

AGENDA

Livingston Township Council

Livingston Town Hall—357 S. Livingston Avenue—7:30 p.m.

Notice of this meeting has been given in accordance with the "Open Public Meetings Law."
"Annual Notice" was faxed to the West Essex Tribune and the Star-Ledger on January 2, 2020.

Statement of Decorum

Pursuant to Township Code Section 2-15, while the Township Council is in session, any person who desires to address the Council must first be recognized by the presiding officer. Recognized speakers must make their statements within six cumulative minutes, unless such time is extended by the Council. Appropriate decorum is to be observed at all times.

1. Roll Call
2. Silent Meditation and Pledge of Allegiance
3. Presentations
 - a) Teen Dating Violence Awareness and Prevention Month Packet
4. Essex County Update/Questions
5. Public Comments on Agenda Items
- 6.* Resolution - Consent Agenda [Includes All Items Marked "***"] R-20-75
- 7.* Approval of Minutes
 - a) January 27, 2020 Packet
- 8.* Approval of Licenses
9. Final Hearing Ordinances
10. Proposed Ordinances
 - a) Ord. 5-2020 Bond Ordinance Providing an Appropriation of \$2,600,000 for the Acquisition of Real Property to Preserve Open Space and Authorizing the Issuance of \$2,400,000 in Bonds or Notes of the Township for Financing Part of the Appropriation Packet
11. Resolutions
 - a) R-20-76 Creating and Appointing Members to the Ad Hoc Committee on the Utilization of the Licari and Strahman Tracts Packet
 - b) R-20-77 Auth. Approval of Change Order No. 1 with Ischia Corp. Packet
 - c) R-20-78 Auth. Award of Contract to McManimon Scotland and Baumann, LLC Packet
 - d) R-20-79 Auth. Contract with R&D Trucking, LLC Packet
 - e) R-20-80 Auth. Contract with CMS Construction, Inc. Packet
 - f) R-20-81 Approving Collective Negotiation Agreement with Communication Workers of America, AFL-CIO, Local 1031 Packet
12. Public Comment
13. Recess

GLENN R. TURTLETAUB
Township Clerk

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R-20-75

RESOLUTION

**Accepting, Approving and/or Adopting the
Consent Agenda of February 3, 2020**

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 February 3, 2020, attached hereto, which are preceded by an "*" are the Consent Agenda and are hereby accepted, approved and/or adopted.

Approved as to form:

Rufino Fernandez, Jr. Mayor

Sharon L. Weiner
Township Attorney

Glenn R. Turtletaub, Township Clerk

Adopted: 2/3/20

2/13/2020
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ORDINANCE 5-2020

BOND ORDINANCE PROVIDING AN APPROPRIATION OF \$2,600,000 FOR THE ACQUISITION OF REAL PROPERTY TO PRESERVE OPEN SPACE BY AND FOR THE TOWNSHIP OF LIVINGSTON IN THE COUNTY OF ESSEX, NEW JERSEY AND AUTHORIZING THE ISSUANCE OF \$2,470,000 IN BONDS OR NOTES OF THE TOWNSHIP FOR FINANCING PART OF THE APPROPRIATION.

BE IT ORDAINED, BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF LIVINGSTON, IN THE COUNTY OF ESSEX, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) **AS FOLLOWS:**

SECTION 1:

The improvements described in Section 3 of this bond ordinance (the “Improvements”) are hereby authorized to be undertaken by the Township of Livingston, New Jersey (the “Township”) as a general improvement. For the said Improvements there is hereby appropriated the amount of \$2,600,000, such sum includes the sum of \$130,000 as the down payment (the “Down Payment”) required by the Local Bond Law of the State of New Jersey, constituting Chapter 2 of Title 40A, Municipalities and Counties of the Revised Statutes of New Jersey (the “Local Bond Law”). The Down Payment is now available by virtue of provision of moneys in the Open Space Trust Account.

SECTION 2:

In order to finance the cost of the Improvements not covered by application of the Down Payment, negotiable bonds of the Township are hereby authorized to be issued in the principal amount of \$2,470,000 pursuant to the provisions of the Local Bond Law (the “Bonds”). In anticipation of the issuance of the Bonds and to temporarily finance said improvements or purposes, negotiable bond anticipation notes of the Township are hereby authorized to be issued in the principal amount not exceeding \$2,470,000 pursuant to the provisions of the Local Bond Law (the “Bond Anticipation Notes” or “Notes”).

SECTION 3:

(a) The Improvements authorized and the purposes for which obligations are to be issued are set by, Ordinance No. 2-2003, adopted by the Township Council on January 27, 2003 and approved by the voters of the Township in the General Election on November 5, 2002, are limited to the acquisition and development of land for recreation and conservation purposes and historic preservation of historic properties and acquisition of such properties or for the payment of debt service or indebtedness issued or incurred by the Township for any of the purposes described above in accordance with Chapter 30 of the Public Laws of 1989 and as amended, and in particular is the acquisition of real property to preserve open space identified as Block 2504,

Lot 23, located at 321 East Cedar Street, in the Township, all as shown on and in accordance with a contract of purchase on file in the Office of the Clerk.

(b) The estimated maximum amount of Bonds or Notes to be issued for the purpose of financing a portion of the cost of the Improvements is \$2,470,000.

(c) The estimated cost of the Improvements is \$2,600,000, which amount represents the initial appropriation made by the Township.

SECTION 4.

All Bond Anticipation Notes issued hereunder shall mature at such times as may be determined by the chief financial officer of the Township (the "Chief Financial Officer"); provided that no Note shall mature later than one year from its date. The Notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Officer shall determine all matters in connection with Notes issued pursuant to this ordinance, and the signature of the Chief Financial Officer upon the Notes shall be conclusive evidence as to all such determinations. All Notes issued hereunder may be renewed from time to time subject to the provisions of Section 8(a) of the Local Bond Law. The Chief Financial Officer is hereby authorized to sell part or all of the Notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the governing body of the Township at the meeting next succeeding the date when any sale or delivery of the Notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the Notes sold, the price obtained and the name of the purchaser.

SECTION 5:

The capital budget of the Township is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director, Division of Local Government Services, Department of Community Affairs, State of New Jersey is on file with the Township Clerk and is available for public inspection.

SECTION 6:

The following additional matters are hereby determined, declared, recited and stated:

(a) The Improvements described in Section 3 of this bond ordinance are not current expenses, and are capital improvements or properties that the Township may lawfully make or acquire as general improvements, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The average period of usefulness of the Improvements, within the limitations of the Local Bond Law, taking into consideration the respective amounts of all obligations authorized for the several purposes, according to the reasonable life thereof computed from the date of the Bonds authorized by this bond ordinance, is 40 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Township Clerk and a complete executed duplicate thereof has been filed in the office of the Director, Division of Local Government Services, Department of Community Affairs, State of New Jersey. Such statement shows that while the net debt is increased by this ordinance by \$0, the gross debt of the Township, as defined in the Local Bond Law, is increased by the authorization of the Bonds and Notes provided in this bond ordinance by \$2,470,000 and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law. Pursuant to the provisions of N.J.S.A. 40A:2-44(h), the obligations authorized hereunder constitute a deduction from the gross debt of the Township to the extent of \$2,470,000 and that to that extent shall not be considered in determining the Township's net debt for debt incurring purposes.

(d) An aggregate amount not exceeding \$100,000 for items of expense listed in and permitted under Section 20 of the Local Bond Law is included in the estimated cost of the Improvements, as indicated herein.

SECTION 7:

Any funds received from time to time by the Township as contributions in aid of financing the purposes described in Section 3 of this Ordinance shall be used for financing said Improvements by application thereof either to direct payment of the cost of said Improvements or to the payment or reduction of the authorization of the obligations of the Township authorized therefor by this Bond Ordinance. Any such funds received may, and all such funds so received which are not required for direct payment of the cost of said Improvements shall, be held and applied by the Township as funds applicable only to the payment of obligations of the Township authorized by this Bond Ordinance.

SECTION 8:

The full faith and credit of the Township are hereby pledged to the punctual payment of the principal of and interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Township, and the Township shall be obligated to levy ad valorem taxes upon all the taxable property within the Township for the payment of the obligations and the interest thereon without limitation of rate or amount.

SECTION 9.

The Chief Financial Officer of the Township is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Township and to execute such disclosure document on behalf of the Township. The Chief Financial Officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Township

pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the “Rule”) for the benefit of holders and beneficial owners of obligations of the Township and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Township fails to comply with its undertaking, the Township shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

SECTION 10:

This Bond Ordinance constitutes a declaration of official intent under Treasury Regulation Section 1.150-2. The Township reasonably expects to pay expenditures with respect to the Improvements prior to the date that Township incurs debt obligations under this Bond Ordinance. The Township reasonably expects to reimburse such expenditures with the proceeds of debt to be incurred by the Township under this Bond Ordinance. The maximum principal amount of debt expected to be issued for payment of the costs of the Improvements is \$2,470,000.

SECTION 11:

This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

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RESOLUTION No. R-20-76

RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF LIVINGSTON CREATING AND APPOINTING MEMBERS TO THE AD HOC COMMITTEE ON THE UTILIZATION OF THE LICARI AND STRAHMAN TRACTS

WHEREAS, the Township Council has acquired properties commonly known as the Licari and Strahman Tracts; and

WHEREAS, these properties were purchased using open space funds, therefore, future uses are restricted to passive or active recreation; and

WHEREAS, the Township Council is seeking suggestions from the community as to the future uses of the properties.

NOW, THEREFORE, BE IT RESOLVED that the Township Council of the Township of Livingston hereby creates an Ad Hoc Committee on the utilization of the Licari and Strahman Tracts; and

BE IT FURTHER RESOLVED that the following persons are appointed to serve on the Ad Hoc Committee on the utilization of the Licari and Strahman Tracts for the period ending December 31, 2020:

Jerry	Adelsohn	Pat	Ippolito	Gary	O'Neill
Art	Alman	Saba	Kahn	Sam	Ratner
Eric	Baltuch	Mike	Karp	Ira	Sessler
Christopher	Bickel	Vineeta	Khanna	Evan	Slater
Ellie	Cohen	Sheila	Laurie	Peter	Stern
Joan	Cohen	Walter	LeVine	Jerard	Stevenson
Toni	Critelli	James	McIlivane	Harry	Tuber
Anne	Fung	Emil	Olson	Representative from DPW	
Alan	Glazer			Representative from SYLS	

Deputy Mayor Shawn Klein and Councilman Al Anthony are hereby appointed Township Council Liaisons to the Committee.

Rufino Fernandez, Jr., Mayor

Glenn R. Turtletaub, Township Clerk

Approved as to form:

Sharon L. Weiner, Township Attorney
Adopted:

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RESOLUTION AUTHORIZING APPROVAL OF CHANGE ORDER NUMBER 1 WITH ISCHIA CORP.

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, due the need for additional quantities for concrete sidewalks, a Change Order has been requested for the following:

A.	SUPPLEMENTAL	
	Concrete Sidewalk 4" Thick	<u>\$39,000.00</u>
	Total	\$39,000.00

WHEREAS, the total change order increased the contract amount by 9.76% or \$39,000.00 making the new contract sum \$438,640.42; 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.

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 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.

Rufino Fernandez, Jr., Mayor

Glenn R. Turtletaub, Township Clerk

Approved as to form:

Sharon L. Weiner, Township Attorney

Adopted: February 3, 2020

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R-20-78

RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT TO McMANIMON, SCOTLAND & BAUMANN, LLC

WHEREAS, the Township of Livingston has a need to acquire Redevelopment Counsel 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, McManimon, Scotland & Baumann, LLC has completed and submitted a Business Entity Disclosure Certification which certifies that McManimon, Scotland & Baumann, 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 McManimon, Scotland & Baumann, LLC from making any reportable contributions through the term of the contract, and

WHEREAS, the Township Manager is recommending the award of a contract to McManimon, Scotland & Baumann, LLC to provide Redevelopment Counsel as required by the Township on the terms set forth in the proposal dated January 10, 2020; and

WHEREAS, the fees paid to the Planning Board and Zoning Board of Adjustment will be charged to applicants through escrow; and

WHEREAS, the Chief Financial Officer has certified that funds will be available in account C-04-55-019-009-008.

NOW THEREFORE, BE IT RESOLVED that the Township Council of the Township of Livingston authorizes the Township Manager to enter into a contract with McManimon, Scotland & Baumann, LLC for the period of February 3, 2020 through December 31, 2020 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.

Rufino Fernandez, Jr., Mayor

Glenn R. Turteltaub, Township Clerk

Approved as to form:

Sharon L. Weiner, Township Attorney

Adopted: February 3, 2020

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R-20-79

RESOLUTION AUTHORIZING A CONTRACT WITH R & D TRUCKING, INC.

WHEREAS, the Township of Livingston ("Township") has a need for the removal and off-site disposal of liquid sludge from the Water Pollution Control Facility; and

WHEREAS, on November 21, 2019, the Township of Livingston issued Bid No. 021-2019 as an open-ended contract, to solicit bids from contractors experienced in the removal and off-site disposal of liquid sludge; and

WHEREAS, the bid was advertised on the Township of Livingston website and West Essex Tribune on November 21, 2019 and as a result eleven (11) bid packages were requested; and

WHEREAS, on December 18, 2019, three (3) bids were received by the bid deadline and publicly read; and

WHEREAS, the Township received bids from two responsive and responsible bidders that comply with the requirements of N.J.S.A. 10:5-31 et seq. and N.J.S.A. 17:27 et seq., R & D Trucking, Inc. and Russell Reid Waste Hauling and Disposal Service Company, Inc., which bids were in the same and equal amount of \$27.00 per 1,000 gallons of sludge; and

WHEREAS, the New Jersey Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., addresses equal bids and expressly provides in N.J.S.A. 40A:11-6.1.d. as follows:

d. Whenever two or more responses to a request of a contracting agent offer equal prices and are the lowest responsible bids or proposals, the contracting unit may award the contract to the vendor whose response, in the discretion of the contracting unit, is the most advantageous, price and other factors considered. In such a case, the award resolution or purchase order documentation shall explain why the vendor selected is the most advantageous.

WHEREAS, the Township Utilities Director, the Township Engineer, Township Manager and Township Purchasing Manager have reviewed the equal bids of R & D Trucking, Inc. and Russell Reid Waste Hauling and Disposal Service Company, Inc. and have recommended that the Township Council award the contract to R & D Trucking, Inc. as being the most advantageous based upon the following factors:

1. Both Companies are qualified and capable of providing the services required.
2. The Township's current sludge disposal contract is with R & D Trucking, Inc. and the Township has had, and continues to have, a positive experience and working relationship with R & D Trucking, Inc. in its current provision of the identical services sought in this bid.
3. The personnel at the Water Pollution Control Facility and R & D Trucking, Inc. have developed and implemented procedures which optimize the efficiency and minimize staff time required for the sludge removal process.
4. Any change to a new service provider, even if equally qualified, would necessarily involve additional transition time in learning and implementing processes and procedures in contrast to the benefits of continuity in retaining the current service provider, R & D Trucking, Inc.

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

WHEREAS, based upon the foregoing, Township Utilities Director, the Township Engineer, Township Manager and Township Purchasing Manager recommend that the Contract be awarded to R & D Trucking, Inc. as the most advantageous, price and other factors considered, pursuant to N.J.S.A. 40A:11-6.1.d.

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 hereby finds that the bid of R & D Trucking, Inc. is the most advantageous to the Township and awards, and authorizes the Township Manager to enter into a twenty-four (24) month Contract with R & D Trucking, Inc. effective March 1, 2020, at a cost of \$27.00 per 1,000 gallons for the removal and off-site disposal of liquid sludge.

Rufino Fernandez, Jr., Mayor

Approved as to form:

Sharon L. Weiner, Township Attorney

Glenn R. Turteltaub, Township Clerk

Adopted: February 3, 2020

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R-20-80

RESOLUTION AUTHORIZING A CONTRACT WITH CMS CONSTRUCTION, INC.

WHEREAS, the Township of Livingston ("Township") has a need for the Wardell Road Pedestrian Bridge that cannot otherwise be performed by its regular employees; and

WHEREAS, on December 19, 2019, the Township of Livingston issued Bid No. 022-2019 to solicit bids from contractors experienced in constructing pedestrian bridges; and

WHEREAS, the bid was advertised on the Township of Livingston website and West Essex Tribune on December 19, 2019 and as a result forty-six (46) bid packages were requested; and

WHEREAS, on January 29, 2020, thirteen (13) bids were received by the bid deadline and publicly read; and

WHEREAS, CMS Construction, Inc. 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 CMS Construction, Inc.; and

WHEREAS, the Township Manager is recommending the award of a contract to CMS Construction, Inc. in an amount not to exceed \$233,212.00; and

WHEREAS, the Chief Financial Officer has certified that sufficient funds are available in account T-11-01-001-001-001.

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 CMS Construction, Inc. in an amount not to exceed \$233,212.00.

Rufino Fernandez, Jr., Mayor

Glenn R. Turtletaub, Township Clerk

Approved as to form:

Sharon L. Weiner, Township Attorney

Adopted: February 3, 2020

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R-20-81

**RESOLUTION OF THE TOWNSHIP COUNCIL OF THE
TOWNSHIP OF LIVINGSTON, IN THE COUNTY OF
ESSEX, NEW JERSEY APPROVING COLLECTIVE
NEGOTIATION AGREEMENT WITH COMMUNICATION
WORKERS OF AMERICA, AFL-CIO, LOCAL 1031**

WHEREAS, the Township of Livingston (the “Township”) and the Communication Workers of America, AFL-CIO, Local 1031 (“CWA”) previously entered into Collective Negotiations Agreement which expired on December 31, 2018; and

WHEREAS, the Township Manager and the CWA have engaged in negotiations to establish the terms of a new successor Collective Negotiations Agreement and, having reached an understanding have agreed to the Collective Negotiations Agreement (the “Agreement”); and

WHEREAS, the Township Manager has recommended that the Township Council approve the Agreement.

NOW THEREFORE, it is hereby resolved that the Township Council of the Township of Livingston hereby approves the Collective Negotiations Agreement with the Communication Workers of America, AFL-CIO, Local 1031 covering the term from January 1, 2019 through December 31, 2022.

Barry R. Lewis, Jr., Township Manager

Glenn R. Turteltaub, Township Clerk

Adopted: February 3, 2020