

**Pennington Borough Council
Regular Meeting – February 23, 2012**

Mayor Persichilli called the Special Meeting of the Borough Council to order at 5:02 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, Chief Financial Officer, Sandra Webb 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.

Ordinances for Public Hearing and Adoption

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 Heinzl made a motion to open the Public Hearing on Ordinance 2012-3, second by Council Member Tucker. There were no comments from the public. Council Member Ogren made a motion to close the Public Hearing on Ordinance 2012-3, second by Council Member Tucker with all members present voting in favor. Council Member McClurg-Doldy made a motion to adopt Ordinance 2012-3, second by Council Member Tucker with all members present voting in favor.

New Business

**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 THE YEAR 2012

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 year 2012 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 one year beginning January 1, 2012, subject to annual renewal 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 \$12,720.00;

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.

Record of Council Vote on Passage

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

Council Member McClurg-Doldy made a motion to approve Resolution 2012-2.4, 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 \$4,412.80; Hopewell Borough will pay Pennington \$1,103.20 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.

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	X				Tucker	M			

Council Member Tucker made a motion to approve Resolution 2012-2.10, second by Council Member McClurg-Doldy with all members present voting in favor.

Council Discussion

School Election – Mayor Persichilli stated that he received notification that the School Board voted to continue to have the School Board Election in April and not move the election to November. Mayor Persichilli stated that he met with Council Member Dunn and discussed the pros and cons associated with moving the election to November. Mayor Persichilli stated that there would be a savings of around \$25,000 in election costs if the election were moved to November. Mayor Persichilli stated that a discussion was held at the School Board meeting and one of the concerns was that the election would become political. Mrs. Dunn stated that the issue that she had with moving the election to November was that the residents are not allowed to vote on the budget and an increase of up to two percent is allowed. Mrs. Dunn stated that is about \$1.3 million. Mrs. Dunn stated that if the two percent is given each year than subsequent increases are even higher. Mrs. Dunn stated that the only way the voters would have a voice would be if the increase proposed was more than the allowable two percent. Mrs. Dunn stated that she likes the aspect of saving money and getting more people out to vote, however two percent is a lot of money for residents not to have any say.

Mayor Persichilli stated that for this year it does not matter because the deadline has passed, but he would like Council Members to think about next year.

Budget Presentation – Mayor Persichilli thanked everyone who worked to get the budget to where it is today. Chief Financial Officer Sandy Webb came forward and presented a power point presentation. Mrs. Webb stated that she was hoping that the Finance Committee would have been able to meet one last time prior to this presentation, but that did not work out so this presentation will be very general because input from the committee is still needed. Mrs. Webb stated that the budget that we are working with is roughly \$35,000 more than it was at adoption last year. Mrs. Webb stated that we are using less surplus than in 2011 and there is no reduction in State Aid. Mrs. Webb stated that the budget has to stay within the tax levy and also the spending cap imposed by the State. Mrs. Webb stated that there are a couple departments that increased and a couple that decreased but there is nothing major. Mrs. Webb stated that as in the past the revenues are anticipated at the max of what was collected in the prior year and that is a little dangerous. Mrs. Webb stated that in terms of surplus in 2010 the surplus was \$556,000 and we used in the 2011 budget \$320,000 of that, roughly 58% of what was available. Mrs. Webb stated that in 2011 the surplus was \$235,000 and we are using \$176,000 which is 75% of what we have available. Mrs. Webb stated that the gap in the surplus is caused by a couple of big grants where reimbursements have been slow coming in. Mrs. Webb stated that the DOT process is slow and one of the grants involved federal inspections that have held up some of the reimbursements. Mrs. Webb stated that as a result the current fund had to loan money to the grant fund to be able to continue to pay contractors for completed work. Mrs. Webb stated that number was

about \$310,000 and had that amount been repaid by the grant fund the surplus would have been that much higher and this would be an entirely different budget discussion. Mrs. Webb explained that the \$310,000 is an accounts receivable and has a direct impact on surplus. Mrs. Webb stressed the importance of collecting on outstanding grants as timely as possible. Mrs. Webb stated that we have already collected \$73,000 in January towards one of the grants. Mrs. Webb stated that the Borough Engineer is working with the finance department and we are hoping that by the end of this year the surplus will be back to where we know that it should be.

Mrs. Webb stated that the tax cap that is allowed is 2% and that is misleading because there are add-ons allowed by the State; for instance significant increases in health benefits or debt service. Mrs. Webb stated that the budget before Council has a tax increase of 2 cents or 4.6% over last year. Mrs. Webb explained that one of the things the State allows municipalities to do is to bank its levy for up to three years. Mrs. Webb stated that the Borough has not increased taxes in three years so we have a lot of levy that is banked that we can use and still be within the confines and the restrictions of the state law.

Mrs. Webb stated that the spending cap which is at 2.5% is another factor. Mrs. Webb stated that Council will have an ordinance before them at the time of introduction of the budget to allow the Borough to go up to the 3.5% which is allowed by law. Mrs. Webb stated that we don't want to go up to the 3.5% but it acts as a safety net for the Borough.

Mrs. Webb stated that one of the things that the finance committee has discussed is looking at all the fees that are charged and increase fees that have not been increased in a while. Mrs. Webb stated that she has looked at some other town's fees and the Borough is very low on some of its fees, such as construction fees. Mrs. Webb stated that she and Betty are going to look at the fees and see if there are any that can be reasonably increased.

Mrs. Webb stated that the Borough also had two emergencies in 2011, one for LOSAP for \$800.00 and one for a chipper purchase of \$45,000 and when Council authorizes an emergency it allows you to spend the money in the current year, but then you have to raise the money in the subsequent budget.

Mrs. Webb stated that because of the \$310,000 interfund, the results of operations reflected a cash deficit of \$99,000 and that is huge for a town the size of Pennington. Mrs. Webb stated that this also has to be raised in this budget.

Mrs. Webb stated that the Borough has been aggressive in trying not to raise taxes in light of where the economy is and in trying to do what is right for the taxpayers, but the local rate has not been increased in three years. Mrs. Webb stated that as of today the State Aid figures are the same as last year, but as the State goes through its budget process if that amount decreases it will affect this budget.

Mrs. Webb stated that Pennington also has a water/sewer budget and at the end of 2011 there was a deficit in revenues of \$22,000. Mrs. Webb stated that this is strictly a shortage in revenues and there was an operating surplus at the end of the year, but not regenerating \$22,000 of surplus in the water/sewer budget is a lot to recoup in one year. Mrs. Webb stated that this budget reflects a small decrease of \$3,000 and the finance committee is going to discuss a rate increase for 2012.

Mrs. Webb asked Mr. Griffiths if he wanted to comment on budget goals. Mrs. Webb stated that it is important that the budget get introduced at the March meeting to meet one of the requirements of the Governor's tool kit. Mrs. Webb stated that she appeared before Council last year regarding the tool kit and it is important to answer as many of the questions with yes responses to avoid any reductions in State Aid. Mrs. Webb stated that two of the questions involve introduction and adoption of the budget and the finance committee's goal is to have a budget for introduction before Council at the March meeting with adoption following in April if all goes as expected.

Mr. Griffiths thanked Sandy and Betty for their hard work in getting us this far. Mr. Griffiths stated that this is a preliminary budget and the finance committee will be meeting to discuss each line item and make a decision as a committee as to what a manageable increase in expenditures would be and try to minimize the increase in tax revenue. Mr. Griffiths stated that 4.6% is a worst case scenario, but in order to bring that number down spending requests would have to be denied. Mr. Griffiths stated that the overall picture reinforces that the Borough is in a sustaining mode and not in a mode to grow expenses. Mr. Griffiths stated that we really have to maintain a very conservative attitude for the next couple of years until some debt relief can be realized. Mr. Griffiths stated that at that time deferred capital expenses including vehicles and equipment will need to be addressed. Mr. Griffiths stated that it is important to realize that capital debt is part of maintaining the budget. Mr. Griffiths stated that in the meantime, we should be very prudent with regard to expenditures. Mr. Griffiths stated that the ability to raise revenue in this Borough is very limited.

Mr. Griffiths stated that sometime in the next week the finance committee will meet to look closely at the numbers.

Mayor Persichilli stated that on the proposed budget, nothing has been allocated for salaries for a borough administrator. Mrs. Webb stated that will be a discussion item with the finance committee.

Mrs. Dunn stated that she was concerned with the decrease in engineering from \$100,000 to \$50,000. Mrs. Webb stated that we received a proposal from Roberts Engineering for \$37,000 and since that time she has read in the minutes some things that might affect engineering for this year and these are items that the finance committee needs to discuss. Mrs. Webb stated that Borough Council needs to decide what projects have to

be done in 2012 and what projects if any can be deferred to next year. Mr. Ogren stated that he saw the list and the Downtown Streetscape project was not included. Mr. Ogren stated that the design costs would have to be charged to the engineering budget. Mr. Ogren did not have the amount but indicated it was substantial.

Mayor Persichilli stated that with regard to the grant projects the question becomes if it is going to cost the Borough money is it a necessary expense. Mayor Persichilli stated that Council has to have a discussion as to what projects are important and what projects are not.

Council discussed the budget process and agreed that a budget workshop is needed so that all Council Members understand the budget and questions can be addressed.

Ms. Heinzl stated that Council needs to have a better understanding of costs associated with grants as the applications are presented for approval.

Mr. Griffiths stated that for the last two years the Borough has been fortunate in that two years ago we had the benefit of debt restructuring which was a deliberate act intending to reduce principal payments and bought some time. Mr. Griffiths stated that last year we had the totally unanticipated windfall of delinquent taxes that got us about \$100,000 that was unexpected. Mr. Griffiths stated that this problem has been present for at least the past two years but we have gotten lucky to be able to move forward. Mr. Griffiths stated that Council does have to look very carefully at cash flow impact of grants and expenses involved. Mr. Griffiths stated that he agrees that it is not the role of the finance committee to present Council with a budget with no input from Council. Mr. Griffiths stated that the role of the finance committee is to identify expenses beyond our control, and then of the remaining expenses Council should have the opportunity to discuss what goes in and what doesn't. Mr. Griffiths stated that Council needs to be aware of items that affect different departments and have a say in decisions that are made.

Mayor Persichilli stated that he wants to be able to understand the budget so that he can address resident concerns and questions. Mayor Persichilli asked that the finance committee meet and then come before Council with items that need to be discussed.

Mrs. Dunn suggested that the grant process be more streamlined so that Council is aware of costs up front when a grant is applied for. Council agreed that a process is needed. Mayor Persichilli stated that having a process would make it easier for Sandy and Betty who end up having to answer the same questions over and over from individual Council Members.

Council discussed scheduling a budget meeting, given that the budget has to be introduced at the March meeting and there is only one more week. Mrs. Webb stated that she did not think it was unreasonable given the time frame to introduce this budget with the expectation that the finance committee will be meeting to look at various items. Mr. Ogren asked if that meant the budget workshop would be held after the budget is introduced and could the budget be changed once it was introduced. Mrs. Webb stated that the budget can be amended at the April meeting prior to adoption. Mrs. Webb briefly explained the amendment process.

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, 5:44 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

AT, 5:55 PM, Mayor and Council returned to open session.

At 5:55 PM, Council Member Tucker made a motion to adjourn the meeting, second by Council Member Dunn.

Respectfully submitted,

Elizabeth Sterling
Borough Clerk