

**Pennington Borough Council
Regular Meeting – February 6, 2012**

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 Dunn, Griffiths, Heinzl, McClurg-Doldy, Ogren, and Tucker in attendance.

Also present were Borough Attorney, Walter Bliss, Public Works Superintendent, Jeff Wittkop and Public Safety Director, Bill Meytrott.

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 and on the Borough web-site according to the regulations of the Open Public Meetings Act.

Mayor Persichilli invited everyone to stand for the Flag Salute.

Open to the Public – Agenda Items Only

Mayor Persichilli read the following statement:

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 3 minutes.**

There were no comments from the public.

Approval of Minutes

Council Member Tucker made a motion to approve the minutes of the January 9, 2012 Reorganization Meeting and the January 9, 2012 Regular Meeting, second by Council Member McClurg-Doldy with all members present voting in favor.

Mayor's Business

Mayor Persichilli invited Lisa Sarachman of 21 East Curlis Avenue and Andy Parsons of 421 Federal City Road to come forward to talk about Pennington Day. Mr. Parsons stated that he and Mrs. Sarachman were recently persuaded to be co-chairs of Pennington Day and they are busy getting up to speed on what is involved with Pennington Day. Mr. Parsons stated that they were asked to come before Council to officially ask for permission to hold Pennington Day on May 19th, 2012. Mrs. Sarachman stated that the location will be the same as last year but there will be some minor changes. Mayor Persichilli stated that last year there were some minor concerns regarding the Spring Fling held in the parking lot of the Senior Center. Mr. Parsons stated that the Spring Fling does not fall under their duties, but they would bring it up at the committee meeting later this week and they would be happy to come back to another meeting once they have a clear idea of what their responsibilities will be.

Mayor's Appointments

Mayor Persichilli announced the reappointment of Art Firestone as a member of the Environmental Commission for a 3 year term ending December 31, 2014.

Committee Reports

Planning & Zoning / Environmental Commission / Library – Mrs. Heinzl reported that the two strategic planning sessions have been held and they received input from approximately thirty residents, representatives from the Library Board, employees and volunteers of the Library. Mrs. Heinzl thanked Mayor Persichilli and Council Member Tucker for attending. Mrs. Heinzl stated that Mr. Jim Davy is spearheading this effort and he expects to have a finalized plan by the end of the month.

Mrs. Heinzl stated that the Library has conducted a search for a new part-time director and interviews are being held this evening.

Mrs. Heinzl stated that the Planning Board met on January 11th, 2012 for its Reorganization and Regular meeting. Mrs. Heinzl stated that Mr. Spadaccini visited the Planning Board on behalf of the Old Mill Square regarding the storm water issues that he has been having on his property. Mrs. Heinzl stated that the proposed solution of a French drain extending across the open the driveway between TD Bank and the Old Mill property draining to the detention basin on the TD Bank property was accepted by the board with the exceptions that Borough Engineer, Carmela Roberts had suggested. Mrs. Heinzl stated that there was still an issue with respect to the easement and as she understands it is not fully resolved, but all parties have agreed to meet together to work out the appropriate easements for the pipeline.

Mrs. Heinzl stated that the Planning Board heard an application from the Doran's of 4 Fitzcharles Drive for a variance for an extension of their lot coverage for a deck on the rear of their house. Mrs. Heinzl stated that this application was approved by the Board.

Mrs. Heinzl stated that the Board discussed the Village Salon and a request to enclose a porch at the rear of their property. Mrs. Heinzl stated that Mr. Ogren brought this request before the Board to determine whether a site plan approval would be needed in order to proceed. Mrs. Heinzl stated that the Board agreed that a site plan approval would not be required as the foot print of the existing building would not be changed.

Mrs. Heinzl stated that the Board also discussed affordable housing and that will be further discussed later in the meeting.

Public Works – Mr. Ogren stated that the Public Works Committee did meet last month with the focus being on water. Mr. Ogren stated that the committee reviewed figures prepared by Council Member Dunn with regard to water usage and water pumped. Mr. Ogren stated that the trend continues to narrow the gap on unaccounted for water. Mr. Ogren stated that the percentage of unaccounted for water in 2010 was twenty-five percent and in 2011 that dropped to nineteen percent. Mr. Ogren stated that there is a possibility that the Borough will not reach the fifteen percent goal required by the State unless old residential meters are replaced which would be a major cost. Mr. Ogren stated that this item has been on the table for a while and it might be time to revisit.

Mr. Ogren stated that another item is whether to raise water/sewer rates this year. Mr. Ogren stated that Council has raised rates the last six years and the increases have been fairly substantial during that time. Mr. Ogren stated that the public works committee has decided to postpone any rate increases at this time.

Mr. Griffiths stated that the water/sewer utility has a \$22,000 operating deficit, Jeff is asking for an additional \$16,000 in expenditures and at this time Council has no choice but to increase rates this year. Mr. Griffiths stated that he will be advocating forcefully for a rate increase or as another option the layoff of one person. Mr. Griffiths stated that the Borough is running into some significant financial headwinds this year and the concept that we are running a surplus is incorrect. Mr. Griffiths stated that in order to not raise rates the amount of personnel costs charged to the water/sewer budget would need to be decreased and that is done through the layoff of a person.

Mayor Persichilli stated that for many years water rates were not increased and Council had to accelerate the increase in order to catch up.

Mr. Griffiths stated that revenue is down not just from water usage, but also from one time revenues such as connection fees that we are simply not getting any more. Mr. Griffiths stated that the \$22,000 is a shortfall in revenues. Mr. Griffiths stated that shortfall has to be picked up in water rates and in order to do that rates have to be increased or expenses have to be cut.

Mr. Tucker stated that the year Council had to raise the water rates a significant amount due to not raising rates for many years, Council resolved to raise rates a little each year so as not to get into the same situation again.

Mr. Wittkop suggested that Council needs to take a look at the allocation of expenses particularly insurance, pension etc. Mr. Griffiths stated that all of those expenses are tracked with employees. Mr. Ogren stated that the public works committee will meet again on this issue and report back to Council at a later meeting.

Mr. Griffiths suggested that Mr. Wittkop nominate expenses that he thinks are being allocated improperly. Mr. Wittkop stated he would be glad to do that. Mr. Griffiths stated that if these expenses were not charged to water and sewer there is only one other place to put them and that is in the general fund and then some very difficult decisions will need to be made. Mr. Griffiths stated that he would like Betty Sterling and Sandy Webb to sit in on discussions regarding budget allocations.

Personnel/Shade Tree – Mr. Ogren stated that Shade Tree did not meet last month. Mr. Ogren stated that the Personnel Committee did not meet and the topic of that meeting will be discussed later in the meeting.

Public Safety – Mr. Tucker reported that resumes for the vacancy in the Police Department are still being accepted. Mr. Tucker stated that the review process should be completed by the end of the month with a projected hire date of April 2012.

Mr. Tucker stated that the New Year arrived with no requests for police services. Mr. Tucker stated that on January 12th, Director Meytrott represented the department at a meeting of the Mercer County Police Chiefs. Mr. Tucker stated that on January 17th, Director Meytrott represented the department at the Mercer Area Chamber of Commerce where Pat Ryan of Hopewell Valley Community Bank was sworn in as President. Mr. Tucker stated that on January 25th, Director Meytrott attended the Economic Development Business Person of the Year ceremony at Sun Bank. Mr. Tucker stated that the Mayor and several Council Members were also in attendance. Mr. Tucker stated that this year's award was given to The Front Porch.

Mr. Tucker stated that preliminary budget figures for the police department are currently being developed and there are no additional requests for manpower or equipment at this time.

Mr. Tucker stated that Mr. Meytrott represented the department at a meeting of the Hopewell Valley Municipal Alliance and there were no issues directed specifically towards Pennington.

Mr. Tucker reported the following statistics for the month of January, 2012.

| | |
|-----|------------------------------|
| 1 | Burglary |
| 1 | Fraud/Bad Check |
| 1 | Harassment |
| 124 | Motor Vehicle Stops |
| 66 | Warnings Issued |
| 34 | Parking Summons |
| 118 | Motor Vehicle Summons Issued |
| 5 | Investigation Reports |
| 6 | Operation Reports |
| 13 | Alarm Reports |
| 2 | Adult Male Arrests |
| 1 | Adult Female Arrest |
| 11 | First Aid Calls |
| 38 | Community Policing responses |
| 91 | Resident Checks |

Finance – Mr. Griffiths stated that the news is not good. Mr. Griffiths stated that the Finance Committee has had their second meeting on the budget. Mr. Griffiths stated that non tax revenues are declining which affects our ability to project revenue. Mr. Griffiths stated that tax revenue for 2012 will decline again in 2012 as we will face another devaluation of the properties. Mr. Griffiths stated that the water/sewer operating budget is \$22,000 under what it was supposed to be in 2011. Mr. Griffiths stated that expenses in 2012 include an additional patrol officer and a replacement vehicle for the police department. Mr. Griffiths stated that the department has two aging vehicles that are incurring significant repair costs each year. Mr. Griffiths stated that water/sewer expenses include an additional \$16,000 request for water tower inspection, leak detection and the Sked Street pump. Mr. Griffiths stated that the budget for borough property will need to include \$10,000 to replace the boiler in Borough Hall. Mr. Griffiths stated that the Governor has vetoed the bill that would cap shared services increases at two percent so we are again at the mercy of Hopewell Township. Mr. Griffiths stated that the finance committee will be looking at increases in revenues such as truck rental and trash stickers and the committee will also be looking at a water/sewer rate increase.

Mr. Griffiths stated that there is also a situation with accounts receivable from various grants. Mr. Griffiths stated that Council will be introducing a bond ordinance later in the meeting to cover a shortfall in collections on grant receivables. Mr. Griffiths stated that the issue is that this threatens the Borough's cash flow and secondly the receivables are significantly jeopardizing the ability to fund DOT projects and especially Federal Grant projects. Mr. Griffiths stated that as a matter of policy going forward, Council needs to anticipate some delay in payment and issue notes to fund projects if needed. Mr. Griffiths stated that Borough Council needs to look hard at expenditures of funds and evaluate if alternative measures are required. Mr. Griffiths stated that these are urgent issues and the Borough is not in the same position as we were a year ago. Mr. Griffiths stated that just to balance the expenses and revenue right now the Borough is facing a minimum four percent tax increase. Mr. Griffiths stated that Betty and Sandy will be going line by line through the grant receivables to cancel or collect any outstanding money that is due particularly the Safe Routes to Schools and the two NJ DOT projects that are necessitating the \$325,000 ordinance.

Mayor Persichilli stated that Council might want to consider not applying for additional grants at this time. Mayor Persichilli stated that he is a firm believer in prioritizing what we want to do and what we need to do. Mr. Griffiths stated that proposed engineering on the Lawrence Hopewell Trail alone is \$56,000. Mr. Ogren stated that not one dollar of Borough money will be spent on the bike path. Mayor Persichilli stated that what he is saying that when it comes down to it, Council needs to decide whether the expense is absolutely necessary or whether it would just be nice to have.

Mayor Persichilli stated that Council has to look at ways to save money even though there might be disagreement. Mayor Persichilli stated that for example he does not believe the turf fields are necessary and there are more important things that school system needs.

Mr. Griffiths stated that another point is that the Borough owns a water/sewer utility that has to be maintained and the Borough can't deprive a high capital venture of the maintenance expenses.

Mrs. Heinzl asked how much of the grant receivable is reflected in the four percent increase. Mr. Griffiths explained that it does not hit operating expense or revenue, what it does is jeopardize cash surplus which limits the ability to fund future projects. Mr. Griffiths explained that the \$325,000 affected this year's surplus which dropped from \$450,000 to \$90,000.

Mr. Griffiths stated that he is raising the red flag tonight so that Council is aware that actions are needed to turn things around so that next year we are not in the same situation.

Community Services/Economic Development – Mrs. McClurg-Doldy reported that Parks and Recreation met on January 11th, 2012 and discussed how to prioritize whatever funds are allocated in the budget this year to fund projects in the parks. Mrs. McClurg-Doldy stated that because of the severe weather over the past year, the parks are in need of some work. Mrs. McClurg-Doldy stated that the commission has also lost some members so if anyone knows of someone who might be interested let her know. Mrs. McClurg-

Doldy stated that they are looking into ways to make the playground mulch last longer than it does, replacement of the signboard and addition of some benches. Mrs. McClurg-Doldy stated that the house at Kunkel Park continues to be a discussion item and the commission would like to have it removed.

Mrs. McClurg-Doldy thanked Mr. Tucker for his report on the Business of the Year event. Mrs. McClurg-Doldy stated that it was a wonderful evening. Mrs. McClurg-Doldy stated that the Economic Development Commission held their reorganization meeting and Eric Kollevoll is now the chairman, Ron Roveda will stay on as secretary. Mrs. McClurg-Doldy stated that Michelle Hammer of Styleworthy came on as new member. Mrs. McClurg-Doldy stated that that next newsletter coming out will announce the full reopening of the West Delaware strip mall. Mrs. McClurg-Doldy stated that the commission discussed the Farmers Market and how they would like to see the Farmers Market housed in Pennington. Mrs. Heinzel stated that she spoke to Eric Kollevoll regarding the Farmers Market and also invited him to become a member of the board.

Ordinances for Introduction

Mayor Persichilli read Ordinance 2012-1 by title.

**BOROUGH OF PENNINGTON
COUNTY OF MERCER
ORDINANCE 2012-1**

**BOND ORDINANCE PROVIDING FOR ROADWAY
IMPROVEMENTS TO PROVIDE SAFE ROUTES TO SCHOOLS
AND TO RECONSTRUCT LOWER KING GEORGE ROAD IN
AND BY THE BOROUGH OF PENNINGTON, IN THE COUNTY
OF MERCER, NEW JERSEY, APPROPRIATING \$325,000
THEREFOR AND AUTHORIZING THE ISSUANCE \$325,000
BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF
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:

The improvement described in Section 3(a) of this bond ordinance is hereby authorized to be undertaken by the Borough of Pennington, in the County of Mercer, New Jersey (the "Borough") as a general improvement. For the improvement or purpose described in Section 3(a), there is hereby appropriated the sum of \$325,000, including a grant expected to be received from the State of New Jersey Department of Transportation in the amount of \$325,000 (the "State Grant"). Pursuant to N.J.S.A. 40A:2-11(c), no down payment is provided for the costs of the improvement since the project described in Section 3(a) hereof is being partially funded by the State Grant.

In order to finance the cost of the improvement or purpose and in anticipation of the State Grant referred to in Section 1 hereof, negotiable bonds are hereby authorized to be issued in the principal amount \$325,000 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.

(a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued is to fund a portion of the costs for roadway improvements to provide safe routes to schools and to reconstruct Lower King George Road, 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 being funded by this ordinance is equal to the amount of the appropriation herein made therefor.

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(a) of this bond ordinance is not a current expense. It is an improvement or purpose that the Borough may lawfully undertake as a general improvement, and 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 ordinance, is 10 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 \$325,000, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$45,000 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.

Section 7. The Borough hereby declares the intent of the Borough to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3 of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of Treasury Regulations §1.150-2 or any successor provisions of federal income tax law.

Section 8. Any grant moneys received for the purpose described in Section 3(a) hereof shall be applied 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 additional funds are so used.

Section 9. 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 10. 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 11. 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 Griffiths made a motion to introduce Ordinance 2012-1, second by Council Member McClurg-Doldy with all members present voting in favor.

Mayor Persichilli read Ordinance 2012-2 by title.

**BOROUGH OF PENNINGTON
ORDINANCE NO. 2012-2**

**AN ORDINANCE CONCERNING ZONING REGULATIONS
GOVERNING FENCES ON CORNER LOTS IN THE R-80 AND
R-100 ZONING DISTRICTS, AND AMENDING CHAPTER 215
OF THE CODE OF THE BOROUGH OF PENNINGTON**

WHEREAS, the Planning Board of the Borough of Pennington has recommended an amendment of zoning regulations pertaining to fences on corner lots in the R-80 and R-100 zoning districts;

WHEREAS, the purpose of the amendment is to permit fencing on corner lots that would provide greater privacy in the rear yard;

WHEREAS, for purposes of zoning regulation, corner lots are regarded as having two front yards, in the sense that both sides of the property fronting on a street are subject to requirements for front yards;

WHEREAS, zoning regulations governing fences, found in Section 215-24 of the Borough Code, prohibit fences in a front yard exceeding three feet (3') in height;

WHEREAS, the proposed amendment, subject to conditions, permits a fence of up to five feet (5') in height for that portion of the corner lot in which the street line is parallel to the rear yard;

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

1. Subsection C of Section 215-24 of Chapter 215 of the Code of the Borough of Pennington is hereby amended, as follows (with additions underlined and deletions [bracketed]):

“C. Any fence, wall or retaining wall located within the front yard or within the minimum required front yard, whichever is greater, shall not be erected, altered or reconstructed to a height in excess of three feet above ground level except as provided in Subsection F with respect to corner lots in the R-80 and R-100 zoning districts. A fence or wall located elsewhere shall not be erected, altered or reconstructed to a height in excess of six feet above ground level or in violation of Chapter 185, Swimming Pools. A retaining wall which is located in other than the front yard or minimum required front yard and exceeds three feet in height shall be subject to Subsection D.

(1) The height of a fence or wall shall be determined from the lower grade at the ground level on each side of the fence or wall, as measured within six inches of the fence or wall.

(2) An additional four inches of clearance from grade is permitted under a fence or wall to allow for adequate drainage and to prevent rot.

(3) Posts for a fence or pillars for a wall may protrude an additional three inches above the maximum permitted height.”

2. Section 215-24 is further amended by the addition of a NEW Subsection F, which shall read as follows:

“F. In the R-80 and R-100 zone districts, a fence or wall of up to but not exceeding five feet (5') in height shall be permitted for single-family detached dwellings on corner lots within that portion of the front yard of the corner lot abutting the rear yard, subject to the following conditions:

(1) The fence or wall as permitted in this subsection shall be parallel to the street line and set back from the street line no less than one-half the front-yard setback distance required for a single-family dwelling in the zone district, except in the R-80 zone district, the fence or wall shall be set back one-half the front-yard setback distance required for a single-family dwelling in that zone district or one-half the distance between the dwelling and the street line, whichever is less.

(2) The permitted fence or wall shall not extend along any portion of the front yard between the dwelling and the street exclusive of any rear porch.

(3) The permitted fence or wall shall have a finished side facing the street line.

(4) The side of the permitted fence or wall facing the street line shall have shrubs planted in front of it spaced no more than 6 feet apart.”

3. This ordinance shall be effective upon passage and publication as required by law.

Council Member McClurg-Doldy made a motion to introduce Ordinance 2012-2, second by Council Member Tucker. Mr. Ogren stated that this ordinance addresses allowable fencing on a corner lot. Discussion took place with regard to what constitutes half the distance to the street. Mr. Ogren stated that this ordinance would allow a five foot fence on a corner lot in the rear yard where now the allowable height is three feet and if a resident wanted a higher fence it would require appearing before the Planning Board. Mr. Ogren proposed a change to section 2 (F-2). Mr. Ogren stated that the word contiguous is confusing. After some discussion Council agreed to change the wording to “(2) The permitted fence or wall shall not extend along any portion of the front yard between the dwelling and the street exclusive of any rear porch.” Upon a roll call vote, all members present voted in favor the ordinance as amended.

Mayor Persichilli read Ordinance 2012-3 by title.

**BOROUGH OF PENNINGTON
ORDINANCE NO. 2012-3**

AN ORDINANCE ELIMINATING THE POSITION OF FOREMAN IN THE DEPARTMENT OF PUBLIC WORKS, AS CODIFIED IN THE CODE OF THE BOROUGH OF PENNINGTON

WHEREAS, the Borough of Pennington seeks to eliminate the long-vacant position of Foreman in the Department of Public Works and to distribute the duties of that position to other present and future positions in the Department, administratively;

WHEREAS, the position of Foreman is created and its duties codified by Article III of Chapter 39 of the Code of the Borough of Pennington;

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

1. Section 39-9 of Chapter 39 of the Code of the Borough of Pennington is hereby amended as follows:

"There is hereby created in the Pennington Borough Department of Public Works the position[s] of [Foreman and] Assistant Foreman."
2. Section 29-10 of Chapter 39 of the Code of the Borough of Pennington, concerning the Foreman position is hereby repealed.
3. The contrary provisions of any other section, chapter or provision of the Code of the Borough of Pennington notwithstanding, the position of Foreman in the Department of Public Works is hereby eliminated.
4. This ordinance shall be effective upon passage and publication as required by law.

Council Member Dunn made a motion to introduce Ordinance 2012-3, second by Council Member Griffiths. Mr. Bliss stated that the public works department is contemplating a reorganization which would involve elimination of the Foreman’s position. Mr. Bliss stated that this ordinance is being introduced on first reading so that it can be adopted as plans for the reorganization progress. Mrs. Heinzl stated that the ordinance refers to an assistant foreman and should that position also be addressed. Mr. Bliss stated that the Foreman’s position has been long vacant while the assistant foreman is filled at the moment. Mr. Bliss explained that once the reorganization of the department takes place Council can address the assistant foreman position. Mr. Griffiths stated that he sent a draft plan to Council Member Dunn to review. Mr. Griffiths stated that once Mrs. Dunn reviews the plan she will forward it to Council Members for comment. Mr. Griffiths stated that once that takes place a meeting will be set up with the Teamsters to begin negotiations. Mayor Persichilli stated that he sent a letter out today to the Teamsters indicating that the position of Foreman is being eliminated. Upon a roll call vote all members present voted in favor.

New Business

**Borough of Pennington
Resolution #2012 – 2.1**

RESOLUTION AUTHORIZING REFUNDS

BE IT RESOLVED, that a refund be issued to Phyllis Innocenzi, 51 Woolsey Court, Pennington, NJ 08534, for an overpayment of first quarter 2012 taxes, in the amount of \$188.34 for Block 102.03, Lot 4.

BE IT RESOLVED, that a refund be issued to Laura A. Huntsman, 40 North Main Street, Pennington, NJ 08534, for an overpayment of a COAH fee, in the amount of \$203.50 for Permit No. 11-00128, Block 205, Lot 14.

BE IT RESOLVED, that a refund be issued to PNC Mortgage c/o CoreLogic Real Estate Tax Service, P.O. Box 961250, Fort Worth, TX 76161-9887, for an overpayment of first quarter 2012 taxes, in the amount of \$5,372.64 for, 143 East Delaware Avenue, Block 403, Lot 40.

BE IT RESOLVED, that a refund be issued to PNC Mortgage c/o CoreLogic Real Estate Tax Service, P.O. Box 961250, Fort Worth, TX 76161-9887, for an overpayment of first quarter 2012 taxes, in the amount of \$4,296.24 for, 14 Scudder Court, Block 403, Lot 23.

BE IT RESOLVED, that a refund be issued to Paul and Anne Sobel, 39 North Main Street, Pennington, NJ 08534, Block 301, Lot 9, for Planning Board escrow balance, Application No. P11-007, in the amount of \$849.50 and any additional interest due.

BE IT RESOLVED, that a refund be issued to John & Karen Cappello, 145 W. Franklin Avenue, Pennington, NJ 08534, Block 101, Lot 3, for Planning Board escrow balance, Application No. P11-004, in the amount of \$293.76.

BE IT RESOLVED, that a refund be issued to James & Emily Matticoli, 117 Laning Avenue, Pennington, NJ 08534, Block 502, Lot 12, for Planning Board escrow balance, Application No. P09-005, in the amount of \$280.00.

BE IT RESOLVED, that a refund be issued to Elon Foster, III, 132 Voorhees Avenue, Pennington, NJ 08534, Block 706, Lot 9, for overpayment of fees for variance application to Planning Board, in the amount of \$150.00.

Record of Council Vote on Passage

| COUNCILMAN | AYE | NAY | N.V. | A.B. | COUNCILMAN | AYE | NAY | N.V. | A.B. |
|------------|-----|-----|------|------|---------------|-----|-----|------|------|
| Dunn | S | | | | McClurg-Doldy | M | | | |
| Griffiths | X | | | | Ogren | X | | | |
| Heinzel | X | | | | Tucker | X | | | |

Council Member McClurg-Doldy made a motion to approve Resolution 2012-2.1, second by Council Member Dunn with all member present voting in favor.

**Borough of Pennington
Resolution #2012 – 2.2**

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 \$ 1,976,400.43 from the following accounts:

| | |
|---------------------|------------------------|
| Current | \$ 1,695,425.68 |
| W/S Operating | \$ 197,326.63 |
| Grant Fund | \$ 40,314.94 |
| Water/Sewer Capital | \$ 40,674.92 |
| Animal Control Fund | \$ 9.96 |
| Unemployment Trust | \$ 32.27 |
| Trust Fund | \$ 200.00 |
| Developers' Escrow | \$ 2,416.03 |
| TOTAL | \$ 1,976,400.43 |

Record of Council Vote on Passage

| COUNCILMAN | AYE | NAY | N.V. | A.B. | COUNCILMAN | AYE | NAY | N.V. | A.B. |
|------------|-----|-----|------|------|---------------|-----|-----|------|------|
| Dunn | X | | | | McClurg-Doldy | X | | | |
| Griffiths | M | | | | Ogren | S | | | |
| Heinzel | X | | | | Tucker | X | | | |

Council Member Griffiths made a motion to approve Resolution 2012-2.2, second by Council Member Ogren. Council Members questioned specific bills on the bill list. Upon a roll call vote all members present voted in favor.

**Borough of Pennington
Resolution #2012–2.3**

**RESOLUTION AUTHORIZING AMENDMENTS TO THE
2012 TEMPORARY BUDGET**

WHEREAS, the 2011 Budget for the Borough of Pennington has not been adopted; and

WHEREAS, additional funds are necessary to meet various obligations of the Borough of Pennington;

NOW, THEREFORE, BE IT RESOLVED, that the following additional appropriations be made in the 2012 Temporary Budget for the Current Account.

| | | |
|---------------------------------|---------------|----------------------|
| Administration | Other Expense | \$ 3,000.00 |
| Finance | Other Expense | \$ 10,000.00 |
| Tax Collection | Other Expense | \$ 2,000.00 |
| Engineering | Other Expense | \$ 10,000.00 |
| Planning Board | Salaries | \$ 7,000.00 |
| Construction | Salaries | \$ 5,000.00 |
| Streets | Other Expense | \$ 10,000.00 |
| Boro Property | Other Expense | \$ 12,000.00 |
| Interlocal – Municipal Alliance | Other Expense | \$ 40.00 |
| Interlocal – Dispatch | Other Expense | \$ 39,227.10 |
| Library | Other Expense | \$ 10,000.00 |
| Social Security | Other Expense | \$ 10,000.00 |
| Court | Salaries | \$ 5,000.00 |
| Court | Other Expense | \$ 2,000.00 |
| Total | | \$ 125,267.10 |

BE IT FURTHER RESOLVED, that the following additional funds be appropriated for the 2012 Temporary Budget for the Water and Sewer Fund:

| | | |
|-----------------------------|---------------|----------------------|
| Water | Other Expense | \$ 20,000.00 |
| Sewer | Other Expense | \$ 10,000.00 |
| Group Insurance | Other Expense | \$ 25,000.00 |
| Stony Brook Sewer Authority | Other Expense | \$ 70,000.00 |
| TOTAL | | \$ 125,000.00 |

Record of Council Vote on Passage

| COUNCILMAN | AYE | NAY | N.V. | A.B. | COUNCILMAN | AYE | NAY | N.V. | A.B. |
|------------|-----|-----|------|------|---------------|-----|-----|------|------|
| Dunn | X | | | | McClurg-Doldy | X | | | |
| Griffith | X | | | | Ogren | X | | | |
| Heinzel | M | | | | Tucker | S | | | |

Council Member Heinzel made a motion to approve Resolution 2012-2.3, second by Council Member Tucker with all members present voting in favor.

**Borough of Pennington
Resolution #2012 - 2.4**

RESOLUTION AUTHORIZING A CONTRACT WITH CM3 BUILDING SOLUTIONS ON BEHALF OF INVENSYS BUILDING SYSTEMS FOR THE SUPPORT AND MAINTENANCE OF ITS PROPRIETARY SOFTWARE AND FOR RELATED EQUIPMENT REPAIR IN CONNECTION WITH OPERATION OF THE HVAC SYSTEM FOR BOROUGH HALL FOR YEARS 2012, 2013 AND 2014

WHEREAS, Invensys Building Systems (“Invensys”) is the designer of specialized software and equipment for the monitoring and regulation of HVAC systems and the identification of system-related problems requiring maintenance and repair; and Invensys has designed and installed such a control system for Borough Hall;

WHEREAS, the central component of the Invensys control system installed in Borough Hall for the monitoring and regulation of the HVAC system is a central control module designed and constructed by Invensys which consists of proprietary hardware and software and is connected to an Invensys-designed circuit of sensors throughout the building;

WHEREAS, CM3 Building Solutions (“CM3”) is an authorized factory representative of Invensys and is licensed by Invensys to conduct all operations necessary to support and maintain the proprietary hardware and software of Invensys;

WHEREAS, the Borough seeks to enter into an agreement with CM3 on behalf of Invensys for the years 2012, 2013 and 2014 for the maintenance of the central control module and related circuitry and sensors and for the performance of equipment repairs as needed by this control system;

WHEREAS, the most important services to be provided by CM3 on behalf of Invensys under the proposed agreement relate to the support and maintenance of the central control module and related proprietary hardware and software used to monitor and regulate the HVAC system;

WHEREAS, the equipment repair services to be performed by CM3 on behalf of Invensys under the proposed agreement are incidental to and interrelated with maintenance of its proprietary hardware and software and combining responsibility for maintenance of that proprietary system in a single contract with responsibility for related equipment repair ensures accountability for repairs;

WHEREAS, the contract price for services relating solely to repair of equipment is substantially below the threshold for public bidding, and the amount in question combined with the problems inherent in coordinating repairs with the use of proprietary software makes solicitation of competitive quotations not practicable;

WHEREAS, the proposed agreement, for a term of three years beginning January 1, 2012, subject to annual renewals as appropriate thereafter, is therefore exempt from public bidding pursuant to the exceptions set forth in N.J.S.A. 40A:11-5(1)(dd) and N.J.S.A. 40A:11-6.1a and related regulations;

WHEREAS, the terms of the contract with CM3 on behalf of Invensys will be reviewed and revised to the satisfaction of the Borough Attorney and such contract shall not exceed the contract price of \$12,720 for 2012, \$ 13,092 for 2013 and \$13,488 for 2014;

WHEREAS, prior to entering into the contract, CM3 and Invensys shall provide sworn statements made under penalty of perjury that neither they nor any of their covered principals, partners, officers or subsidiaries has made or will make during the term of this contract a political contribution in violation of the Code of the Borough of Pennington or N.J.S.A. 19:44A-20.5 prohibiting certain political contributions by business entities awarded contracts by the Borough for professional services;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Mayor and Borough Clerk are hereby authorized to execute a contract with CM3 on behalf of Invensys as aforesaid.

Council Member Ogren made a motion to approve Resolution 2012-2.4, second by Council Member Tucker. Mr. Griffiths stated that the projected increase per year on this contract is three percent and he objects to that percentage even though the monetary amount is not significant. Mr. Griffiths stated that the Borough has been paying this rather large fee each year since the system was installed and the larger question is can the system be redesigned and reinstalled through a capital expense that would mitigate, reduce or eliminate some of these annual fees. Mr. Wittkop stated that the annual fee would never be eliminated but it might be reduced by the amount of time that they spend here. Mr. Wittkop stated that given the air conditioning system was designed and installed wrong right from the start, the only way to solve that problem is to replace everything which would be very expensive. Mr. Wittkop stated that the heating system has been having problems for the past three years and in an effort not to spend a lot of money it has been held together with duct tape and glue. Mr. Wittkop stated that at this point it is not working any more. Mr. Wittkop stated that parts are no longer available for the boiler and so the boiler is in need of replacement. Mr. Griffiths stated that he would like to get a handle on what it would cost to replace the system to evaluate whether or not the interest costs to capitalize a new system would counter the yearly maintenance costs. Mr. Wittkop stated that he would estimate \$150,000 to replace the air conditioning and around \$10,000 to replace the boiler. Mr. Wittkop stated that the maintenance of the air handlers upstairs, the maintenance and programming of the computer and recalibration of equipment that measures the temperature are also part of the yearly cost. Mr. Wittkop stated that he could ask CM3 to provide a cost estimate as to what it actually costs them to maintain this system and also to ask if the Borough were to replace the system, how much would the yearly maintenance costs be reduced. Mr. Griffiths stated that the energy bills would also be reduced given the better technology related to energy consumption. Mr. Griffiths stated that it needs to be investigated to see if there is a point now or in the future where we say it's time to invest in a more efficient system. Mayor Persichilli stated that it would be worthwhile to investigate to see if there could be some savings. Mayor Persichilli stated that there are other capital items that might be included at that same time such as furniture for the office. Mayor Persichilli stated that he would like to put several projects that need to be done together in one capital ordinance. Mr. Griffiths stated that notes are at one percent right now and they can be renewed for a couple of years until 2014 or 2015, when significant debt will be retired. Mr. Griffiths stated that it could be an option, but is part of the tightrope of balancing a municipal budget when eighty percent of expenses and the revenue definitions are out of our control. Mr. Griffiths stated that looking at the twenty percent where we might have some control is difficult. Mr. Wittkop stated that components of the system are failing, the air conditioning works, but it has never worked well and the boiler is shot and needs to be replaced.

Ms. Heinzl stated that for now with respect to this contract and given that CM3 is here every week it makes sense to renew this contract at this time. Mr. Wittkop suggested sitting down with CM3, since they have been with the Borough since the beginning and they know the system to get answers to questions on how to proceed and whether there would be any savings to the Borough.

Mrs. Dunn stated that if the Borough is going to look into other options then perhaps a three year agreement is not the way to go. Mr. Wittkop stated that he could go back to CM3 and ask for a one year agreement. Mr. Wittkop stated that we had a three year agreement that ran from March to February and Betty asked if we could get the agreement on a calendar year basis. Mr. Griffiths asked that a cancellation clause be built into the contract in the event that something needs to be done with the system.

Council Members agreed to hold this resolution for future action.

**BOROUGH OF PENNINGTON
RESOLUTION #2012 – 2.5**

**RESOLUTION APPROVING RAFFLE LICENSE RA: 1.12 FOR
ST. MATTHEWS CHURCH**

WHEREAS, St. Matthews Church submitted raffle application RA: 1.12 on January 27, 2012 for a raffle to take place on February 25, 2012 and a copy of that application is attached to this resolution; and

WHEREAS, N.J.A.C. 13:47-4.1 et seq., requires seven (7) days to elapse before the Governing Body makes its findings and determinations; and

WHEREAS, the required waiting period was satisfied on February 3, 2012; and

WHEREAS, St. Matthews Church meets the qualifications for issuance of a license for said raffle based on the findings and determination set forth in the annexed form 5-A, as required by law;

WHEREAS, St. Matthews Church in accordance with law, has submitted the required fees forthwith;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington that raffle license RA: 1.12 for St. Matthews Church be approved; and

BE IT FURTHER RESOLVED, that the Municipal Clerk will forward the annexed Findings and Determinations for RA:1.12 to the Legalized Games of Chance Control Commission in accordance with N.J.A.C. 13:47-4.1, et seq.

Record of Council Vote on Passage

| COUNCILMAN | AYE | NAY | N.V. | A.B. | COUNCILMAN | AYE | NAY | N.V. | A.B. |
|------------|-----|-----|------|------|---------------|-----|-----|------|---------|
| Dunn | M | | | | McClurg-Doldy | X | | | |
| Griffiths | X | | | | Ogren | S | | | |
| Heinzel | X | | | | Tucker | | | | abstain |

Council Member Dunn made a motion to approve Resolution 2012-2.5, second by Council Member Ogren with all members present voting in favor with the exception of Mr. Tucker who abstained.

**BOROUGH OF PENNINGTON
RESOLUTION #2012 - 2.6**

RESOLUTION ESTABLISHING ON-LINE BANKING AND CREDIT CARD ACCEPTANCE FOR THE PAYMENT OF TAX AND UTILITY CHARGES FOR THE YEAR 2012

WHEREAS, under New Jersey State Statute 40/a:5-43 and New Jersey Administrative Code 5:30-9.1 through 5:30-9.10, local municipal units are permitted to offer residents electronic payments; and

WHEREAS, subject to those provisions the Borough of Pennington seeks to offer to its residents on-line payment for tax and utility charges in the form of on-line banking and credit cards; and

WHEREAS, the current tax and utility software provider, Edmunds & Associates, has the ability to act as service provider for the acceptance of electronic payments, and will do so at a charge of \$1,200.00 per billing module, for a total of \$2,400.00 per year, and

WHEREAS, The Bank of Princeton has agreed to reimburse the Borough the fees charged by Edmunds & Associates, as described above; and

WHEREAS, under the provisions of the aforementioned statute and administrative code, Edmunds & Associates has named Links2Gov as their secured payment provider; and

WHEREAS, the charges paid by the property owner to the provider will be \$1.05 per banking transaction, and up to 2.95% on each credit card transaction; and

WHEREAS, this agreement shall be in place for one year;

NOW, THEREFORE, BE IT RESOLVED, that the Borough Council of the Borough of Pennington approves the acceptance of electronic payments as outlined above and authorize the Mayor of the Borough with the approval of the Borough Attorney, to enter into such agreements with The Bank of Princeton and Edmunds & Associates as may be necessary to ensure reimbursement of the Borough for related fees.

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to the Chief Financial Officer and the Tax and Utility Collector.

Record of Council Vote on Passage

| COUNCILMAN | AYE | NAY | N.V. | A.B. | COUNCILMAN | AYE | NAY | N.V. | A.B. |
|------------|-----|-----|------|------|---------------|-----|-----|------|------|
| Dunn | X | | | | McClurg-Doldy | S | | | |
| Griffiths | X | | | | Ogren | X | | | |
| Heinzel | M | | | | Tucker | X | | | |

Council Member Heinzel made a motion to approve Resolution 2012-2.6, second by Council Member McClurg-Doldy with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2012 – 2.7**

**RESOLUTION AUTHORIZING BOROUGH OF PENNINGTON TO ENTER INTO
A SHARED SERVICES AGREEMENT WITH HOPEWELL TOWNSHIP FOR
POLICE DISPATCHING SERVICES FOR THE YEAR 2012**

WHEREAS, the Borough of Pennington desires to contract with Hopewell Township for the provision of emergency and police dispatch services; and

WHEREAS, the Uniform Shared Services and Consolidation Act permits a local unit to enter into a contract with another local unit for the provision of any services which any party to the agreement is empowered to render within its own jurisdiction; and

WHEREAS, the term of the proposed contract, entitled “Shared Services Agreement for Police Dispatching And Emergency Communication Services Between The Township Of Hopewell And Borough Of Pennington”, shall be for one year beginning January 1, 2012 and continue through December 31, 2012; and

WHEREAS, the cost to the Borough for police dispatch services as outlined in the Shared Services agreement would be \$65,000.00, which represents an increase of slightly more than 8% over the previous year;

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 Shared Services Agreement with Hopewell Township for the provision of emergency dispatching services during the period January 1, 2012 through December 31, 2012; and

BE IT FURTHER RESOLVED, that the aforesaid Agreement shall be substantially in the form attached to this Resolution, subject to approval by the Borough Attorney.

Record of Council Vote on Passage

| COUNCILMAN | AYE | NAY | N.V. | A.B. | COUNCILMAN | AYE | NAY | N.V. | A.B. |
|------------|-----|-----|------|------|---------------|-----|-----|------|------|
| Dunn | X | | | | McClurg-Doldy | X | | | |
| Griffiths | X | | | | Ogren | S | | | |
| Heinzel | X | | | | Tucker | M | | | |

Council Member Tucker made a motion to approve Resolution 2012-2.7, second by Council Member Ogren. Mr. Ogren stated that the percentage increase for this agreement is eight percent. Mr. Griffiths asked if there was any forward progress with regard to county wide dispatch or regionalization of dispatch. Mr. Meytrott stated that the County is not even talking about providing county wide dispatch services. Mr. Meytrott stated that the Northern Mercer regionalization is still moving along. Upon a roll call vote, all members present voted in favor.

**Borough of Pennington
Resolution #2012 – 2.8**

RESOLUTION ADOPTING A CASH MANAGEMENT PLAN

WHEREAS, the State of New Jersey amended the State laws concerning investment of local government funds with the adoption of Chapter 148, P.L. 1997, and

WHEREAS, these new laws expand the responsibility of the Governing Body and the role of the Chief Financial Officer in cash management, and

WHEREAS, these new laws require the adoption of a Cash Management Plan, and

WHEREAS, the Chief Financial Officer has reviewed the new laws and drafted a Cash Management Plan to conform to those laws and to the current banking and investment practices of the Borough,

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Pennington, County of Mercer, State of New Jersey that the attached Cash Management Plan is hereby adopted, and

BE IT FURTHER RESOLVED, that the Chief Financial Officer is hereby directed to present this resolution and adopted Cash Management Plan to the State of New Jersey and to all designated depositories and asset managers in accordance with the requirements of the applicable State laws.

Record of Council Vote on Passage

| COUNCILMAN | AYE | NAY | N.V. | A.B. | COUNCILMAN | AYE | NAY | N.V. | A.B. |
|------------|-----|-----|------|------|---------------|-----|-----|------|------|
| Dunn | X | | | | McClurg-Doldy | X | | | |
| Griffiths | X | | | | Ogren | X | | | |
| Heinzel | M | | | | Tucker | S | | | |

Council Member Heinzl made a motion to approve Resolution 2012-2.8, second by Council Member Tucker with all members present voting in favor.

**BOROUGH OF PENNINGTON
Resolution #2012 -2.9**

RESOLUTION AUTHORIZING PROFESSIONAL SERVICES AGREEMENT WITH NEW JERSEY ANALYTICAL LABORATORIES FOR CALENDAR YEAR 2012

WHEREAS, the Borough of Pennington requires professional services for routine sampling, analysis and consulting services related to operation of the Borough’s potable water system;

WHEREAS, New Jersey Analytical Laboratories, having its office at 1590 Reed Road, Suite 102A, Pennington, NJ 08534, is a laboratory licensed by the New Jersey Department of Environmental Protection and is able to provide the professional services required;

WHEREAS, New Jersey Analytical Laboratories has submitted a proposal for the work dated January 23, 2012, for a contract price of \$ 21,300 to be invoiced at \$1,775 per month each month of the calendar year 2012;

WHEREAS, the work shall include all routine laboratory sampling and analysis as set forth in the proposal, a copy of which is attached;

WHEREAS, the aforesaid proposal also provides that if additional sampling and analysis services are required by the New Jersey Department of Environmental Protection (NJDEP) they shall be invoiced separately;

WHEREAS, approval of this contract complies with the Code of the Borough of Pennington as well as, N.J.S.A. 19:44A-20.5, effective January 1, 2006, which prohibit the award of certain professional services contracts to any person or business entity which makes reportable contributions to local political or candidate committees representing members of the governing body;

WHEREAS, such political contributions are permitted by the statute only if the municipality has elected to award the contract through a competitive process involving a publicly advertised request for proposals and a review process based on written procedures and criteria prescribed in advance by the governing body or as otherwise provided by law;

WHEREAS, Borough Council awards this contract without resort to such a process because the appointee has made no such political contribution and shall be prohibited from making any such contribution during the term of the contract;

WHEREAS, this contract is being awarded as a professional services contract in compliance with the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq., without advertising for proposals or competitive bidding;

WHEREAS, New Jersey Analytical Laboratories has completed and submitted a sworn Business Entity Disclosure Certification which certifies that the firm has not made and shall not make any political contribution prohibited by the relevant provisions of either statute or the Borough Code concerning pay-to-play;

WHEREAS, the Chief Financial Officer of the Borough has certified that funds are available for the purpose of this contract;

WHEREAS, the Local Public Contracts Law requires that a resolution authorizing an award of contract for professional services without competitive bid be publicly advertised following adoption;

NOW, THEREFORE, BE IT RESOLVED, by Borough Council of the Borough of Pennington, that the Mayor, with the attestation of the Borough Clerk, is hereby authorized to enter into a professional services agreement with New Jersey Analytical Laboratories for a contract price not to exceed \$21,300 for the calendar year 2012, for the services described in the annexed proposal dated January 23, 2012, subject to such amendments for supplemental services required by NJDEP as may hereafter be agreed upon;

BE IT FURTHER RESOLVED, that the form of the professional services agreement shall be approved by the Borough Attorney;

BE IT FURTHER RESOLVED, that a copy of this resolution shall be published in the Pennington Post as required by law within ten (10) days of its adoption.

Record of Council Vote on Passage

| COUNCILMAN | AYE | NAY | N.V. | A.B. | COUNCILMAN | AYE | NAY | N.V. | A.B. |
|------------|-----|-----|------|------|---------------|-----|-----|------|------|
| Dunn | X | | | | McClurg-Doldy | X | | | |
| Griffiths | X | | | | Ogren | M | | | |
| Heinzl | X | | | | Tucker | S | | | |

Council Member Ogren made a motion to approve Resolution 2012-2.9, second by Council Member Tucker with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2012 - 2.10**

**RESOLUTION AUTHORIZING SHARED SERVICES AGREEMENT AFFECTING USE,
MAINTENANCE AND CLEANING OF THE SENIOR CENTER**

WHEREAS, use of the Senior Center on Reading Street in the Borough of Pennington is shared by Hopewell Borough, Hopewell Township and Pennington Borough;

WHEREAS, responsibilities for maintenance of the Senior Center are also shared among the three municipalities;

WHEREAS, the three municipalities intend to enter into a shared services agreement for 2012, superseding prior agreements, by which Hopewell Township will continue to provide weekly cleaning services at the Center and pay to Pennington Borough the sum of \$4,326.40; Hopewell Borough will pay Pennington \$1,081.60 for the year; and Pennington will provide cleaning supplies for the building and be responsible for all maintenance to the outside of the building, snow and ice removal, HVAC maintenance, plumbing, painting and replacement of light bulbs;

WHEREAS, the proposed form of agreement is annexed to this Resolution;

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 annexed agreement on behalf of Pennington Borough.

Council Member Tucker made a motion to approve Resolution 2012-2.10, second by Council Member Heinzl. Mr. Wittkop asked what the rate increase is on this agreement. Mayor Persichilli stated that this agreement is not being increased over last year's amount. Mrs. Heinzl asked why this agreement is not being increased. Mayor Persichilli stated that he attempted to get an increase but both municipalities said no. After some discussion, Council Members agreed that this agreement should be increased at least two percent. Some discussion took place with regard to the agreement with Mercer County for use of the Senior Center for the nutrition program. Mayor Persichilli stated that he has reached out to the County and an increase is proposed for that agreement. Mayor Persichilli stated that he would go back to Hopewell Borough and Hopewell Township and propose a two percent increase.

Council agreed to hold this resolution for future action.

**Borough of Pennington
Resolution #2012 – 2.11**

**RESOLUTION AUTHORIZING PAYMENT REQUEST NO. 4 (FINAL) TO
MECO, INC. FOR WORK COMPLETED ON THE LOWER KING GEORGE ROAD
RECONSTRUCTION PROJECT**

WHEREAS, Meco, Inc. has completed work pursuant to the contract for the Lower King George Road Reconstruction Project (Roberts Engineering Group, LLC. Project No. PEN3701); and

WHEREAS, Roberts Engineering Group, LLC has reviewed the application and recommends payment for completed work pursuant to the Contractor's Request for Payment No. 4 in the amount of \$5,749.58 representing final payment including all retainage; and

WHEREAS, this is a final payment under the contract; and

WHEREAS, funds are available in Account #: G-02-44-940-000-250;

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that payment to Meco, Inc. in the amount of \$5,749.58 pursuant to payment request No.4 is hereby authorized.

Record of Council Vote on Passage

| COUNCILMAN | AYE | NAY | N.V. | A.B. | COUNCILMAN | AYE | NAY | N.V. | A.B. |
|------------|-----|-----|------|------|---------------|-----|-----|------|------|
| Dunn | X | | | | McClurg-Doldy | X | | | |
| Griffiths | S | | | | Ogren | M | | | |
| Heinzl | X | | | | Tucker | X | | | |

Council Member Ogren made a motion to approve Resolution 2012-11, second by Council Member Griffiths with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2012-2.12**

RESOLUTION REPEALING RESOLUTION 2012-1.12

WHEREAS, Borough Council of the Borough of Pennington mistakenly adopted Resolution 2012-1.12 re-appointing Harry Compton to serve as representative to the Stonybrook Sewerage Authority when he presently serves as representative for a term which will not expire until December 31, 2013;

WHEREAS, Borough Council is grateful for Mr. Compton’s continued service and apologizes for any confusion caused;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that Resolution 2012-1.12 is hereby repealed.

Record of Council Vote on Passage

| COUNCILMAN | AYE | NAY | N.V. | A.B. | COUNCILMAN | AYE | NAY | N.V. | A.B. |
|------------|-----|-----|------|------|---------------|-----|-----|------|------|
| Dunn | X | | | | McClurg-Doldy | X | | | |
| Griffith | X | | | | Ogren | X | | | |
| Heinzel | S | | | | Tucker | M | | | |

Council Member Tucker made a motion to approve Resolution 2012-2.12, second by Council Member Heinzel with all members present voting in favor.

Council Discussion

Borough Administrator – Mayor Persichilli stated that he has been doing the work of the Borough Administrator for the past year and one-half. Mayor Persichilli stated that it is not that he does not enjoy the work and want to save the Borough some dollars, but he has a very big concern regarding the continuity of everything that is going on. Mayor Persichilli stated that he thinks it is important to have someone familiar with finance, grants, and all of the other items that come into the office. Mayor Persichilli stated that if he were younger he would want to take on the position especially given the employees in the office who do a great job. Mayor Persichilli stated that when you spend everyday at the office it is amazing to see the amount of work that comes through the office. Mayor Persichilli stated that he thinks it is important to bring someone in on a part-time basis. Mayor Persichilli stated that he asked the personnel committee to discuss this and present a plan of action and Council has a summary from the personnel committee in their packages. Mayor Persichilli asked Council Members for their opinion on whether or not to go forward with this idea.

Mr. Griffiths stated that in principle he thinks this would be a good idea however he has concerns about where the money would come from as it is not in the budget. Mr. Griffiths stated that filling this position could generate returns on investments through accelerating grant reimbursements or working on sale of the landfill and other Borough properties that would generate income for the Borough.

Mr. Griffiths stated that when he first started on Council he realized that the Borough would benefit from a long term professional manager who could focus on the many details involved with running the day to day operations of the Borough more efficiently. Mayor Persichilli stated that having an involved Council is great, but when someone goes off Council that knowledge is also gone.

Mr. Ogren stated that the critical question is money and he did not think Council could make a decision at this time. Mr. Griffiths stated that the finance committee will be having a couple more meetings on the budget to arrive at a final figure and this will be a discussion item. Mr. Griffiths stated that there is only one place to find the money and that would be through taxes. Mayor Persichilli stated that if there is general agreement he would like to move forward with advertising for the position. Mr. Griffiths stated that at the next finance meeting the committee will discuss allocating funds for the position and evaluate the tax impact.

Affordable Housing – Mr. Ogren stated that recently Borough Planner Cindy Coppola brought it to the attention of the Borough that there is a possibility that the State would be taking over any funds collected that are not spent or committed by July 17th, 2012. Mr. Ogren stated that the Borough is especially vulnerable because no funds have been spent on actual affordable units. Mr. Ogren stated that with that in mind the Planning Board discussed this and came up with a proposal. Mr. Ogren stated that right now the Borough has a fair share obligation of thirty two housing units and how the money gets spent for those units is in the Borough’s Spending Plan. Mr. Ogren stated that the best chance of spending any of these funds is to try to work something out for the Capital Health site. Mr. Ogren stated that he was told by a staff member at the Department of Community Affairs that if the Borough has a contract with Capital Health to acquire part of the site that the funds the Borough has collected would be safe. Mr. Ogren stated that the Affordable Housing Plan proposes twelve units on that site either rental or single family or a group home. Mr. Ogren stated that he thought what might make sense would be to ask Capital Health to donate three acres of the thirteen acre site to accommodate the twelve units. Mr. Ogren stated that the incentive for Capital Health would be that they would be relieved of the obligation to provide eight units of affordable housing. Mr. Ogren stated that he has talked to their Vice President of Planning and Development and he is open to the idea and he is waiting to hear how this discussion goes before discussing with his organization. Mr. Ogren stated that if the Borough wants to proceed with this idea, we would need to send a letter to the State requesting an amendment to the Spending Plan.

Mr. Griffiths stated that if this goes through and we deplete the Housing Trust Fund, who would build the units. Mr. Ogren stated that the Borough would do an RFP for a private developer. Mr. Griffiths asked what would happen if the State takes the money in July, what would happen to our obligation. Mr. Ogren stated that the Zoning Ordinance mandates construction of eight affordable units on the Capital Health site. Mr. Ogren stated that the Borough offered an accessory apartment plan and no one was interested. Mr. Ogren stated that in the plan 10 units are required.

Mrs. Heinzl stated that there are steps involved in this process and one of those steps is that the DCA has to approve the Borough's Housing Plan and Spending Plan which they have not done yet. Mrs. Heinzl stated that the Borough could enter into a contract with this great idea, but the DCA still has not approved our spending plan and they may not approve the plan. Mrs. Heinzl stated that she thinks this is a great proposal but does it make sense to go forward when the spending plan has not even been approved.

Mayor Persichilli stated that there are other issues such as water and sewer involved, but if an agreement is reached the money already collected would remain with the Borough. Council discussed how to proceed with this idea. Mr. Ogren stated that this plan would save the funds that have already been collected, however if Council does not want to proceed then the funds will go to the State in July. Council Members were in favor of continuing discussions with Capital Health as long as they understand that there are a lot of variables.

Professional Reports

There were no comments from the professionals. Mr. Bliss requested a closed session. Mr. Bliss stated that one item that is not on the agenda for closed session is the Lafferty-Burke/Antebi situation. Mr. Bliss stated that he did send the Lafferty's a letter and he did not hear anything back until this evening. Mr. Bliss stated that he has not had a chance to review the letter but he would like Council to get copies so that it can be discussed at a later date.

Public Comment

Mayor Persichilli read the following statement for anyone interested in speaking before Council:

Please come forward and state your name and address for the record. Please limit comments to the Governing Body to a maximum of three (3) minutes.

There were no comments from the public.

Closed Session

AT, 8:55 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:

Litigation - Presbyterian Homes
 Litigation – McNulty Tax Appeal
 Litigation – John Garcia Construction

AT, 9:07 PM, Mayor and Council returned to open session.

At 9:07 PM, Council Member Griffiths made a motion to adjourn the meeting, second by Council Member Tucker.

Respectfully submitted,

Elizabeth Sterling
 Borough Clerk