

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, Township CFO Cucci, Township Clerk Mazzucco, and Deputy Township Clerk Peterson.

Moment of Silence and Pledge of Allegiance

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

Mayor Meinhardt welcomed Deputy Township Clerk Peterson to the Township of Livingston.

Proclamations & Presentations

1) Beck Gazebo Plaque – Bruce Beck, son of the late Doris Beck, presented a plaque in honor of his mother for the new gazebo donated by his family. He stated that "his mother loved Livingston as much as Livingston loved her", and that her service and empathy for others is what made her so special.

2) Sherman Palmer – The Mayor and Council congratulated Mr. Palmer on his commitment to the Township of Livingston as there are so many things he does for the Township anonymously. Mr. Palmer, a 30 year resident and volunteer for the Essex County Fire Department, stated that "Livingston was his Town".

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 22, 2022 Regular and Conference Meeting Minutes
- 2) August 22, 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, gave a presentation using props on a PILOT (Payment In Lieu of Taxes) program, and emphasized that the County was being cut out of their percentage of taxes.

Justin Escher Alpert's, 56 Amherst Pl, comments were read into record by Township Clerk Mazzucco concerning Township Manager's PILOT presentation. He also thanked the Mayor for bringing the topic in front of the public. He further inquired about the YMCA property being purchased by a long-term care facility, and indicated that there shouldn't be two long-term care facilities next to each other.

Charles August, 27 Knollwood Dr, expressed his concerns over the schools not receiving any money if the redevelopment of the corner of Northfield and S Livingston became a PILOT program. He suggested a deadline for which the developer had to comply, or condemn the property.

Mayor Meinhardt responded that the schools are always a priority for the Township Council and will always be supported by the Township.

Jean Stoloff, 18 North Dr, mentioned that taxes are taxes regardless of where the money goes, and it is important to not raise taxes.

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

### PILOT (Payment In Lieu of Taxes) Presentation

Township Manger Lewis presented a slideshow on local housing redevelopment law and how designating an area in need of redevelopment can support municipalities in certain planning and zoning goals. He further explained that this does not authorize entitlements or tax relief for the developer. An optional financial agreement (PILOT) can only be implemented after heavy State (DCA) scrutiny, and only if the redevelopment would otherwise not be feasible. Without a PILOT, the project would not happen.

### Passage of Ordinances

#### Final Hearing/2nd Reading

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

On motion duly made and seconded, and on voice vote, the hearing was opened on the ordinance. 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.

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

Introduction of Ordinances

Ord 29-2022 Adopting the 321 South Livingston Ave District Redevelopment Plan Pursuant to the Local Redevelopment and Housing Law was read by title.

On motion duly made and seconded, and on Roll Call vote, all members present except Council member Fernandez, who recused himself, voted yes. Council member Klein inquired if more sustainability language could be added. 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 October 3, 2022.

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

Resolutions

The Mayor requested that Resolution 22-233 be pulled from the Consent Agenda.

Res 22-225 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 September 6, 2022 attached hereto, which are preceded by an “\*” are the Consent Agenda and are hereby accepted, approved and/or adopted.

\*Res 22-226 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

Kristin Lopez, C.M.R. – Alternate Deputy Registrar

\*Res 22-227 Authorizing the Approval of Change Order #2 and Final with Ischia Corp for Two-Inch Mill and Pave of Sycamore Ave

WHEREAS, on July 11, 2022, the Township Council of the Township of Livingston approved resolution R 22-192 for the execution and payment of Change Order Number 1 and Final to the Contract with Ischia Corporation for the Two Inch Mill and Pave of Sycamore Avenue – Section Two

WHEREAS, due to additional changes that resolution is amended as follows  
:

A.	EXTRA	
	Detectable Warning Surface	\$224.00
	Traffic Markings, Thermoplastic	\$140.00
	Total	\$364.00
B.	REDUCTIONS	
	Police Traffic Director	-\$15,480.00
	Fuel Price Adjustment	-\$954.21
	Asphalt Price Adjustment (To be utilized Only if Asphalt Tonnage Exceeds 1,000 Tons)	-\$3,300.00
	Excavation, Unclassified	-\$6.00
	Geotextile Fabric	-\$18.00
	Dense Graded Aggregate Base Course, Variable Thickness	-\$3.00
	Milling, 3" or Less	-\$3,029.76
	Hot Mix Asphalt 9.5M64 Surface Course	-\$7,578.60
	Hot Mix Asphalt 19M64 Base Course	-\$5.00
	8" PVC Pipe, Sch. 40	-\$2,205.00
	Roof Leader and Drain Connection to 8" PVC Pipe	-\$200.00
	Under Drain	-\$10.00
	Bicycle Safe Grate	-\$400.00
	Curb Piece, Type N-Eco	-\$400.00
	Reconstructed Inlet, Type B Using New Casting	-\$0.01
	Yard Drain	-\$0.01
	Hot Mix Asphalt Driveway, 2" Thick	-\$6.28
	Driveway Restoration, Concrete Block	-\$0.50
	Concrete Driveway, Reinforced, 6" Thick	-\$1,749.75
	Concrete Sidewalk, 4" Thick	-\$3,666.75
	Hot Mix Asphalt Sidewalk, 4" Thick (As Needed For Restoration)	-\$0.64
	Granite Block Curb	-\$15,190.00
	Traffic Stripes, Long Life, Thermoplastic, 6" Width	-\$860.00
	Traffic Stripes, Long Life, Thermoplastic 12" Width	-\$7.00
	Top soiling, 4" Thick	-\$12.45

Fertilizing and Seeding, Type "1"	-\$12.45
Total	-\$55,095.41

WHEREAS, this total change order decreases the contract amount by 14.6% or \$54,731.41; and

WHEREAS, this Change Order has been recommended by Jeannette Harduby, Township Engineer and Barry Lewis, Township Manager; and

NOW, THEREFORE, BE IT RESOLVED, the Township Council of the Township of Livingston, Essex County, approves the execution and payment of Change Order Number 2 and Final to the Contract with Ischia Corporation for the Two-Inch Mill and Pave of Sycamore Avenue – Section Two; 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.

**\*Res 22-228 Authorizing the Award of Contract to Barton Ross to Provide Architectural and Related Services for the Old Force Homestead Preservation & Rehabilitation**

WHEREAS, the Township is the owner of the Old Force Homestead which is designated on the National and State registries of historic places; and

WHEREAS, the Old Force Homestead is in need of significant repairs and rehabilitation which have been identified by the retained Historic Preservation Architect, Barton Ross; and

WHEREAS, the Township has been awarded a Preserve New Jersey Historic Preservation Fund 2020 Capital Level I and II Grant (the "Grant") to cover half of the cost of the needed repairs and rehabilitation; and

WHEREAS, in connection with that project the Township is in need of professional architectural and related services to prepare the plans and specifications and to perform contract administration and oversight of the project (the "Services"); and

WHEREAS, the Township has received a proposal from its historic preservation architect, Barton Ross & Partners, LLC, ("Architect") 184 S. Livingston Avenue, Livingston, NJ, for the Services; and

WHEREAS, the Township desires to authorize a contract with the Architect, subject to the Architect's completion and submission of a Business Entity Disclosure Certification pursuant to *N.J.S.A. 19:44A-20.4, et seq.* certifying that the Architect has not made any reportable contributions to a political or candidate committee in the Township in the previous year, and that the contract will prohibit the Architect from making any reportable contributions through the term of the contract; and

WHEREAS, in accordance with the Local Public Contracts Law, *N.J.S.A. 40A:11-1 et seq.* (the "LPCL"), professional services contracts may be awarded by resolution of the municipal governing body without competitive bidding; and

WHEREAS, notice of the award of the contract hereunder shall be publicly advertised in accordance with the requirements of the LPCL.

WHEREAS, funding is available through the Grant and the Township's Open Space, Recreation and Historic Preservation Trust Fund;

NOW THEREFORE be it resolved by the Township Council of the Township of Livingston that the Township Council approves a professional services agreement with Barton Ross & Partners, LLC for architectural and related services for the Old Force Homestead in an amount not to exceed \$79,320, inclusive of all reimbursable expenses, and authorizes the Township Manager, Barry R. Lewis, Jr., to execute the agreement.

\*Res 22-229 Authorizing Disposition of Surplus

WHEREAS, the Township of Livingston is the owner of certain personal property described on the attached Schedule A and which is no longer needed for public purposes; and

WHEREAS, the condition of the items are such that they are not saleable and can be junked; and,

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Livingston that said property listed in the attached schedule shall be junked.

Schedule A

Department	Item	QTY	Make	Model	Serial / VIN Number
FIRE	Vehicle	1	2007 CHEVROLET	Impala	2G1WS 55R87 94169 93

\*Res 22-230 Resolution Of The Township Council Of The Township Of Livingston Providing For The Insertion Of Any Special Item Of Revenue In The Budget Of Any County Or Municipality Pursuant To N.J.S.A.40a:87 (Chapter 159, P.L.1948)

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget, and

WHEREAS, said Director may also approve the insertion of an item of appropriation for equal amount,

WHEREAS, the Treasurer certifies that the Township of Livingston has realized or is in receipt of written notification of the state or federal monies cited in this resolution, which meets all statutory requirements and will be included in the 2022 municipal budget,

\_\_\_\_\_  
Ann M. Cucci, Chief Financial Officer

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue and appropriation in the budget of the year 2020 as referenced below:

Revenue Title: Strengthening Local Public Health Capacity Program-2023 Amount: \$274,735.00

Appropriation Title: Strengthening Local Public Health Capacity Program-2023 Amount: \$274,735.00

Local Match - Source: \_\_\_\_\_ Amount:

BE IT FURTHER RESOLVED, that pursuant to N.J.S.A 40A:4-87 this resolution has been duly adopted by the Mayor and governing body of the Township of Livingston and that one (1) certified copy of this resolution be forwarded to the Division of Local Government Services.

\*Res 22-231 Referring To The Planning Board For Review And Comment A Redevelopment Plan Entitled "321 South Livingston Avenue District Redevelopment Plan" Pursuant To The Local Redevelopment And Housing Law, N.J.S.A. 40a:12a-1 Et Seq.

WHEREAS, the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the "Redevelopment Law"), authorizes a municipality to determine whether certain parcels of land in the municipality constitute "areas in need of rehabilitation" and/or "areas in need of redevelopment"; and

WHEREAS, pursuant to the Redevelopment Law, the Township Council of the Township of Livingston, in the County of Essex, New Jersey (the "Township Council") duly adopted Resolution 20-238 on December 7, 2020 designating certain properties within the Township, including the property identified on the tax maps of the Township as Block 3100, Lot 56, commonly known as 321 S. Livingston Avenue (the "Property") as an area in need of rehabilitation; and

WHEREAS, on April 4, 2022, by Resolution No. 22-136, and in accordance with the provisions of the Redevelopment Law, the Township Council authorized and directed the Planning Board of the Township of Livingston (the "Planning Board") to conduct an investigation of the Property to determine whether all or a portion of the Property meets criteria set forth in the Redevelopment Law, *N.J.S.A. 40A:12A-5*, to be designated as a non-condemnation redevelopment area in accordance with the Redevelopment Law, *N.J.S.A. 40A:12A-6*; and

WHEREAS, the Planning Board engaged Beacon Planning and Consulting Services LLC (the "Planning Consultant") to conduct an investigation to determine whether the Property should be designated as a non-condemnation area in need of redevelopment; and

WHEREAS, the Planning Board received a report setting forth the basis for the investigation prepared by the Planning Consultant, entitled, "West Essex YMCA 321 South Livingston Avenue Redevelopment Area Assessment" dated April 2022, concerning the determination of the Property as an area in need of redevelopment (the "Report"); and

WHEREAS, on June 2, 2022, the Planning Board reviewed the Report, heard testimony from representatives of the Planning Consultant, conducted a public hearing during which members of the general public were given an opportunity to present their own evidence and/or to cross-examine the Planning Consultant, and to address questions to the Planning Board and its representatives, concerning the potential designation of the Property as an area in need of redevelopment; and

WHEREAS, based on the recommendation of the Planning Board and in accordance with the criteria set forth in the Redevelopment Law, by Resolution No. 22-171 adopted on June 6, 2022, the Township Council designated the Property as a non-condemnation area in need of redevelopment (the "Redevelopment Area"); and

WHEREAS, pursuant to the Redevelopment Law, the Township Council caused to be prepared a redevelopment plan for the Property entitled the "321 South Livingston Avenue District Redevelopment Plan" (the "Redevelopment Plan"); and

WHEREAS, the Township Council desires that the Planning Board review and comment upon the Redevelopment Plan, as described on Exhibit A attached hereto, for its review and comment, pursuant to *N.J.S.A. 40A:12A-7* of the Redevelopment Law.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Livingston, County of Essex, New Jersey that:

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

Section 2. Pursuant to *N.J.S.A. 40A:12A-7(e)*, the Township Council hereby refers the Redevelopment Plan, as described on Exhibit A attached hereto, to the Planning Board for review and recommendation. The Planning Board shall prepare a report regarding its recommendations as to the Redevelopment Plan and shall submit same to the Township Council within forty-five (45) days after referral, as required by the Redevelopment Law.

Section 3. The Township Clerk shall forward a copy of this Resolution, and the Redevelopment Plan, attached hereto as Exhibit A, to the Planning Board for review.

Section 4. This Resolution shall take effect immediately.

\*Res 22-232 Authorizing Approval of Change Order Number 1 with JEV Construction, LLC

WHEREAS, the Township Council of the Township of Livingston entered into a contract ("Contract C2100036") with JEV Construction, LLC for the Primary Sludge Pumping Upgrades; and

WHEREAS, the initial Contract was not to exceed Seven Hundred Fifty-Five Thousand Dollars and no cents (\$755,000.00); and

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

A. ADDITIONS

Replacement of 5 additional valves and installation of basement alarm	<u>\$19,341.92</u>
Total	<b>\$19,341.92</b>

WHEREAS, the total change order increased the contract amount by 2.56% or \$19,341.92 making the new contract sum \$774,341.92; and

WHEREAS, this Change Order has been recommended by the Township Engineer and Township Manager; and

WHEREAS, the Chief Financial Officer has certified that funds are available in accounts C-08-55-020-012-B01 and C-08-55-022-019-A01.

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 JEV Construction, LLC for the Primary Sludge Pumping Upgrades; 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.

\*Res 22-233 A Resolution Of The Township Council Of The Township Of Livingston Authorizing The Execution Of The Legal Services' Agreement With Kennedy & Madonna, LLP Related To PFAS Litigation Services

WHEREAS, the Township of Livingston (the "Township") is committed to delivering clean drinking water to its customers; and

WHEREAS, the Township is also committed to identifying parties and taking reasonable steps to avoid passing on the costs to its consumers for the treatment and remediation of contamination; and

WHEREAS, Kennedy & Madonna, LLP has put together a team of uniquely qualified and experienced attorneys (the "Firm") who have joined together to assist public entities facing the challenges posed by contamination with per- and polyfluoroalkyl substances ("PFAS"); and

WHEREAS, the Firm is comprised of experienced attorneys in both in PFAS litigation and in the representation of public entities and water suppliers in cases involving groundwater contamination; and

WHEREAS, the Township Council has determined it to be in the Township's best interest to enter into the Agreement with the Firms and pursue any claims it may have related to PFAS; and



WHEREAS, the Township desires to authorize the execution of the as Exhibit "A"; 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 Mayor is hereby authorized to execute the Legal Services' Agreement with the Firm based upon the terms and conditions set forth herein and, in a manner, substantially similar to the Agreement attached hereto as Exhibit "A."

Resolutions 22-225 through 22-232 were read by title. On motion duly made and seconded, and on roll call vote, all members present voting YES on Resolutions 22-225, 22-226, 22-227, 22-228, 22-229, 22-230 and 22-232.

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

Councilmember Fernandez recused himself from voting on Resolution 22-231. On motion duly made and seconded and on roll call vote, the remaining four members voted YES on Resolution 22-231.

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

Resolution 22-233 was read by title. Township Attorney explained that the Township Council is joining other municipalities in filing for damages incurred by correcting issues from PFAS. He further stated that the Township is joining on a contingency basis only. Council member Anthony recused himself from voting on Resolution 22-233. On motion duly made and seconded and on roll call vote, the remaining four members voted YES on Resolution 22-233.

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

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 September 19, 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.

Matt Boxer, 6 Trombley Dr, stated that the construction site adjacent to 7 Fernwood Dr is a hazard. Furthermore, he stated that the Scott Terrace detention basin had not been mowed all summer.

Charles August, 27 Knollwood Dr, discussed the terrible traffic on S Livingston Ave that already exists, and the impact by all the construction.

Gella Seiden, 14 Ridgewood Dr, stated that the corner of Northfield and S Livingston was an eyesore, and she was certain there were others waiting in line to take advantage of the business opportunity if the owner was experiencing financial challenges.

Scott Goldman, 42 N Baums Ct, emphasized that the Township Council did not act in full transparency by placing a Resolution on last meeting's Agenda a few hours before the meeting was to take place, and that he appreciated Township Manager's PILOT presentation.

Jean Stoloff, 18 North Dr, stated that with all the money spent on Livingston Town Hall that there needs to be money invested on an improved sound system, as it is very hard to hear everyone.

Township Clerk Mazzucco read Jacquie Hersh's, 4 Browning Dr, comments into the record, which expressed that the resolution for the builder (development on corner of Northfield and South Livingston) is a private one and shouldn't concern the Township, as many businesses are under duress.

Township Clerk Mazzucco read Neal Ashinsky's, Hazelwood Ave, comments into the record concerning an early leaf pick up added to this year's schedule due to the extremely dry conditions this summer, which has led to the large amount of leaves dropping earlier than usual.

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