

Livingston, New Jersey
September 16, 2019
Meeting #18

The Regular meeting of the Township Council of the Township of Livingston was held on the above date at 7:45 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, 2019.

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

Absent: None

Silent Meditation and Pledge of Allegiance

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

Presentations

a) Constitution Week - Mayor Anthony declared the week of September 16-22 as Constitution Week, celebrating America's most important document.

Essex County Update/Questions

Eileen Fishman, Essex County Liaison to Livingston Liaison to Essex County Executive Joseph Di Vincenzo, advised of upcoming County events and dates of significance in Autumn 2019.

Public Comments on Agenda Items

Resolution—Consent Agenda (Includes All Items Marked ***) R-19-175

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 September 16, 2019, attached hereto, which are preceded by an "***" are the Consent Agenda and are hereby accepted, approved and/or adopted.

Approval of Minutes

a) August 26, 2019

Approval of Licenses

Final Hearing Ordinances

a) Ord. 15-2019 Amending Ord. 10-2018 Retaining the Name Miracle Way for a Portion of the Street with the Remainder Reverting Back to Microlab Road

ORDINANCE OF THE TOWNSHIP OF LIVINGSTON AMENDING ORDINANCE 10-2018 RETAINING THE NAME MIRACLE WAY FOR A PORTION OF THE STREET WITH THE REMAINDER REVERTING BACK TO MICROLAB ROAD 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.

b) Ord.16-2019 Authorizing the Guaranty by the Township of Livingston, New Jersey or Payment of Principal and Interest on the Capital Equipment Lease Revenue Bonds, Series 2019 (Livingston Board of Education Project) of the Essex County Improvement Authority.

ORDINANCE AUTHORIZING THE GUARANTY BY THE TOWNSHIP OF LIVINGSTON, NEW JERSEY OR PAYMENT OF PRINCIPAL AND INTEREST ON THE CAPITAL EQUIPMENT LEASE REVENUE BONDS, SERIES 2019 (LIVINGSTON BOARD OF EDUCATION PROJECT OF THE ESSEX COUNTY IMPROVEMENT AUTHORITY) 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.

c) Ord. 17-2019 Amending and Revising the Code of the Township of Livingston for 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 and introduced. 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.

d) Ord. 18-2019 Authorizing the Commencement of an Action Under the Eminent Domain Act of 1971 and Authorizing the Acquisition of Block 102, Lot 12 in the Township of Livingston, County of Essex, State of New Jersey
ORDINANCE OF THE TOWNSHIP OF LIVINGSTON AUTHORIZING THE COMMENCEMENT OF AN ACTION UNDER THE EMINENT DOMAIN ACT OF 1971 AND AUTHORIZING THE ACQUISITION OF BLOCK 102, LOT 12 IN THE TOWNSHIP OF LIVINGSTON, COUNTY OF ESSEX, STATE OF NEW JERSEY was read by title.

Bob Hunter, 89 Elmwood Dr, said that finding a new DPW site was a “monster” task and thanked the Council for solidifying a new DPW site.

Bernie Searle, 14 Washington Ct, voiced his objection to the new location on Route 10, and questioned the length of time needed to complete the eminent domain process.

Jared Kantor, of Antonelli Kantor, P.C., special counsel for the Township, explained the process of eminent domain and stated that it was very feasible for the Township to have ownership of the property by year end.

David Berger, 22 Stratford Dr, asked about the tax implications and Councilmembers explained that the old DPW site could be turned into a rate-able, and this is expected to result in a net gain for the Township.

Bernie Searle, 14 Washington Ct, reiterated that he thought the new site shouldn't be considered because of its location on Route 10, and that the Township should look elsewhere. Councilmember stated that they had very limited choices and that they had done their due diligence with making this selection.

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 Ordinance

Resolutions

a) R-19-176 Resolution Authorizing 2020 Recreational Opportunities For Individuals With Disabilities Grant Application

WHEREAS, the Township of Livingston desires to apply for and obtain a grant from the New Jersey Department of Community Affairs for approximately \$15,000 to \$25,000 to carry out a project to provide recreational activities for school age children with special needs; and

BE IT THEREFORE RESOLVED,

- 1) that the Township of Livingston does hereby authorize the application for such a grant; and
- 2) recognizes and accepts that the Department may offer a lesser or greater amount and therefore, upon receipt of the grant agreement from the New Jersey Department of Community Affairs, does further authorize the execution of any such grant agreement; and also, upon receipt of the full executed agreement from the Department, does further authorize the expenditure of funds pursuant to the terms of the agreement between the Township of Livingston and the New Jersey Department of Community Affairs.

BE IT FURTHER RESOLVED that the persons whose names, titles and signatures appear below are authorized to sign the application, and that they or their successors in said titles are authorized to sign the agreement, and any other documents necessary in connection therewith:

b) R-19-177 Resolution of the Township Council of the Township of Livingston Approving the Sale of 12 Affordable Rental Units From Sterling Properties Group, LLC, to Don's Apts., LLC and Authorizing Entering Into an Affordable Housing Agreement with Don's Apts., LLC

WHEREAS, Don's Apts., LLC, is in the process of purchasing 12 affordable housing units located at 650 South Orange Avenue, Lot 1.02, Block 7001, currently owned by TMB Partners, LLC; and,

WHEREAS, the sale of these affordable rental units requires the consent of the Township Council; and

WHEREAS, Don's Apts., LLC, is a family entity managed by Daniel Siegel and Marc Siegel, who together owned and managed a combined 100 affordable housing units over the past 50 years; and

WHEREAS, the apartments are included in the Township's affordable housing plan and, therefore, the Township must ensure that these apartments are solely used for the purpose of providing rental dwellings for low and moderate income households.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Livingston, County of Essex, State of New Jersey that the Township Council approves the sale of 12 affordable housing units from Sterling Properties Group, LLC, to Don's Apts., LLC, and authorizes entering into an Affordable Housing Agreement with Don's Apts., LLC.

c) R-19-178 Resolution Approving The Form And Authorizing The Execution And Delivery Of A Letter Of Representation And A Continuing Disclosure Agreement In Connection With The Issuance And Delivery Of The Essex County Improvement Authority's Capital Equipment Pooled Lease Revenue Bonds, Series 2019 And Authorizing An Authorized Municipal Representative To Do All Other Things Deemed Necessary Or Advisable In Connection With The Issuance, Sale And Delivery Of Such Bonds

WHEREAS, the Township of Livingston Board of Education (the "Board") desires to lease and permanently finance the cost of acquisition of certain capital equipment (the "Equipment") from The Essex County Improvement Authority (the "Authority"); and

WHEREAS, the Authority will provide for the financing of the cost of the acquisition of the Equipment by the issuance of its Capital Equipment Lease Revenue Bonds, Series 2019 (Livingston Board of Education Project) (the "Bonds") payable from rentals by the Board pursuant to a Lease and Agreement by and between the Board and the Authority (the "Lease"); and

WHEREAS, in order to induce the Authority to issue and deliver the Bonds and its Capital Equipment Pooled Lease Revenue Bonds, Series 2019, there has been prepared and submitted to the Township of Livingston, New Jersey (the "Municipality") a Letter of Representation in the form attached hereto as Exhibit A; and

WHEREAS, there has been prepared and submitted to the Municipality a Continuing Disclosure Agreement in the form appended hereto as Exhibit B for execution by the Municipality if the Authority shall determine that the Municipality is or will be an "obligated person" with respect to the Authority's Capital Equipment Lease Revenue Bonds, Series 2019 within the meaning of Rule 15c2-12 of the United States Securities and Exchange Commission (an "Obligated Person");

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP OF LIVINGSTON, AS FOLLOWS:

- Section 1. That the Letter of Representation, in the form presented to this meeting, be and the same is hereby approved, and any Authorized Municipal Representative (as that term is defined in the Lease) is hereby authorized to, and one of such officers shall execute the Letter of Representation, with such additions, deletions or modifications as such officer shall approve, and to deliver the same to the addressees designated on such Letter of Representation, such approval to be conclusively evidenced by the execution and delivery thereof.
- Section 2. That the Continuing Disclosure Agreement, in the form presented to this meeting, be and the same is hereby approved, and any Authorized Municipal Representative is hereby authorized to, and one of such officers shall execute the Continuing Disclosure Agreement, with such additions, deletions or modifications as such officer shall approve, and to deliver the same upon the determination by the Authority that the Municipality is or will be an Obligated Person, such approval to be conclusively evidenced by the execution and delivery thereof.
- Section 3. That any Authorized Municipal Representative is hereby authorized and directed to execute and deliver any and all documents and instruments and to do and cause to be done any and all acts and things necessary or proper for carrying out the sale, issuance and delivery of the Bonds, the Authority's Capital Equipment Pooled Lease Revenue Bonds, Series 2019 and all related transactions contemplated by this resolution.
- Section 4. All resolutions or proceedings, or parts thereof, in conflict with the provisions of this resolution are to the extent of such conflict hereby repealed.
- Section 5. This resolution shall become effective immediately.

d) R-19-179 Resolution of the Township Council of the Township of Livingston Authorizing Entering Into Agreement of Sale and Access Agreement With Grackle Hill Land, LLC, for the Purchase of Parcel Known as the Strahman Property Located at 321 East Cedar Street

WHEREAS, the Livingston Township Council has established an Open Space Trust Fund to enable the Township to acquire open space property; and,

WHEREAS, an undeveloped parcel approximately 9-acres located at 321 East Cedar Street, Lot 23 in Block 2504, known as the Strahman Property is available for sale; and

WHEREAS, the Township Council has determined it is in the best interest of the Township to acquire this property to retain it for open space and to keep it from being developed; and

WHEREAS, the Township Attorney is negotiating an Agreement of Sale and Access Agreement for the purpose of this property.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Livingston, County of Essex, State of New Jersey that the Mayor is authorized to execute the Agreement of Sale and Access Agreement in a form acceptable to the Township Attorney and the Township Manager and Township Attorney are hereby authorized to take any other actions necessary to complete the purchase to acquire title to the property located at 321 East Cedar Street, Livingston, New Jersey, Lot 23 in Block 2504.

e) R-19-180 Resolution Authorizing A Contract With Agra Environmental Services, Inc.

WHEREAS, the Township of Livingston ("Township") has a need for laboratory testing services; and

WHEREAS, on August 8, 2019, the Township of Livingston issued Bid No. 014-2019 as an open-ended contract, to solicit bids from companies that provide laboratory testing services; and

WHEREAS, the bid was advertised on the Township of Livingston website and West Essex Tribune on August 8, 2019 and as a result ten (10) bid packages were requested; and

WHEREAS, on September 4, 2019, three (3) bids were received by the bid deadline and publicly read; and

WHEREAS, the company of Agra Environmental Services, Inc. was identified as the lowest responsive and responsible bidder for Senior, Youth and Leisure Services items 1-4 and the Water Department's items 1-12 & 15 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, due to an omission in the specifications, items 13 & 14 for the Water Department are rejected and will be re-bid; and

WHEREAS, Agra Environmental Services, Inc.'s schedule of pricing is attached; and

WHEREAS, the Director of Senior, Youth and Leisure Services and Junior Utility Engineer have evaluated the proposal for qualifications, experience, and cost reasonableness, and recommend the award of a contract to Agra Environmental Services, Inc.; and

WHEREAS, the Township Manager is recommending the award of a twenty-four (24) month contract to Agra Environmental Services, Inc.; and

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

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 twenty-four (24) month contract with Agra Environmental Services, Inc. effective October 1, 2019.

f) R-19-181 Resolution Authorizing A Contract With Garden State Laboratories, Inc.

WHEREAS, the Township of Livingston ("Township") has a need for laboratory testing services; and

WHEREAS, on August 8, 2019, the Township of Livingston issued Bid No. 014-2019 as an open-ended contract, to solicit bids from companies that provide laboratory testing services; and

WHEREAS, the bid was advertised on the Township of Livingston website and West Essex Tribune on August 8, 2019 and as a result ten (10) bid packages were requested; and

WHEREAS, on September 4, 2019, three (3) bids were received by the bid deadline and publicly read; and

WHEREAS, the company of Garden State Laboratories, Inc. was identified as the lowest responsive and responsible bidder for the Water Pollution Control Facility's laboratory testing 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, Garden State Laboratories, Inc.'s schedule of pricing is attached; and

WHEREAS, the Director of Utilities has evaluated the proposal for qualifications, experience, and cost reasonableness, and recommends the award of a contract to Garden State Laboratories, Inc.; and

WHEREAS, the Township Manager is recommending the award of a twenty-four (24) month contract to Garden State Laboratories, Inc.; and

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

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 twenty-four (24) month contract with Garden State Laboratories, Inc. effective October 1, 2019.

On motion duly made and seconded, and on roll call vote of Resolutions R-19-175 through R-19-181, all members present voted YES. All Councilmembers thanked Art Altman, Chariman of Open Space Committee, and Township Attorney Weiner, for their efforts negotiating the acquisition of the largest undeveloped piece of land in Livingston, which will be preserved as Open Space evermore.

Public Comment

Alec Laken, 17 Birchwood Dr, expressed concern about the deer population and their fearlessness around vehicles and children. Councilmembers responded that beyond the Township deer hunt, a program should be considered to educate new drivers on defensive driving tactics.

Art Altman, 16 Knollwood, and Chairman of the Open Space Committee, thanked the Township Council and Township Attorney Weiner for their efforts on the Strahman property acquisition. He also thanked residents Renee Resky and Paula McGovern, who identified the property back in 2002 when the Open Space Committee was created. He stated that this property is a hidden gem and has been on the top of the Open Space Committee's list of desired properties.

Walter LeVine, 345 Walnut St, stated that he liked the location of the new DPW site and added that it could be used as a reclamation center.

Jarrid Kantor, 57 Tremont Terr, complimented the Township on the Doggy Dip event. The Councilmembers thanked SYLS Director Walker and agreed that it was an amazing time by all.

Bernie Searle, 14 Washington Ct, inquired about the purchase price of the Strahman property and if the contiguous 6-acre parcel of land was for sale.

David Berger, 22 Stratford Dr, asked if the Township could review the drainage system on his street because of the heavy flooding. Councilmembers suggested the DPW clean out the stormwater drains.

Bob Flynn, JCP&L area manager, introduced himself and said he's available to the Township for any questions or concerns they might have.

Justin Alpert, 56 Amherst Pl, agreed that the new DPW site seemed too far removed. He asked if the Township would redevelop the medical buildings next to the current DPW site. He also mentioned if there could be summer sidewalk crews and if the methodology report was available from Tax Appraisal Systems.

Bob Hunter, 89 Elmwood Dr, applauded the Police Department on controlling speeding on McClellan. Hunter also encouraged walkers to use flashlights and vests at night, and mentioned that he recently lost his friend Jerry Greenspan.

Adjournment

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

ALFRED M. ANTHONY, Mayor

CAROLYN MAZZUCCO, Deputy Township Clerk