

The Regular and Conference Meeting of the Township Council of the Township of Livingston were held via Livestream from Facebook @facebook.com/LivingstonTownshipNJ on the above Update at 7:30 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 4, 2021, and that "48-hr. notice" was faxed and emailed to these same publications and posted on the Livingston Township website (livingstonnj.org) on June 2, 2021, and posted on the Livingston Township website (livingstonnj.org).

Present (via Livestream): Mayor Klein, Deputy Mayor Meinhardt, Councilmember Anthony, Councilmember Fernandez, Councilmember Vieira, Township Manager Lewis, Deputy Township Manager Jones, Township Attorney Weiner, Township Clerk Turtleaub.

Mayor Klein read the Sunshine Statement.

A Quorum Roll Call was held. Councilmembers Fernandez, Anthony, Vieira, Deputy Mayor Meinhardt and Mayor Klein were all present.

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

Communications

1) Khem Fest Proposal—The Mayor noted that the proposed event was to take place at the Livingston Mall, that Council approval was therefore not required, and that the organizers could arrange for desired police presence with the Livingston Police Department.

Proclamations & Presentations

1) Eileen Fishman, Essex County Update—No report
2) Bob Chilton from Gabel Associates to Discuss Energy Aggregation Program and Equal Payment Plans----Bob Chilton and Loren Altshuler on behalf of Gabel Associates explained the workings of the Equal Payment Plan, and the Mayor Klein gave an Overview of the program and explained how the program worked and billing occurs. Bob Chilton and Loren Altshuler of Gabel Associates also discussed how the program worked, and noted the substantial savings to Livingston homeowners. Mr. Chilton stated that he appreciated the opportunity to explain what residents saw as a "discrepancy", and stressed how the Township was not making any money off the program. Mr. Chilton highlighted both the financial and "green" benefit to the individual homeowners.

Approval of Minutes, Pending Any Corrections

The Council approved the following, pending any corrections:

- 1) May 24, 2021 Regular and Conference Minutes
- 2) May 24, 2021 Closed Session Minutes
- 3) January 1, 2021 Reorganization Meeting

Legal Fees

The Council approved payment of the following Legal Fees:

- 1) Antonelli Kantor (April 2021)
- 2) Antonelli Kantor (May 2021)

Public Portion (Agenda Items Only)

Clerk Turtletaub read an email received from Steve Gilberg, concerning Township legal fees, and asking whether and how he could obtain copies of the legal bills. Mr. Gilberg criticized the Township Attorney's legal advice given during the cannabis forum. Manager Lewis explained how Mr. Gilberg could obtain copies of the bills through submission of an OPRA Request. Mr. Gillberg urged the Township to move forward with a Cannabis Commiossion. Councilmedmbers Fernandez, Meinhardt and Anthony all responded to Mr. Gilberg, supporting and praising Mr. Kantor's legal work.

Passage of Ordinances—Final Hearing—Second Reading

Ord. 7-2021 Establishing a New Inclusionary Development Zone Designated as the R-5L Residence Overlay District, Block 6101, Lots 25 and 26 (Passaic Aver & Volker Ave Area)

AN ORDINANCE OF THE TOWNSHIP OF LIVINGSTON AMENDING AND SUPPLEMENTING CHAPTER 170 OF THE CODE OF THE TOWNSHIP OF LIVINGSTON BY ESTABLISHING A NEW INCLUSIONARY DEVELOPMENT ZONE DESIGNATED AS THE R-5L RESIDENCE OVERLAY DISTRICT was read by title.

A motion to table the matter until the June 21, 2021 meeting was duly made and seconded. On voice vote, all members present voted YES. Second reading on this ordinance will be held at the June 21, 2021 Regular Meeting.

Ord. 10-2021 Establishing a New Inclusionary Development Zone Designated as the R-5O Residence Overlay District Block 2700, Lots 60, 61, 62, 53 and 64 (457-461 South Livingston Ave)

ORDINANCE OF THE TOWNSHIP OF LIVINGSTON AMENDING AND SUPPLEMENTING CHAPTER 170 OF THE CODE OF THE TOWNSHIP OF LIVINGSTON BY ESTABLISHING A NEW INCLUSIONARY DEVELOPMENT ZONE DESIGNATED AS THE R-5O RESIDENCE OVERLAY DISTRICT was read by title.

A motion to table the matter until the June 21, 2021 meeting was duly made and seconded. On voice vote, all members present voted YES. Second reading on this ordinance will be held at the June 21, 2021 Regular Meeting.

The Clerk read the following emails which had been sent to livcomments@livingstonnj.org:

A Motion to table the matter until the June 9 meeting was duly made and seconded, Councilmembers Anthony, Vieira, Deputy Mayor Meinhardt and Mayor Klein all voted YES. Councilmember Fernandez voted NO. The matter was continued to the June 9, 2021 meeting.

Ord. 11-2021 Refunding Bond Ordinance

REFUNDING BOND ORDINANCE PROVIDING FOR THE REFUNDING OF CERTAIN GENERAL OBLIGATION REFUNDING BONDS OF THE TOWNSHIP OF LIVINGSTON, NEW JERSEY, APPROPRIATING \$37,500,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$37,500,000 BONDS OR NOTES OF THE TOWNSHIP FOR FINANCING THE COST THEREOF 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.

Ord. 12-2021 Establishing a New Inclusionary Development Zone Designated as the R-5P Residence Overlay District (E. Cedar St. and Shrewsbury Dr.)

ORDINANCE OF THE TOWNSHIP OF LIVINGSTON AMENDING AND SUPPLEMENTING CHAPTER 170 OF THE CODE OF THE TOWNSHIP OF LIVINGSTON BY ESTABLISHING A NEW INCLUSIONARY DEVELOPMENT ZONE DESIGNATED AS THE R-5P RESIDENCE OVERLAY DISTRICT 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.

Ord. 13-2021 Updating and Replacing Ch. 170 Article XV Entitled "Development Fees"

ORDINANCE OF THE TOWNSHIP OF LIVINGSTON UPDATING AND REPLACING EXISTING CHAPTER 170 ARTICLE XV ENTITLED 'DEVELOPMENT FEES' OF THE CODE OF THE TOWNSHIP OF LIVINGSTON 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.

Ord. 14-2021 Amending Ch. 170 Sec 94 Off-Street Parking and Loading Provisions

ORDINANCE OF THE TOWNSHIP OF LIVINGSTON AMENDING AND SUPPLEMENTING CHAPTER 170 SECTION 94 OFF-STREET PARKING AND LOADING PROVISIONS OF THE CODE OF THE TOWNSHIP OF LIVINGSTON 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.

Ord. 15-2021 Amending Ch. 274, Articles V, VIII, and IX of the Township Code-Sidewalks

ORDINANCE OF THE TOWNSHIP OF LIVINGSTON AMENDING CHAPTER 274, ARTICLES V, VIII AND IX OF THE TOWNSHIP CODE was read by title.

Township Clerk Turtletaub read an email submitted by Justin Esher Alpert to livcomments, addressing the Ordinance.

David Reinfeld addressed the Ordinance, addressing the "concrete versus asphalt" distinction, the SHARE program and the enforcement of the Ordinance.

On motion duly made and seconded, and on voice vote, the matter was tabled. Second reading of the Ordinance will be held the meeting of June 21, 2021.

Ordinances for Introduction

Mayor Klein recused himself, and Deputy Mayor Meinhardt chaired the meeting.

Ord. 16-2021 Amending Ch. 170 by Establishing a New Mixed Use Inclusionary Development Zone Designated as the MU-2 Mixed Use Overlay District, Block 101, Lots 3 and 4, (Route 10 Westbound and Regent St.) 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, July 12, 2021.

Mayor Klein returned to the meeting and resumed as Chair.

Ord. 17-2021 Amending Ch. 170, Sec. 170-3, and Sec. 170.87 and Sec.170-96 of the Township Land Use Code (Accessory Structures) 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, June 21, 2021.

Consent Agenda for Resolutions: Res 21-171

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 9, 2021, attached hereto, which are preceded by an "*" are the Consent Agenda and are hereby accepted, approved and/or adopted.

Res 21-172 Designating Insite Development Livingston Urban Renewal, LLC as Redeveloper and Authorizing the Execution of a Redevelopment Agreement for Block 100, Lot 2, Commonly Known as 644 Route 10

WHEREAS, the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.*, as amended from time to time (the "**Redevelopment Law**"), provides a process for municipalities to participate in the redevelopment and improvement of areas in need of redevelopment; and

WHEREAS, in accordance with the Redevelopment Law, by Resolution No. 20-69 adopted on January 27, 2020, the municipal council of the Township ("**Township Council**") designated certain property within the Township, including the property identified as Block 100, Lot 2 on the Township's tax maps, commonly known as 644 NJSH Route 10 (the "**Property**") as an area in need of rehabilitation; and

WHEREAS, in accordance with the Redevelopment Law, by Resolution No. 20-222 adopted November 23, 2020, the Township Council authorized and directed the Planning Board of the Township (the "**Planning Board**") to conduct a preliminary investigation of the Property and to determine whether certain properties located within the Township, including the Property, met the criteria for a Non-Condensation Redevelopment Area, pursuant to Sections 5 and 6 of the Redevelopment Law; and

WHEREAS, in accordance with the criteria set forth in the Redevelopment Law, by Ordinance 3-2021 adopted on February 8, 2021, on the basis of its designation as an area in

need of rehabilitation, the Township adopted a redevelopment plan for the Property entitled the “644 NJSH Route 10 Overlay District Redevelopment Plan” (as may be amended from time to time, the “**Redevelopment Plan**”); and

WHEREAS, on February 16, 2021, the Planning Board, after providing due notice, conducted a public hearing in accordance with the Redevelopment Law, at which hearing it determined that study area subject of the preliminary investigation, including the Property qualified as an area in need of redevelopment and recommended that the Township Council designate the study area, including the Property, as an area in need of redevelopment pursuant to the criteria and requirements of the Redevelopment Law; and

WHEREAS, in accordance with the Redevelopment Law, by Resolution 21-098 adopted on February 22, 2021, the Township Council designated a non-condemnation “area in need of redevelopment,” which includes the Property (the “**Redevelopment Area**”), which Redevelopment Area is and shall continue to be subject to the Redevelopment Plan; and

WHEREAS, pursuant to *N.J.S.A. 40A:12-4*, the Township has determined to act as the “redevelopment entity” (as such term is defined at *N.J.S.A. 40A:12A-3* of the Redevelopment Law) for the Redevelopment Area, with full authority to exercise the powers contained in the Redevelopment Law to facilitate and implement the development of the Redevelopment Area; and

WHEREAS, InSite Development Livingston Urban Renewal, LLC (the “**Redeveloper**”) is the contract purchaser of the Property, desires to be designated by the Township as the redeveloper for the Property, and has provided information consisting of documentation evidencing financial responsibility and capability with respect to its proposed project, estimated total project costs, and estimated time schedule for commencement and completion of construction; and

WHEREAS, the Township has determined that Redeveloper meets all necessary criteria, including financial capabilities, experience, expertise and project concept descriptions, and, as a result, has determined to engage exclusively in negotiations with Redeveloper for the purpose of entering into a redevelopment agreement to designate Redeveloper as the exclusive redeveloper of the Property; and

WHEREAS, the Township has entered into that certain Funding Agreement with the Redeveloper, which established Redeveloper as the conditional redeveloper of the Redevelopment Area pending the negotiation and completion of a redevelopment agreement with the Township in satisfaction of the Redevelopment Law; and

WHEREAS, in order to effectuate the redevelopment of the Property, the Township has determined to enter into a redevelopment agreement with the Redeveloper, a copy of which is on file with the Township, which shall establish the Redeveloper as the redeveloper of the Property and the terms and conditions for the development of the project thereon (the “**Redevelopment Agreement**”),

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

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

Section 2. The Township hereby designates InSite Development Livingston Urban Renewal, LLC as Redeveloper of the Property.

Section 3. The Mayor and/or the Deputy Mayor of the Township are hereby authorized to execute the Redevelopment Agreement, subject to such additions, deletions, modifications or amendments deemed necessary by the Township in consultation with counsel, which additions, deletions, modifications or amendments do not alter the substantive rights and obligations of the parties thereto, and to take all other necessary and appropriate action to effectuate the Redevelopment Agreement.

Section 4. This Resolution shall take effect immediately.

On motion duly made and seconded, and on roll call vote of R-21-172, Councilmembers Fernandez, Anthony and Vieira, and Mayor Klein, all voted YES. Deputy Mayor Meinhardt voted NO.

Res 21-173 Authorizing Award of Contract to Underground Utilities Corp.

WHEREAS, the Township of Livingston (“Township”) has a need for the Eisenhower Parkway Sanitary Sewer Improvements that cannot otherwise be performed by its regular employees; and

WHEREAS, on April 29, 2021, the Township of Livingston issued Bid No. 9-2021, to solicit bids from contractors experienced in sanitary sewer improvements; and

WHEREAS, the bid was advertised on the Township of Livingston website and West Essex Tribune on April 29, 2021 and as a result forty-three (43) bid packages were requested; and

WHEREAS, on May 26, 2021, six (6) bids were received by the bid deadline and publicly read; and

WHEREAS, from the bids received the apparent low bidder was identified as Shauger Property Services, Inc. with a bid of \$1,342,050.00; and

WHEREAS, on May 26, 2021, Shauger Property Services, Inc. submitted a request in writing to withdraw their bid due to an error in the clearing site line item entry; and

WHEREAS, the request for a bid withdrawal has been reviewed by the Purchasing Manager and it meets the requirements of N.J.S.A 40A:11-23.3 et seq.; and

WHEREAS, the next apparent low bidder was identified as Underground Utilities Corp. with a bid of \$1,739,131.20; and

WHEREAS, Underground Utilities Corp. 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 Underground Utilities Corp.; and

WHEREAS, the Township Manager is recommending the award of a contract to Underground Utilities Corp. in an amount not to exceed \$1,739,131.20; and

WHEREAS, the Chief Financial Officer has certified that funding is available in accounts C-09-55-015-008-01D, C-09-55-016-004-005, C-09-55-017-001-004 & C-09-55-018-001-004.

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 accepts the bid withdrawal of Shauger Property Services, Inc.; and

NOW, THEREFORE, BE IT FURTHER 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 Underground Utilities Corp. in an amount not to exceed \$1,739,131.20.

On motion duly made and seconded, and on roll call vote of R-21-173, all members present voted YES.

Res 21-174 NJ DOT Grant Agreement for the Milling and Repaving of Belmont Dr – Section Two

NOW, THEREFORE, BE IT RESOLVED, that the Council of the Township of Livingston formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED, that the Township Manager and Clerk are hereby authorized to submit an electronic grant application identified as MA-2022-Belmont Drive-Section Two-00181 to the New Jersey Department of Transportation on behalf of the Township of Livingston.

BE IT FURTHER RESOLVED, that the Township Manager and Clerk are hereby authorized to sign the grant application on behalf of the Township of Livingston and their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

On motion duly made and seconded, and on roll call vote of R-21-174, all members present voted YES.

L. Reports of Township Officials/Professionals

M. Unfinished Business

1) Habitable Floor Ratio Definition---The Mayor stated that this item could be taken off the list of Unfinished Business matters.

2) DPW Garage—Township Manager Lewis stated that he and staff are reviewing received bids, evaluating options and obtaining updated prices.

3) Marijuana Legislation---Mayor Klein asked the Councilmembers where they were in their thinking about this matter. Councilmember Fernandez stated that he had always felt that this is “a zoning issue,” and that he was fine with manufacturing and warehousing. He pointed out that the State’s deadline of 180 days to issue rules, was coterminous with the time allowed municipalities to opt out, and he stated that at this point “we don’t know what the Rules are”. He believed that to opt out was not saying “no,” but was allowing the municipality an opportunity, as there were ‘too many unknowns,’ and that he believed the best option is to temporarily opt out.

Councilmember Anthony stated he agreed with Councilmember Fernandez and that the Township was best served by “hitting the pause button”.

Councilmember Vieira stated that he will vote YES as to each of the five categories, and that he was disappointed in the League of Municipalities’ proposed Ordinance. He urged that the Township should fix a date to revisit the matter, if it should choose to “opt out”.

Councilmember Meinhardt stated he agreed with the League of Municipalities’ draft Ordinance, as there is “a lot that we just don’t know,” and he stated he will vote in favor of opting out.

Mayor Klein noted that the “financial benefit” was not great, and that he was in favor of opting out to get more information, “and not as a delaying tactic.” He stated that out, he sought Township attorney Kantor’s opinion, agreeing that “opt out is the way to go.” He asked Attorney Kantor to prepare an Opt- out Ordinance for the next meeting. Townhsp Manager Lewis agreed that to opt-out is the prudent way to go.

4) Sidewalks—The Mayor stated that as an Ordinance was introduced this evening, and this item should be coming off the Agenda as “Unfinished Business” soon.

5) Pools—The Council considered options to keep Northland open on weekends, noting the approximate cost was \$40,000.

6) Shared Services—Township Manager Lewis reported on meetings to discuss Animal Control and Regional Dispatch. He also reported on discussions concerning the opportunity to have a Regional Municipal Court. Councilmember Vieira discussed a “chance to do a Shared Services Agreement with the YMCA”. Township Manager Lewis will get back with numbers at the next meeting on the status of possible shared services agreements.

7) Licari/Strahman—Manager Lewis stated that a Resolution was being prepared to fund a study of ingress/egress options for the entrance into Licari Farm from Northfield Road.

8) Covid Update—Manager Lewis reported on his meeting with Covid Coordinators, and the possible return to holding in-person Council meetings. Councilmember Meinhardt stated the Council should explore options including holding meetings at the Community Center, and should consider how to handle masking at other locations. It was suggested that Health Officer Anello attend the next meeting, with the plan to go “live” after that.

9) Gazebo—Township Manager Lewis stated that the vendor has completed his paperwork, and Mr. Lewis will provide a purchase order and give the Council a memo tomorrow.

10) Chris Brown—Bruno and Associates—Grant Writing Consultant Firm/Grants

Manager Lewis will share with Bruno and Associates the report of Deputy Township Manager Jones, detailing a listing of grants received by the Township. The purpose will be to ask Bruno how much more in grant monies the firm felt it could obtain for Livingston?

12) Budget—Manager Lewis stated the goal was to have the budget for review at the June 21 meeting, with formal introduction in July. He explained the delay in state review of municipal budgets.

13) Passaic Ave/South Orange Ave Intersection---Manager Lewis advised the status of the matter.

14) Fireworks—The Mayor stated that this item could be removed from the Agenda, noting there is an unrelated fireworks question on the agenda for consideration under New Business this evening.

N. New Business

1) Upcoming Council Calendar Invitations—The Councilmembers discussed their attendance at upcoming events, including the June 12 Women’s Veterans Appreciation Day at Town Hall.

2) Sanskriti India Fest 2021—The Mayor noted this was moot, as the group was no longer sure the event could go forward this year due to the pandemic.

3) The matter of Bob Chilton’s discussion on behalf of Gabel Associates had been discussed and presented earlier in the meeting.

4) H2M Proposal to Evaluate Feasibility of Installing Bus Access and ADA Accessibility to buildings at Licari Farm property—This issue is the same as that marked as “Licari,” and was discussed earlier in the meeting.

5) Proposed Fireworks at Cedar Hill CC—The request to allow a fireworks display on July 15, was approved by the Council, so long as neighbors were notified and that the Fire Chief says it is okay.

O. Council Reports—Councilmember Vieira discussed the new procedure for pickup of grass clippings in town, as the result of the Township’s request an additional pickup.

P. Mayor’s Report

Q. Public Portion

There were no speakers.

At 10:20 p.m., Township Clerk Turtletaub read the following Resolution:

R-21-175

RESOLUTION to go into Closed Session

WHEREAS: the Open Public Meetings Act, P.L. 1975, Chapter 231 permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS: the Township Council is of the opinion that such circumstances presently exist;

and

WHEREAS: the Township Council wishes to discuss:

1. Zheng v. Township of Livingston (Pending Litigation)
2. Fair Share Housing (Attorney Client Privilege)

WHEREAS: minutes will be kept, and once the matter involving the confidentiality of the above no longer requires confidentiality, the minutes can be made public.

NOW, THEREFORE BE IT RESOLVED by the Township Council of the Township of Livingston that the public be excluded from this meeting.

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

At 11:22 p.m., the Closed Session meeting adjourned.

Adjournment

The meeting was adjourned at 11:22 p.m.

SHAWN R. KLEIN, Mayor

GLENN R. TURTLETAUB, Township Clerk