

**Pennington Borough Council
Special Meeting – October 17, 2007**

Council President Edwin Tucker called the Special Meeting of the Borough Council to order at 5:07pm. Borough Clerk Betty Sterling called the roll with Council Members DiFalco, Garber, Lawver and Tucker in attendance. Mayor Persichilli and Council Member Heinzl were absent due to illness and Council Member Zompa arrived at 5:20pm.

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

Councilman Tucker 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.

Ordinances for Introduction

**Borough of Pennington
Ordinance No. 2007-11**

**AN ORDINANCE OF THE BOROUGH OF PENNINGTON,
COUNTY OF MERCER, TO ACQUIRE A CONSERVATION
EASEMENT ON REAL PROPERTY KNOWN AS LOTS 18
AND 19 IN BLOCK 44 IN HOPEWELL TOWNSHIP, WITH
ASSIGNMENT TO D & R GREENWAY LAND TRUST, INC.**

WHEREAS, the Borough of Pennington has adopted an Open Space and Recreation Plan, effective October 2000, which envisions that the Borough will work in concert with public agencies and local non-profit land preservation organizations to expand permanently protected and preserved open space around the Borough, to the maximum extent possible;

WHEREAS, the method for accomplishing this goal, according to the Plan, include the acquisition of vacant lands, development rights and easements for recreation, conservation and farmland purposes;

WHEREAS, in furtherance of the Plan and in cooperation with the D & R Greenway Land Trust, Inc., a New Jersey non-profit corporation (“D & R Greenway”), and other public and private non-profit entities, the Borough now seeks to enter into a contract for the purchase of a conservation easement (hereafter “Conservation Easement”) on a tract of land in Hopewell Township known as Lots 18 and 19 in Block 44 on the Hopewell Township Tax Map, a property consisting of 39.09 acres owned by Melita Wright (“Wright Property”);

WHEREAS, the Wright Property fronts on Elm Ridge Road in the Township and adjoins Rosedale Park on the west and open space preserved by Mercer County on the east;

WHEREAS, the front portion of the Wright Property is currently managed as horse pasture with some areas of meadow, shrubland and Christmas tree plantings, some small headwater tributaries of the Stony Brook and a residence, horse barn and outbuildings, and the rear portion of the Property is wooded and contains a portion of the main channel of the Stony Brook;

WHEREAS, the Wright Property possesses significant historic, scenic and open space values, providing, among other things, watershed protection, water quality protection, scenic buffer, wildlife habitat for neotropical birds and threatened and endangered grassland birds and other diverse wildlife, as well as trail corridors and connections;

WHEREAS, the purpose of the Conservation Easement is to ensure that the Wright Property will retain forever its conservation values, preventing in perpetuity any use that would impair or interfere with these values;

WHEREAS, different portions of the Wright Property covered by the Conservation Easement will be subject to different restrictions: the front, northerly portion of the Property, consisting of more than 21 acres, including the meadows, stream tributaries and horse pastures, will be subject to a “private conservation easement” and will not have public access; the residence and barn and certain other improvements will be contained within a “residential envelope area” of between 2 and 3 acres which will not be subject to most of the conditions of the conservation easement; the rear, southerly portion of the Property, consisting of more than 14.5 acres, will be placed under a public access conservation easement; and a public access corridor 25 feet wide will connect the public access area to Elm Ridge Road;

WHEREAS, the terms of the Conservation Easement are more particularly described in the form of easement annexed to this Ordinance as Exhibit A;

WHEREAS, the terms of the proposed contract of purchase and sale (“Contract”) are more particularly described in the form of contract annexed to this Ordinance as Exhibit B;

WHEREAS, the purchase price of the Conservation Easement, to be shared among the participating entities, subject to confirmation of fair market value by New Jersey Green Acres, is \$738,000;

and the excess of the fair market value of the Conservation Easement over this price is to be a charitable contribution by the seller;

WHEREAS, Pennington Borough's share of the purchase price will be \$220,000, to be funded entirely by a Green Acres Grant to the Borough, the availability of these funds being a condition precedent to Borough participation in this transaction; and

WHEREAS, the Borough of Pennington shall incur no cost for the proposed acquisition in excess of its above designated share;

WHEREAS, seeking to transfer all responsibility for maintaining and protecting the Conservation Easement and to protect against any future liability relating to the Easement or the Property, the Borough will assign all of its right, title and interest in the Contract and the Easement to D & R Greenway without accepting title;

WHEREAS, the terms of the proposed assignment ("Assignment") are contained in the form of assignment agreement annexed to this Ordinance as Exhibit C;

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Pennington, in the County of Mercer, State of New Jersey, as follows:

1. the Borough of Pennington is hereby authorized to enter into the aforesaid Contract to acquire, together with D & R Greenway and the other entities named therein, in compliance with N.J.S.A. 40A:12-1, et seq., an undivided interest in the aforesaid Conservation Easement, on the property known as Lots 18 and 19 in Block 44 on the Hopewell Township Tax Map;

2. the Borough is further authorized to expend from its State Green Acres funds an amount not to exceed \$220,000 to effectuate this acquisition, including all related costs;

3. the Borough is further authorized and directed to assign all of its right, title and interest in the Contract and the Conservation Easement to D & R Greenway pursuant to the Assignment;

4. The Mayor of the Borough is hereby authorized to execute and the Borough Clerk to attest to any and all documents necessary to effectuate the aforesaid transaction, provided all such documents are approved as to form by the Borough Attorney prior to execution;

5. This Ordinance shall take effect upon final passage and publication as provided by law.

Council Member Lawver made a motion to introduce Ordinance 2007-11, second by Council Member DiFalco. Mr. Bliss commented on the form of the Ordinance and the attached documents and gave a brief overview of the details of the purchase of the easement. Mr. Bliss briefly reviewed the funding sources for the purchase. Upon a roll call vote all members present voted in favor of introduction.

At 5.25 pm, Council Member Lawver made a motion to adjourn the meeting, second by Council Member DiFalco.

Respectfully submitted,

Elizabeth Sterling
Borough Clerk