

The Regular and Conference Meeting of the Township Council of the Township of Livingston was held via Livestream from Facebook @facebook.com/LivingstonTownshipNJ on the above date at 7:00 p.m. The Mayor stated that notice of this meeting has been given in accordance with the "Open Public Meetings Law", and that Annual Notice was faxed to the West Essex Tribune and the Star Ledger on January 2, 2020, and that "48-hr. notice" was faxed and emailed to these same publications on the Livingston Township website (livingstonnj.org) on May 19, 2020 and posted on the Livingston Township website (livingstonnj.org).

Present (via Livestream): Mayor Fernandez, Deputy Mayor Klein, Councilmember Anthony, Councilmember Meinhardt, Councilmember Vieira, Township Manager Lewis, Deputy Township Manager Jones, Township Clerk Turtletaub, Deputy Township Clerk Mazzucco,

Absent: None

Mayor Fernandez asked everyone to stand for a Moment of Silence, followed by the Pledge of Allegiance.

Presentation—Allison Small—Louis Bay 2nd Future Municipal Leaders Scholarship Competition

Mayor Fernandez read a Certificate awarded to Allison Small, selected as a Finalist in the State's Future Municipal Leaders Competition. Allison participated via Zoom, and spoke about the topic she had chosen and her essay. The Councilmembers addressed her and congratulated her on her achievement.

Legal Fees

The Council approved payment of the following Legal Fees:

- a) Genova Burns (April 2020)
- b) McManimon Scotland & Baumann (March 2020)
- c) McCarter & English (April 2020)
- d) Antonelli Kantor (April 2020)

New Business

a) Coronavirus/COVID 19 Update---Township Manager Lewis gave an update of steps the Township is taking to address issues raised by the pandemic, including enforcement actions taken by the Health Department, He addressed the Governor's announcement easing restrictions, and stated that SYLS Director Jenn Walker and the camp staff had taken the necessary action to ready and open the camps. He noted that people should "stay tuned" and that there will be announcements forthcoming. He pointed out that the Township had received

no guidance from the state regarding the opening of pools, but that the Township's two pools are ready, and that the Township will be prepared "whenever we get the green light." He noted that although the municipal building is closed to the public, that the Township staffs are providing the full range of services. He noted that plexiglass was being installed for protection at each of the counters.

Livingston Police Chief Marshuetz gave an update on the Police Department, pointing out that the members of his Department were strong and healthy. He commended the officers for their response to the pandemic. He also pointed out that there had been great compliance from residents with social distancing restrictions.

Chief Marshuetz also addressed a video displaying actions of the Minneapolis police. Chief Marshuetz stated he and his department denounced those officers' actions. He asserted that in New Jersey "we are more advanced regarding the Use of Force." He noted that he had participated in Zoom meetings with the Essex County Prosecutor's Office.

Chief Marshuetz thanked the Council and Manager for the new radio system purchased for the department. He announced that National Night Out would be canceled this year due to the pandemic.

Mayor Fernandez announced that Councilmembers Anthony and Klein had been working on a Committee addressing residents' request and suggestion for a Pop Up Drive in. He stated that the Committee, and that the Committee had met with SYLS Department head Jenn Walker and that it was anticipated that the event would be held the evening of Father's Day. Councilmember Anthony also gave an update, and Councilmember Meinhardt inquired and it was clarified that the event was in fact for Livingston residents only.

b) Alzheimer's New Jersey for Endurance Cyclist ride around Livingston Oval –Weekend of Friday, June 19-21. Township Manager Lewis highlighted his memorandum in support of the request, and noted that the Board of Education had no issues with the request; all Councilmembers all approved of the event.

c) Approval of Change Order & Final Payment for 2019 Memorial Park Sidewalk Improvements

Township Manager Lewis highlighted his memorandum recommending approval of the change order and payment, noting that it had been achieved at a decreased cost. Mayor Fernandez gave credit to the Township Engineer Harduby and her staff for their work on the project.

d) Tent Sale at Livingston Mall

Township Manager Lewis discussed the request, as detailed in his Memorandum). The Council approved the request, and Township Manager Lewis will so advise the requester

e) Two Inch Mill and Pave of Chestnut St—Change Order #2—Township Manager Lewis explained his recommendation as set forth in his memorandum, and the Council agreed to same. A Resolution will be considered this evening.

f) Closeout of Various Mott McDonald Contracts Final Change Order

Township Manager Lewis explained the reasons for his recommendation as set forth in his memorandum, and that Council agreed to same. A Resolution will be considered this evening.

The Council announced it would cancel the July 6 Conference and Regular Meetings, but that the meetings would be moved to July 8 to accommodate the taking of energy aggregation bids.

Public Comments on Agenda Items

Township Clerk Turtletaub and Deputy Clerk Mazzucco read aloud comments addressed to the Council and submitted via email.

Mark Brafman on behalf of Marion Brafman, 47 Springbrook Road, urged enforcement of the ban against “false security alarms that go off from the hours of 11:00 p.m. and 7:00 a.m., including systems that play music when the alarm systems are activated/tripped, and that these blaring sounds are “a total nuisance and a disturbance to sleep”. He asked for a plan to combat “this quality of life issue and to restore peace and quiet to our neighborhood!”

David Reinfeld, 257 East Northfield Road, commented on code enforcement regarding a dangerous sidewalk at 31 Billingsley, and asking for an update on the town’s plan to fix the sidewalks on East and West Northfield.

Jeffrey Grabelle, 81 Irving Avenue, provided an update and details on what has been transpiring with the Pop Up movie.

Justin Escher Alpert, 56 Amherst Place, asking about properties potentially being redeveloped (Agenda Items 5a and 5b. Since these items were to be addressed in closed session, there was no discussion. Mr. Alpert also questioned legal fees and, the Livingston Corporate Park Associates details, and the Manager and Councilmembers responded.

Resolution—Consent Agenda Includes All Items Marked “*” R-20-124

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 1, 2020, attached hereto, which are preceded by an “*” are the Consent Agenda and are hereby accepted, approved and/or adopted.

On roll call vote, all members present voted YES.

*Approval of Minutes

a) Regular Minutes April 27, 2020

b) Closed Session Minutes April 27, 2020

c) Special Meeting Minutes May 1, 2020

*Approval of Licenses

Final Hearing Ordinances

a) Ord. 6-2020 Authorizing the Establishment of a Government Energy Aggregation Program 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. It was ordered advertised according to law.

Proposed Ordinances

Resolutions

a) Res 20-125 Authorizing the Award of a Contract to Dykstra Associates

WHEREAS, the Township of Livingston has a need to acquire Land Surveying Services 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, Dykstra Associates has completed and submitted a Business Entity Disclosure Certification which certifies that Dykstra Associates 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 Dykstra Associates from making any reportable contributions through the term of the contract, and

WHEREAS, the Township Manager is recommending the award of a contract to Dykstra Associates to provide Land Surveying Services as required by the Township; and

WHEREAS, the Acting Chief Financial Officer has certified that funds will be available in account
T-11-01-001-001-001.

NOW THEREFORE, BE IT RESOLVED that the Township Council of the Township of Livingston authorizes the Township Manager to enter into a contract with Dykstra Associates 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.

b) Res 20-126 Amending Agreement with Livingston Corporate Park

WHEREAS, Livingston Corporate Park Associates (“LCPA”) is an intervenor in a declaratory action filed by the Township of Livingston that is pending in the Superior Court of New Jersey, Law Division, Essex County, and Docket No. ESX-L-9126-07 (“DJ Action”); and

WHEREAS, the DJ Action seeks a judicial determination of compliance by the Township with its obligation to provide realistic opportunity for a fair share of housing affordable to lower income households as set forth in decisions of the New Jersey Supreme Court; and

WHEREAS, LCPA previously was permitted to intervene in the DJ Action based on its stated interest in developing for exclusionary develop of property owned by LCPA consisting of approximately 13.847 acres designated as Block 6101, Lot 45 on the Township Tax Map and located near the intersection of Eisenhower Parkway and South Orange Avenue that is currently improved with an office building, surface parking and related site improvements; and

WHEREAS, following a series of meetings and communications, representatives of LCPA, Township and Planning Board reached an agreement for an overlays rezoning of the LCPA property for multifamily development subject to an affordable housing set aside requirement as described in this agreement, conditioned upon adoption of an implementing zoning ordinance amendment to be negotiated in good faith by the parties that would be the subject of public hearing conducted in accordance with applicable statutory procedural requirements and compliant with all other requirements; and

WHEREAS, revision to the original settlement agreement was requested by the Fair Housing Council and agreed to by the parties necessitated the need to sign this Amended and Restated Litigation Settlement Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Livingston, County of Essex, State of New Jersey that this agreement reached after deliberation by all parties and upon the considered judgment of all parties that it is in the best interest of the public good and welfare to enter into this agreement; and, it is

THEREFORE FURTHER RESOLVED that the Mayor is authorized on behalf of the Township of Livingston to enter into this Litigation Settlement Agreement in a form acceptable to the Township Attorney with Livingston Corporate Park Associates.

c) Res 20-127 Authorizing Change Order #1 and Final with Midwest Construction

WHEREAS, the Township Council of the Township of Livingston entered into a contract (“Contract C1900020”) with Midwest Construction Inc. for the 2019 Memorial Park Sidewalk Improvements; and

WHEREAS, the initial Contract was not to exceed Three Hundred Forty-Four Thousand, Two Hundred Twenty- Five Dollars and no cents (\$344,225.00); and

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

A. SUPPLEMENTAL		
Concrete Sidewalk, 4" Thick		\$1,329.93
Granite Block Curb		\$1,600.00
Total		\$2,929.93
B. REDUCTIONS		
Police Traffic Directors		-\$5,040.00
Hot Mix Asphalt Sidewalk, 4" Thick (As Needed for Restoration)		-\$746.80
Detectable Warning Surface		-\$625.00
Concrete Curb (Full Face & Depressed at ADA Curb Ramps)		-\$1,816.00
Traffic Stripes, Long Life , Thermoplastic, 6" Width		-\$384.00
Total		-\$8,611.80

WHEREAS, the total change order decreased the contract amount by 1.65% or \$5,681.87 making the new contract sum \$338,543.13; 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 Midwest Construction Inc. for the 2019 Memorial Park Sidewalk Improvements; 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) Res 20-128 Authorizing Approval of Change Order #3 and Final with Mott McDonald for Water System Planning

WHEREAS, the Township Council of the Township of Livingston entered into a contract ("Contract C1400004") with Mott MacDonald, LLC for Water System Planning; and

WHEREAS, the initial Contract was not to exceed Two Hundred Ten Thousand, Seven Hundred Fifty Dollars and no cents (\$210,750.00); and

WHEREAS, change order number one (R-15-60) increased the contract amount by \$4,500.00 making the new contract sum \$215,250.00; and

WHEREAS, change order number two (R-17-124) increased the contract amount by \$13,650.00 making the new contract sum \$228,900.00; and

WHEREAS, due to unused allowances, change order number 3 has been requested for the following:

C. REDUCTIONS

Unused Allowances	-
	\$21,065.85
	-
Total	\$21,065.85

WHEREAS, the total sum of change orders 1, 2 & 3 decreased the contract amount by 9.20% making the new contract sum \$207,834.15; and

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

NOW, THEREFORE, BE IT RESOLVED, the Township Council of the Township of Livingston, Essex County, approves the execution of Change Order Number 3 and Final to the Contract with Mott MacDonald, LLC for Water System Planning and 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.

e) Res 20-129 Authorizing Approval of Change Order #1 and Final with Mott MacDonald for Wells 8, 9, and 12

WHEREAS, the Township Council of the Township of Livingston entered into a contract ("Contract C1400032") with Mott MacDonald, LLC for Wells 8,9, 12; and

WHEREAS, the initial Contract was not to exceed Three Hundred Fifty-Two Thousand, One Hundred Forty-Four Dollars and no cents (\$352,144.00);

WHEREAS, change order number one (R-15-211) increased the contract amount by \$8,250.00 making the new contract sum \$360,394.00; and

WHEREAS, due to unused allowances, change order number 2 has been requested for the following:

D. REDUCTIONS

used Allowances	-
	\$20,809.87
	-
Total	\$20,809.87

WHEREAS, the total sum of change orders 1 and 2 decreased the contract amount by 5.77% making the new contract sum \$339,584.13; and

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

NOW, THEREFORE, BE IT RESOLVED, the Township Council of the Township of Livingston, Essex County, approves the execution of Change Order Number 2 and Final to the Contract with Mott MacDonald, LLC for Wells 8, 9,12 and 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.

f) Res 20-130 Authorizing Approval of Change order #1 and Final with Mott McDonald for Wells 6 VOC Treatment

WHEREAS, the Township Council of the Township of Livingston entered into a contract (“Contract C1600007”) with Mott MacDonald, LLC for Well 6 VOC Treatment; and

WHEREAS, the initial Contract was not to exceed Four Hundred Ten Thousand, Five Hundred Dollars and no cents (\$410,500.00); and

WHEREAS, due to unused allowances, a Change Order has been requested for the following

E.	REDUCTIONS	
	Unused Allowances	\$32,182.30
	Total	\$32,182.30

WHEREAS, the total change order decreased the contract amount by 7.83% or \$32,182.30 making the new contract sum \$378,367.70; and

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

NOW, THEREFORE, BE IT RESOLVED, the Township Council of the Township of Livingston, Essex County, approves the execution of Change Order Number 1 and Final to the Contract with Mott MacDonald, LLC for Well 6 VOC Treatment and 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.

g) Res 20-131 Authoring Approval of change Order #2 with Ischia Corp.—Two-Inch Mill and Pave of Chestnut St.

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, change order number one (R-20-77) increased the contract amount by \$39,000 making the new contract sum \$438,640.42; and

WHEREAS, due the need for additional work, change order number two has been requested for the following:

A. SUPPLEMENTAL

Reconstruction of outfall including relocation of 36 inch drainage pipe
\$32,800.00

Total **\$32,800.00**

WHEREAS, the total sum of change orders one and two increased the contract amount by 17.97% making the new contract sum \$471,440.42; 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 and C-04-55-019-009-003.

NOW, THEREFORE, BE IT RESOLVED, the Township Council of the Township of Livingston, Essex County, approves the execution and payment of Change Order Number 2 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

h) Res 20-132 Authorizing Purchases on the Educational Services Commission of NJ Purchasing Program

WHEREAS, the Township of Livingston, pursuant to N.J.S.A. 40A:11-11(6) and N.J.A.C. 5:34-7.1 et seq. may by resolution and without advertising for bids, purchase any goods or services under a Cooperative Pricing System of which the Township is a member; and,

WHEREAS, the Township of Livingston is a member of the Educational Services Commission of New Jersey Purchasing Program and has the need on a timely basis to purchase goods or services using those contracts; and

WHEREAS, the Township of Livingston intends to enter into contracts with the attached referenced contract vendors through this resolution and properly executed purchase orders as needed, which shall be subject to all the conditions applicable to current contracts.

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Livingston authorizes the purchase of certain goods and services from those approved Educational Services Commission of New Jersey Purchasing Program vendors on the attached list, pursuant to all the conditions of the individual contracts; and

BE IT FURTHER RESOLVED, by the Township Council that, pursuant to the N.J.A.C. 5:30-5.5(b), the certification of available funds shall be certified at such time as the goods or services are called for prior to placing the order, and a certification of availability of funds is made by the Chief Financial Officer via an authorized purchase order; and

BE IT FURTHER RESOLVED, that the duration of this authorization shall be until December 31, 2020 or upon the expiration of the vendors' contract, whichever event first occurs.

i) Res 20-133 SubGrant Award FY20-EMPG-EMAA-0710

WHEREAS, the Township of Livingston Office of Emergency Management made application to the New Jersey Office of Emergency Management for FY20 Emergency Management Assistance Agency (EMAA) Funding; and

WHEREAS, the Township of Livingston Office of Emergency Management has received notice of Award from the New Jersey Department of Law and Public Safety, Division of State Police, Office of Emergency Management, CFDA #97.042 for Sub Grant Award No. FY20-EMPG-EMAA-0710 for the performance period 7/1/20 through 6/30/21 consisting of a total federal award amount of \$10,000 .00 for the purpose of enhancing and sustaining the Municipal all-hazards emergency management capabilities and enhancing the Municipal ability to prevent,

respond to and recover from acts of terrorism, natural disasters or other catastrophic events;
and

WHEREAS, the Sub Grant consists of \$10,000.00 (Federal Award), which the Township of Livingston Office of Emergency Management will use the funding for emergency management purposes

NOW, THEREFORE, BE IT RESOLVED by the Livingston Township Council that the Township of Livingston herewith applies for and will accept the Award from the New Jersey Department of Law and Public Safety, Division of State Police Office of Emergency Management Performance Grant Program: No. FY20-EMPG-EMAA-0710, in the amount of \$10,000.00 Federal Funds from the New Jersey State Police, Office of Emergency Management; and

BE IT FURTHER RESOLVED, that the sum of \$10,000 is hereby appropriated under the caption FY20- EMPG-EMAA-0710 New Jersey Department of Law and Public Safety, Division of State Police Office of Emergency Management Performance Grant and;

BE IT FURTHER RESOLVED, that the Mayor, the Town Manager and the County Emergency Management Coordinator are authorized to sign the appropriate Sub grant Award documents; and

BE IT FURTHER RESOLVED, that copies of this Resolution shall be forwarded to the New Jersey State Police, Office of Emergency Management; the Director of the Division of Local Government Services;

k) Res 20-134 Authorizing Township Manager to File Application and Execute Applicant Assurances for a Preserve NJ. Historic Preservation Fund Grant Application for Old Force Homestead

Whereas, the Township is the owner of the Old Force Homestead which is designated on the National and State registries of historic places; and

Whereas, the Old Force Homestead is in need of significant repairs and rehabilitation which have been identified by the retained historic preservation Architect, Barton Ross; and

Whereas, the Livingston Historical Society and the Township manager have identified the Preserve new jersey Historic preservation Fund 2020 Capital Level I and II program as a funding opportunity to provide grant funds to cover more than half of the cost of the needed repairs and rehabilitation and have recommended that the Township submit an application for a grant; and

Whereas, any required matching funding is available through the Township's Open Space, Recreation and Historic Preservation Trust Fund;

Now, therefore be it resolved by the Township Council of the Township of Livingston that the township Manager, Barry R. Lewis, Jr., is authorized to sign and submit a Capital Level I and II Grant Application and to sign the attached Applicant Assurances in connection therewith.

On roll call vote of Resolutions R-20-125 through R-20-134, all members present voted YES.

Public Comment

Township Clerk Turtleaub and Deputy Clerk Mazzucco read comments addressed to the Council and submitted via email.

Keith Hines, urged the Livingston Police Department “to bring back the beat cop”, and added that Livingston has “a wonderful police department.”

Scott Lantzman, 11 Rockhill Drive, urged the Township to enforce its Ordinances regulating signage and door to door permitting.

At 8:15 p.m., the following Resolution was read:

Resolution Authorizing Closed Session—Property (Potential Redevelopment);Attorney Client Privilege (Litigation)

WHEREAS, N.J.S.A. 10:4-12 allows for a Public Body to go into closed session during a Public Meeting; and

WHEREAS the Governing Body of the Township of Livingston has deemed it necessary to go into closed session to discuss certain matters which are exempted from the public; and

WHEREAS, the Conference meeting of the Governing Body will reconvene, and

BE IT RESOLVED that this 1st day of June, 2020, that the Township Council of the Township of Livingston will go into Closed Session for the purpose of discussing Property, Attorney-Client Privilege, and such matters as may come before the council and that are exempted from the public as outlined N.J.S.A. 10:4-12.

BE IT FURTHER RESOLVED that the matters discussed in closed session will be made public upon disposition.

On motion duly made and seconded, and by voice vote, all members present voted YES.

The Closed Session adjourned at 9:05 p.m.

Adjournment

The meeting was adjourned at 9:05 p.m.

RUFINO FERNANDEZ, Jr. Mayor

GLENN R. TURTLETAUB, Township Clerk