

Livingston, New Jersey
February 3, 2020
Meeting #3

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.

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

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.

Presentations

a) Teen Dating Violence Awareness and Prevention Month—Melinda Udell and Roberta Zacker accepted the Proclamation on behalf of the National Council of Jewish Women (NCJW).

Essex County Update/Questions

Public Comments on Agenda Items

Justin Alpert, 56 Amherst Place, addressed proposed Bond Ordinance 5-2020 and R-20-78 (awarding a contract to McManimon to handle the Redevelopment matter). Mr. Alpert also addressed the closing of MONOC which had been discussed during the evening's Conference Agenda Conference meeting.

Resolution—Consent Agenda (Includes All Items Marked ***) R-20-75

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 3, 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 27, 2020

Approval of Licenses

Final Hearing Ordinances

Proposed Ordinances

a) Ord. 5-2020 Bond Ordinance Providing an Appropriation of \$2,600,000 for the Acquisition of Real Property to Preserve Open Space and Authorizing the Issuance of \$2,400,000 in Bonds or Notes of the Township for Financing Part of the Appropriation
BOND ORDINANCE PROVIDING AN APPROPRIATION OF \$2,600,000 FOR THE ACQUISITION OF REAL PROPERTY TO PRESERVE OPEN SPACE BY AND FOR THE TOWNSHIP OF LIVINGSTON IN THE COUNTY OF ESSEX, NEW JERSEY AND AUTHORIZING THE ISSUANCE OF \$2,470,000 IN BONDS OR NOTES OF THE TOWNSHIP FOR FINANCING PART OF THE APPROPRIATION 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-20-76 Creating and Appointing Members to the Ad Hoc Committee on the Utilization of the Licari and Strahman Tracts

WHEREAS, the Township Council has acquired properties commonly known as the Licari and Strahman Tracts; and

WHEREAS, these properties were purchased using open space funds, therefore, future uses are restricted to passive or active recreation; and

WHEREAS, the Township Council is seeking suggestions from the community as to the future uses of the properties.

NOW, THEREFORE, BE IT RESOLVED that the Township Council of the Township of Livingston hereby creates an Ad Hoc Committee on the utilization of the Licari and Strahman Tracts; and

BE IT FURTHER RESOLVED that the following persons are appointed to serve on the Ad Hoc Committee on the utilization of the Licari and Strahman Tracts for the period ending December 31, 2020:

Jerry	Adelsohn	Pat	Ippolito	Gary	O'Neill
Art	Alman	Saba	Kahn	Sam	Ratner
Eric	Baltuch	Mike	Karp	Ira	Sessler
Christopher	Bickel	Vineeta	Khanna	Evan	Slater
Ellie	Cohen	Sheila	Laurie	Peter	Stern
Joan	Cohen	Walter	LeVine	Jerard	Stevenson
Tony	Critelli	James	McIlivane	Harry	Tuber
Anne	Fung	Emil	Olson	Representative from DPW	
Alan	Glazer			Representative from SYLS	

Deputy Mayor Shawn Klein and Councilman Al Anthony are hereby appointed Township Council Liaisons to the Committee.

b) R-20-77 Auth. Approval of Change Order No. 1 with Ischia Corp.

WHEREAS, the Township Council of the Township of Livingston entered into a contract ("Contract C1900023") with Ischia Corp. for the Two Inch Mill and Pave of Chestnut Street-North Section; and

WHEREAS, the initial Contract was not to exceed Three Hundred Ninety-Nine Thousand, Six Hundred Forty Dollars and Forty-Two Cents (\$399,640.42); and

WHEREAS, due the need for additional quantities for concrete sidewalks, a Change Order has been requested for the following:

A.	SUPPLEMENTAL	
	Concrete Sidewalk 4" Thick	<u>\$39,000.00</u>
	Total	\$39,000.00

WHEREAS, the total change order increased the contract amount by 9.76% or \$39,000.00 making the new contract sum \$438,640.42; and

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

WHEREAS, the Chief Financial Officer has certified that sufficient funds are available in account C-04-55-019-009-001.

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 to the Contract with Ischia Corp. for the Two Inch Mill of Chestnut Street-North Section; 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-20-78 Authorizing Award of Contract to McManimon Scotland and Baumann, LLC

WHEREAS, the Township of Livingston has a need to acquire Redevelopment Counsel 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, McManimon, Scotland & Baumann, LLC has completed and submitted a Business Entity Disclosure Certification which certifies that McManimon, Scotland & Baumann, 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 McManimon, Scotland & Baumann, LLC from making any reportable contributions through the term of the contract, and

WHEREAS, the Township Manager is recommending the award of a contract to McManimon, Scotland & Baumann, LLC to provide Redevelopment Counsel as required by the Township on the terms set forth in the proposal dated January 10, 2020; and

WHEREAS, the fees paid to the Planning Board and Zoning Board of Adjustment will be charged to applicants through escrow; and

WHEREAS, the Chief Financial Officer has certified that funds will be available in account C-04-55-019-009-008.

NOW THEREFORE, BE IT RESOLVED that the Township Council of the Township of Livingston authorizes the Township Manager to enter into a contract with McManimon, Scotland & Baumann, LLC for the period of February 3, 2020 through December 31, 2020 in an amount not to exceed \$25,000.00 as described herein; and,

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.

d) R-20-79 Auth. Contract with R&D Trucking, LLC

WHEREAS, the Township of Livingston ("Township") has a need for the removal and off-site disposal of liquid sludge from the Water Pollution Control Facility; and

WHEREAS, on November 21, 2019, the Township of Livingston issued Bid No. 021-2019 as an open-ended contract, to solicit bids from contractors experienced in the removal and off-site disposal of liquid sludge; and

WHEREAS, the bid was advertised on the Township of Livingston website and West Essex Tribune on November 21, 2019 and as a result eleven (11) bid packages were requested; and

WHEREAS, on December 18, 2019, three (3) bids were received by the bid deadline and publicly read; and

WHEREAS, the Township received bids from two responsive and responsible bidders that comply with the requirements of N.J.S.A. 10:5-31 et seq. and N.J.S.A. 17:27 et seq., R & D Trucking, Inc. and Russell Reid Waste Hauling and Disposal Service Company, Inc., which bids were in the same and equal amount of \$27.00 per 1,000 gallons of sludge; and

WHEREAS, the New Jersey Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., addresses equal bids and expressly provides in N.J.S.A. 40A:11-6.1.d. as follows:

d. Whenever two or more responses to a request of a contracting agent offer equal prices and are the lowest responsible bids or proposals, the contracting unit may award the contract to the vendor whose response, in the discretion of the contracting unit, is the most advantageous, price and other factors considered. In such a case, the award resolution or purchase order documentation shall explain why the vendor selected is the most advantageous.

WHEREAS, the Township Utilities Director, the Township Engineer, Township Manager and Township Purchasing Manager have reviewed the equal bids of R & D Trucking, Inc. and Russell Reid Waste Hauling and Disposal Service Company, Inc. and have recommended that the Township Council award the contract to R & D Trucking, Inc. as being the most advantageous based upon the following factors:

1. Both Companies are qualified and capable of providing the services required.
2. The Township's current sludge disposal contract is with R & D Trucking, Inc. and the Township has had, and continues to have, a positive experience and working relationship with R & D Trucking, Inc. in its current provision of the identical services sought in this bid.

3. The personnel at the Water Pollution Control Facility and R & D Trucking, Inc. have developed and implemented procedures which optimize the efficiency and minimize staff time required for the sludge removal process.
4. Any change to a new service provider, even if equally qualified, would necessarily involve additional transition time in learning and implementing processes and procedures in contrast to the benefits of continuity in retaining the current service provider, R & D Trucking, Inc.

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

WHEREAS, based upon the foregoing, Township Utilities Director, the Township Engineer, Township Manager and Township Purchasing Manager recommend that the Contract be awarded to R & D Trucking, Inc. as the most advantageous, price and other factors considered, pursuant to N.J.S.A. 40A:11-6.1.d.

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 finds that the bid of R & D Trucking, Inc. is the most advantageous to the Township and awards, and authorizes the Township Manager to enter into a twenty-four (24) month Contract with R & D Trucking, Inc. effective March 1, 2020, at a cost of \$27.00 per 1,000 gallons for the removal and off-site disposal of liquid sludge.

e) R-20-80 Auth. Contract with CMS Construction, Inc.

WHEREAS, the Township of Livingston ("Township") has a need for the Wardell Road Pedestrian Bridge that cannot otherwise be performed by its regular employees; and

WHEREAS, on December 19, 2019, the Township of Livingston issued Bid No. 022-2019 to solicit bids from contractors experienced in constructing pedestrian bridges; and

WHEREAS, the bid was advertised on the Township of Livingston website and West Essex Tribune on December 19, 2019 and as a result forty-six (46) bid packages were requested; and

WHEREAS, on January 29, 2020, thirteen (13) bids were received by the bid deadline and publicly read; and

WHEREAS, CMS Construction, 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, the Township Engineer has evaluated the proposal for qualifications, experience, and cost reasonableness, and recommends the award of a contract to CMS Construction, Inc.; and

WHEREAS, the Township Manager is recommending the award of a contract to CMS Construction, Inc. in an amount not to exceed \$233,212.00; and

WHEREAS, the Chief Financial Officer has certified that sufficient funds are available in account T-11-01-001-001-001.

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 Township Manager to enter into a contract with CMS Construction, Inc. in an amount not to exceed \$233,212.00.

f) R-20-81 Approving Collective Negotiation Agreement with Communication Workers of America, AFLO-CIO. Local 1031
This resolution was withdrawn.

On roll call vote of Resolutions R-20-76 through R-20-80, all members present voted YES.

Public Comment

Todd Sherman, 17 Tarlton Drive, addressed the issues he has had with the Township Building Department regarding his property. He urged the Council to adopt an ordinance "to protect homeowners" and recommended that Homeowner Associations be established. He pointed out that there was currently no Ordinance requiring a Homeowners Association to keep and give records to the Building Dept., which would have made those records subject to an OPA Request. He stated that Builders are not following the rules, and that the Building Department is not enforcing the rules that exist. Township Manager Lewis noted that he was to meet with the Building Department this week and would bring up Mr. Sherman's concerns.

Justin Alpert, 56 Amherst Place, inquired as to requirements for Closed Session, and Mayor Fernandez explained.

Joel Jarman, 11 Trombley Drive, spoke in support of Todd Sherman's comments, stating that there was "no oversight" of this development.

Fred Friedman, 1304 Pointe Gate Drive, addressed piping on Beaufort Avenue.

Bob Hunter, 89 Elmwood Drive, described the area referred to by Todd Sherman as a "war zone." Mr. Hunter also discussed LTV, spoke in praise of Congresswoman Mikie Sherill's recent gathering, and reminisced by telling three stories featuring former Livingston Fire Chief and long-time Township employee Charlie Schilling, who had recently passed.

Chris Rutan, 9 Trombley Drive, also spoke in support of Todd Sherman's comments, and addressed the issue of trees being cut down in the area.

Recess

At 8:10 p.m., the Regular Meeting concluded.

RUFINO FERNANDEZ, JR, Mayor

GLENN R. TURTLETAUB, Township ClerkR-20-