

**Pennington Borough Council
Regular Meeting – November 5, 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 Garber, Heinzl, Lawver, Tucker and Zompa in attendance. Council Member DiFalco arrived at 7:55 p.m.

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 October 1, 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.

Mayor's Business

Mayor Persichilli introduced Mr. Britt West to talk about the Holiday Walk for 2007. Mr. West stated that he was in attendance representing the Pennington Business and Professional Association to ask permission to close the streets for the 24th Annual Holiday Walk to be held on November 30th, 2007. Mr. West stated that Police Protection is a big expense of the event and he would like to request that Council consider granting a discount on this expense. Mr. Meytrott stated that several years ago the committee came before Council and requested a discount on the fee for Police Protection for the Holiday Walk, as it is a Borough event. Mr. Meytrott stated that the event needs six officers due to the closing of the streets. Mr. Meytrott stated that in the past, the Borough Council has granted a discount to the Business Association for this event. Mr. West encouraged Mayor and Council to attend the event, which will include a tree lighting ceremony at Howe Commons and Santa at Sun Bank, a dance performance at the Presbyterian Church and Children's activities in front of 10 South Main Street and at the Library. Mr. West stated that if there are any proceeds gained from this event they would be used to light the snowflakes along Main Street. Mr. Erwin Harbat spoke briefly on the costs involved with the snowflakes.

Mayor and Council discussed the possibility of discounting the costs for paid detail services for the Holiday Walk. Mr. Lawver stated that he would agree to waiving the administrative fee for the Holiday Walk, however he would like to see the same arrangement made for Pennington Day in May. Council agreed to discuss this issue further and come up with a decision.

Mayor Persichilli thanked Council Members for carrying the load during his recent illness.

Ordinances for Introduction

Mayor Persichilli read Ordinance 2007-12 by title.

**BOROUGH OF PENNINGTON
ORDINANCE NO. 2007 –12**

**AN ORDINANCE AMENDING AND SUPPLEMENTING
CHAPTER 215, "ZONING",
OF THE CODE OF THE BOROUGH OF PENNINGTON
COUNTY OF MERCER, STATE OF NEW JERSEY**

WHEREAS the Borough Council of the Borough of Pennington in the County of Mercer and the State of New Jersey seeks to amend Chapter 215 of the Code of the Borough of Pennington to update definitions in the Code and to enact recommendations from the "Master Plan And Development Regulations Periodic Reexamination Report" adopted by the Borough Planning Board on February 23, 2005; and

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Pennington, in the County of Mercer and the State of New Jersey, that Chapter 215, entitled "Zoning", of the Code of the Borough of Pennington is hereby amended and supplemented as follows:

SECTION 1. Add new definitions to Section 215-8, entitled "Definitions", of Chapter 215 of the Code of the Borough of Pennington in alphabetical order to read as follows:

"ADDITION - An extension or an increase in the floor area, height or coverage of a building or structure

ANIMAL HOSPITAL – A place where animals are given medical care and where the boarding of animals that receive onsite medical care is limited to short-term care incidental to the hospital use. For the purposes of this Ordinance, animal hospitals do not include dog kennels, breeding and boarding facilities or other similar uses.

ATTIC - A space between the ceiling beams of the top habitable story and the roof rafters.

BUFFER - An unoccupied portion of land maintained as a landscaped area and used to visually separate one use from another.

CARPORT – A roofed structure providing space for the parking of no more than two (2) motor vehicles and enclosed on not more than three sides. For the purpose of this Ordinance, a carport shall be permitted only where explicitly stated as a permitted secondary use and shall comply with the requirements for garages in Section 215-12.

COMPLETE APPLICATION - An application for development shall be complete for purposes of commencing the applicable time period for action by the applicable municipal agency or its authorized committee or designee when so certified by the municipal agency or its authorized committee or designee.

- a. In the event the application is not certified to be complete within forty-five (45) days of the date of its submission, the application shall be deemed complete upon the expiration of the forty-five (45) day period for purposes of commencing the applicable time period for action by the municipal agency or its authorized committee or designee unless:
 - 1) The application lacks information indicated on the appropriate checklists adopted by Ordinance and submitted by the applicant; and
 - 2) The municipal agency or its authorized committee or designee has notified the applicant, in writing, of the deficiencies in the application within forty-five (45) days of submission of the application.
- b. The applicant may request that one (1) or more of the submission requirements be waived, in which event the municipal agency shall grant or deny the request within forty-five (45) days.
- c. Nothing herein shall be construed as diminishing the applicant's obligation to prove in the application process that he is entitled to approval of the application.
- d. The municipal agency may subsequently require correction of any information found to be in error and submission of additional information not specified in the Ordinance or any revisions in the accompanying documents, as are reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application have been met. However, the application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required by the municipal agency.

CONSERVATION EASEMENT - An easement in favor of the Borough of Pennington, an approved Homeowners' Association, or other designated conservation organization acceptable to the Borough for the purpose of preserving open space, aquatic buffers and/or the natural, scenic, agricultural, aesthetic, or historic value of land and precluding any building on the premises.

EASEMENT - A right, created by deed or other legal means, to use the real property of another for one (1) or more specific purposes (e.g. access, drainage, conservation, utility services, etc.) for the benefit of private persons or for the benefit of the public.

FAMILY - The word "Family" shall mean the same as "Housekeeping Unit".

FLOOR AREA RATIO (F.A.R.) - The sum of the area of all floors of buildings or structures compared to the total area of the site.

GRADE - The slope of a road, path, driveway, swale or other surface, or the average finished ground elevation adjoining a building at project completion.

HOUSEKEEPING UNIT OR HOUSEHOLD - One (1) or more persons living together in one (1) dwelling unit on a non-seasonal basis and sharing living, sleeping, cooking and sanitary facilities on a non-profit basis.

SETBACK LINE - A line drawn parallel with a street line or proposed street line or lot line and drawn to the point of a building nearest to the street line or proposed street line or lot line. The term "required setback" means a line that is established a minimum horizontal distance from the street line or proposed street line or lot line and beyond which a building or part of a building is not permitted to extend toward the street line or proposed street line or lot line.

STREET - Any street, avenue, boulevard, road, parkway, viaduct, drive or other way which:

- a. Is an existing State, County or municipal roadway; or
- b. Is shown on a plat heretofore approved pursuant to law; or
- c. Is approved by the Borough of Pennington in accordance with the provisions of this Ordinance; or
- d. Is shown on a plat duly filed and recorded in the office of the County Recording Officer prior to the appointment of a Planning Board and the grant to such Board of the power to review plats.

A "Street" includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas and other areas within the street line. A street is classified by its function as designated in the currently adopted Traffic Circulation Plan Element portion of the Pennington Borough Master Plan. Moreover, for the purposes of the street design and paving requirements of this Ordinance, all "private roads" shall be considered streets.

STRUCTURE - A combination of materials to form a construction for occupancy, use or ornamentation, whether installed on, above or below the surface of a parcel of land, including such things as buildings, fences, dumpster enclosures, poles, signs, towers, tanks, decks, paved or concrete driveways, parking lots and patios, swimming pools and tennis courts, but specifically excluding on-site wastewater treatment and disposal systems."

SECTION 2. Amend the following definitions in Section 215-8, entitled "Definitions", of Chapter 215 of the Code of the Borough of Pennington to read as follows:

"**ASSISTED LIVING FACILITY** - A complex of apartment dwelling units which contain living, sleeping and sanitary facility accommodations, with ancillary services and activities for the residents, including meals, housekeeping services, medical services, recreational services and other personal services required for the residents, where residents meet the requirements for "Assisted Living Residences" as defined by the State of New Jersey within N.J.A.C. 8:36 et seq., thereby requiring assistance in normal daily living activities between "independent living" and "nursing care".

BASEMENT - That portion of a building partly below and partly above grade, where the ceiling averages four feet (4') or more above the finished grade where such grade meets the outside walls of the building.

BUILDING - A combination of materials to form a construction adapted to permanent, temporary, or continuous occupancy and having a roof. For the purposes of this Ordinance, a tent which has been erected for a temporary business or social function shall not be considered to be a building, provided that it is not erect for more than one (1) week.

BUILDING HEIGHT - The vertical distance measured to the highest point of the building from the average elevation of the finished grade five feet (5') from the foundation of the building along all side(s) of the building. In all cases where this Ordinance provides for height limitations by reference to a specified height and a specified number of stories, the intent is to limit height to the specified maximum footage and the specified number of stories within said footage

CELLAR - That portion of a building partly below and partly above grade, where the ceiling averages less than four feet (4') above the finished grade where such grade meets the outside walls of the building.

COMMON OPEN SPACE - An open space area within or related to a site designated as a development, and designed and intended for the use or enjoyment of residents and owners of the development. Common open space may contain such complimentary structures and improvements as are necessary and appropriate for the use or enjoyment of residents and owners of the development.

FLOOR AREA, GROSS (G.F.A.) OR TOTAL - The sum of the gross horizontal area of each full story of a building on a lot, measured from the exterior face of the exterior walls, provided that any under-roof parking area shall not be included in the G.F.A. calculation. For attached dwelling

units/buildings, the gross floor area shall be measured from the centerline of a wall separating the two dwelling units/buildings.

LOT COVERAGE - The aggregate square footage or other area measurement by which all sidewalks, driveways and parking areas, whether paved, graveled or unsurfaced, and all buildings and other structures cover a lot, as measured in a horizontal plane to the limits of the structure or improvement.

LOT, CORNER - A lot abutting the intersection of two (2) or more streets, where the interior angle of intersection does not exceed one hundred thirty-five (135) degrees. The "lot width" of a corner lot shall be measured on the narrower of the two (2) sides of the lot abutting a street for purposes of meeting the minimum requirements, regardless of the orientation of the building on the lot. Each corner lot shall have two (2) front yards, one (1) side yard and one (1) rear yard, the side and rear yards to be designated by the proposed orientation of the dwelling or building on the lot at the time of application for subdivision, site plan or variance approval, or if there is no application for subdivision, site plan or variance approval, at the time of building permit application.

LOT WIDTH - The straight line horizontal distance between side lot lines at setback points on each side lot line measured from the street line at the minimum required building setback line.

PARKING SPACE - Any area for the parking of motor vehicles, exclusive of driveways, access drives, fire lanes and public rights-of-way, either within a structure or in the open, in accordance with the following:

- a. Each non-handicapped, off-street parking space shall not be less than nine feet wide by twenty feet in length (9' x 20'), except that the length of a parking space may be reduced to eighteen feet (18') in length in those instances where a two foot (2') overhang area exists beyond a curb and where such overhang does not interfere with any proposed and/or required landscaping, as may be approved by the Board, or as permitted by N.J.A.C. 5:21-4.15 for residential dwelling units;
- b. Each handicapped space shall not be less than eight feet wide by twenty feet in length (8' x 20') and shall have an adjacent pedestrian access aisle at least five feet (5') wide except that at least eight feet (8') is required for a van accessible handicapped space, provided that if a different requirement for a handicapped space has been adopted by the State, the most current requirement shall be met; and
- c. The width and length of each space shall be measured perpendicular to each other regardless of the angle of the parking space to the access aisle or driveway.
- d. For the purposes of this Ordinance, the total number of required parking spaces for any development shall be the sum of the individual parking requirements for each use in the subject development, based upon the gross floor area or part thereof devoted to each use.

SCIENTIFIC AND RESEARCH LABORATORIES – Establishments designed and used for research and engineering activities involving scientific investigations, engineering studies and consumer product development of types other than carried on in "general business offices" and similar activities, with the objective of creating products or research studies, but excluding the manufacturing, sale, processing, warehousing, distribution or fabrication of materials, products, or goods except as incidental to the principal permitted uses.

SITE PLAN - A development plan of one (1) or more lots which shows:

- a. The existing and proposed conditions of the lot including, but not necessarily limited to, topography, vegetation, drainage, flood plains, marshes and waterways;
- b. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting and screening devices; and
- c. Any other information that may be reasonably required in order to make an informed determination concerning the adequacy of the plan in accordance with the requirements of this Ordinance.

STREET LINE - The edge of the existing or future street right-of-way, whichever may result in the widest right-of-way in accordance with the currently adopted Traffic Circulation Element portion of the Pennington Borough Master Plan. The "Street Line" is the dividing line between the street and a lot. All required front yard areas and building setbacks shall be measured from the street line.

STORY - That portion of a building included between the upper surface of any floor and the upper surface of the next floor above it or, if there is no floor above it, then the surface between the floor and the ceiling next above it. For the purpose of this Ordinance:

- a. The interior of a roof shall not be considered a ceiling; rather, the underside of the highest horizontal surface separating the area above from the remainder of the structure below shall be considered the ceiling.
- b. Cellars and basements ordinarily shall not be considered stories when considering the height of a building except, however, that:
 - (1) A finished basement and/or cellar in non-residential buildings shall be considered a "story" for the purposes of the height, floor area and parking requirements of this Ordinance unless used and restricted solely for ancillary storage.
 - (2) A basement in a non-residential or residential building, whether finished or not, shall be considered a "story" for the purposes of the height, floor area and parking requirements of this Ordinance when the distance from grade to the finished surface of the floor above the basement is more than six feet (6') for more than fifty percent (50%) of the total perimeter of the building or is more than twelve feet (12') at any point.
- c. A half-story is the area under a pitched roof at the top of a building, the floor of which is at least three feet (3'), but no more than six feet (6'), below the line of intersection of the roof and wall face.
- d. The attic or area under a pitched roof at the top of a building shall be considered a full story for the purposes of this Ordinance when the head room or ceiling at a height of seven feet (7') or more above the attic floor is more than one-third of the total area of the floor directly beneath and has access via walk-up stairs from the floor below.

YARD - An open space that lies between the closest point or projection of a principal or accessory building or buildings and the nearest lot line.

FRONT YARD - The open space extending across the full width of the lot and lying between the street line and the closest point of any building on the lot. The depth of the front yard shall be measured horizontally and at right angles to either a straight street line or parallel to a curved street line.

REAR YARD - The open space extending across the full width of the lot and lying between the rear lot line and the closest point of the principal building on the lot. The depth of the rear yard shall be measured horizontally and at right angles to either a straight rear lot line or parallel to a curved rear lot line.

SIDE YARD - The open space extending from the front yard to the rear yard and lying between each side lot line and the closest point of the principal building on the lot. The width of the side yard shall be measured horizontally and at right angles to either a straight line or the tangent lines of curved lot lines."

SECTION 3. Delete the definition of "Building Line" in Section 215-8 of Chapter 215 of the Code of the Borough of Pennington in its entirety.

SECTION 4. Amend the definition of "Temporary Sign" in Section 215-31 B. of Chapter 215 of the Code of the Borough of Pennington to read in its entirety as follows:

"TEMPORARY SIGN – Any sign or advertising display designed or intended to be displayed for a short period of time and used to draw the attention of the public to any use, building, product, individual or service. For the purposes of this Ordinance, any temporary free-standing portable sign shall be displayed only during the hours of operation of the use or building to which the advertising applies."

SECTION 5. Add a new subsection to Section 215-67 D., entitled "Other provisions and requirements" in the R-80 Residence Zone, of Chapter 215 of the Code of the Borough of Pennington to read in its entirety as follows:

"(2) The Floor Area Ratio shall not exceed 0.275, and no dwelling unit shall exceed 4,500 square feet of gross floor area."

SECTION 6. Add a new subsection to Section 215-68 D., entitled "Other provisions and requirements" in the R-100 Residence Zone, of Chapter 215 of the Code of the Borough of Pennington to read in its entirety as follows:

"(2) The Floor Area Ratio shall not exceed 0.25, and no dwelling unit shall exceed 6,500 square feet of gross floor area."

SECTION 7. Add a new subsection to Section 215-71 B., entitled "Permitted primary uses" in the TC Town Center Zone, of Chapter 215 of the Code of the Borough of Pennington to read in its entirety as follows:

- "(5) General business office uses on the second and/or third floors of a building where the Borough Zoning Officer or the Planning Board has determined that the size, access or other physical features of the second and/or third floor preclude the floor from being used as a residential dwelling unit, provided that no office uses shall be permitted above a residential dwelling or floor that could accommodate a residential dwelling."

SECTION 8. Add a new subsection to Section 215-71 E., entitled "Schedule of regulations" in the TC Town Center Zone, of Chapter 215 of the Code of the Borough of Pennington to read in its entirety as follows:

- "(8) All buildings shall have a dual pitched, single ridge roof (such as a gable, hip, gambrel or mansard roof), provided however that where roof mounted equipment is necessary and/or preferable for the operation of the building, a facade roof treatment exhibiting the appearance of such a dual pitched, single ridge roof may be permitted if specifically approved by the Planning Board as part of a submitted site plan application . No flat roofs shall be permitted."

SECTION 9. Amend Section 215-71.1 E., entitled "Schedule of regulations" in the TCB Town Center Buffer Zone, of Chapter 215 of the Code of the Borough of Pennington to read in its entirety as follows:

- "E. Schedule of regulations. The provisions of the "schedule of regulations" specified in Section 215-71 E. for the Town Center Zone also shall apply to the Town Center Buffer Zone."

SECTION 10. Add a new permitted secondary use in the "MU-2" Mixed Use Zone to Section 215-78 C. of Chapter 215 of the Code of the Borough of Pennington to read in its entirety as follows:

- "(3) One (1) carport per lot, not exceeding 450 square feet in size and in accordance with the requirements for garages."

SECTION 11. Amend the title of Section 215-80, entitled "Utility uses", of Chapter 215 of the Code of the Borough of Pennington to read in its entirety as follows:

"§215-80. Public utility uses."

SECTION 12. Amend the title and first line of Section 215-87, entitled "Motor sales establishments", of Chapter 215 of the Code of the Borough of Pennington to read in its entirety as follows:

"§215-87. Motor vehicle sales establishments.

Motor vehicle sales establishments shall be subject to the following:"

SECTION 13. Amend the title of Section 215-92, entitled "Continuing-care treatment facilities", of Chapter 215 of the Code of the Borough of Pennington to read in its entirety as follows:

"§215-92. Continuing-care retirement facilities."

SECTION 14. If any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the Courts to be invalid, such adjudication shall apply only to that subsection, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

SECTION 15. This Ordinance shall take effect immediately upon final adoption, publication and the filing of a copy of said Ordinance with the Mercer County Planning Board, all in accordance with the law.

Council Member Heinzl made a motion to introduce Ordinance 2007-12, second by Council Member Zompa. Mayor Persichilli and Council Member Heinzl both commented on the Ordinance. Ms. Heinzl stated that the Planning Board heard a presentation by Borough Planner, Cindy Coppola. Ms. Heinzl stated that this Ordinance would bring the Borough definitions in line with what the Land Use Law Requires. Ms. Heinzl stated that Ms. Coppola also reviewed the Borough Master Plan and made some changes accordingly. Mayor Persichilli stated that one of the charges that Council gave to the Planning Board was to provide a priority list of what Ordinances need to be changed to make it easier to do business in Pennington. Mayor Persichilli stated that updating the current definitions is the first step in this process. Mayor Persichilli stated that the Planning Board will be reviewing other priorities and dealing with them as funds are available. Upon a roll call vote, all members present voted in favor.

Mayor Persichilli read Ordinance 2007-13 by title.

**Borough of Pennington
Ordinance #2007-13**

**AN ORDINANCE OF THE BOROUGH OF PENNINGTON, COUNTY OF MERCER, STATE OF
NEW JERSEY AUTHORIZING A COLLECTIVE BARGAINING AGREEMENT WITH
PENNINGTON
BOROUGH POLICE ASSOCIATION**

WHEREAS, the Borough of Pennington and the Pennington Borough Police Association have negotiated the terms of a collective bargaining agreement for the years 2007, 2008 and 2009; and

WHEREAS, the collective bargaining agreement establishes salaries and other conditions of employment; and

WHEREAS, a copy of the collective bargaining agreement is available for inspection at the office of the Clerk in Borough Hall; and

WHEREAS, the Borough desires to adopt this collective bargaining agreement and authorize the salary payments contained therein;

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

ARTICLE I – The collective bargaining agreement negotiated with the Pennington Borough Police Association for the years 2007, 2008 and 2009, a copy of which is on file in the Office of the Borough Clerk, is hereby incorporated herein by reference and adopted by the Borough of Pennington.

ARTICLE II – In the event that the terms and conditions of the collective bargaining agreement are at variance with the Borough Employee Personnel Manual, the terms and conditions of the collective bargaining agreement shall be controlling.

ARTICLE III – The Mayor and Clerk are hereby authorized to sign and seal the said agreement on behalf of the Borough.

ARTICLE IV – This Ordinance shall take effect upon final passage and publication according to law, provided however that the salaries set forth in said agreement shall be in effect retroactively to January 1, 2007.

ARTICLE V – All ordinances or portions thereof inconsistent herewith are hereby repealed.

Council Member Lawver made a motion to introduce Ordinance 2007-13, second by Council Member Heinzl. In response to a question raised by Mr. Garber, Mr. Bliss explained the reason that this takes the form of an Ordinance as opposed to a Resolution. Mr. Bliss commented on some specifics in the contract and the intent of some new language in the contract for the record. Upon a roll call vote, all members present voted in favor of introduction.

Mayor Persichilli read Ordinance 2007-14 by title.

**BOROUGH OF PENNINGTON
ORDINANCE NO. 2007-14**

**AN ORDINANCE PROHIBITING UNDERAGE DRINKING ON PRIVATE PROPERTY AND
SUPPLEMENTING PART II OF THE CODE OF THE BOROUGH OF PENNINGTON**

WHEREAS, the legal drinking age in New Jersey is 21.

WHEREAS, adolescence is a period when young people attempt to mature and become independent. Unfortunately, peer pressure and the need to belong to a group can result in risky and sometimes dangerous behavior. Underage drinking is one of these behaviors, and often results in serious medical, legal, and public health ramifications.

WHEREAS, statistics from the Centers for Disease Control and the National Institutes of Health, as well as medical and public health studies world-wide, note the deleterious consequences of underage drinking. These include, but are not limited to, drinking and driving, suicide, sexual assault, and high-risk sex. Causal links between early alcohol use and alcohol dependence have been demonstrated in longitudinal medical and epidemiological studies.

WHEREAS, by developing a rigorous and congruent set of legal enforcement laws aimed at curbing underage drinking in Hopewell Valley, the community serves notice that it places its concern for the health and safety of its young people at the forefront.

WHEREAS, it is clear that reducing underage drinking will not only require a comprehensive underage drinking ordinance, but a broad array of community-based efforts to monitor the activities of youth and decrease youth access to alcohol. However, while a comprehensive underage drinking ordinance will not solve problems of underage drinking in and of itself, it will – through its very existence – provide a useful adjunct to educational and counseling efforts already in place.

WHEREAS, an ordinance regulating underage drinking is supported by the Hopewell Advisory Board of Health, the Hopewell Township Health Department, the Hopewell Valley Municipal Alliance, the Boards of Health of Pennington Borough, Hopewell Township and Hopewell Borough, the Hopewell Valley Regional School System, the Mercer County Prosecutor’s Office and all Hopewell Valley police and law enforcement agencies.

NOW, THEREFORE, be it ordained by the Borough Council of the Borough of Pennington, that Part II of the Code of the Borough of Pennington, concerning “General Legislation,” be supplemented by adding the following:

Chapter ____ . UNDERAGE DRINKING

1. Alcoholic beverage consumption by minors.

It is hereby unlawful for any person under the legal age ("underage person") who, without legal authority, knowingly possesses or knowingly consumes an alcoholic beverage on private property. No person shall be considered to knowingly possess an alcoholic beverage merely because he or she is present where alcoholic beverages are being consumed.

2. Exemptions to prohibition on alcohol possession and consumption by minors.

A person under the legal age shall not be prohibited from (a) possessing or consuming an alcoholic beverage in connection with a religious observance, ceremony, or rite or possessing or consuming an alcoholic beverage in the presence of or with the written permission of such person's parent or guardian or relative who has attained the legal age to purchase or consume alcoholic beverages; or (b) possessing an alcoholic beverage in the preparation of food while enrolled in a culinary arts or hotel management program at a county vocational school or post secondary educational institution.

3. Good Samaritan Exemption

Any person who affirmatively requests assistance from authorities (such as via a 911 call) or from an off-site adult (such as a parent, guardian or neighboring resident) for the purpose of seeking aid for a person who is suffering from the effects of alcohol or otherwise is in need of medical assistance shall not be charged under this ordinance with underage possession or consumption of alcohol on private property, as long as assistance is provided as a result of such request. In an instance where such an affirmative request for assistance is made, and the person to whom assistance is provided is under twenty-one, that person also shall not be charged under the ordinance with underage possession or consumption of alcohol on private property.

4. Call for Aid Exemption

Any person who is a resident of a dwelling on private property and affirmatively requests assistance from authorities (such as via a 911 call) or from an off-site adult (such as a parent, guardian or neighboring resident) for the purpose of controlling or removing non-residents who are on that property shall not be charged under this ordinance with underage possession or consumption of alcohol on private property, as long as assistance is provided as a result of such request.

5. Definitions. As used in this Section:

"Guardian" means a person who has qualified as a guardian of the underage person pursuant to testamentary or court appointment.

“Relative” means the underage person’s grandparent, aunt or uncle, sibling, or any other person related by blood or affinity.

6. Penalties for possession or consumption of alcohol by minors.

A violation by an underage person of this Article shall be punished by a fine of \$250 for a first offense, and \$350 for any subsequent offense. In addition, the Court may, in its discretion, require the performance of community-related service.

7. Driving privilege suspension of minors for violation of Article.

(a) The court may, in addition to the penalty authorized for this offense, suspend or postpone for six months the driving privileges of the defendant underage person. Upon the conviction of any underage person and the suspension or postponement of that person's driver's license, the court shall forward a report to the Division of Motor Vehicles (Division) stating the first and last day of the suspension or postponement period imposed by the court pursuant to this Article. If a person at the time of the imposition of a sentence is less than 17 years of age, the period of license postponement, including a suspension or postponement of the privilege of operating a motorized bicycle, shall commence on the day the sentence is imposed and shall run for a period of six months after the person reached the age of 17 years.

(b) If an underage person at the time of the imposition of a sentence has a valid driver's license issued by this State, the court may immediately collect the license and forward it to the Division along with the report. If for any reason the license cannot be collected, the court shall include in the report the complete name, address, date of birth, eye color, and sex of the person, as well as the first and last date of the license suspension period imposed by the court.

(c) The court shall inform the underage person orally and in writing that if the person is convicted of operating a motor vehicle during the period of license suspension or postponement, the person shall be subject to the penalties set forth in N.J.S.A. 39:3-40. A person shall be required to acknowledge receipt of the written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to a subsequent charge of a violation of N.J.S.A. 39:3-40.

(d) If the underage person convicted under this Article is not a New Jersey resident, the court shall suspend or postpone, as appropriate, the non-resident driving privilege of the person based on the age of the person and submit to the Division the required report. The court shall not collect the license of a non-resident convicted under this section. Upon receipt of a report by the court, the Division shall notify the appropriate officials in the licensing jurisdiction of the suspension or postponement.

8. Mandatory alcohol counseling for violation of Article.

(a) Any person 18 years of age or younger who is convicted of a violation of this section shall be required to complete a court-approved alcohol counseling program.

(b) Any person 19 years of age or older who is convicted of a second or subsequent violation of this section shall be required to complete a court-approved alcohol counseling program.

9. Annual Review

The Chief of Police and the Health Officer will annually present to the governing body a report on the effectiveness of this ordinance.

10. Repealer

If any section of this ordinance is adjudged invalid, such adjudication shall apply only to the specific section so adjudged and the remainder of the ordinance shall be deemed valid.

11. Effective Date

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

Council Member Heinzl made a motion to introduce Ordinance 2007-14, second by Council Member Tucker. Ms. Heinzl invited Heide Kahme and Peter McDonough to come forward and briefly speak on this Ordinance. Ms. Kahme highlighted the exceptions referenced in the Ordinance and reviewed some frequently asked questions. Mr. McDonough also commented on the exceptions and the importance of having them as part of the Ordinance. Upon a roll call vote, all members present voted in favor.

Ordinances for Public Hearing and Adoption

Mayor Persichilli read Ordinance 2007-9 by title.

**BOROUGH OF PENNINGTON
COUNTY OF MERCER**

ORDINANCE NO. 2007-9

BOND ORDINANCE PROVIDING FOR VARIOUS IMPROVEMENTS TO THE WATER/SEWER UTILITY IN AND BY THE BOROUGH OF PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY, APPROPRIATING \$1,200,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,200,000 BONDS OR NOTES OF THE BOROUGH FOR FINANCING THE COST THEREOF.

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section 1. The improvement described in Section 3 of this bond ordinance is hereby authorized to be undertaken by the Borough of Pennington, in the County of Mercer, New Jersey (the "Borough"). For the improvement or purpose described in Section 3, there is hereby appropriated the sum of \$1,200,000. No down payment is required as the purpose authorized herein is deemed self-liquidating and the obligations authorized herein are deductible from the gross debt of the Borough, as more fully explained in Section 6(e) of this ordinance.

Section 2. In order to finance the cost of the improvement or purpose, negotiable bonds are hereby authorized to be issued in the principal amount of \$1,200,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued is for water and sewer repairs and infrastructure improvements, including, but not limited to, meters, well redevelopment and service line upgrades, including all related costs and expenditures incidental thereto and further including all work and materials necessary therefor and incidental thereto.

(b) The estimated maximum amount of bonds or notes to be issued for the improvement or purpose is as stated in Section 2 hereof.

(c) The estimated cost of the improvement or purpose is equal to the amount of the appropriation herein made therefor.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with notes issued pursuant to this ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law. The chief financial officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section 5. The Borough hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Borough is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3 of this bond ordinance is not a current expense. It is an improvement or purpose that the Borough may lawfully undertake as a self-liquidating purpose of a municipal public utility. No part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is 27.22 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$1,200,000, but that the net debt of the Borough determined as provided in the Local Bond Law is not increased by this bond ordinance. The obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$25,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement.

(e) This bond ordinance authorizes obligations of the Borough solely for purposes described in N.J.S.A. 40A:2-7(h). The obligations authorized herein are to be issued for a purpose that is deemed to be self-liquidating pursuant to N.J.S.A. 40A:2-47(a) and are deductible from gross debt pursuant to N.J.S.A. 40A:2-44(c).

Section 7. Any grant moneys received for the purpose described in Section 3 hereof shall be applied either to direct payment of the cost of the improvement or to payment of the obligations issued pursuant to this ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 8. The chief financial officer of the Borough is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 9. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 10. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

Council Member Tucker made a motion to open the public hearing on Ordinance 2007-9, second by Council Member Zompa. There were no comments from the public. Council Member Tucker made a motion to close the public hearing, second by Council Member Garber with all members present voting in favor. Council Member Garber made a motion to adopt Ordinance 2007-9, second by Council Member Tucker. Mr. Lawver gave a brief overview of the need for this Ordinance. Upon a roll call vote, all members present voted in favor.

Mayor Persichilli read Ordinance 2007-10 by title.

**BOROUGH OF PENNINGTON
ORDINANCE 2007-10**

**ORDINANCE APPROPRIATING \$75,000 TO PROVIDE FOR THE ACQUISITION OF A
BACKHOE IN AND BY THE BOROUGH OF PENNINGTON, IN THE COUNTY OF MERCER,
NEW JERSEY.**

**BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF
PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY AS FOLLOWS:**

\$75,000 is hereby appropriated from the Capital Improvement Fund, \$15,000 of which is from General Capital and \$60,000 of which is from Water/Sewer Capital of the Borough of Pennington, in the County of Mercer, New Jersey (the "Borough") to provide for the acquisition of a backhoe, including all related costs and expenditures incidental thereto.

Section 2. The Borough hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Borough is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 3. This ordinance shall take effect as provided by the law.

Council Member Heinzl made a motion to open the public hearing on Ordinance 2007-10, second by Council Member Tucker. There were no comments from the public. Council Member Tucker made a motion to close the public hearing, second by Council Member Garber with all members present voting in favor. Council Member Garber made a motion to adopt Ordinance 2007-10, second by Council Member Heinzl with all members present voting in favor. Mr. Garber noted that the one bid that was received for the Backhoe came in lower than \$75,000.

Mayor Persichilli read Ordinance 2007-11 by title.

**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 Zompa made a motion to open the public hearing on Ordinance 2007-11, second by Council Member Heinzl. There were no comments from the public. Council Member Tucker made a motion to close the public hearing, second by Council Member Heinzl with all members present voting in favor. Council Member Zompa made a motion to adopt Ordinance 2007-11, second by Council Member Heinzl with all members present voting in favor.

Committee Reports

Planning & Zoning/Library – Ms. Heinzl reported that the Library has completed its “weeding” of books project. Ms. Heinzl reported that the Library would be donating the books to Better World Books. Ms. Heinzl stated that this should free up needed space for additional children’s programs, which continue to be very well attended. Ms. Heinzl reported that the Friends of the Public Library would be sponsoring a new book sale on November 30th, during the Holiday Walk. A preview and sale of books will be held Friday afternoon. Ms. Heinzl stated that story time would be offered during the Holiday Walk. Ms. Heinzl stated that the library has a shortage of volunteers and anyone interested should contact Tara Russell.

Ms. Heinzl reported that the Planning Board met on October 10th, to review a conceptual review for the Salyerds property at 39 Ingleside. Ms. Heinzl stated that the board also reviewed the proposed zoning ordinance. Ms. Heinzl stated that the next meeting would be held November 7th.

Ms. Heinzl reported that the Environmental Commission did not meet in October, the next meeting will be held on November 15th.

Ms. Heinzl reported that the Traffic Calming Initiative did not meet in October, the next meeting will be held on November 28th.

Ms. Heinzl stated that members of the Hopewell Valley Traffic Management Coalition recently met in an attempt to regenerate interest in traffic issues in the area. Ms. Heinzl reported that Mr. Pogorzelski of Hopewell Township gave an update on several road improvements including Route 31. Ms. Heinzl reported that this group would meet again in early December.

Ms. Heinzl reported that she attended a meeting of the Stonybrook Watershed Municipal Assessment, which has been ongoing for many years, and they are nearing completion of a final report, which should be in hand early next year.

Public Works – Mr. Garber stated that the Public Works Committee did not meet in October. Mr. Garber stated that there are a number of road projects that are ongoing in the Borough. Mr. Garber stated that water infrastructure improvements, utility work, sidewalks and curbing are nearing completion on Baldwin Street, with roadwork scheduled to begin next week. Mr. Garber reported that water infrastructure work is complete on Brookside Avenue and a notice to proceed has been issued to the contractor for roadwork to begin in the Spring of 2008. Mr. Garber stated that water service work on Hale Street should begin this week. Mr. Garber stated that the Borough is still waiting to hear on two DOT applications submitted for approval.

Mr. Garber stated that the Public Works Facility is nearing completion. Mr. Garber thanked Mercer County for an excellent job on the paving. Mr. Garber stated that the fuel tanks have been delivered and will be installed this week.

Mr. Garber gave the water and trash report for the month of October 2007.

PENNINGTON BOROUGH PUBLIC WORKS

TO: David Garber, Chairman
Public Works Committee

FROM: Jeff Wittkop, Superintendent

DATE: November 5, 2007

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

WATER

Water pumped for the month of October 2007-	8,741,000
Daily-	281,000
Water pumped for the month of October 2006 –	7,784,000
Daily-	251,000

For the month of October 2007 we averaged 30,000 gallons more per day than 2006.

TRASH

88.70 tons of household trash for the month of October 2007 vs. 91.62 tons in October 2006

Leaf pickup has started. Leaves should be blown or raked to the curb, but away from stormwater inlets.

Personnel – Ms. Zompa stated that the Personnel Committee did not meet in October.

Community Services- Mr. DiFalco reported that he attended a meeting of the Hopewell Valley Recreation Commission. Mr. DiFalco stated that a discussion of the Senior Center Agreement took place and someone from the committee will be contacting Mr. Dunworth regarding renegotiation.

Public Safety – Mr. Tucker thanked Mercer County for repainting the parking spaces on Main Street. Mr. Tucker stated that the timing and traffic signal on Main Street and Delaware Avenue has been changed to accommodate pedestrians crossing at this intersection. Mr. Tucker stated that pedestrians still need to push the button to activate the crossing signal.

Mr. Tucker gave the following statistical information for the month of October 2007.

1	Criminal Mischief
3	Harrassments
107	Motor Vehicle Stops
50	Motor Vehicle Summonses
17	Parking Summonses
2	DUI Summonses
52	Warnings
11	Motor Vehicle Accidents
1	Adult Male Arrested

Finance – Mr. Lawver stated that the Finance Committee did not meet in October. Mr. Lawver reported that the Economic Development Commission hosted a gathering of business owners and landlords on October 10th to get input on any concerns about owning a business in Pennington. Mr. Lawver stated that one of the things that came out of the event was that business owners would like Borough Council to remind residents to support local businesses.

New Business

**Borough of Pennington
Resolution #2007-11.1**

RESOLUTION AUTHORIZING REFUNDS

BE IT RESOLVED, that a refund be issued to Frank N. Whyte, 30 Lochatong Road, W. Trenton, NJ 08628, for overpayment of fees for a Planning Board application for property located on Block 205.01, Lot 1 in the amount of \$400.00.

BE IT RESOLVED, that a refund be issued to Commerce Bank, c/o Gary P. Kaganowich,, Facilities Department, 11000 Atrium Way, Mount Laurel, NJ 08054, for balance of escrow account for a Planning Board application for property located on old Block 4.01, Lot 3.07 in the amount of \$ 378.20. (Application No. P00-011).

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	X			
Heinzel	X				Zompa	S			

Council Member Lawver made a motion to approve Resolution 2007-11.1, second by Council Member Zompa with all members present voting in favor.

**Borough of Pennington
Resolution #2007 – 11.2**

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 \$4,202,919.29 from the following accounts:

Current	\$ 1,509,223.12
W/S Operating	\$ 332,777.79
Developers Escrow	\$ 9,085.15
Grant Fund	\$ 6,136.38
General Capital	\$ 2,297,146.32
General Capital – Sovereign Bank	\$ 45,000.00
Water/Sewer Capital	\$ 2,636.89
Unemployment Trust Fund	\$ 468.64
Animal Control Fund	\$ 445.00
TOTAL	\$ 4,202,919.29

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
Heinzel	X				Zompa	X			

Council Member Tucker made a motion to approve Resolution 2007-11.2, second by Council Member Garber. Discussion took place on various bills on the bill list. Upon a roll call vote, all members present voted in favor.

**Borough of Pennington
Resolution 2007-11.3**

**RESOLUTION TO AMEND THE 2007 ADOPTED BUDGET (CHAPTER 159)
SPECIAL ITEMS OF REVENUE AND APPROPRIATION FOR
STATE OF NJ – DEP – GREEN ACRES PROGRAM**

WHEREAS, NJS A 40A4-87 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 an equal amount, and

WHEREAS, the Borough of Pennington will receive \$220,000.00 from the State of New Jersey DEP – Green Acres Program for the Acquisition of a Conservation Easement and wishes to amend its 2007 Budget to include this amount as revenue;

NOW THEREFORE BE IT RESOLVED, that the Borough Council of the Borough of Pennington hereby requests the Director of the Division of Local Government Services to approve the insertion of a special item of revenue in the budget of the year 2007 in the sum of \$220,000.00, which is now available as revenue from:

Miscellaneous Revenues – Special Items of General Revenue Anticipated with Prior Written Consent of the Director of Local Government Services: Public and Private Revenues Offset with Appropriations

State of New Jersey – DEP – Green Acres Program

BE IT FURTHER RESOLVED that a like sum of \$220,000.00 be and the same is hereby appropriated under the caption of:

Public and Private Programs Offset by Revenues
NJDEP – Green Acres Program – Conservation Easement

BE IT FURTHER RESOLVED that the Borough Clerk forward two copies of this resolution to the Director of Local Government Services.

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	X			
Heinzel	S				Zompa	X			

Council Member Lawver made a motion to approve Resolution 2007-11.3, second by Council Member Heinzel with all members present voting in favor.

**Borough of Pennington
Resolution 2007-11.4**

**RESOLUTION TO AMEND THE 2007 ADOPTED BUDGET (CHAPTER 159)
SPECIAL ITEMS OF REVENUE AND APPROPRIATION FOR
SOLID WASTE RECYCLING GRANT**

WHEREAS, NJSA 40A4-87 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 an equal amount, and

WHEREAS, the Borough of Pennington has received \$1,422.51 from the Solid Waste Recycling Program and wishes to amend its 2007 Budget to include a portion of this amount as revenue;

NOW THEREFORE BE IT RESOLVED, that the Borough Council of the Borough of Pennington hereby requests the Director of the Division of Local Government Services to approve the insertion of a special item of revenue in the budget of the year 2007 in the sum of \$1,422.51, which is now available as revenue from:

Solid Waste Recycling Grant, and

BE IT FURTHER RESOLVED that a like sum of \$1,422.51 be and the same is hereby appropriated under the caption of:

Solid Waste Recycling Grant

BE IT FURTHER RESOLVED that the Borough Clerk forward two copies of this resolution to the Director of Local Government Services.

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	X			
Heinzel	S				Zompa	X			

Council Member Lawver made a motion to approve Resolution 2007-11.4, second by Council Member Heinzel with all members present voting in favor.

**Borough of Pennington
Resolution #2007-11.5**

RESOLUTION AUTHORIZING BUDGET TRANSFERS

WHEREAS, N.J.S.A. 40A:4-58 provides that during the last two months of the fiscal year, should it become necessary to expend funds for any purposes specified in the budget an amount in excess of the respective sums appropriated therefore and there shall be an excess in any appropriations over and above the amount deemed to be necessary to fulfill the purpose of such appropriations transfers may be made; and

WHEREAS, transfers may not be permitted to appropriations for contingent expenses or deferred charges; and

WHEREAS, transfers may not be permitted from appropriations for contingent expenses, deferred charges, cash deficit of the preceding year, reserve for uncollected taxes, down payments, and capital improvement fund or interest and redemption charges;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington that transfers be made between the following year 2007 budget appropriations:

<u>Appropriations:</u>	<u>To:</u>	<u>From:</u>
Election – Misc. – Other Expense	\$ 60.00	
LOSAP – Other Expense	\$ 330.00	
Group Insurance – Active – Other Expense	\$ 2,000.00	
Municipal Clerk – Other Expense		\$ 1,000.00
Finance – Other Expense		\$ 500.00
Tax Collector – Other Expense		\$ 500.00
Tax Assessor – Other Expense		\$ 390.00
Total Current Fund	\$ 2,390.00	\$ 2,390.00
Group Insurance – Active – Other Expense	\$ 8,600.00	
Water – Other Expense		\$ 2,000.00
Sewer – Other Expense		\$ 2,000.00
SBRSA – Treatment Costs		\$ 4,600.00
Total Water/Sewer Fund	\$ 8,600.00	\$ 8,600.00

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	X				Tucker	M			
Heinzel	S				Zompa	X			

Council Member Tucker made a motion to approve Resolution 2007-11.5, second by Council Member Heinzel with all members present voting in favor.

**Borough of Pennington
Resolution 2007-11.6**

**RESOLUTION ACCEPTING BID FOR SALE
OF LOADER BACKHOE TO THE BOROUGH FOR
THE DEPARTMENT OF PUBLIC WORKS**

WHEREAS, the Borough of Pennington has advertised for bids for sale to the Borough of a current model year loader backhoe, complete with specified equipment, for use by the Department of Public Works;

WHEREAS, on October 26, 2007 one bid was received, from Trenton Tractor and Equipment, Inc. of Trenton, New Jersey, in the amount of \$63,735.00;

WHEREAS, the bid documents were reviewed by Van Note-Harvey Associates and the Borough Attorney and found to be acceptable;

WHEREAS, Van Note-Harvey Associates recommends that the bid of Trenton Tractor and Equipment, Inc. be accepted and that the contract for sale of the loader backhoe be awarded to this firm;

WHEREAS, the funds needed to enter into this contract are available pursuant to Ordinance 2007-10 adopted November 5, 2007;

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

1. The bid of Trenton Tractor and Equipment, Inc. for sale of the advertised loader backhoe to the Borough for \$63,735.00 is hereby accepted and the contract for sale of the backhoe is hereby awarded to Trenton Tractor and Equipment, Inc. in conformance with its bid and the advertised terms and specifications and form of contract.

2. The Mayor, with the attestation of the Borough Clerk, is hereby authorized to enter into the said contract with Trenton Tractor and Equipment, Inc. on behalf of the Borough.

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 2007-11.6, second by Council Member Heinzel with all members present voting in favor.

**Borough of Pennington
Resolution 2007-11.7**

RESOLUTION AUTHORIZING EXECUTION OF INTERLOCAL SERVICES AGREEMENT WITH COUNTY OF MERCER FOR IMPLEMENTATION OF MERCER AT PLAY PROJECT INVOLVING ACQUISITION AND INSTALLATION OF PLAYGROUND EQUIPMENT AT KUNKEL PARK

WHEREAS, the County of Mercer has awarded the Borough of Pennington a grant under the “Mercer at Play” program for acquisition and installation of playground equipment at Kunkel Park;

WHEREAS, the County of Mercer has proposed an Interlocal Services Agreement between the County of Mercer and the Borough of Pennington which sets forth the terms and conditions governing the project;

WHEREAS, the proposed Agreement provides for a total project cost of \$25,064, of which the County will contribute \$16,709 in funds and the balance will be supplied by the Borough in the form of an in-kind contribution;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Mayor, with the attestation of the Borough Clerk, is hereby authorized to execute the aforesaid Interlocal Services Agreement, of which a copy is attached, subject to final approval as to form by the Borough Attorney.

Record of Council Vote on Passage

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

Council Member DiFalco made a motion to approve Resolution 2007-11.7, second by Council Member Heinzel. Mr. Bliss gave an overview of the particulars of the grant and the matching portion that the Borough will have to provide. Mr. Bliss stated that the Borough Share would be largely satisfied by the removal of existing equipment by the Public Works Department. Mr. Bliss explained that there is probably a cash expenditure of several thousand dollars that will have to be paid by the Borough. Discussion followed as to where the additional funds will come from and whether it would be a current year expense or a 2008 expense. Upon a roll call vote all members present voted in favor.

**Borough of Pennington
Resolution 2007-11.8**

**RESOLUTION AUTHORIZING THE BOROUGH
ADMINISTRATOR TO TAKE STEPS NECESSARY TO IMPROVE THE HEATING SYSTEM
AT THE SENIOR CENTER**

WHEREAS, the Senior Center on Reading Street in the Borough, also known as the Hopewell Valley Senior Center, has experienced recurring problems with its heating system, posing increasing risks to the health and well-being of users of the Center as the cold season rapidly approaches;

WHEREAS, Borough Council is determined to ensure that immediate steps are taken to remedy the heating problems at the Senior Center;

WHEREAS, funds for this project are immediately available in grant funds in the amount of approximately \$21,000 from a grant previously awarded to the Borough of Pennington by the State Department of Community Affairs for capital improvements to the Senior Center;

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

1. The Borough Administrator is hereby authorized
 - A. to enlist the Borough heating consultant, CM3, to analyze the source or sources of the heating problems at the Senior Center and to recommend improvements to the heating system which will resolve these problems;
 - B. to obtain quotes from at least three contractors to perform the needed improvements and to select that contractor with a quote and proposal most advantageous to the Borough, provided that total expenditure does not exceed \$21,000;
 - C. to enter into a contract with the selected contractor on behalf of the Borough in consultation with the Borough Engineer and with review and approval by the Borough Attorney, ensuring expeditious resolution of the heating problems.
2. The Borough Administrator, in consultation with the Borough Attorney, shall further ensure compliance with applicable laws, including but not limited to the Prevailing Wage Act.

Record of Council Vote on Passage

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

Council Member Heinzel made a motion to approve Resolution 2007-11.8, second by Council Member Lawver. Mr. Dunworth stated that as previously discussed the heating system at the Senior Center has not worked for quite some time and with the cool weather approaching, the Borough needs to take action to fix the problem. Mr. Dunworth stated that an old grant exists that has a balance of approximately \$21,000 and these funds can be used for this purpose. Mr. Dunworth stated that this resolution would allow CM3 to give the Borough an estimate on what needs to be done to repair the system. Mr. Dunworth stated that he would then approach Hopewell Township and Hopewell Borough for help with the cost of the repair with Pennington Borough using the existing grant money towards the repair. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2007-11.9**

**RESOLUTION AUTHORIZING CHANGE ORDER UNDER
PUBLIC WORKS MAINTENANCE AND EMERGENCY SERVICES CONTRACT
WITH PENN BOWER, INC.**

WHEREAS, the Borough of Pennington has entered into a contract with Penn Bower, Inc. known as the Public Works Maintenance and Emergency Services Contract (ZNHA37473-500-52);

WHEREAS, the Borough Engineer has recommended a change order under this contract with respect to project no. 1, known as Replacement of Water Main and Residential Services on Baldwin Street and Maple Avenue;

WHEREAS, the proposed change order would increase the contract price by \$10,730.60 for necessary work not part of the original contract, and would decrease the contract price by \$5,005.00 to adjust for as-built quantities given that the roadway will be totally reconstructed under a separate contract, the net change in contract price being an increase of \$5,725.60;

WHEREAS, further detail on this change order is available for inspection in the Office of the Borough Clerk;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the aforesaid change order increasing contract price by a net amount of \$5,725.60 under the Public Works Maintenance and Emergency Services Contract is hereby approved.

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	X				Zompa	S			

Council Member Garber made a motion to approve Resolution 2007-11.9, second by Council Member Zompa with all members present voting in favor.

**Borough of Pennington
Resolution #2007 – 11.10**

**A RESOLUTION AUTHORIZING PAYMENT REQUEST NO. 2
TO PENN-BOWER, INC., FOR WORK COMPLETED
ON THE 2007 PUBLIC WORKS MAINTENANCE AND EMERGENCY SERVICES CONTRACT**

WHEREAS, Penn Bower, Inc. has completed certain work pursuant to the 2007 Public Works Maintenance and Emergency Services Contract (VNHA #37473-500-52) relating to replacement of water main and residential water services on Baldwin Street and Maple Avenues; and

WHEREAS, Van Note Harvey Associates, P.C. has reviewed and inspected the improvements that have been constructed and has approved payment for same pursuant to the contractor’s Request for Payment No. 2 (\$39,958.56) net of two percent retainage (\$799.17), the net due therefore amounting to \$39,159.39; and

WHEREAS, this is a partial payment under the contract;

WHEREAS, funds are available in account # W-06-00-553-000-250, Ordinance 98-3 – Improvements to Water Supply System;

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that payment to Penn Bower, Inc in the \$39,159.39 pursuant to payment request No. 2 is hereby authorized.

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 2007-11.10, second by Council Member Heinzel with all members present voting in favor.

Council Discussion

Liquor License – Mr. Bliss referred Borough Council to a memo that he supplied, which lists seven points that he thought would be pertinent to policy overview discussion and to determine how Borough Council wishes to proceed. Mr. Bliss briefly outlined the seven points listed in his memo.

TO: MAYOR AND COUNCIL

FR: WALTER BLISS

RE: LIQUOR LICENSES

The following are points for your consideration during your discussion of liquor licenses:

1. A municipal governing body may decide to permit the sale of alcoholic beverages within the municipality’s borders. However, this prerogative is subject to referendum if qualified voters of the municipality equal to 15% of the total votes cast in the most recent General Assembly election sign a petition requesting a referendum. If the majority vote “yes,” then the issuance of licenses shall be permitted. If the majority vote “no,” then any previously issued license becomes void and inoperative thirty days after the date of the vote. N.J.S.A. 33:1-45,-44.
See Pane, N.J.P. vol 34, sec.6.43.

2. Municipalities may create and grant the following types of licenses:

- a. Plenary Retail Distribution Licenses (eg., package store);
- b. Plenary Retail Consumption Licenses (eg., bars, restaurants);
- c. Seasonal Retail Consumption Licenses (eg., resorts);
- d. Club Licenses (non-profit/benevolent, charitable, fraternal, social, religious, recreational, athletic or similar purposes/ 60 or more members);
- e. One-day permits for fundraising events by appropriate groups.

3. The holder of a Plenary Retail Consumption License may also obtain a “restricted brewery license” to operate a restricted brewery immediately adjoining the licensed premises. N.J.S.A. 33:1-12; 1-10.

4. The (annual)fee for a Plenary Retail **Consumption** License (“PRCL”) shall be fixed by the municipality at not less than \$200 and not more than \$2,000.; and this fee cannot be raised or lowered by more than 20% or \$500 (whichever is less) the next year. N.J.S.A. 33:1-12. The (annual) fee for a Plenary Retail **Distribution** License (“PRDL”) also shall be fixed by the governing body, in the range of \$100 to \$2,000, with the same limitation on annual changes. Ibid.

5. New PRCL’s and PRDL’s may be sold by the municipality to the highest bidder, at a public sale. The proceeds of this one-time sale would be retained by the municipality in addition to the annual license fee. The governing body may by resolution “fix a minimum bid and conditions of sale with the reservation of the right to reject all bids where the highest bid is not accepted.” N.J.S.A. 33:1-19.3. One such “condition” of sale might be land use criteria, say location in Town Center. See Pane, N.J.P. vol. 34, sec. 6.44.

6. The statute provides that issuance of PRCL’s may not exceed more than one (1) per 3,000 of population; issuance of PRDL’s must be limited to no more than one (1) per 7,500 of population. N.J.S.A. 33:1-12.14. However, it appears that any municipality may issue at least one of each, regardless of population. See N.J.S.A. 33:1-12.15; Seip v. Mayor and Borough Council of Borough of Frenchtown, 79 N. J. Super. 521 (App. Div. 1963).

7. No license shall be issued for the sale of alcoholic beverage within 200 feet of any church or public schoolhouse or private schoolhouse not conducted for profit. This prohibition may be waived at the time of the issuance of the license and any renewal thereafter by the church or school in question, the waiver to remain effective (with certain exceptions) until the next renewal of the license. The 200 feet is to be measured “in the normal way that a pedestrian would properly walk from the nearest entrance of said church or school to the nearest entrance of the premises sought to be licensed.” N.J.S.A. 33:1-76, 76.1, 76.2.

NOTE: This is of course not an exhaustive treatment of any of the above points. I stop here because the above would appear to be sufficient for an initial discussion.

After some discussion by Borough Council, Mayor Persichilli stated that Council should continue to look at this as a possible revenue source and in answer to an interest from Borough residents.

Administrators Report

H.V.A.C. issues at Senior Center – Mr. Dunworth stated this topic has already been covered.

Agreement with Mercer County for Lease of Senior Center for Nutrition Program – Mr. Dunworth stated that Mercer County has sent the lease agreement for renewal. Mr. Dunworth asked Council if they would like to request an increase in the amount as we have with prior renewals. Mr. Dunworth stated that the agreement and resolution would be on the agenda for the December meeting. Council asked Mr. Dunworth to look into the history of payments from Mercer County and to contact the County to work out an acceptable amount.

Borough Auction – Mr. Dunworth stated that the Borough Auction was held on November 3rd with net proceeds from the sale of Borough Property amounting to \$5,300.00.

PARIS Grant – Mr. Dunworth stated that the PARIS Grant is a State Grant for archives and records management. Mr. Dunworth stated that Ms. Sterling has been attending seminars and required meetings with regard to the PARIS Grant and as a result Pennington Borough is eligible for a grant amount of up to \$50,000. Ms. Sterling asked for Council approval to leverage the Borough’s \$50,000 to Mercer County and apply jointly with the County for the PARIS Grant. Ms. Sterling stated that Pennington Borough is too small to take on the task of applying for the grant on its own. Ms. Sterling stated that the State Division of Archives and Records Management is looking for joint applications for PARIS funding. Ms. Sterling stated that if Pennington Borough were to apply on its own, the possibility of receiving a grant of \$50,000 is slim. Ms. Sterling asked Borough Council for authorization to send our letter of intent by the deadline of November 19th, leveraging our eligible funding and applying jointly with Mercer County. Borough Council was in agreement that the letter be sent stating the Borough’s intention to leverage eligible funding and apply jointly with Mercer County.

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.

Mr. Steve Freidman of the Pennington Borough Police Department asked if the closed session discussion to review proposals for a feasibility study is a discussion of the feasibility study for the abolishment of the Pennington Borough Police Department. Mr. Tucker stated that the feasibility study is to determine whether it would be beneficial to consolidate the Pennington Borough Police Department with Hopewell Township. Mayor Persichilli stated that the Borough has received bids to conduct the feasibility study and Council will be reviewing the proposals for possible award and that will be the extent of the discussion.

Kate Fuger of 6 Baldwin Court stated that she would like to find out the status of the drainage issue in her yard. Ms. Fuger stated that at the last meeting she was informed that Penn Bower was going to submit a bid to perform the repair work. Mr. Wittkop stated that he did receive a proposal from Penn Bower, which he felt was considerably more than it should have been and he asked them to review the price and resubmit. Mr. Wittkop stated that he has asked two times for a revised price and he is still waiting. Mr. Wittkop stated that the original price quoted was in excess of \$9,000. Ms. Fuger expressed concern that she keeps coming to Council Meetings in the hope of getting some resolution to this problem and nothing is happening. Ms. Fuger stated that when she bought her property she was told that the drain is on an easement and it is Borough property. Ms. Fuger stated that the Borough should do something, because the drain is not working. Mr. Wittkop stated that he would contact Penn Bower again. Mr. Wittkop asked Mr. Bliss if he could seek other quotes. Mr. Bliss stated that if this project is part of the Penn Bower contract, then it could not be removed and awarded to another contractor. Mr. Wittkop stated that he would follow up with Penn Bower and Mr. Bliss to see if a solution could be reached.

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

AT, 9:40 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:

- Contracts – Review Proposals for Feasibility Study
- Presbyterian Homes – Tax Appeal

Council Member Lawver made a motion to convene in closed session, second by Council Member Heinzl with all members present voting in favor.

At, 10:30 PM, Mayor and Council returned to open session.

Council Member Zompa made a motion to approve the minutes of the October 1, 2007, Closed Session minutes for content but not release, second by Council Member Heinzl with all members present voting in favor.

At 10:31 p.m., Council Member Tucker made a motion to adjourn the meeting, second by Council Member Zompa.

Respectfully submitted,

Elizabeth Sterling
Borough Clerk