

The Regular and Conference Meeting of the Township Council of the Township of Livingston was 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 2, 2020, and that "48-hr. notice" was faxed and emailed to these same publications and posted on the Livingston Township website (livingstonnj.org) on ??? and posted on the Livingston Township website (livingstonnj.org).

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

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

Presentation—Victoria and Lauren Belcuore —Victoria and Lauren Belcuore both participated in this virtual meeting. Mayor Fernandez read a statement prepared by Lauren detailing the life-saving efforts for which both girls were being honored, and both girls addressed the Council. Chief Marshuetz reiterated what had happened and how proud the Livingston Police Department was, and thanked them, noting what a good job the girls and their parents had done. Chief Marshuetz reminded all "don't ignore calls for help from anyone". Mayor Fernandez read a plaque from the Council commemorating the event, and each girl will receive such a plaque.

Essex County Update/Questions

Legal Fees--The Council approved payment of the following Legal Fees:

- a) McCarter & English (July 2020)
- b) Antonelli Kantor (July 2020)
- c) Genova Burns (May 2020)
- d) Genova Burns (June 2020)
- e) Genova Burns (July 2020)
- f) McManimon, Scotland and Baumann (July 2020)
- g) Murphy, McKeon PC. (August 2020)

New Business

a) New Garbage Collector (RTS) Township Manager Lewis explained the procedure leading to the awarding of a bid to RTS, a new garbage collector in town, explaining the resultant lawsuit, and explained that the suit had subsequently been withdrawn. Manager Lewis gave a PowerPoint presentation via screen share of the financial specifics leading to the bid award to RTS.

b) Coronavirus/COVID 19 Update—Township Manager Lewis provided an update of the Township’s responses to the Coronavirus pandemic, and stated that running updated totals would be available by tomorrow.

c) Request to Use the Area Around Gazebo for Zumba Classes. Mayor Fernandez stated that he had notified the requester that permission had been granted to use the area around the there were no conflicts with other events that date at that location. Councilmember Vieira noted the need to double check that it would not interfere with the previously approved Alzheimer Walks, and Township Manager stated that the Town would be checking.

d) Livingston Veterans 9/11 Ceremony Invitation--The Council acknowledged receipt of the Invitation.

e) POW/MIA Recognition Day 2020 Ceremony—September 18, 2020 The Council acknowledged receipt of the Invitation.

f) Social Justice Advisory Committee—A Resolution creating the Committee is listed on the evening’s Agenda for a vote.

Public Comments on Agenda Items

Deputy Township Clerk Mazzucco read aloud questions to the Council submitted by residents via email.

Nidhi Gupta, 305 Kensington Lane, on behalf of the Regency Homeowners Association, addressed the Ordinance being introduced this evening, and asked about the rezoning next to the Regency. She addressed what she felt were dense population and traffic and noise increases, and asked “why the need to rezone”. Township Attorney Weiner explained the history, how the zoning had resulted from negotiations to settle a lawsuit, and had not been instigated by the Township

Resolution—Consent Agenda Includes All Items Marked “*” R-20-190

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 8, 2020, attached hereto, which are preceded by an “*” are the Consent Agenda and are hereby accepted, approved and/or adopted.

On roll call vote, all members present voted YES.

Approval of Minutes

- A) Regular and Conference Minutes—August 17, 2020
- b) Closed Session Minutes—August 17, 2020

Approval of Licenses

Final Hearing Ordinance

a) Ord. 10-2020 Establishing R-5K Residence District

ORDINANCE ESTABLISHING R-5K RESIDENCE DISTRICT was read by title.

Gerry Cecil, 802 Kensington Lane, discussed the change in use of adjacent properties.

Brian Kartegena, 613 Kensington Lane, asked why the property to be rezoned “needed to be here and not on S. Orange site”? He addressed what he believed to be overbearing, overburdening of the Township, and asked why they could not be met at another location. Mayor Fernandez and Township Attorney Weiner explained the history of such “Builder’s Remedy” lawsuits, and that density was not a defense in such cases.

Sonal Batra, 917 Kensington, asked about “the downside of going to court against developers. Mayor Fernandez cited cost and there likely result of “much higher density than we would ever agree to.”

Austin Lieb, 812 Kensington, discussed the noise associated with the construction, specifically a 4:14 a.m. drop off, which will be referred to Construction Official Marty Chiarolanio

Lauren Guskin, 606 Kensington Lane, discussed the impact of the Ordinance upon wildlife.

Justin Escher Alpert, 56 Amherst Place, asserted that Livingston was “losing control” and should take a leadership role, ask the Developer to “hold off”, and strive to achieve a balance between schools and housing.

Sherwin Berman, 707 Regal Blvd., addressed the proposed 70 foot height. Mayor Fernandez explained the four story maximum, and urged lowering the maximum to 40 feet. Manager Lewis will look at the 70 foot number to determine whether it was a typographical error.

Sara Silverman, 115 Sterling Court, addressed the proposed Ordinance.

Mindy Gould, 610 Kensington, discussed how two trees had fallen down, asking “what do we do and how to protect yourself”.

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.

b) Ord. 11-2020 Bond Ordinance Providing an Appropriation of \$9,795,000 for Various Improvements and Authorizing Issuance of \$9,328,568 Bonds or Notes for Financing Part of the Appropriation

BOND ORDINANCE PROVIDING AN APPROPRIATION OF \$9,795,000 FOR VARIOUS IMPROVEMENTS IN AND BY THE TOWNSHIP OF LIVINGSTON, IN THE COUNTY OF ESSEX, NEW JERSERY AND AUTHORIZING THE ISSUANCE OF \$9,328,568 BONDS OR NOTES OF THE TOWNSHIP FOR FINANCING PART OF THE APPROPRIATION was read by title. David Reinfeld and Jac Bloomberg addressed the proposed ordinance, and thanked the Council for their appointments to the Transportation Advisory Committee. He noted how the upcoming recommendation would be to adopt asphalt, discussed enforcement of the Ordinance, and asked “what are we doing about horrible sidewalks?”

Manger Lewis pointed out that he purpose of the creation of the committee “was for them to recommend which streets should receive asphalt versus concrete. 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.

c) Ord. 12-2020—Bond Ordinance Providing an Appropriation of \$2,730,000 for Improvements to Water Utility System and authorizing Issuance of \$2,730,000 Bonds or Notes for Financing Part of the Appropriation

BOND ORDINANCE PROVIDING AN APPROPRIATION OF \$2,730,000 FOR IMPROVEMENTS TO WATER UTILITY SYSTEM IN AND BY THE TOWNSHIP OF LIVINGSTON, IN THE COUNTY OF ESSEX, NEW JERSEY AND AUTHORIZING THE ISSUANCE OF \$2,730,000 BONDS OR NOTES OF THE TOWNSHIP FOR FINANCING PART OF THE APPROPRIATION 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.

d) Ord. 13-2020 Bond Ordinance Providing an Appropriation of \$1,820,000 for Improvements to Sewer Utility System and authorizing Issuance of \$1,820,000 Bonds or Notes for Financing Part of the Appropriation

BOND ORDINANCE PROVIDING AN APPROPRIATION OF \$1,820,000 FOR IMPROVEMENTS TO SEWER UTILITY SYSTEM IN AND BY THE TOWNSHIP OF LIVINGSTON, IN THE COUNTY OF ESSEX, NEW JERSEY AND AUTHORIZING THE ISSUANCE OF \$1,820,000 BONDS OR NOTES OF THE TOWNSHIP FOR FINANCING PART OF THE APPROPRIATION was read by title. There being no speakers, on motion duly made and seconded, and on voice vote, all members present voted YES. It was ordered advertised according to law.

Proposed Ordinance

a) Ord. 14-2020 Mixed-Use Overlay District for Lots 62 and 63 in Tax Block 2700

ORDINANCE OF THE TOWNSHIP OF LIVINGSTON MIXED USE OVERLAY DISTRICT FOR LOTS 62 AND 63 IN TAX BLOCK 2700 was read by title and introduced on first reading. 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 22, 2020. Justin Alpert, 56 Amherst, addressed the expansion of the Shop-Rite parking lot, which he characterized as “key space.”

Resolutions

a) R-20-191 Authorizing a Person-to-Person Transfer and place-to-Place Relocation of Mamun Inc to Livingston Legend Inc (the Wine Legend)

WHEREAS, MAMUN INC. has applied for a Person-to-Person Transfer of Plenary Retail Distribution License No. 0710-44-005-005 to LIVINGSTON LEGEND INC t/a Wine Legend; and a Place-to-Place transfer for the purpose of reducing the premises under license wherein the sale, service and storage of alcoholic beverages are authorized; and

WHEREAS, the submitted application form is complete in all respects, the transfer fees have been paid, and the license has been properly renewed for the current license term; and

WHEREAS, the applicant has disclosed and the issuing authority reviewed the source of all funds used in the purchase of the license and the licensed business and all additional financing obtained in connection with the licensed business;

WHEREAS, the pending transfer was advertised in the West Essex Tribune on March 19, 2020 and March 26, 2020 and no complaints have been filed with the Township Clerk.

NOW, THEREFORE, BE IT RESOLVED that the Township of Livingston does hereby approve, effective September 8, 2020, the reduction of the aforesaid Plenary Retail Distribution Licensed premises located at 277 Eisenhower Parkway, Livingston, NJ 07039 and transfer of license to LIVINGSTON LEGEND INC t/a Wine Legend, and does hereby direct the Municipal Clerk to endorse the license certificate to the new ownership as follows: "This license, subject to all its terms and conditions, is hereby transferred to LIVINGSTON LEGEND INC t/a Wine Legend, effective September 8, 2020.

b) R-20-192 Certification of 2019 Audit Report

WHEREAS, N.J.S.A. 40A:5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions; and

WHEREAS, the Annual Report of Audit for the fiscal year ended December 31, 2019 has been filed by a Registered Municipal Accountant with the Municipal Clerk pursuant to N.J.S.A. 40A:5-6, and a copy has been received by each member of the Township Council; and

WHEREAS, R.S. 52:27BB-34 authorizes the Local Finance Board of the State of New Jersey to prescribe reports pertaining to the local fiscal affairs; and

WHEREAS, the Local Finance Board has promulgated N.J.A.C. 5:30-6.5, a regulation requiring that the governing body of each municipality shall by resolution certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled:

General Comments
Recommendations

and

WHEREAS, the members of the Township Council have personally reviewed as a minimum the Annual Report of Audit, and specifically the sections of the Annual Report entitled:

General Comments
Recommendations

as evidenced by the group affidavit form of the Township Council attached hereto; and

WHEREAS, such resolution of certification shall be adopted by the Township Council no later than forty five days after the receipt of the annual audit, pursuant to N.J.A.C. 5:30-6.5; and

WHEREAS, all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board; and

WHEREAS, failure to comply with the regulations of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board, and

WHEREAS, failure to comply with the regulations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52, to wit:

R.S. 52:27BB-52 – "A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the director (Director of Local Government Services), under the provisions of

this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.”

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Livingston, hereby states that it has complied with N.J.A.C. 5:30-6.5 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

Approved as to form:

Rufino Fernandez, Jr. Mayor

Sharon L. Weiner
Township Attorney

Glenn R. Turtletaub Township Clerk

Adopted: September 8, 2020

I hereby certify that this is a true copy of the Resolution passed at the meeting held on September 8, 2020.

Glenn R. Turtletaub, Township Clerk

GROUP AFFIDAVIT FORM

Certification of Township Council of the Annual Audit

State of New Jersey)

)SS.

County of Essex)

We, the Members of the Township Council of the Township of Livingston, County of Essex, of full age, being duly sworn according to law, upon our oath depose and say:

1. We are duly elected members of the Township Council of the Township of Livingston in the County of Essex;
2. In the performance of our duties, and pursuant to N.J.A.C. 5:30-6.5, we have familiarized ourselves with the contents of the Annual Municipal Audit filed with the Township Clerk pursuant to N.J.S.A. 40A:5-6 for the fiscal year ended December 31, 2019;
3. We certify that we have personally reviewed and are familiar with, as a minimum, the sections of the Annual Report of Audit entitled:

GENERAL COMMENTS
RECOMMENDATIONS

Rufino Fernandez, Jr. Councilmember

Shawn R. Klein Councilmember

Edward Meinhardt Councilmember

Michael Vieira Councilmember

Alfred M. Anthony Councilmember

Sworn to and subscribed before me
this _____ day of _____ 2020.

The Municipal Clerk shall set forth the reason for the absence of signature of any members of the Governing Body.

IMPORTANT: This certificate must be sent to the Division of Local Government Services, CN 803,
Trenton, NJ 08625.

c) R-20-193 Appointments to Committee for Social Justice

BE IT RESOLVED that the Township Council of the Township of Livingston hereby creates a Committee for Social Justice to advise and make recommendations to the Council on matters relating to Social Justice; and

BE IT FURTHER RESOLVED that the following persons are appointed to serve on the Committee for Social Justice for the period ending December 31, 2020; and

Stacey Abenstein	Brandon Isaacson
Martha Ackerman	Saba Khan
Gabrielle Altstedter	Marlene Laveman
Sharon Apple	Dan Martian (Pastor)
Aziza Arnette	Deirdre McGagh
Jenissa Arnette	Shiray McLean
Jen Best	Meso Mengesha
Tiffany Burroughs	Bridgette Nevola
Madelyn Ferrans	Farha Northover
Beagy Fils-Aime	Nalit Patel
Susan Gillespie (Pastor)	Melissa Prince-Barry
Joyce Gore	Mary (DeeDee) Pulver
Alex Herbst	David Vaisberg (Rabbi)
Keith Hines	Leigh Weaver
Amy Ipp	Debbie Weinstein

BE IT FURTHER RESOLVED that the Committee shall maintain Minutes of its meetings, which Minutes shall be provided to the Council for review and approval; and

BE IT FURTHER RESOLVED that Livingston Police Chief Gary Marshuetz or his designee is hereby appointed as an Ex Officio member of the Committee; and

BE IT FURTHER RESOLVED that a member of the Livingston Town Council shall serve as Liaison to the Committee.

On roll call vote of R-20-191 through R-20-193, inclusive, all members present voted YES.

Public Comment

Deputy Clerk Mazzucco read comments submitted by Township residents.

Justin Escher Alpert, 56 Amherst, addressed the Blue Ribbon Committee and asked when the Council might move back to holding live meetings, and asked for an update on Appraisal Systems promise to provide information of their methodology. Township Manager Lewis explained how space limitations impeded achieving the required social distancing, and he stated that he would follow up with Appraisal Systems. Councilmember Klein noted that increased participation was a benefit of the virtual meetings.

Amy Schoenhut and Matthew Boxer, 6 Trombly Drive asked for an evaluation from the Township Engineering Department re: the storm water drain. Mayor Fernandez pointed out that this was part of the Scott Terrace application. Manager Lewis stated that he would follow up on their assessment and recommendation and would give Mr. Boxer an update.

Councilmember Anthony stated he had heard from the State regarding planting of flowers at the Circle.

Councilmember Vieira suggested that a "Welcome to Livingston" sign be placed at that location, and he thanked Deputy Township Clerk Marzocco for her assistance in providing plaques to the Veterans recognizing Livingston as a Veterans Friendly Town.

He also thanked all township employees in recognition of Employees Appreciation event this past Friday, creating the Veterans Friendly Township. Mr. Vieira also thanked SYLS Director Jen Walker and Liliana Branquinho (SYLS) arranging the Ice Cream Social for seniors, He also addressed the need to remove signs a Board of Education candidate had improperly placed on Telephone poles and on street signs.

Councilmember Klein discussed a recent call regarding the Maplewood re: energy aggregation He also asked for an update on the DPW building estimate, and asked Manager Lewis regarding the Camuso shed.

Deputy Township Manager Jones advised that new doors had been installed at the Livingston Police Department building.

Township Attorney Weiner advised that energy aggregation bids were to be opened in the afternoon of September 15. It was confirmed that Councilmember Klein had the authority to approve the bid if it saved money, and to disapprove if it did not save money.

Township Manager Lewis stated he wished to give a "shout out" to new Township CFO Ann Cucci who was in attendance via Zoom.

At 9:25 p.m., the following Resolution was considered:

Resolution Authorizing Closed Session

WHEREAS, N.J.S.A. 10:4-12 allows for a Public Body to go into closed session during a Public Meeting; and

WHEREAS the Governing Body of the Township of Livingston has deemed it necessary to go into closed session to discuss certain matters which are exempted from the public; and

WHEREAS, the Conference meeting of the Governing Body will reconvene, and

BE IT RESOLVED that this 8th day of September, 2020, that the Township Council of the Township of Livingston will go into Closed Session for the purpose of discussing such matters as may come before the council and that are exempted from the public as outlined in N.J.S.A. 10:4-12.

BE IT FURTHER RESOLVED that the matters discussed in closed session will be made public upon disposition.

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

The Closed Session adjourned at 9:55 p.m.

Adjournment

The meeting was adjourned at 9:55 p.m.

RUFINO FERNANDEZ, Jr. Mayor
GLENN R. TURTLETAUB, Township Clerk