

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 and posted on the Livingston Township website (livingstonnj.org) on June 18, 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 Attorney Weiner, Township Clerk Turtletaub

Absent: Deputy Township Clerk Mazzucco

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

The Council approved payment of the Legal Fees of McCarter & English (May 2020) and McManimon, Scotland & Baumann (May 2020).

Approval of Minutes

- a) Regular Minutes June 15, 2020
- b) Closed Session Minutes June 15, 2020

New Business

a) Coronavirus/COVID 19 Update—Township Manager Lewis provided an update of the Township's responses to the Coronavirus pandemic, including the Township's application for CARES Act funding, structural changes including installation of plexiglass and markings to delineate social distancing requirements, and that while the building could possibly be opened to the public on Monday, that the holding of public meetings was still "down the road".

b) Sale of Surplus—Manager Lewis explained the need for a similar Resolution each time, pursuant to new Local Finance Notice, and that therefore R-20-150 appear on this evening's Regular Agenda.

c) Furnish two (2) Ford F350 Supercab XLT or Equivalent--Township Manager Lewis explained the reasoning for the recommendation, and noted that the money was available from last year's capital account. The Resolution will be considered on this evening's Regular Agenda.

d) Cancellation of Contract—Township Manager Lewis discussed his Memorandum recommending cancellation of the Remington & Vernick contract, and Resolution 20-151 will be considered at this evening's Regular Agenda.

Essex County Update/Questions

Public Comments on Agenda Items

Township Clerk Turtletaub read and the Council responded to questions residents submitted via email.

Michele and Anthony Violette, 21 Arden Rd., discussed Block 3700 Redevelopment Study, and commented on R-20-146, urging that as Senior Citizens and Handicapped, that it would be a terrible hardship for them to be compelled to leave their home at 21 Arden Road. Mayor Fernandez explained that R-20-146 was being pulled from the evening's Agenda and would not be considered this evening.

Alex Zaltsman asked for consideration of the use of Township property for fitness classes.

Residents Stacy Abenstein (11 Browning Drive), Amy Ipp, Meso Zerubabel-Ibrahim (283 Cedar Street), Shiray McLean (21 Cedar Gate Drive), and Gabrielle Altstadter (18 Falcon Road), urged formation of a Livingston Justice Committee. The Mayor explained that this matter would be discussed in closed session this evening.

*Approval of Licenses

Resolution—Consent Agenda Includes All Items Marked “*” R-20-142

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 July 8, 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.

Final Hearing Ordinances

Proposed Ordinances

Ord. 9-2020 Prohibit Certain Activities at the 9-11 Memorial

ORDINANCE OF THE TOWNSHIP OF LIVINGSTON AMENDING CHAPTER 210 PARKS AND RECREATION AREAS BY ADDING A NEW ARTICLE IV LIVINGSTON 9/11 MEMORIAL GARDEN 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, August 3, 2020.

Resolutions

a) R-20-143 Resolution Awarding a Contract to Livingston Community Energy Aggregation (LCEA)

The Mayor announced that this Resolution would not be introduced.

b) R-20-144 Rejecting Price Proposals Received to the LCEA

WHEREAS, the Government Energy Aggregation Act of 2003 (P.L. 2003, c.24; N.J.S.A. 48:3-93.1 et seq.) ("Act") and rules promulgated by the New Jersey Board of Public Utilities (N.J.A.C. 14:4-6.1 et seq.) ("Rules") govern the establishment and implementation of a government energy aggregation program, which is a government-operated purchasing cooperative through which multiple energy consumers join together for the purchase of electric utility services by a government aggregator; and

WHEREAS, by Ordinance No. 19-2017 adopted on September 18, 2017, the Township of Livingston ("Township") created a Government Energy Aggregation Program in the Township of Livingston, New Jersey, known as the Livingston Community Energy Aggregation ("LCEA"); and

WHEREAS, the Township is the Lead Agency of the LCEA; and

WHEREAS, the residents of Livingston Township are included in the LCEA on an "opt-out" basis, as set forth in the Rules; and

WHEREAS, on March 13, 2019 the Township awarded two separate contracts to two different third-party suppliers to provide electric generation service to Township residents in Public Service Electric and Gas ("PSE&G") and Jersey Central Power and Light ("JCP&L") service territories, respectively, under Round 1 of the LCEA program, which contracts will be expiring in Fall 2020; and

WHEREAS, by Ordinance No. 6-2020 adopted on June 1, 2020, the Township of Livingston ("Township") re-authorized the Livingston Community Energy Aggregation program; and

WHEREAS, on June 11, 2020, the Township, in its capacity as Lead Agency of the LCEA, publicly noticed and issued a Request for Proposals (RFP) for the Provision of Electric Generation Service and Government Energy Aggregation Services for Round 2 of the LCEA program by New Jersey Board of Public Utilities (NJBPU)-licensed and qualified electric power suppliers in New Jersey; and

WHEREAS, the RFP provided for a two-stage process that included: Stage I for the submission of supplier questions and comments and the submission of qualification documents by interested, NJBPU-licensed electric power suppliers; and Stage 2 for the submission of price proposals; and

WHEREAS, the RFP provides for the submission of separate pricing for electric generation service for two pricing groups, Participating Residential Accounts in the PSE&G service territory and Participating Residential Accounts in the JCP&L service territory, for contracts starting in October 2020 and running for three potential contract durations (terms), and for two different contract language options: Option A) using the form of Master Performance Agreement attached to the RFP; and Option B) using the form of MPA attached to the RFP except that subsection 3.2 (a) (iii) (C) is removed; and the RFP provides for the award of a contract, including contract duration and contract language option, at the discretion of the Township of Livingston and in accordance with the evaluation criteria set forth in the RFP; and

WHEREAS, the RFP provides for two different potential Enhanced Renewable Energy Products which require the selected supplier(s), if any, to include in its power supply portfolio for LCEA-

participating Township residents an enhanced renewable energy component that provides for either: Option 1) 20% greater renewable energy content than the amount of renewable energy content mandated under the State's Renewable Portfolio Standard or 'RPS,' with the additional 20% renewable content being sourced from PJM Class I Renewable Energy Certificates ("RECs"), such product otherwise referred to as the 'RPS + 20%' product; or Option 2) 100% total renewable energy content consisting of the renewable content of the 'RPS + 20%' product plus additional national wind RECs necessary to bring total renewable content to 100%; and

WHEREAS, during Stage 1 non-binding Notices of Intent and other qualification documents were received from three (3) NJBPU-licensed electric power suppliers who were deemed eligible to submit Stage 2 pricing proposals; and

WHEREAS, a number of supplier questions and comments were received and, as a result, on June 26, 2020 a document entitled "Responses to Supplier Questions and Addendum No.1," which supplemented and amended the RFP, was issued and distributed to all suppliers that had submitted a Notice of Intent to Propose and/or requested a copy of the RFP; and

WHEREAS, Stage 2 price proposals and accompanying Transmittal Letters were submitted by two (2) NJBPU-licensed electric power suppliers by the 12:00 noon July 8, 2020 deadline set forth in the RFP; and

WHEREAS, the Township, in consultation with its energy agent, has conducted an in-depth evaluation of qualifications and analysis of price proposals, in accordance with the evaluation criteria set forth in the RFP and Addendum No.1; and

WHEREAS, pursuant to the RFP, the Township reserved the right to make an award to a supplier, or to make no award at all; and

WHEREAS, pursuant to the Rules, the Township shall base its award of a contract to a NJBPU-licensed electric power supplier for the Provision of Electric Generation Service and Government Energy Aggregation Services for the LCEA upon the most advantageous proposal, price and other factors considered; and

WHEREAS, as a result of the evaluation of qualifications and proposals and analysis of price proposals submitted on July 8, 2020, the Livingston Township Committee has determined that no contract award shall be made at this time for either the PSE&G or JCP&L pricing group.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Livingston, County of Essex, New Jersey, as follows:

1. The Livingston Township Committee shall make no contract award for either the PSE&G or JCP&L pricing group as a result of the price proposals submitted on July 8, 2020; said price proposals are hereby rejected on the basis that the award of a contract based thereon is not in the Township's best interests.

2. The RFP shall be held open for a period of up to 120 days, and the Township may accept refreshed prices in accordance with the RFP, at any time during that 120-day period, consistent with applicable law.

c) Res 20-145 Designating Block 6100, Lots 12 & 13 as Area in Need of Redevelopment

WHEREAS, the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.*, as amended and supplemented (the “Redevelopment Law”), authorizes municipalities to determine whether certain parcels of land located therein constitutes an area in need of redevelopment; and

WHEREAS, on February 24, 2020, by Resolution No. 20-93, and in accordance with the provisions of the Redevelopment Law, the Township Council of the Township of Livingston, in the County of Essex, New Jersey (the “Township Council”) authorized and directed the Planning Board of the Township of Livingston (the “Planning Board”) to conduct an investigation of certain properties, including those identified on the tax maps of the Township of Livingston (the “Township”) as Block 6100, Lots 12 and 13 (collectively, the “Study Area”), and to determine whether all or a portion of the Study Area meets the criteria set forth in the Redevelopment Law, *N.J.S.A. 40A:12A-5*; and

WHEREAS, the Township engaged Beacon Planning and Consulting Services, LLC (the “Planning Consultant”) to conduct an investigation to determine whether the Study Area should be designated an area in need of redevelopment; and

WHEREAS, the Planning Board received a report setting forth the basis for the investigation and a map depicting the Study Area prepared by the Planning Consultant, entitled, “8 Peach Tree Hill Road Redevelopment Area Assessment” dated May, 2020, concerning the determination of the Study Area as an area in need of redevelopment (the “Report”); and

WHEREAS, the Redevelopment Law requires the Planning Board to conduct a public hearing prior to making its determination whether the Study Area should be designated as a non-condemnation area in need of redevelopment, at which hearing the Planning Board shall hear all persons who are interested in or would be affected by a determination that the property is an area in need of redevelopment; and

WHEREAS, on June 25, 2020, the Planning Board reviewed the Report, heard testimony from representatives of the Planning Consultant, conducted a public hearing during which members of the general public were given an opportunity to present their own evidence and/or to cross-examine the Planning Consultant, and to address questions to the Planning Board and its representatives, concerning the potential designation of the Study Area as an area in need of redevelopment; and

WHEREAS, the Planning Consultant concluded in the Report and testified to the Planning Board on June 25, 2020 that the Study Area satisfies the criterion for a redevelopment area designation as set forth in the Redevelopment Law; and

WHEREAS, after continuation and conclusion of the public hearing described above on July 7, 2020, the Planning Board voted to adopt and accept the recommendation contained in the Report, and recommended that the Study Area be declared a non-condemnation area in need of redevelopment, in accordance with the Redevelopment Law, and for the reasons set forth in the Report; and

WHEREAS, the Township Council agrees with the conclusion of the Planning Board that the Study Area satisfies the criterion for redevelopment area designation set forth in the Redevelopment Law and finds that such conclusion is supported by substantial evidence; and

WHEREAS, the Township Council now desires to declare the Study Area as a non-condemnation area in need of redevelopment pursuant to *N.J.S.A. 40A:12A-6*,

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Livingston, in the County of Essex, New Jersey, as follows:

Section 1. The aforementioned recitals are incorporated herein as though fully set forth at length.

Section 2. Based on the Report and the recommendation of the Planning Board, the Study Area satisfies the criterion for redevelopment area designation as set forth in the Redevelopment Law.

Section 3. The Study Area is hereby designated as a "Non-Condensation Redevelopment Area" as referenced in the Redevelopment Law.

Section 4. The Township Council hereby directs the Municipal Clerk to transmit a certified copy of this resolution forthwith to the Commissioner of the Department of Community Affairs for review.

Section 5. This resolution shall take effect in accordance with applicable law.

d) Res 20-146 Designating Block 3700, Lots 1-8, 24, 25 & 27-30 as Area in Need of Redevelopment

The Resolution was not introduced.

e) Res 20-147 Approving and Adopting Corrective Action Plan for FY 2018 Annual Audit

WHEREAS, in accordance with the requirements of the Single Audit Act and regulations of the Division of Local Government Services, all municipalities are required to prepare and file a Corrective Action Plan; and

WHEREAS, this plan must be filed with the Division of Local Government Services in accordance with regulations established by the Division; and

WHEREAS, such a plan was prepared by the Chief Financial Officer and reviewed by the members of the governing body of the Township of Livingston; and

NOW THEREFORE BE IT RESOLVED, that the 2018 Corrective Action Plan, attached hereto, be approved by the governing body of the Township of Livingston and filed with the Division of Local Government Services.

f) Res 20-148 Municipal Services Agreement with Cedar Gate

WHEREAS, pursuant to N.J.S.A. 40:67.23 et seq., the Municipal Services Act, a qualified private community shall be reimbursed by the Municipality for certain services within the qualified private community in the same fashion as the Municipality provides these services on public roads and streets; and

WHEREAS, these services include removal of snow and ice, lightening on the roads and collection of leaves and solid waste along roads and streets; and

WHEREAS, Cedar Gate at Livingston Condominium Assoc. Inc. meets the definition of qualified private community and has asked to be reimbursed for these services; and

WHEREAS, Cedar Gate at Livingston Condominium Assoc. Inc. has requested to enter into a Municipal Service Agreement in accordance with the provisions of N.J.S.A. 40:67-23.5.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Livingston, County of Essex, State of New Jersey that the Township enter into a Municipal Service Agreement with Cedar Gate at Livingston Condominium Assoc. Inc. to annually reimburse it, as provided in the Municipal Services Act, in an amount not to exceed the cost that would have been incurred by the Municipality in providing these services.

g) Res 20-149 Authorizing Contract with United Ford LLCX

WHEREAS, the Township of Livingston ("Township") has a need for two (2) Ford F-350 Supercab XLT or equivalent; and

WHEREAS, on May 21, 2020, the Township of Livingston issued Bid No. 9-2020 to solicit bids from companies that furnish vehicles; and

WHEREAS, the bid was advertised on the Township of Livingston website and West Essex Tribune on May 21, 2020 and as a result fifteen (15) bid packages were requested; and

WHEREAS, on June 17, 2020, four (4) bids were received by the bid deadline and publicly read; and

WHEREAS, United Ford, LLC 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 Assistant Superintendent of Public Works has evaluated the proposal for qualifications, experience, and cost reasonableness, and recommends the award of a contract to United Ford, LLC; and

WHEREAS, the Township Manager is recommending the award of a contract to United Ford, LLC in an amount not to exceed \$101,996.00; and

WHEREAS, the Chief Financial Officer has certified that sufficient funds are available in accounts C-04-55-019-009-013.

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 United Ford, LLC in an amount not to exceed \$101,996.00.

h) Res 20-150 Authorizing Sale of Surplus Personal Property No Longer Needed for Public Use

WHEREAS, the Township of Livingston has determined that its fifty-three (53) Solar Renewable Energy Certificates are no longer needed for public use; and

WHEREAS, the Township of Livingston intends to utilize the online auction services of www.flettexchange.com; and

WHEREAS, the sale is being conducted pursuant to N.J.S.A. 40A:11-36 and the guidance set forth in the Division of Local Government Services' Local Finance Notice 2019-15; 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 the Township of Livingston is hereby authorized to sell fifty-three (53) solar renewable energy certificates on an online auction website entitled www.flettexchange.com.

i) Res 20-151 Canceling Contract with Remington & Vernick Engineers for Water Main Replacement Design Project

WHEREAS, R-19-114 authorized contract C1900013 with Remington & Vernick Engineers, Inc. for professional engineering services for the 2019 Water Main Improvements on Laurel Avenue in the amount of \$24,500.00; and

WHEREAS, the potential scope of this project and design needs have changed dramatically and the original design proposal is no longer applicable; and

WHEREAS, the Utility Engineer and Township Manager are recommending that the contract with Remington & Vernick Engineers, Inc. be cancelled.

NOW THEREFORE, BE IT RESOLVED that the Township Council of the Township of Livingston authorizes the Township Manager to cancel the contract with Remington & Vernick Engineers, Inc.

j) Res 20-152 Authorizing Beacon Planning and Consulting Serv. LLC to Prepare Redevelopment Plan B1 102 L 12

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.* (the "Redevelopment Law"), authorizes municipalities to determine whether certain parcels of land in the Township of Livingston (the "Township") constitute areas in need of rehabilitation; and

WHEREAS, on January 27, 2020, the Township Council adopted Resolution # 20-69 declaring a number of properties to be Areas in Need of Rehabilitation, which properties include Block 102 Lot 12, also described as 12 Industrial Parkway, Livingston, NJ; and

WHEREAS, the Township is in need of a Redevelopment Plan for Block 102 Lot 12 to facilitate the development of a new facility for the Department of Public Works; and

WHEREAS, the Township has a need for professional planning and engineering services for the preparation of a Redevelopment Plan for Block 102 Lot 12 (the "Services"), to be provided by means of a non-fair and open contract; and

WHEREAS, funds shall be available for this purpose; and

WHEREAS, Beacon Planning and Consulting Services, LLC (the "Planner") possesses the experience and qualifications to perform the Services; and

WHEREAS, the Planner provided the Township's Redevelopment Counsel with a proposal (the "Proposal") to perform the Services for state hourly rates with a not to exceed cap of Eight Thousand Dollars (\$8,000.00); and

WHEREAS, the Township desires to authorize a contract with the Planner for a maximum term of one (1) year, subject to the Planner's completion and submission of a Business Entity Disclosure Certification pursuant to *N.J.S.A. 19:44A-20.4, et seq.* certifying that the Planner has not made any reportable contributions to a political or candidate committee in the Township in the previous year, and that the contract will prohibit the Planner from making any reportable contributions through the term of the contract; and

WHEREAS, in accordance with the Local Public Contracts Law, *N.J.S.A. 40A:11-1 et seq.* (the "LPCL"), professional services contracts may be awarded by resolution of the municipal governing body without competitive bidding; and

WHEREAS, notice of the award of the contract hereunder shall be publicly advertised in accordance with the requirements of the LPCL.

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF LIVINGSTON, NEW JERSEY AS FOLLOWS:

Section 1. The foregoing recitals are incorporated herein as if set forth in full.

Section 2. The Township Council hereby awards a professional services contract for professional planning and engineering services to the Planner for an amount not to exceed Eight Thousand Dollars (\$8,000.00), payable in accordance with the Proposal, for a period of up to one (1) year to prepare a Redevelopment Plan for Block 102 Lot 12. The Planner shall provide the Services when and as directed by the Township.

Section 8. The Township Manager is hereby authorized to enter into a contract on behalf of the Township, with such modifications, deletions or additions as deemed necessary in consultation with counsel to the Township, all subject to receipt of the Planner's completed Business Disclosure Entity Certification and Political Contribution Disclosure Form.

Section 9. The contract authorized herein has been awarded as a professional services contract under the provisions of the LPCL and as a non-fair and open contract pursuant to *N.J.S.A. 19:44A-20.5* without competitive bidding.

Section 10. In accordance with the LPCL, the Township Clerk is hereby directed to publish notice of this award once in the official newspaper of the Township stating the nature, duration, service and amount of the contract authorized herein, which notice shall state that a copy of this Resolution and the contract are on file and available for public inspection in the office of the Township Clerk.

Section 11. A copy of this resolution, the Business Disclosure Entity Certification and Political Contribution Disclosure Form, and the contract shall be available for public inspection at the offices of the Township.

Section 12. This Resolution shall take effect immediately.

k) Res 20-153 Authoring Extending Grace Period 2020 Third Quarter Taxes

WHEREAS, the tax bills for the third quarter of 2020 cannot be mailed until the County Board of Taxation establishes the 2020 tax rate and this has not occurred, as of July 6, 2020; and,

WHEREAS, the Township Council of the Township of Livingston deems twenty five (25) days after proper mailing of said and certification of such mailing to be adequate notice of the amount of taxes due.

NOW THEREFORE, BE IT RESOLVED by the Township Council of the Township of Livingston in the County of Essex, New Jersey as follows:

1. Township of Livingston taxes or assessments due August 1, 2020 will not be considered delinquent until twenty five (25) days following certification of the mailing of the tax bills, the exact date to be specified in the West Essex Tribune.
2. No Interest for delinquency in the payment of such taxes or assessments will be charged until twenty five (25) days after the specified date.
3. In the event that full payment of the tax or assessment installment is not made by the specified date, interest at the legal rate (8% on the amounts up to \$1,500.00; 18% on amounts over \$1,500.00) shall accrue from August 1, 2020.

Councilmember Klein advised that a third party had expressed interest in holding another Drive In, and Township Manager Lewis responded.

Councilmember Meinhardt stated that he wished to give a "shout out" to the Livingston Board of Education and those involved for successfully holding 2020 graduation ceremonies.

Resolution Authorizing Closed Session—Attorney Client Privilege (Energy Aggregation); Litigation/Attorney Client Privilege/Contract Negotiations (Affordable Housing); Attorney Client Privilege (Use of Public Property); Attorney Client Privilege /Contract Negotiations (Solid Waste Collection Bids); Personnel (Committee Appointments)

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 8th day of July, 2020, that the Township Council of the Township of Livingston will go into Closed Session for the purpose of discussing Attorney Client Privilege, Litigation, Contract Negotiations, Personnel, and such matters

as may come before the council and that are exempted from the public as outlined in 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 9:15 p.m.

Adjournment

The meeting was adjourned at 9:15 p.m.

RUFINO FERNANDEZ, Jr. Mayor
GLENN R. TURTLETAUB, Township Clerk