

**Pennington Borough Council
Regular Meeting – September 10, 2007**

Mayor Persichilli called the Regular Meeting of the Borough Council to order at 7:00 pm. Borough Clerk Betty Sterling called the roll with Council Members DiFalco, Garber, Heinzl, Lawver, Tucker and Zompa in attendance.

Also present were Superintendent of Public Works, Jeff Wittkop, Public Safety Director, Bill Meytrott, Borough Administrator, Eugene Dunworth, Borough Attorney, Walter Bliss and Borough Clerk, Betty Sterling.

Mayor Persichilli announced that notice of this meeting has been given to the Pennington Post, Hopewell Valley News, The Times of Trenton and The Trentonian and was posted on the bulletin board in Borough Hall according to the regulations of the Open Public Meetings Act.

Approval of Minutes

Council Member Tucker made a motion to approve the minutes of the July 2, 2007 Regular Meeting, second by Council Member Heinzl with all members present voting in favor with the exception of Mr. Garber who abstained.

Council Member Tucker made a motion to approve the minutes of the August 6, 2007 Regular Meeting, second by Council Member Heinzl with all members present voting in favor.

Open to the Public – Agenda Items Only

Mayor Persichilli made the following announcement:

Meeting open to the public for comments on items on the agenda for which no public discussion is provided. In an effort to provide everyone interested an opportunity to address his or her comments to the Governing Body, a public comment time limit has been instituted for each speaker. **Please come forward and state your name and address for the record. Please limit comments to the Governing Body to a maximum of 5 minutes.**

There were no comments from the public on agenda items.

Mayors Business

Mayor Persichilli asked for a moment of silence in recognition of the anniversary of September 11.

Mayor Persichilli asked Borough Administrator, Gene Dunworth to comment on drainage plans for new houses prior to construction. Mr. Dunworth stated that a couple of new houses and additions have been approved without having to seek planning board approval have prompted complaints from neighboring properties with regard to drainage. Mr. Dunworth explained that there is a gap in the Borough Ordinance for these cases that are approved without have to appear before the Planning Board. Mr. Dunworth stated that when a house is approved at the zoning level the owners are not required to file drainage and grading plans. Mr. Dunworth explained that the lack of grading has led to drainage problems. Mr. Dunworth explained that in speaking with Borough Engineer, Don Fetzer and a couple of others, the feeling was that Borough Council should try to plug this loophole. After a brief discussion, Council was in favor of making the necessary changes to address this issue. Mr. Bliss stated that the first step is to determine whether municipalities are permitted to regulate this subject under the Municipal Land Use Law or under applicable State Drainage Regulations. Mr. Bliss stated that he would be happy to investigate the Borough's options under the Municipal Land Use Law or Council could ask the Planning Board Attorney to investigate. Mr. DiFalco asked if sidewalk repair could be included with this issue. It was decided that a discussion of sidewalks would take place later in the meeting. Mayor Persichilli asked Ms. Heinzl to bring this up at the Planning Board meeting on Wednesday night as the first step.

Appointments (With Council Approval)

Mayor Persichilli recommended the appointment of Gabriel Rosko to the Shade Tree Commission for an unexpired term through December 31, 2008. Mayor Persichilli stated that he provided a copy of Mr. Rosko's resume to Council Members for review. Council Member Tucker made a motion to approve the appointment, second by Council Member Zompa with all members present voting in favor.

Ordinances for Introduction

**BOROUGH OF PENNINGTON
COUNTY OF MERCER**

ORDINANCE NO. 2007-8

**AN ORDINANCE INCREASING CERTAIN APPLICATION FEES AND OTHER
CHARGES FOR THE PLANNING BOARD AND THE PLANNING BOARD ACTING AS
A BOARD OF ADJUSTMENT, AMENDING CHAPTER 98 OF THE CODE OF THE
BOROUGH OF PENNINGTON**

WHEREAS, Borough Council of the Borough of Pennington recognizes a need to amend the fees and other charges for processing and review of applications and the performance of administrative functions by the Planning Board of the Borough of Pennington and the Planning Board acting as the Board of Adjustment;

WHEREAS, these fees and charges were last amended in 1999;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington as follows:

1. Section 98-11 of the Code of the Borough of Pennington (“the Code”), concerning application fees, escrow deposits and inspection fees, is amended to read as follows:*

Applications for development shall be accompanied by the payment to the Borough of an application fee, escrow deposit and, if appropriate, an inspection fee. The application fee and escrow deposit shall be paid separately according to the following schedule:

APPLICATION	FEE	ESCROW
MINOR SUBDIVISION		
Resubmission	[\$300.00] <u>400.00</u>	\$500.00 per lot
Or Amendment	\$100.00	
Concept Review	\$300.00	\$300.00 to be credited
MAJOR SUBDIVISION		
Preliminary	[\$500.00] <u>600.00</u>	[\$500.00] <u>600.00</u> per lot
Final	[\$300.00] <u>400.00</u>	\$400.00 per lot
Resubmission		
Or Amendment	\$300.00	\$400.00 per lot
Extension	\$100.00	
Concept Review	\$500.00	\$500.00 to be credited
SITE PLAN		
Preliminary Residential	[\$500.00] <u>\$600.00</u>	\$10.00 per unit Minimum \$500.00
Nonresidential	[\$500.00] <u>\$600.00</u>	\$0.10 per sq. ft. improved Minimum \$500.00
Final Residential	[\$300.00] <u>\$400.00</u>	\$10.00 per unit Minimum \$300.00
Nonresidential	[\$300.00] <u>\$400.00</u>	\$0.05 per sq. ft. improved Minimum \$300.00
Resubmission or		
Amendment-Residential	\$300.00	\$300.00 + \$10.00/unit
Nonresidential	\$300.00	\$300.00+ \$0.10/sq. ft. improved
Waiver	\$300.00	\$200.00
Extension	\$100.00	\$300.00
Concept Review	\$200.00	\$500.00 to be credited
CONDITIONAL USES		
Residential	[\$150.00] <u>\$300.00</u>	[\$300.00] <u>\$400.00</u>
Nonresidential	[\$300.00] <u>\$400.00</u>	[\$500.00] <u>\$800.00</u>
INTERPRETATIONS		
Residential	[\$100.00] <u>\$200.00</u>	[\$200.00] <u>\$600.00</u>
Nonresidential	\$300.00	[\$300.00] <u>\$600.00</u>
APPEALS		
Residential	[\$100.00] <u>\$200.00</u>	[\$200.00] <u>\$500.00</u>
Nonresidential	[\$300.00] <u>\$400.00</u>	\$500.00
VARIANCES		

Bulk – Residential	\$[200.00 ¹] \$250.00/ <u>variance</u>	\$[300.00]	\$1000.00
Nonresidential	\$[300.00] \$400.00/ <u>variance</u>	\$[500.00]	\$1000.00/ <u>variance</u>
Use – Residential	\$300.00	\$[300.00]	\$1000.00
Nonresidential	\$500.00	\$[500.00]	\$1500.00
SPECIAL MEETING OF BOARD	\$500.00		
ZONING PERMITS	\$[25.00]		
<u>Residential – Principal Use</u>	\$ 50.00		
<u>Accessory Use</u>	\$ 25.00		
<u>Commercial – Principal</u>	\$ 100.00		
<u>Use</u>			
<u>Accessory Use</u>	\$ 50.00		
<u>Temporary Activity Permit</u>	\$ 25.00		
<u>Residential Conversion</u>	\$ 50.00		

2. Section 98-19 of the Code, concerning miscellaneous fees, is amended to read as follows:

Miscellaneous fees shall be as follow:

- A. Copy of zoning ordinance: \$40.00.
- B. Copy of Master Plan: \$25.00.
- C. Subdivision approval certificate: \$25.00.
- D. Certified list of property owners: \$10.00.
- E. Tape of meeting - \$25.00.
- F. CD copy of meeting - \$8.00.

3. Any ordinance or portion thereof inconsistent herewith is hereby repealed.

[¹ The application fee for up to two residential bulk variances is \$250. Each bulk variance above two will be an additional \$200 each.]

4. This ordinance shall take effect upon final passage and publication in accordance with law.

Council Member Tucker made a motion to introduce Ordinance 2007-8, second by Council Member Heinzl. Council Member Tucker raised concerns about the fees for copies of the zoning ordinance, master plan, etc. Mr. Lawver stated that the zoning ordinance is available on line. Ms. Sterling stated that most residents who request a copy of the zoning ordinance will ask for copies of only the pages that they need. Ms. Sterling stated that the office staff always advises people that the zoning ordinance is available on-line. Mr. Dunworth stated that the changes to these fees has been coming for many months. Ms. Sterling stated that Mary Mistretta researched fees charged by both Hopewell Township and Hopewell Borough and consulted with Zoning Officer, John Flemming in determining how the fees should be increased. Upon a roll call vote, all members present voted in favor.

The next agenda item, Public Hearing – Development of Flood Mitigation Plan was moved down on the agenda due to the fact that the required advertisement listed the public hearing for 8:00 pm.

Committee Reports

Planning & Zoning/Library – Ms. Heinzl reported that the Library Board will meet on September 27th. Ms. Heinzl stated that Fall Programming would begin tomorrow. Ms. Heinzl stated that the long overdue dedication of the Girl Scout Garden would take place this Thursday.

Ms. Heinzl stated that the Planning Board did not meet over the summer and would resume its regular meeting schedule this Wednesday, September 12th. Ms. Heinzl stated that several applications would be before the board including a discussion of Hopewell Townships Draft Master Plan Re-examination Report. Ms. Heinzl asked that questions or comments on the report be forwarded to her and she will bring them up at the Planning Board Meeting.

Ms. Heinzl stated that the Environmental Commission did not meet in August; the next meeting will be this Thursday, September 13th.

Ms. Heinzl reported that the Traffic Calming Initiative has met over the summer, but more concrete meetings will resume in September. Ms. Heinzl reported that they have initiated a public education campaign, which includes a letter that has gone out to residents and area businesses and will be distributed at back to school night. Ms. Heinzl stated that the Hopewell Valley News has also done several feature

articles on traffic and pedestrian laws. Ms. Heinzel commended that Police Department on a great job enforcing local parking restrictions and pedestrian crossing issues.

Ms. Heinzel stated that NJDOT would be meeting next week on September 18th, to discuss proposed improvements for the Route 31-Delaware Avenue intersection. Ms. Heinzel stated that the traffic study report is on file in Borough Hall for anyone interested.

Ms. Heinzel stated that it was reported in the newspaper that Hopewell Township proposes to put on the ballot an increase of one penny to the Open Space/Recreation Tax to be dedicated to walking trails and paths. Ms. Heinzel stated that if the referendum passes, funds raised would be dedicated to the Lawrence-Hopewell Trail, the Crossroads of the American Revolution and other walking and biking trails in the Township.

Mayor Persichilli stated that he noticed that tickets have been issued to cars parked on The Boulevard. Mayor Persichilli stated that there was some discussion recently about children crossing Route 31 in areas other than at the crosswalks and the possibility of issuing tickets to these children.

Mr. Meytrott stated that the plan is to start issuing tickets as soon as next week. Mr. Meytrott stated that the targeted areas would be the Route 31 and Broemel Place and the area of Route 31 just North of the driveway for the Pennington Market particularly at noontime. Mr. Meytrott stated that once warnings and tickets are issued, the word would get around pretty quickly. Further discussion took place regarding the fact that walkers have to push the button to activate the walking signal. Ms. Heinzel stated that the DOT proposal includes removal of the existing signals and replacing them with countdown signals. Mr. Meytrott stated that the countdown signals would probably also be pedestrian activated as the DOT is concerned with backing up traffic on Route 31. Mr. Lawver stated that it is also important that word get out that the police officer posted at Route 31 and Delaware Avenue might be called away if there is an emergency and that would be an uncovered intersection. Ms. Zompa suggested that announcements be made at the high school and Timberlane School to advise students and parents about traffic issues.

Mayor Persichilli invited Ms. Kit Chandler to come forward. Ms. Chandler stated that there are a limited number of students that are walking to the Timberlane Middle School and to the High School and that maybe a list could be obtained, so that a letter could be sent to each household. Mr. Tucker cautioned that sending a letter out to a limited number of homes could cause a problem if someone were overlooked.

Public Works – Mr. Garber gave the following water and trash reports.

PENNINGTON BOROUGH PUBLIC WORKS

TO: David Garber, Chairman
Public Works Committee

FROM: Jeff Wittkop, Superintendent

DATE: September 5, 2007

RE: **COUNCIL REPORT FOR THE MONTH OF AUGUST 2007**

WATER

Water pumped for the month of August 2007- 8,932,000
Daily- 288,000

Water pumped for the month of August 2006 – 9,220,000
Daily- 297,000

For the month of August 2007 we averaged 9,000 gallons less per day than 2006.

TRASH

88.79 tons of household trash for the month of August 2007 vs.
103.59 tons in July 2006

Mulch is available at the Senior Center in the parking lot for Pennington residents only.

Leaves may be placed in bags for pick-up until September 30, 2007.
Leaves may be raked or blown to the street in long windrows from October 1, 2007 until January 1, 2008.

Mr. Garber reported that a notice to proceed has been issued to Penn Bower for water repair work on Baldwin in advance of the road reconstruction.

Mr. Garber reported that an advertisement for bids for Brookside Avenue would be done this week with an expected award of the contract at the October meeting.

Personnel – Ms. Zompa reported that the Personnel Committee met on August 23rd to discuss a variety of issues. Ms. Zompa reported that the focus of the discussion was on employee performance evaluations and

the gap between job specifications and the basis for evaluations. Ms. Zompa stated that discussion took place regarding the development of a performance standards document, which would list the tasks of a particular job and the standards by which an individual's performance could be assessed. Ms. Zompa stated that the committee agreed that development of such an instrument would be useful in providing employees with feedback in facilitating a supervisor/worker communication and to serve as a basis for discretionary performance related decisions such as promotions, raises and terminations. Ms. Zompa stated that the personnel committee suggested that a performance evaluation document be developed beginning with the Public Works Department particularly the Assistant Foreman position. Ms. Zompa stated that the committee talked with Mr. Wittkop about developing such an instrument. Ms. Zompa stated that Mr. Wittkop indicated that he would reach out to Mayor Persichilli and Mr. Dunworth, drawing on their backgrounds in human resources field. Mayor Persichilli stated that he would be happy to assist with the process.

Community Services- Mr. DiFalco reported that the King Kong-Movie in the Park night went very well. Mr. DiFalco stated that he would be providing Mr. Dunworth with a grant application for playground equipment at Kunkel Park. Mr. DiFalco stated that the Hopewell Valley News has reported that Hopewell Valley Recreation has decided to hire Judy Neiderer for the position held by Michael Hritz. Mr. DiFalco stated that during meetings with Hopewell Township Recreation, the three municipalities were going to meet to map out a job specification, post the position and conduct interviews and to his knowledge that did not take place. Mr. Garber inquired about what happened with putting a basketball court at Kunkel Park. Mr. DiFalco explained that fell through, as there was too much opposition. Mr. DiFalco stated that the grant money is now being used to replace playground equipment at Kunkel Park. Mr. Dunworth explained that a representative from the Mercer Joint Insurance Fund did an inspection and found that there are several violations with the existing playground equipment.

Public Safety – Mr. Tucker reported that on August 16th, Mr. Meytrott went to Camden County where Officer Frank Lynch received a proclamation related to his assistance with an incident at a Camden Park while off duty. Mr. Tucker reported that he along with Mr. Meytrott and Sergeant DeLorenzo went out to observe traffic and crossings on the first day of school. Mr. Tucker reiterated that it is important for residents to be aware that if any emergency arises there may not be an officer present at the Route 31 and Delaware Avenue intersection. Mr. Tucker reported that the Public Safety Committee would be exploring the possibility of expanding the hours for crossing at the Route 31 and Delaware intersection. Mr. Tucker stated that parking restrictions on the Boulevard on Main Street are being enforced with approximately ten summonses issued to date. Mr. Tucker stated that the reason that there is no parking on the street side of the Boulevard is to enable emergency vehicles to gain access in the event of an emergency. Mr. Tucker reported that Mercer County has been contacted with regard to the pedestrian crossing signal at Delaware Avenue and Main Street.

Mr. Tucker reported that on August 28th, Ms. Heinzl attended an underage-drinking meeting and she would be reporting on that meeting.

Mr. Tucker reported that the High School experienced a lock down on the opening day of school due to a custodian finding packing material for a spring-loaded rifle and handgun. Mr. Tucker reported that thirteen Hopewell police officers responded and Pennington Borough provided an officer along with Mr. Meytrott to assist with the incident. Mr. Tucker reported that no weapons were discovered and things are back to normal according to press releases that have been issued. Mr. Garber inquired as to the policy for "frisking" students at the High School with regard to female students. Mr. Meytrott stated that on the day of the incident there were no female officers on duty and therefore only the male students were patted down. Mr. Meytrott stated that overall the lock down went well, however in the future, if something like this occurs, more police personnel will be on site. Mr. Meytrott stated that one of the reasons why it took five hours to handle the incident was that thirteen police officers in a school the size of the High School is not enough.

Mr. Tucker reported the following statistical information for the month of August 2007.

56	Motor Vehicle Stops
21	Motor Vehicle Summonses
9	Parking Summonses
0	DUI Summonses
33	Warnings
3	Enforcement Arrests – Male
0	Enforcement Arrests – Female

Mr. Tucker stated that a meeting is scheduled for September 17th to hopefully wind up negotiations with the Police Department.

Finance – Mr. Lawver stated that a draft audit for 2006 has been received and a full report from Bob Morrison will be done at the October meeting. Mr. Lawver reported that there were no findings or recommendations, another clean audit for the staff that does a great job keeping the Borough's books in shape. Mr. Lawver stated that guidelines for the four percent revenue cap for 2008 have been released and they are very complicated. Mr. Lawver stated that in the very near future a determination as to what this means for next years budget will be done. Mr. Lawver stated that suffice it to say the budget will be very tight next year. Mr. Lawver stated that the Borough is presently doing well in meeting the 2007 budget, so far spending 54% of the general fund and 59% of the water/sewer fund.

Mr. Lawver reported that after taking the summer off, the Economic Development Commission would be gearing up to get busy again. Mr. Lawver reported that a meeting with business owners is scheduled for

October 10th, to share the results of the surveys that were done in the spring. Mr. Lawver stated that there is a vacancy on the commission so if anyone knows of someone who might be willing to serve, let him know.

New Business

**Borough of Pennington
Resolution #2007-9.1**

RESOLUTION AUTHORIZING REFUNDS

BE IT RESOLVED, that a refund be issued to Wells Fargo Real Estate Tax Service, Financial Support Unit – Region 1, 1 Home Campus MAC X2302-04D, Des Moines, IA 50328-0001 in the amount of \$1,487.20 for an overpayment of 3rd quarter taxes for Block 103.03 Lot 4.

BE IT RESOLVED, that a refund be issued to Wells Fargo Real Estate Tax Service, Finance Support Unit – Region 1, 1 Home Campus MAC X2302-04D, Des Moines, IA 50328-0001 in the amount of \$125.00 for an overpayment of 3rd quarter taxes for Block 502. Lot 13.

BE IT RESOLVED, that a refund be issued to Peacock Inn Assoc, c/o Walker, 19 Carson Road, Princeton, NJ 08540 in the amount of \$6,506.42 for an overpayment of 2007 taxes due to the property being converted into condominiums for Block 205 Lot 15.

BE IT RESOLVED, that a refund be issued to Nation-wide Building & Remodeling, Attn: Joe Gulla, 116 Amelia Drive, Levittown, PA 19054 for a street opening permit for 427 Burd Street, that was not used in the amount of \$27.00.

Record of Council Vote on Passage

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
DiFalco	X				Lawver	X			
Garber	M				Tucker	X			
Heinzel	S				Zompa	X			

Council Member Garber made a motion to approve Resolution 2007-9.1, second by Council Member Heinzel. Mr. Lawver inquired about the refund to Peacock Inn and the net effect on taxes when a property converts to condominiums. Mr. Dunworth stated that he would check with Irene Billings, Tax Collector for an explanation. Upon a roll call vote, all members present voted in favor.

**Borough of Pennington
Resolution #2007 – 9.2**

AUTHORIZING PAYMENT OF BILLS

WHEREAS, certain bills are due and payable as per itemized claims listed on the following schedules, which are made a part of the minutes of this meeting as a supplemental record;

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Pennington that the bills be paid on audit and approval of the Mayor, the Appropriate Council Member and the Treasurer in the amount of \$ 730,394.93 from the following accounts:

Current	\$ 653,088.01
W/S Operating	\$ 36,054.04
Developers Escrow	\$ 7,542.96
General Capital	\$ 21,342.60
Water/Sewer Capital	\$ 1,765.00
Grant Fund	\$ 10,602.32
TOTAL	\$ 730,394.93

Record of Council Vote on Passage

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
DiFalco	X				Lawver	M			
Garber	X				Tucker	S			
Heinzel	X				Zompa	X			

Council Member Lawver made a motion to approve Resolution 2007-9.2, second by Council Member Tucker. Council Member raised questions on bills on the bill list and upon a roll call vote, all members present voted in favor.

Mr. Dunworth stated that since it was now 8:00pm, the Public Hearing on Development of a Flood Mitigation Plan should be held at this time.

Council Member Heinzl made a motion to open the Public Hearing, second by Council Member Tucker. Mayor Persichilli opened the Public Hearing for anyone in the audience to come forward on the issue. Mr. Dunworth gave an overview of the program. Mr. Dunworth explained that the Delaware River Basin Commission is running this program and in order to continue to receive funds through FEMA for flooding, each town has to perform various requirements, this public hearing being the first. Mr. Dunworth stated that he explained to the Delaware River Basin Commission that flooding from the river is not a huge problem here in Pennington. There were no comments from the public. Council Member Tucker made a motion to close the Public Hearing, second by Council Member Heinzl.

**Borough of Pennington
Resolution #2007-9.3**

RESOLUTION RATIFYING CONTRACT WITH E. O. HABHEGGER FOR ABOVE-GROUND FUEL TANKS, ASSOCIATED EQUIPMENT AND INSTALLATION

WHEREAS, the Borough of Pennington requires acquisition and installation of above-ground fuel tanks at the Borough's new Public Works Facility;

WHEREAS, by Resolution 2007-5.13, Borough Council authorized award of contract for this project to E. O. Habegger Company, Inc. ("Habegger") for a price not to exceed \$60,060.59, subject to preparation of a contract approved as to form by the Borough Attorney and Borough Engineer;

WHEREAS, with the approval of the Borough Attorney and Borough Engineer and consistent with Resolution 2007-5.13, the Mayor, with the attestation of the Borough Clerk, has executed the attached contract with Habegger as of September 7, 2007;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the aforesaid contract and execution of same by the Mayor are hereby accepted and ratified.

Record of Council Vote on Passage

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
DiFalco	X				Lawver	X			
Garber	S				Tucker	M			
Heinzl	X				Zompa	X			

Council Member Tucker made a motion to approve Resolution 2007-9.3, second by Council Member Garber with all members present voting in favor.

**Borough of Pennington
Resolution 2007-9.4**

RESOLUTION ADOPTING A NATIONAL INCIDENT MANAGEMENT SYSTEM

WHEREAS, in Homeland Security Presidential Directive (HSPD) 5, the President directed the Secretary of the Department of Homeland Security to develop and administer a National Incident Management System (NIMS), which would provide a consistent nationwide approach for Federal, State and Local governments to work together more effectively and efficiently to prevent, prepare for, respond to, and recover from domestic incidents, regardless of cause, size or complexity; and

WHEREAS, the 9-11 Commission recommended adoption of a standardized incident Command System; and

WHEREAS, it is necessary that all Federal, State, and Local emergency management agencies and other public safety agencies coordinate their efforts to effectively and efficiently provide the highest levels of incident management; and

WHEREAS, to facilitate the most efficient and effective incident management it is critical that Federal, State, and Local organizations utilize standard terminology, standardized organizational structures, uniform personnel qualifications standards, uniform standards for planning, training, and exercising, comprehensive resource management, and designated incident facilities during emergencies or disasters; and

WHEREAS, the NIMS standardized procedures for managing personnel, communications, facilities, and resources will improve the ability to utilize State and Federal funding to enhance County and Local agency readiness, maintain first responder safety, and streamline incident management processes; and

WHEREAS, the Incident Command System components of NIMS are already an integral part of various incident management activities throughout the State, County, and Local Municipalities, including all public safety and emergency response organizations training programs; and

WHEREAS, over fifty Federal grant programs mandate that NIMS be adopted as a prerequisite for obtaining these grants;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the National Incident Management System (NIMS) be utilized for all incident management in the Borough of Pennington; and

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately.

Record of Council Vote on Passage

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
DiFalco	X				Lawver	M			
Garber	X				Tucker	S			
Heinzel	X				Zompa	X			

Council Member Lawver made a motion to approve Resolution 2007-9.4, second by Council Member Tucker. Mr. Meytrott briefly explained that this resolution came from Emergency Management and it is required if the Borough wants to continue to receive Federal funds. Mr. Meytrott explained that his management system would be used in the event of a disaster. Mr. Meytrott explained that the cost to the Borough is minimal and consists only of training of officers. Mr. Meytrott explained that this Resolution involves how incidents are managed and reported. Upon a roll call vote, all members present voted in favor.

**Borough of Pennington
Resolution 2007-9. 5**

**RESOLUTION AUTHORIZING ADVERTISEMENT FOR
PUBLIC BIDS FOR THE RECONSTRUCTION
OF BROOKSIDE AVENUE**

WHEREAS, the Borough of Pennington has a need to undertake the reconstruction of Brookside Avenue in the Borough;

WHEREAS, the needed reconstruction includes milling of existing paved areas, application of dense-graded aggregate base course, bituminous concrete base course and surface course, installing storm sewer pipes, inlets and appurtenances, construction of concrete driveway aprons, curbs, sidewalks, traffic signs and traffic road-striping and markings;

WHEREAS, the Borough seeks to retain a contractor to perform such project, supplying all materials, equipment and labor for the work;

WHEREAS, the work shall be performed pursuant to specifications and subject to review and approval by the Borough Engineer;

WHEREAS, necessary funding for the project is presently available;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, as follows:

(1) the Borough Engineer is hereby authorized to prepare all specifications and other documents required for the aforesaid contract;

(2) the Borough Administrator, in coordination with the Borough Engineer, is hereby authorized to advertise publicly for bids for the proposed contract, in compliance with the Local Public Contracts Law.

Record of Council Vote on Passage

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
DiFalco	X				Lawver	X			
Garber	M				Tucker	S			
Heinzel	X				Zompa	X			

Council Member Garber made a motion to approve Resolution 2007-9.5, second by Council Member Tucker. Mr. Lawver stated that at one time it was discussed to combine the advertising for Brookside with the advertising for Hale Street. Mr. Wittkop explained that there is a timing issue with Brookside Avenue in that it has to be awarded by October or the funding will be lost. Upon a roll call vote, all members present voted in favor.

**Borough of Pennington
Resolution 2007-9.6**

**RESOLUTION AUTHORIZING RELEASE OF PERFORMANCE
GUARANTEE FOR INSTALLATION OF GREASE INTERCEPTOR
BY FORMOSA OF HOPEWELL, INC.**

WHEREAS, the Borough, through the Borough Administrator, entered into an agreement (“Agreement”) with Formosa of Hopewell, Inc. (“Formosa”) to ensure that Formosa enlarged the external grease interceptor system at 12 South Main Street in the Borough to provide sufficient capacity for its two retail food establishments at that location, Gelato and Sumo Sushi, as required by Chapter 159 of the Borough Code;

WHEREAS, the Agreement was ratified and approved by Borough Council by Resolution 2007-8.7;

WHEREAS, the agreement required Formosa to post a cash bond in the amount of \$22,300 to guarantee timely completion of the work in sixty (60) days by September 10, 2007;

WHEREAS, Formosa has installed the interceptor and monitoring well constituting the required system;

WHEREAS, the installation was monitored by the Borough Engineer, through Van Note-Harvey Associates (“VNHA”), and VNHA advises that the work was done in conformance with applicable Borough ordinances;

WHEREAS, Formosa has submitted to VNHA an as-built drawing of the system dated August 17, 2007, and VNHA has reviewed the drawing and found it acceptable as submitted;

WHEREAS, VNHA recommends that the posted performance guarantee for the work, in the full amount of \$22,300, be released and returned to Formosa;

WHEREAS, the aforesaid performance guarantee was provided in cash, which has been kept in an interest-bearing account, the interest to follow the guarantee;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Borough Clerk is hereby authorized to release and return the aforesaid performance guarantee in the amount of \$22,300 (plus earned interest) to Formosa of Hopewell, Inc.

Record of Council Vote on Passage

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
DiFalco	X				Lawver	M			
Garber	X				Tucker	S			
Heinzel	X				Zompa	X			

Council Member Lawver made a motion to approve Resolution 2007-9.6, second by Council Member Tucker with all members present voting in favor.

Council Discussion

Council Member DiFalco asked for a discussion on enforcement of sidewalk repairs. Mr. Dunworth stated that a month or so ago a discussion took place about having Sergeant DeLorenzo go out and identify some of the “worst” sidewalks in town. Mr. Dunworth explained that Sergeant DeLorenzo has just returned from a workers comp injury and would be asked to come up with a list in the next couple of weeks. Mr. Meytrott stated that Sergeant DeLorenzo is willing to do this. Mr. Meytrott stated that after the start of school he would have Sergeant DeLorenzo look at sidewalks throughout the Borough, take pictures and come up with a list of what is believed to be the “worst” sidewalks. Mr. Meytrott stated that list would be given to Council to see what to do next. Mr. Lawver stated that the original idea was to invite those on the list to a meeting and advise them that their sidewalks are not in compliance and here are the options under the ordinance. Council Members discussed some complaints that have been received from residents with regard to sidewalks in need of repairs. Council Member Garber stated that many residents are going to say that Borough trees are causing the sidewalks to heave and Council needs to come to terms on how to address those complaints. Mr. Heinzel stated that she thinks the proposal is a good approach to come up with a way to solve the problem of sidewalk repairs. Mr. Dunworth stated that the sidewalk standards provided by Van Note Harvey that the Borough is using are a little severe. Mr. Lawver stated that they also have standards from a couple of insurance carriers that are being reviewed. Mayor Persichilli stated that the standards should be defined prior to undertaking this process. Mr. Bliss reviewed that current sidewalk ordinance and stated that Council authorized that specifications be drawn up by the Borough Engineer and kept on file. Mr. Dunworth stated that when a resident comes in to apply for a sidewalk permit they are given a set of specifications provided by the Borough Engineer and that the Borough Engineer is inspecting sidewalks to make sure they are in compliance with the specifications. Mr. Lawver stated that the Borough is clear on what should be in the specifications, but the reason for contacting Mercer County JIF was to determine what triggers a repair, as that is not spelled out in the ordinance. Mr. Bliss stated that it would be tough to define how much a sidewalk can be raised above the level plain before it becomes a tripping

hazard sufficiently severe to warrant repair or replacement. Mr. Lawver asked Mr. Bliss how Princeton Township handled replacement of sidewalks and were specific properties targeted? Mr. Bliss stated that a long period of notices went by prior to replacing sidewalks in certain areas and assessing the property owners. Mr. Bliss stated that by definition some sidewalk improvements are general and some are special and special improvements are what are billed to adjoining property owners. Mayor Persichilli stated that sidewalk improvements are underway in Lawrence Township near Rider University. Mr. Dunworth stated that he would contact Lawrence Township and Princeton Township to find out more about sidewalk improvements and special assessments.

Mr. Jack Koeppel of Sked Street related a story about his daughter and a fall she took on Burd Street due to an uneven sidewalk. Mr. Koeppel stated that there have been extensive insurance costs. Mr. Koeppel stated that his perspective is that once someone is notified or aware of a dangerous situation something needs to be done before someone gets hurt.

Mr. Dunworth stated that specifications obtained from Mercer County JIF and New Jersey Manufacturers have been forwarded to the Public Works Committee for review.

Administrator's Report

Mr. Dunworth stated that Gene Lorenzetti from The Shoppes at Pennington asked for an idea of how many Council Members would be attending a ribbon cutting ceremony on September 14th. Mayor Persichilli and Council Members DiFalco and Tucker indicated that they would be attending.

Mr. Dunworth stated that another aspect of the Flood Mitigation Development Plan now that the Public Hearing has been completed is to appoint people to a Flood Mitigation Committee. Mr. Dunworth reviewed some suggestions as to who should be appointed to the committee and asked that appointments be considered at the October 1, 2007 meeting. Mr. Dunworth stated that the recommendation is that six people be appointed to the committee.

Ms. Heinzel asked if something could be done to get the CSX railroad bridge on Delaware Avenue repaired. Ms. Heinzel asked if there were a mechanism through the State or some agency that could be contacted to get CSX to repair the wooden walkway on the bridge. Mr. Meytrott stated that he has contacted a dispatcher regarding unsafe conditions and snow shoveling, but there has been no response. Mayor Persichilli stated that he would like to see this issue revisited. Mr. Meytrott stated that there is a State DOT Railway Section and he was not sure if they would be able to help with this issue. Mr. Meytrott stated that he would call the DOT and ask if they have any suggestions on what to do about the bridge. Mayor Persichilli stated that he would call Mercer County to see if they could help. Mr. Lawver stated that it should be clear as to what the Borough wants done. Mr. Meytrott stated that it would be good to have a plan in mind and have someone come out and look at all the items. Mr. Meytrott stated that he would try to make contact with someone at the railroad.

Public Comment

Mayor Persichilli asked anyone wishing to address Council to come forward and state their name and address for the record and to please limit comments to the Governing Body to a maximum of 5 minutes.

There were no comments from the public.

Mayor Persichilli read the following Resolution to convene in Closed Session.

AT, 8:40 PM, BE IT RESOLVED, that Mayor and Council shall hereby convene in closed session for the purposes of discussing a subject or subjects permitted to be discussed in closed session by the Open Public Meetings Act, to wit:

- Negotiations with D & R Greenway Concerning Open Space

Mayor and Council took a brief recess until 8:45 PM.

At, 9:48 PM, Mayor and Council returned to open session.

Council Member Zompa made a motion to approve the minutes of the July 2nd, Closed Session for content but not release, second by Council Member Heinzel with all members present voting in favor with the exception of Council Member Garber who abstained.

Council Member Lawver made a motion to approve the minutes of the Sub-Quorum Meeting for content but not release, second by Council Member Garber with Council Members Garber and Lawver voting in favor and Council Members DiFalco, Heinzel, Tucker and Zompa all abstaining due to absence.

At 9:50 pm, Council Member Tucker made a motion to adjourn the meeting, second by Council Member Heinzel.

Respectfully submitted,

Elizabeth Sterling
Borough Clerk