

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

#### Presentations

#### Essex County Update/Question

#### Legal Fees

The Council approved payment of the following Legal Fees:

- a) McManimon, Scotland & Baumann
- b) Antonelli, Kantor
- c) Murphy McKeon

#### Old Business

a) Amending the Township Code to Update Council Procedures -- The Council continued their review of changes to the Township Code recommended by Township Attorney Kantor.

b) 2021 Township Budget—It was agreed to hold a Budget Meeting with Department Heads on March 15 beginning at 7:00 p.m.

c) Habitable Floor Ratio Definition—The Council continued its consideration of an amendment to the Township Code's "McMansion Ordinance" to clarify the size of accessory structures, specifically concerning the segregation of principal and accessory structures, so as to more clearly define "habitable floor ratios". Mayor Klein asked that the matter be listed again on the next Regular Meeting Agenda for further discussion.

d) Northfield Cemetery---Clerk Turtleaub advised that Pastor Picos and his wife did not wish to participate in a virtual meeting, and would only be interested in meeting in person.

e) Physicians Advisory Board—The Mayor noted that further discussion by the Council is not needed at this time, and that the matter could be removed from the Old Business listing on meeting agendas going forward.

f) DPW Garage—Manager Lewis indicated he should have more information in the next two weeks, and could discuss it at an upcoming meeting.

g) Marijuana Legislation—Township Attorney Kantor advised that the Governor had signed the bill on February 22, and that the Township has 180 days, or until August 22 to opt out. Attorney Kantor gave an overview of the legislation, and highlighted things for the Council to consider. The Mayor asked for the Councilmembers' views on how to approach this. Councilmember Vieira asked about the handling of marijuana sales around schools. Councilmember Anthony suggested that forums be held to solicit opinions of township residents on specific issues (including distinguishing between cultivate/manufacture/retail).

h) Sidewalks—Township Manager Lewis displayed a map which had been given to the Council previously, which shows streets marked as to whether and which warrant use of concrete as opposed to asphalt. The Council agreed that streets marked in purple should be treated with concrete. Township Manager Lewis will move forward with streets denominated in pink, but will go back and get more information as to the specifics of those streets before any decisions are made.

i) Township Engineer—Licari and Strahman properties----An update will be provided in the near future, with the goal the March 22 meeting.

j) Planning Board Letter re: Ordinance 4-2021 and 304 S. Livingston Ave. Overlay District Redevelopment Plan---Township Manager Lewis discussed the changes recommended by the Planning Board in its letter to the Council, and explained that the changes were not substantive in nature and would not necessitate the reintroduction of the Ordinance.

k) Pools—Mayor Klein asked that the matter remain on the Agenda as Old Business for the next Council meeting.

#### New Business

a) Covid Update--Manager Lewis discussed the Township's latest numbers, and stated that the Township's numbers and its response to the pandemic were "status quo". He praised the County's for its administration of the vaccine.

b) 4<sup>th</sup> of July—Scott Maynard—4<sup>th</sup> of July Committee Co-Chairs Scott Maynard and Elliot Sherman discussed the Committee's tentative plans for those individual events which it was felt could be conducted notwithstanding this year's Covid restrictions. For example, the Car Show would be moved to the Oval, and Opening Ceremonies would be held at Haines Pool. The kids' programs held in the late morning and early afternoons were still under discussion as to how and they could be held. Mr. Maynard discussed plans to hold the Beer and Wine Gardens, which would be spread out at the Oval. He explained that a Band had been retained, with a "Covid clause" in the contract to give the Township relief in the event Covid restrictions necessitated cancellation. Mr. Sherman stated he was getting quotes from the Fireworks Company, and that the Committee in short was going forward, realizing that things may need to be tweaked as the situation develops. Mr. Maynard asked what the maximum occupancy was for the Oval, and Mr. Sherman will speak with Fire Chief Mullin on that issue. Township Attorney Kantor asked about the mechanism to count persons going in and out of the event. He also asked that he be sent proposed contracts and "Covid clauses" for his review, and stated his preference was to use one standard form contract and "Covid clause" which he will prepare.

c) Upcoming Council Calendar Invitations—The Council discussed invitations received to upcoming events, including the Mass for Sr. Barbara on March 14, the Budget Meeting on March 15, and the March 29 Veterans event.

d) Professional Services for Livingston Public Library--Township Manager Lewis explained his recommendation of an Award of a Non-Fair and Open Contract to Parette-Somjen Architects, LLC for Professional Engineering Services for the Livingston Public Library. The Council agreed, and a Resolution is listed on this evening's Regular Agenda for a vote.

e) Tent Sale—Fireworks—Township Manager Lewis discussed his Memorandum recommending that permission be granted to Phantom Fireworks Eastern Region, LLC, to hold a tent sale of fireworks at the Livingston Mall parking lot, in connection with the July 4 event, and the Council agreed.

### Public Comments on Agenda Items

#### Resolution—Consent Agenda Includes All Items Marked “\*” R-21-102

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 March 8, 2021, attached hereto, which are preceded by an “\*” are the Consent Agenda and are hereby accepted, approved and/or adopted.

On motion duly made and seconded, and on roll call vote, all members present voted YES.

### Approval of Minutes

- a) February 22, 2021-- Regular and Conference Minutes
- b) February 22, 2021—Closed Session Minutes

### Approval of Licenses

#### Final Hearing Ordinances

a) Ord. 4-2021 Adopting Block 4402, Lot 6 Overlay District Redevelopment Plan was read by title on second reading. Councilmembers Fernandez and Vieira, and Deputy Manager Jones recused themselves from the discussion and left the virtual meeting. Redevelopment Counsel Alaina Patzke participated in the discussion, and gave an overview of the required procedures in this adoption of a redevelopment Plan, including that any objections must be included in the minutes.

Roseanne Cavanaugh, 32 Berkeley Place, addressed the Ordinance, expressed her concerns about the Ordinance, asking about whether a traffic study had been done, and what was the outcome. Township Manager Lewis stated that preliminary information had been obtained, but that “the real meat” would take place when the matter came on before the Planning Board and would be more fully discussed at a hearing.

Asta Sanders, 34 Berkeley Place, joined in the noise concerns expressed by Ms. Kavanaugh, including noise concerns, asking whether the Councilmembers would want the “Y” in their backyard? Her husband Jeffrey Sanders joined in the discussion, stated that the noise was a concern of his as well, and that it would change the nature of the residential area, making it into a parking lot.

Rita Gesualdo, 28 Berkeley Place, discussed an email she had sent to all Councilmembers earlier in the day, and explained her concerns about the resolution R-21-105, particularly as to the noise that she felt would be generated by the presence of the YMCA so near to her home. Township Manager Lewis responded, explaining the process which would be undertaken, including hearing before the Planning Board, and that residents would be provided notice, prior to any action being taken.

Jamie Shen, 13 Belmont Drive, addressed R-3212-105, expressing similar concerns about noise.

There being no other 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.

#### Resolutions

##### a) R-21-95 Authorizing 2021 Temporary Emergency Appropriations

**WHEREAS**, an emergent condition as arisen in that the Township of Livingston is expected to enter into contracts, commitments and/or payments prior to the 2021 budget adoption and no adequate provision has been made in the CY2021 temporary budget for the aforesaid purposes;  
and

**WHEREAS**, N.J.S.A. 40A: 4-20 provides for the creation of an emergency temporary appropriation for said purpose, and

**WHEREAS**, the total emergency temporary appropriation resolutions adopted in the year 2021 pursuant to the provisions of Chapter 96, P.L. 1951 (N.J.S.A. 40A:4-20) including this resolution is:

Current Fund	\$4,712,500.00
Sewer Utility	<u>700,000.00</u>
Total	<u>\$5,412,500.00</u>

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Council of the Township of Livingston, County of Essex, (not less than two-thirds of all members thereof affirmatively concurring) that in accordance with the provision of N.J.S.A. 40A:4-20:

1. Emergency temporary appropriations be and the same are hereby made in the amount of \$5,412,500.00 as per attached.
2. Said emergency temporary appropriations will be provided for in the 2021 Budget.
3. That one certified copy of this resolution be filed with the Director, Division of Local Government Services.

b) R-21-103 Authorizing Provision of a Loan Pursuant to the Affordability Assistance Program for Purchaser of an Affordable Housing Unit Located at 24 Burnett Terrace, Livingston

**WHEREAS** Applicant 2021-24B, Keisha Winston (“Owner”) is under contract to purchase **24 BURNETT STREET, LIVINGSTON, NJ 07039**, a property governed by the statutes, ordinances, rules and regulations restricting occupancy and use of the property as an affordable housing unit; and

**WHEREAS**, the Owner has requested a down payment/closing cost assistance loan through Livingston Township’s Affordability Assistance Program toward the purchase of 24 BURNETT STREET, LIVINGSTON, NJ 07039; and

**WHEREAS**, the Township’s Affordable Housing Administrative Agent, CGP&H, LLC, has reviewed the Owner’s application and qualified the Owner for the requested assistance; and

**WHEREAS**, the amount of the requested Loan for down payment assistance/closing cost assistance is **\$10,000.00**, and

**WHEREAS**, the Township is willing, pursuant to the Affordability Assistance Program, to extend a Loan to the Owner in the amount of **\$10,000.00**; and

**WHEREAS**, the funding for the Loan will be from the Livingston Township Affordable Housing Trust Fund.

**NOW THEREFORE BE IT RESOLVED** on this \_\_\_\_ day of \_\_\_\_\_, 2021, by the Township Council of Livingston, County of Essex, State of New Jersey, that:

1. The Mayor and Clerk are hereby authorized, pursuant to the Township’s Affordability Assistance Program, to enter into an Affordability Assistance Program Repayment Agreement with Owner and provide Owner with a Loan to be used as a down payment toward the purchase of an affordable housing unit located at **24 BURNETT STREET, LIVINGSTON, NJ 07039**.
2. The Mayor, Administrator, Clerk, Township Attorney, CFO, and such other staff and officials as may be appropriate are authorized to take such steps as may be reasonably required to implement this resolution, including issuance of the Loan amount.

**CERTIFICATION**

I, Glenn R. Turtletaub, Clerk of the Township of Livingston, certify that the foregoing resolution was adopted by the Township Council of the Township of Livingston at its meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Glenn R. Turtletaub, Clerk

c) R-21-104 Authorizing a Contract With Parette Somjen Architects, LLC

**WHEREAS**, the Township of Livingston has a need to acquire professional architectural services for the Library roof replacements 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, the Township Council has determined that Parette Somjen Architects, LLC has provided architectural services in prior years and has performed in a satisfactory manner; and

WHEREAS, Parette Somjen Architects, LLC has completed and submitted a business Entity Disclosure Certification which certifies that Parette Somjen Architects, 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 Parette Somjen Architects, LLC from making any reportable contributions through the term of the contract, and

WHEREAS, the Library Director and Township Manager are recommending the award of a contract to Parette Somjen Architects, LLC to provide professional architectural services for the Library roof replacements as required by the Township in an amount not to exceed \$81,800.00; and,

WHEREAS, the Chief Financial Officer has certified that sufficient funds are available in account C-04-55-013-001-565.

NOW THEREFORE, BE IT RESOLVED that the Township Council of the Township of Livingston authorizes the Township Manager to enter into a contract with Parette Somjen Architects, LLC in an amount not to exceed \$81,800.00 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.

d) R-21-105 Authorizing the Planning Board to Conduct a Preliminary Investigation Of Conditions OF Block 63200,Lots 1, 1.01, 2 AND 3, FOR Determination as a on-Condemnation Area in Need of Redevelopment and Authorizing Beacon Planning and Consulting Services, LLC To Conduct the Investigation and Prepare a Report

**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 redevelopment; and

**WHEREAS**, to determine whether certain parcels of land constitute areas in need of redevelopment under the Redevelopment Law the municipal council of the Township (“**Township Council**”) must authorize the planning board of the Township (the “**Planning Board**”) to conduct a preliminary investigation of the area and make recommendations to the Township Council; and

**WHEREAS**, the Township Council hereby requests that an investigation occur with respect to the property described as Block 6200, Lots 1, 1.01., 2 and 3 on the tax

map of the Township, commonly known as the Livingston Mall (hereinafter the “**Study Area**”), to determine whether the Study Area meets the criteria set forth in the Redevelopment Law, specifically *N.J.S.A. 40A:12A-5*, and should be designated as an area in need of redevelopment; and

**WHEREAS**, the redevelopment area determination requested hereunder authorizes the Township and Township Council to use all those powers provided by the Redevelopment Law for use in a redevelopment area, other than the power of eminent domain (hereinafter referred to as a “**Non-Condensation Redevelopment Area**”); and

**WHEREAS**, to carry out its powers under the Redevelopment Law, the Township has a need for professional planning and engineering services, including preparation of a study of the Study Area (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 has been appointed as the Planner for the Township and the Planning Board for the calendar year 2021, in accordance with the Local Public Contracts Law, *N.J.S.A. 40A:11-1 et seq.* (the “**LPCL**”), which authorizes the award of professional services contracts by resolution of the municipal governing body without competitive bidding; and

**WHEREAS**, the Township Council desires to authorize the Planner to perform the Services.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP 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 Planning Board is hereby authorized and directed to conduct an investigation pursuant to *N.J.S.A. 40A:12A-6* to determine whether the Study Area satisfies the criteria set forth in *N.J.S.A. 40A:12A-5* to be designated as an area in need of redevelopment.

**Section 3.** As part of its investigation, the Planning Board shall prepare a map showing the boundaries of the Study Area and the location of the parcels contained therein, and appended thereto shall be a statement setting forth the basis of the investigation.

**Section 4.** The Planning Board shall conduct a public hearing in accordance

with the Redevelopment Law, specifically *N.J.S.A. 40A:12A-6*, after giving due notice of the proposed boundaries of the Study Area and the date of the hearing to any persons who are interested in or would be affected by a determination that the Study Area is an area in need of redevelopment. The notice of the hearing shall specifically state that the redevelopment area determination shall not authorize the Township or Municipal Council to exercise the power of eminent domain to acquire any property in the delineated area, as the Study Area is being investigated as a possible Non-Condernation Redevelopment Area.

**Section 5.** At the public hearing, the Planning Board shall hear from all persons who are interested in or would be affected by a determination that the Study Area is a redevelopment area. All objections to a determination that the Study Area is an area in need of redevelopment and evidence in support of those objections shall be received and considered by the Planning Board and made part of the public record.

**Section 6.** After conducting its investigation, preparing a map of the Study Area, and conducting a public hearing at which all objections to the designation are received and considered, the Planning Board shall make a recommendation to the Municipal Council as to whether the Municipal Council should designate all or some of the Study Area as an area in need of redevelopment.

**Section 7.** The Municipal Council hereby authorizes the Planner to provide the Services under its 2021 Township Planner professional services contract. The Planner shall provide the Services when and as directed by the Township.

**Section 8.** A copy of this resolution, the Business Disclosure Entity Certification and Political Contribution Disclosure Form, and the 2021 Township Planner professional services contract shall be available for public inspection at the offices of the Township.

**Section 9.** This Resolution shall take effect immediately

Public Comment

Keith Hines, 156 E. Cedar St., asked about R-21-103, and Township Manager Lewis explained the nature and purpose of the Resolution.

At 9:26 p. m., the following Resolution was considered:

Resolution Authorizing Closed Session—Livingston Mall Update (Attorney-Client Privilege, contract negotiations); Hospital Tax Exemption Law (Attorney-Client, potential litigation); and Livingston Community Players (Attorney-Client, potential litigation)

**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:

- i. Livingston Mall Update (Attorney-Client Privilege, contract negotiations);
- ii. Hospital Tax Exemption Law (Attorney-Client, potential litigation); and
- iii. Livingston Community Players (Attorney-Client, potential litigation); and

**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 9:45 p.m., the Closed Session meeting was adjourned.

Adjournment

The meeting was adjourned at 9:45 p.m..

SHAWN R. KLEIN, Mayor

GLENN R. TURTLETAUB, Township Clerk