus Property from the Department of Defense and Delegating Authority for Local Administration of Participation in the Program Equipment

**WHEREAS**, federal law permits the Department of Defense to transfer to federal and state agencies personal property of the Department that it determines is suitable for use by agencies in law enforcement activities, including counterdrug and counterterrorism activities and is excess to the needs of the Department; and

**WHEREAS**, this program is generally known as the "1033 program," that allows local law enforcement agencies to obtain, at little or no cost surplus federal property; and

**WHEREAS**, the Township's prior participation in this program has enabled the Township to acquire valuable equipment that it could not otherwise afford, and to prepare for, respond to, and assist in the daily operations of the Police Department and during times of exigency.

**WHEREAS**, on March 16, 2015, Governor Christie signed Senate Bill No. 2364 (P.L. 2015, c.23), which now establishes,

in the absence of federal requirements, a system of local oversight over local law enforcement agencies that participate in and acquire equipment through the 1033 program; and

**WHEREAS**, pursuant to N.J.S.A. 40A:5-30.2a, municipal governing bodies must now authorize participation in the 1033 program by a "resolution adopted by a majority of the full membership of the governing body of a local unit prior to transmittal of any such application to the State Coordinator of the program; and

**WHEREAS**, pursuant to N.J.S.A. 40A:5-30.2b, the acquisition of any property by a local law enforcement agency shall be approved by a "resolution adopted by a majority of the full membership of the governing body".

**NOW, THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Livingston in the County of Essex, State of New Jersey that:

1. Pursuant to N.J.S.A. 40A:5-30.2a, the governing body hereby authorizes and directs the Chief of Police to designate a qualified individual to file the necessary application materials for continued participation in the 1033 program limited to the acquisition of gun sights for the Police Department's weapons.
2. Pursuant to N.J.S.A. 40A:5-30.2b, the governing body hereby authorizes and directs the Chief of Police to designate a qualified individual to maintain an inventory of surplus property obtained under the 1033, subject to the following conditions:
  - a. Within thirty (30) days of its acquisition, all property obtained under the program shall be subject to review by the governing body to determine whether any such property obtained should be rejected and removed from the Township's inventory; and
  - b. If after appropriate notice to the governing body, no action to reject the property obtained is taken within thirty (30) days of its acquisition, it shall hereby be deemed accepted by the governing body and put into service or otherwise disposed of as necessary.

e) R-20-72 Auth. Contract with Matrix New World, Inc.

WHEREAS, the Township of Livingston has a need to acquire professional environmental services for a remedial action proposal for the former police headquarters site phase two pursuant to the provisions of N.J.S.A. 19:44A-20.4 and 20.5; and

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

WHEREAS, the Township Council has determined that Matrix New World Engineering, Inc. has provided environmental services in prior years and has performed in a satisfactory manner; and

WHEREAS, Matrix New World Engineering, Inc. has completed and submitted a Business Entity Disclosure Certification which certifies that Matrix New World Engineering, Inc. 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 Matrix New World Engineering, Inc. from making any reportable contributions through the term of the contract, and

WHEREAS, the Township Engineer and Township Manager are recommending the award of a contract to Matrix New World Engineering, Inc. to provide professional environmental services for a remedial action proposal for the former police headquarters site phase two as required by the Township in an amount not to exceed \$59,470.00; and,

WHEREAS, the Chief Financial Officer has certified that sufficient funds are available in account C-04-55-018-006-002; and

**NOW THEREFORE, BE IT RESOLVED** that the Township Council of the Township of Livingston authorizes the Township Manager to enter into a contract with Matrix New World Engineering, Inc. in an amount not to exceed \$59,470.00 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.

f) R-20-73 Transfer Resolution

WHEREAS, transfers between budget appropriations are permitted by N.J.S. 40A: 4-58 during the last two months of the fiscal year; and

WHEREAS, certain 2019 budget appropriations are expected to be insufficient to meet expenditure requirements through the end of this fiscal year, and certain 2019 budget appropriations are expected to have funds available to offset these expenditure requirements;

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Livingston (not less than two-thirds thereof affirmatively concurring) that the transfers listed on the attached page be made effective December 31, 2019.

g) R-20-74 Amending R-19-164 (Appointing Antonelli Kantor PC as Special Counsel)

WHEREAS, the Township of Livingston has a need and desire to retain Special Counsel to be available to represent the Township in various specialized legal matters that may arise; and

WHEREAS, the Township Manager has determined and that the value of the services may exceed \$17,500; and,

WHEREAS, the Township's Purchasing Agent issued RFP No. 13-2019 Professional Services – Special Counsel in a Fair and Open process under N.J.S.A. 19:44A-20.5 et. Seq.; and

WHEREAS, the firm of Antonelli Kantor, P.C. submitted a proposal responsive to the RFP demonstrating the qualifications required to provide Special Counsel services; and

WHEREAS, the Township Manager is recommending the award of a contract to Antonelli Kantor, P.C. to be retained as Special Counsel to be available to provide specialized legal service when and as directed by the Township on the terms set forth in the attached proposal; and

WHEREAS, the Chief Financial Officer has certified that funds are available in the 2019 **and 2020** municipal budgets.

NOW THEREFORE, BE IT RESOLVED that the Township Council of the Township of Livingston authorizes the Township Manager to enter into a contract with Antonelli Kantor, P.C. for the period of August 5, 2019 through ~~December 31, 2019~~ **August 4, 2020**.

On roll call vote of Resolutions R-20-68 through R-20-74, all members present voted YES.

Public Comment

Todd Sherman, 17 Tarlton Drive, gave a history of Scott Terrace property since 2004, including issuance of the Preliminary Site Plan Approval and Final Approval, asserting that the Developer/Property Owner has not conveyed a portion of the property to him. He urged that a Stop Work Order issue, and Township Manager Lewis said he would follow up with Mr. Sherman after reaching out to the parties involved.

Justin Alpert, 56 Amherst Place, asked for an update on receipt of methods and data information from Appraisal Systems, Inc. Mr. Alpert noted that he Essex County Update provided by Liaison were helpful, and suggested that one of the Township representatives should attend the County Freeholder meetings to learn firsthand. Mr. Alpert also inquired as to use of an internship program, and turn the opportunities into employment and more jobs for Livingston kids.

Billy Fine, 20 Cambridge Rd., thanked all for their work on Martin Luther King, Jr. Day.

Recess

At 8:50 p.m., the Regular Meeting concluded.

RUFINO FERNANDEZ, JR, Mayor

GLENN R. TURTLETAUB, Township Clerk