

The Regular meeting of the Township Council of the Township of Livingston was held on the above date commencing at 7:30 p.m. The Mayor read the statement of compliance with the Sunshine Law N.J.S.A. 10:4-10 and 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 6, 2022.

A Quorum Roll Call was held.

	Present	Absent
Mayor Meinhardt	X	
Deputy Mayor Vieira	X	
Councilmember Anthony	X	
Councilmember Fernandez	X	
Councilmember Klein		X

Also present were professionals Township Manager Lewis, Deputy Township Manager Jones, Assistant Township Manager Loehner, Township Attorney Kantor, and Township Clerk Mazzucco.

Moment of Silence and Pledge of Allegiance

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

Proclamations & Presentations

- 1) Elliot Sherman – The Mayor and Council presented a citation to celebrate Elliot Sherman’s 36 years of chairing the 4th of July event for the Township.
- 2) National Preparedness Month – The Mayor read a proclamation emphasizing the importance of emergency preparedness.

Essex County Updates

There were none.

Approval of Minutes, Pending Any Corrections

On motion duly made and seconded, and on voice vote, the Council approved the following, pending any corrections:

- 1) August 8, 2022 Regular and Conference Meeting Minutes
- 2) August 8, 2022 Closed Session Minutes

Public Portion (Agenda Items Only—4 Minute Limit

On motion duly made and seconded, and by voice vote, the hearing on the Public Portion was opened.

Scott Goldman, 42 N Baums Ct, objected to Resolution 22-223 being considered on tonight's August 22, 2022 Agenda as it was added earlier that day. Furthermore, he felt that the developer was inexperienced and looking to turn a profit by taking advantage of a PILOT (Payment In Lieu of Taxes) program. Township Manager Lewis responded that the Resolution in question was designating the property at the corner of Northfield and South Livingston as an area in need of redevelopment only.

Scott Kushel, 14 Mansfield Ct, spoke in support of Mr. Goldman's previous comment and stated that if you take money away (by not paying taxes) services in the community would suffer.

Justin Escher Alpert, 56 Amherst Place, also objected to Resolution 22-223 being added late to this evening's August 22, 2022 Agenda. He added that the flag raising Resolutions being considered tonight were misguided, as there is no such thing as government speech, because government speech is derived from the public it's representing.

On motion duly made and seconded and on voice vote, the public portion on Agenda items was closed.

Passage of Ordinances

Final Hearing/2nd Reading

Introduction of Ordinances

Ord 27-2022 Amending and Supplementing Chapter 170 of the Code of the Township of Livingston by Updating and Replacing Article XIV Entitled "affordable Housing Regulations" was read by title.

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, September 19, 2022.

Township Manager Lewis stated that this is simply an updated Agreement to establish that COAH no longer exists, and is 99% substantially the same as the prior Agreement.

	Yes	No	Abstain
Ed Meinhardt	X		
Michael Vieira	X		
Al Anthony	X		
Rudy Fernandez	X		
Shawn Klein (Absent)			

Ord 28-2022 Amending Chapter 274, Aricles VIII of the Township Code was read by title.

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 Tuesday, September 6, 2022.

	Yes	No	Abstain
Ed Meinhardt	X		
Michael Vieira	X		
Al Anthony	X		
Rudy Fernandez	X		
Shawn Klein (Absent)			

Resolutions

Res 22-214 Consent Agenda for Resolutions

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 August 22, 2022 attached hereto, which are preceded by an "*" are the Consent Agenda and are hereby accepted, approved and/or adopted.

*Res 22-215 Registrar Term of Office

WHEREAS, it is necessary for the Township of Livingston to appoint a Registrar pursuant to the provisions of N.J.S.A. 26:8-13; and

WHEREAS, this appointment is effective May 22, 2022 through May 22, 2025; and

WHEREAS, the following individuals are qualified for the appointment;

NOW THEREFORE, BE IT RESOLVED that the Township Council of the Township of Livingston appoint to the position of Registrar, Deputy Registrar, and Alternate Deputy Registrar thru May 22, 2025

Rose Saponara, C.M.R. – Registrar
Deanna Dippel, C.M.R. – Deputy Registrar
Dana L. Ruggerio – Alternate Deputy Registrar

*Res 22-216 Authorizing Approval of the Final Change Order with MSP Construction

WHEREAS, the Township Council of the Township of Livingston entered into a contract ("CONTRACT C2100021")

With MSP Construction Corporation for the 2020 Water Main Replacement; and

WHEREAS, the initial Contract was not to exceed Two Million, Four Hundred and Forty-Four Thousand, Three Hundred and Fifty-Five, and Sixty Cents (\$2,444,355.60); and

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

A. SUPPLEMENTAL

FOR 8-INCH DIAMETER DUCTILE IRON PIPE	\$8,378.00
FOR 6-INCH DIAMETER DUCTILE IRON PIPE	\$14,060.00
FOR 8-INCH DIAMETER MECHANICAL JOINT GATE VALVES	\$10,000.00
FOR 6-INCH DIAMETER MECHANICAL JOINT GATE VALVES	\$10,800.00
FOR PERMANENT PAVEMENT REPLACEMENT (COMPLETE)	\$5,680.00
DRIVEWAY APRON REPLACEMENT (PAVERS), IF AND WHERE DIRECTED, COMPLETE	\$3,000.00
DRIVEWAY APRON REPLACEMENT (PAVEMENT), IF AND WHERE DIRECTED, COMPLETE	\$656.00
ALLOWANCE FOR TRAFFIC CONTROL MEASURES AND MAINTENANCE OF	\$38,510.00
ALLOWANCE OF UNFORESEEN CONDITIONS DISCOVERED	\$19,279.39
TOTAL	\$110,363.39

B. EXTRAS

19 VANDERBILT CREDIT	-\$1,889.25
PUNCH LIST CREDIT	-\$5,000.00
TOTAL	-\$6,889.25

C. REDUCTIONS

FOR 16-INCH DIAMETER DUCTILE IRON PIPE	-\$4,950.00
FOR 12-INCH DIAMETER DUCTILE IRON PIPE	-\$11,218.00
FOR 12-INCH DIAMETER MECHANICAL JOINT GATE VALVES	-\$6,600.00
FOR 12-INCH INSERTION VALVES, IF AND WHERE DIRECTED	-\$45,000.00
FOR 8-INCH INSERTION VALVES, IF AND WHERE DIRECTED	-\$10,500.00
FOR INSTALLATION OF NEW HYDRANTS, TEES, VALVES AND BRANCH PIPING, COMPLETE	-\$21,000.00
FOR 1-INCH DIAMETER SERVICES	-\$30,000.00
FOR 2-INCH DIAMETER SERVICES	-\$4,000.00
FOR HYDROSTATIC PRESSURE TESTING OF WATER MAINS	-\$11.71
FOR DISINFECTION AND BACTERIOLOGICAL TESTING OF WATER MAINS	-\$11.71
FOR ROCK EXCAVATION	-\$8.00
FOR TEST PITS	\$50.00
CONCRETE CURB REPLACEMENT, IF AND WHERE DIRECTED, COMPLETE	-\$1,200.00
CONCRETE SIDEWALK REPLACEMENT, IF AND WHERE DIRECTED, COMPLETE	-\$200.00
ADA RAMP RESTORATION, IF AND WHERE DIRECTED, COMPLETE	-\$1,000.00
DRIVEWAY APRON REPLACEMENT (CONCRETE), IF AND WHERE DIRECTED, COMPLETE	-\$5,000.00
ALLOWANCE FOR ASPHALT PRICE ADJUSTMENT ALLOWANCE	-\$1,934.14
FOR FUEL PRICE ADJUSTMENT	-\$1,578.57
ALLOWANCE FOR UTILITY RELOCATIONS	-\$10,000.00
TOTAL	-\$154,262.13

WHEREAS, the total Change Order Decreased the Contract amount by 2.08% or \$50,787.99 making the new contract sum \$2,393,567.61; 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, approved the execution and payment of the Final Change Order Number 1 and final to the Contract with MSP Construction Corporation for the 2020 Water Main Replacement; 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 the right hereto.

BE IT FURTHER RESOLVED that a copy of this resolution shall be published in the West Essex Tribune as required by law.

***Res 22-217 Permitting the National Flag of Italy to be Raised as an Expression of Govt Speech**

WHEREAS, the Township of Livingston (the "Township") has a formal policy regarding flag raisings within the Township establishing that the Township Council may permit the display of commemorative flags upon the Township owned flagpoles as a form of the government's own expression pursuant to Government Speech Doctrine (See, Shurtleff v. City of Boston, Massachusetts, 142 S.Ct. 1583 (2022)); and

WHEREAS, as a form of its own expression, the Township Council wishes to display a commemorative flag of the National Flag of Italy; and

NOW THEREFORE BE IT RESOLVED by the Mayor and the Township Council of the Township of Livingston, County of Essex, State of New Jersey that the following additional flag(s) are hereby permitted to be displayed upon flagpoles owned by the Township of Livingston as an expression of government speech:

1. National Flag of Italy

BE IT FURTHER RESOLVED that nothing in this resolution shall limit or in any way abrogate any prior resolutions related to any prior permitted flags in the Township.

***Res 22-218 Authorizing Alcoholic Beverages in Designated Public Recreation Areas**

WHEREAS, the Council of the Township of Livingston (the "Council") amended and supplemented the language of the Code of the Township of Livingston, Chapter 61 Alcoholic Beverages, Article IV Public Recreation Areas (the "Code"), by adopting Ordinance 23-2021; and

WHEREAS, the Council may allow by Resolution the consumption of beer and wine to be sold by an authorized vendor in a designated location for a particular date/time; and

WHEREAS, the Township of Livingston 100 Year Fire Department Event been scheduled for Saturday, October 1, 2022, with a rain date of Saturday, October 8, 2022; and

NOW THEREFORE BE IT RESOLVED by the Mayor and the Township Council of the Township of Livingston, County of Essex, State of New Jersey that the Council hereby authorizes the consumption of beer and wine sold by an authorized vendor as follows:

- i) 100 Year Fire department Event: October 1, 2022, from 12 pm to 4 pm; and 6pm to 10pm, in the location shown on Exhibit A

*Res 22-219 Authorizing a Contract with Core & Main

WHEREAS, the Township of Livingston ("Township") has a need to purchase sewer system parts; and

WHEREAS, on July 14, 2022, the Township of Livingston issued Bid No. 12-2022 as an open-ended contract, to solicit bids from companies that supply sewer system parts; and

WHEREAS, the bid was advertised on the Township of Livingston website and West Essex Tribune on July 14, 2022 and as a result seven (7) bid packages were requested; and

WHEREAS, on August 10, 2022, one (1) bid was received by the bid deadline and publicly read; and

WHEREAS, Core and Main, LP 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, Core and Main, LP's schedule of pricing is attached; and

WHEREAS, the Township Engineer has evaluated the proposal for qualifications, experience, and cost reasonableness, and recommends the award of a contract to Core and Main, LP; and

WHEREAS, the Township Manager is recommending the award of a twelve (12) month contract to Core and Main, LP 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 twelve (12) month contract with Core and Main, LP effective August 22, 2022.

*Res 22-220 Authorizing the Award of Contract to Mott MacDonald LLC

WHEREAS, the Township of Livingston has a need to acquire professional engineering services for the design of 1,4 dioxane treatment for the Dorsa Avenue Wellfield 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, Mott MacDonald, LLC has completed and submitted a Business Entity Disclosure Certification which certifies that Mott MacDonald, LLC has not made any reportable contributions to a political or candidate committee in the Township of Livingston in the previous one year, and that the contract will prohibit Mott MacDonald, LLC from making any reportable contributions through the term of the contract, and

WHEREAS, the Utility Engineer and Township Manager are recommending the award of a contract to Mott MacDonald, LLC to provide professional engineering services for the Dorsa Avenue Wellfield as required by the Township in an amount not to exceed \$921,525.00; and,

WHEREAS, the Township Council has determined that Mott MacDonald, LLC has provided engineering services in prior years and has performed in a satisfactory manner; and WHEREAS, the Chief Financial Officer has certified that sufficient funds are available in account C-06-55-022-007-001; and

NOW THEREFORE, BE IT RESOLVED that the Township Council of the Township of Livingston authorizes the Township Manager to enter into a contract with Mott MacDonald, LLC in an amount not to exceed \$921,525.00 as described herein.
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.

*Res 22-221 Permitting the Hispanic Heritage Flag to be Raised as an Expression of Govt Speech

WHEREAS, the Township of Livingston (the "Township") has a formal policy regarding flag raisings within the Township establishing that the Township Council may permit the display of commemorative flags upon the Township owned flagpoles as a form of the government's own expression pursuant to Government Speech Doctrine (See, Shurtleff v. City of Boston, Massachusetts, 142 S.Ct. 1583 (2022)); and

WHEREAS, as a form of its own expression, the Township Council wishes to display a commemorative flag for Hispanic Heritage; and

NOW THEREFORE BE IT RESOLVED by the Mayor and the Township Council of the Township of Livingston, County of Essex, State of New Jersey that the following additional flag(s) are hereby permitted to be displayed upon flagpoles owned by the Township of Livingston as an expression of government speech:

1. Hispanic Heritage

BE IT FURTHER RESOLVED that nothing in this resolution shall limit or in any way abrogate any prior resolutions related to any prior permitted flags in the Township.

*Res 22-222 (Intentionally Left Blank)

*Res 22-223 Designating the Property Block 2700, Lots 50,51, and 52, Commonly Known as 21 and 25 East Northfield Rd and 521 S Livingston Ave as a Non-Condemnation Area in Need of Redevelopment

Resolution 22-223 was pulled from the Agenda earlier in the meeting.

Resolutions 22-215 through 22-221 were read by title. On motion duly made and seconded, and on roll call vote, all members present voting YES, Resolutions 22-215 through 22-221 were adopted.

	Yes	No	Abstain
Ed Meinhardt	X		
Michael Vieira	X		

Al Anthony	X		
Rudy Fernandez	X		
Shawn Klein (Absent)			

Comcast Hearing: Evaluating the Application of Comcast of New Jersey, II, LLC for the Renewal of its Municipal Consent to Own, Operate, Extend, and Maintain a Cable Television and Cable Communications System in the Township of Livingston. Township Manager Lewis stated that Federal law governs cable franchises in municipalities, and that the Township is continuing to review their contract with Comcast. On motion made and duly seconded, and on voice vote, the hearing will be carried to the Tuesday, September 6, 2022 Township Council meeting.

Q. Public Portion (on any subject—3 minute time limit)

On motion duly made and seconded, and on voice vote, the public portion was opened.

Scott Kushell, 14 Mansfield Ct, complained about the light facing Mansfield Ct by Livingston Mart, and that this had been a problem for the past year and a half. He also stated that the owner had been fined, but has not turned off the light, and it clearly violates the Ordinance recently adopted by the Township.

Matthew Boxer, 6 Trombley Dr, stated that the stormwater detention basin on Scott Terrace is a mess. He added that the active construction site adjacent to 7 Fernwood Dr is dangerous and should be evaluated by the Township before someone gets hurt.

Jeff Lichstein, 46 Heron Rd, wanted to support his friend Scott Kushell, and emphasized that the light emanating from Livingston mart needs to be addressed quickly, out of respect for the three houses on Mansfield Court.

Justin Escher Alpert, 56 Amherst Pl, commented about the sale of the property at 321 S Livingston Ave to another long term care facility, and the objectives of the Township in building the community.

On motion duly made and seconded, and on voice vote, the public portion was closed.

At 8:30 p.m., the Regular meeting was adjourned.

EDWARD MEINHARDT, Mayor

CAROLYN MAZZUCCO, RMC Township Clerk