

**Pennington Borough Council
Regular Meeting – March 5, 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, Heinzl, Ogren, and Tucker in attendance. Council Members Griffiths and McClurg-Doldy were absent.

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.

Mayor's Business

Mayor Persichilli stated that Council Members received a copy of a letter from Construction Official, John Hall stating that Pennington Borough has been good to him over the years and he would like to give something back to say thank you. Mayor Persichilli stated that Mr. Hall has decided not to charge the Borough for sidewalk inspections that he did in the year 2011 amounting to \$2,400.00. Mayor Persichilli stated that this was not solicited and that Mr. Hall came to him one day last week and said that he enjoys working for the Borough and he knows that money is tight so he would like to do this to help out the budget.

Mayor Persichilli invited Lisa Sarachman of 21 East Curlis Avenue and Andy Parsons of 421 Federal City Road to come forward to update Council on the plans for Pennington Day. Mrs. Sarachman stated that she has experience in marketing and Mr. Parsons has experience as a graphics designer and they have been looking at previous Pennington Day events. Mrs. Sarachman stated that this will be the 32nd Pennington Day and she and Mr. Parsons feel that a new identity is needed and they are also working to expand the reach of Pennington Day to Princeton, Lambertville and Lawrenceville, which is a small extension of the community. Mrs. Sarachman stated that they are looking to increase media exposure to attract more vendors, collect more fees and have more money available for the grant program. Mrs. Sarachman stated that they have put together a marketing plan and Mr. Parsons has come up with some new graphics for Pennington Day. Mr. Parsons presented a new logo and ideas for promoting Pennington Day. Mr. Parsons stated that he has been in contact with Borough officials to discuss the logistics of getting everything ready to go for Pennington Day. Mr. Parsons stated that they are working on getting sponsorships for specific items such as the t-shirts. Mr. Parsons stated that they are also seeking one major sponsor, such as Capital Health. Mrs. Sarachman stated that they have been reviewing the list of vendors from last year and there is a lot of duplication of vendors, but then there are several local vendors who did not participate, so they are hoping to have more diversification of vendors and not necessarily more vendors. Mr. Parsons stated that it may take a year or two to promote interest in Pennington Day, but they are hoping to promote quality and interest in the event. Mayor Persichilli stated that it sounds like Mrs. Sarachman and Mr. Parsons have a better handle on the event than at the last meeting. Mayor Persichilli thanked Mrs. Sarachman and Mr. Parsons for coming back and updating Council.

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.

Committee Reports

Planning & Zoning / Environmental Commission / Library – Mrs. Heinzl reported that the Library has hired a new part time director to work 35 hours per week. Mrs. Heinzl stated that the new director has a Masters in Library and Information Sciences and she will be relocating to this area from Maryland. Mrs. Heinzl stated that the start date will be March 19th. Mrs. Heinzl stated that the new director will be presented with the strategic plan which is in the final stages of completion. Mrs. Heinzl stated that the Library Board would like to thank Jim Davy who took this project on a volunteer basis and he has done a spectacular job. Mrs. Heinzl stated that the plan will be presented to the Board in March. Mrs. Heinzl stated that the Treasurer, Joe Bielamowicz reported that he reviewed the audit and there were no comments. Mrs. Heinzl stated that there was one internal control issue with respect to purchase orders and they will address that issue with the new director.

Mrs. Heinzl stated that the Planning Board met on February 8th and heard one application for 132 Voorhees for a variance on a corner lot for a front yard setback to accommodate an addition on the rear of their house. Mrs. Heinzl stated that the variance was approved. Mrs. Heinzl stated that the Planning Board also

discussed the proposed spending plan with respect to the Housing Trust Fund. Mrs. Heinzel stated that Mr. Ogren presented a proposal to the Board and the Board approved the concept of changing the Spending Plan to reflect the proposal. Mrs. Heinzel stated that the Planning Board reviewed the proposed Zoning Ordinance Amendment modifying the fence requirements on corner lots. Mrs. Heinzel stated that the Planning Board found that the ordinance was consistent with the Master Plan and that the ordinance be adopted.

Mrs. Heinzel stated that the Environmental Commission did meet this month, however they did not have a quorum and she was unable to attend.

Public Works – Mr. Ogren stated that the Public Works Committee met in February to discuss various items. Mr. Ogren stated that the advertisement for bids for Sked Street will be going out soon. Mr. Ogren stated that they reviewed the cost estimates and they are hoping that the bids will come in low so that the construction phase engineering can also be charged to the grant. Mr. Ogren stated that the committee is looking at the possibility of constructing material storage bins at the new Public Works facility so that eventually materials that are currently stored at the landfill site can be moved to the new site.

Mr. Ogren stated that the public works report for February is included in the agenda packages.

PENNINGTON BOROUGH PUBLIC WORKS

TO: Tom Ogren, Chairman
Public Works Committee

FROM: Jeff Wittkop, Superintendent

DATE: March 1, 2012

RE: COUNCIL REPORT FOR THE MONTH OF FEBRUARY 2012

WATER

Water pumped for the month of February 2012:	6,048,000
Daily-	208,500
Water pumped for the month of February 2011:	6,345,000
Daily-	226,600

For the month of February 2012 we averaged 18,000 gallons less per day than February 2011.

TRASH

52.25 tons of household trash for the month of February 2012 vs. 51.94 tons in February 2011.

There will be a free rabies clinic for dogs and cats on Saturday, April 14th at the Pennington Borough Public Works Garage. Dogs will be vaccinated 9:00 a.m. – 10:00 a.m. and cats from 10:00 a.m. – 11:00 a.m. The clinic is not limited to Pennington Borough residents.

Leaves should now be bagged and placed at the curb. The bags should be left open and free of any debris such as sticks, branches or other debris.

Personnel/Shade Tree – Mr. Ogren stated that neither the Shade Tree Commission or the Personnel Committee met last month so he had no report.

Public Safety – Mr. Tucker stated that the 2012 Budget is currently being finalized; the proposed budget includes one new Police Officer and one new vehicle. Mr. Tucker stated that the hiring process is continuing and sixty resumes have been received and that has been narrowed down to around ten applicants. Mr. Tucker stated that background investigations are being done and it is anticipated that a new officer could start sometime in May.

Mr. Tucker reported that Mr. Meytrott has had several discussions with Mr. Andy Parsons, Co-Chair of this years Pennington Day. Mr. Tucker stated that basically the format will remain the same as in the past two years. Mr. Tucker stated that there will be no planned rain date. Mr. Tucker stated that police coverage will be provided under the paid detail program. Mr. Tucker stated that the event will be centered on the area of South Main Street and Curlis Avenue and the Tollgate School area. Mr. Tucker stated that Mr. Parsons has advised that this year there will be no Friday night dance at the Senior Center.

Mr. Tucker stated that there is a new statewide ban on all types of synthetic marijuana most commonly known as K2 or Spice. Mr. Tucker stated that these chemicals have been added to the list of schedule one controlled dangerous substances in New Jersey. Mr. Tucker stated that packages of these previously legal drugs have been sold at many gas stations and convenience stores. Mr. Tucker stated that on February 29th, 2012 the Attorney General announced that individuals who voluntarily surrender these designated drugs to law enforcement by March 9th, 2012 will not face criminal prosecution.

Mr. Tucker reported the following statistics:

2	Criminal Mischief
139	Motor Vehicle Stops
64	Warnings
3	Juvenile Male Arrests
23	Emergency Calls
41	Community Policing
1	Animal Violation

Finance – Mr. Griffiths was absent.

Parks & Recreation/Economic Development – Mrs. McClurg-Doldy was absent.

Ordinances for Introduction

Mayor Persichilli read Ordinance 2012-4 by title.

**BOROUGH OF PENNINGTON
ORDINANCE # 2012-4**

AN ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK IN ACCORDANCE WITH N.J.S.A. 40A: 4-45.14 IN THE BOROUGH OF PENNINGTON, NEW JERSEY

WHEREAS, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 2.5% unless authorized by ordinance to increase it to 3.5% over the previous year’s final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the Mayor and Council of the Borough of Pennington, Mercer County hereby determines that it is advisable and necessary to increase its CY 2012 budget by up to 3.5% over the previous year’s final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

NOW THEREFORE BE IT ORDAINED, by the Mayor and Council of the Borough of Pennington, in the County of Mercer, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2012 budget year, the final appropriations of the Borough of Pennington shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5 %, amounting to \$21,645.53 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, and that the CY 2012 municipal budget for the Borough of Pennington be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that the Mayor and Council of the Borough of Pennington hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

BE IT FURTHER ORDAINED, that any that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon be filed with said Director within 5 days after such adoption.

Council Member Tucker made a motion to introduce Ordinance 2012-4, second by Council Member Dunn with all members present voting in favor.

Mayor Persichilli read Ordinance 2012-5 by title.

**BOROUGH OF PENNINGTON
County of Mercer
Ordinance No. 2012-5**

AN ORDINANCE INCREASING RATES CHARGED BY THE PENNINGTON BOROUGH WATER AND SEWER UTILITY, AND AMENDING THE CODE OF THE BOROUGH OF PENNINGTON

WHEREAS, the Pennington Borough Water and Sewer Utility continues to incur increased costs;

WHEREAS, Borough Council of the Borough of Pennington has determined that as a result of these increased costs the rates charged by the Utility for water and sewer services must be increased and the rates must be further differentiated for customers based on amount of usage;

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

1. Section 206-1 of the Code of the Borough of Pennington, pertaining to base and usage charges, is hereby amended as follows (with deletions bracketed and new language underlined):

§ 206-1. Base and usage charges.

A. There are hereby established the following quarterly charges for water customers:

Usage Meter Size (inches)	Base Charge	First Excess Usage Block Charge	Second Excess Usage Block Charge	Third Excess Usage Block Charge	Fourth Excess Usage Block Charge
	4,000 Gallons or Less	4,001-20,000 Gallons (per 1,000 gallons)	20,001-60,000 Gallons (per 1,000 gallons)	60,001-200,000 Gallons (per 1,000 gallons)	More than 200,000 Gallons (per 1,000 gallons)
Less than 1	\$[27.13] <u>27.40</u>	\$[6.34] <u>6.47</u>	\$[6.55] <u>6.75</u>	\$[6.78] <u>7.19</u>	\$[7.55] <u>8.15</u>
1	\$[41.42] <u>41.83</u>	\$[6.34] <u>6.47</u>	\$[6.55] <u>6.75</u>	\$[6.78] <u>7.19</u>	\$[7.55] <u>8.15</u>
2	\$[117.71] <u>118.89</u>	\$[6.34] <u>6.47</u>	\$[6.55] <u>6.75</u>	\$[6.78] <u>7.19</u>	\$[7.55] <u>8.15</u>
3	\$[264.05] <u>266.69</u>	\$[6.34] <u>6.47</u>	\$[6.55] <u>6.75</u>	\$[6.78] <u>7.19</u>	\$[7.55] <u>8.15</u>
4	\$[388.04] <u>391.92</u>	\$[6.34] <u>6.47</u>	\$[6.55] <u>6.75</u>	\$[6.78] <u>7.19</u>	\$[7.55] <u>8.15</u>
6	\$[725.08] <u>732.33</u>	\$[6.34] <u>6.47</u>	\$[6.55] <u>6.75</u>	\$[6.78] <u>7.19</u>	\$[7.55] <u>8.15</u>

NOTE: Usage charges are per one-thousand-gallon increments, or portion thereof.

B. There are hereby established the following quarterly charges for sewer customers:

Usage Meter Size (inches)	Base Charge	First Excess Usage Block Charge	Second Excess Usage Block Charge	Third Excess Usage Block Charge	Fourth Excess Usage Block Charge
	4,000 Gallons or Less	4,001-20,000 Gallons (per 1,000 gallons)	20,001-60,000 Gallons (per 1,000 gallons)	60,001-200,000 Gallons (per 1,000 gallons)	More than 200,000 Gallons (per 1,000 gallons)
All sizes	\$[29.83] <u>30.13</u> per 1,000 gallons	\$[6.75] <u>6.89</u> per 1,000 gallons	\$[6.87] <u>7.08</u> per 1,000 gallons	\$[6.99] <u>7.41</u> per 1,000 gallons	\$[7.19] <u>7.77</u> per 1,000 gallons

NOTE: Usage charges are per one-thousand-gallon increments, or portion thereof.

C. The minimum quarterly base charge for multiunit residential or multiunit commercial or a combination thereof serviced through a single water meter shall be determined by the product of the number of units by the minimum quarterly base charge of a one-inch meter, regardless of the size of the meter(s) that feeds the units.

D. Sewage or other wastes containing unduly high concentrations of other substances which add to the operating costs of the sewage treatment works will be subject to a surcharge to be determined by the borough on the basis of the character and volume for such sewage and wastes. Where, in the opinion of the borough, sewage and other wastes of a deleterious character adversely affect the treatment processes, the borough reserves the right to require that such sewage and wastes be treated by the contributor to remove or neutralize the objectionable substances before discharge into the sewers.

E. Base and usage charges shall be due on March 1, June 1, September 1 and December 1.

F. Premises introducing water into a permanent private pool may be allowed a reduction in the charge of sewer usage in an amount equal to the volume of water introduced into the pool. This will require the installation and rental of a temporary meter in conformance with the Borough Code.

2. This ordinance shall take effect upon its passage and publication as provided by law.

Council Member Tucker made a motion to introduce Ordinance 2012-5, second by Council Member Heinzl. Mr. Ogren stated that he indicated at the last meeting that he was not sure that a rate increase was needed this year. Mr. Ogren stated that he has reviewed some numbers since then and he could support an increase in rates however he is uncomfortable with the range of percentage increases with the biggest increase of eight percent on high volume users. Mr. Ogren stated that the last two columns indicated a six and eight percent increase which is substantially higher than the lower tiers. Upon a roll call vote all members present voted in favor with the exception of Council Member Ogren who voted No.

Ordinances for Public Hearing and Adoption

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 Heinzl made a motion to open the Public Hearing on Ordinance 2012-1, second by Council Member Tucker. There were no comments from the public. Council Member Heinzl made a motion to close the Public Hearing on Ordinance 2012-1, second by Council Member Ogren with all members present voting in favor. Council Member Ogren made a motion to adopt Ordinance 2012-1, second by Council Member Tucker 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 no less than 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 Dunn made a motion to open the Public Hearing, second by Council Member Heinzl. There were no comments from the public. Mr. Bliss stated that the Planning Board indicated a change to the

ordinance to section 2. F. (1) on line 4 "...back no less than" one-half the front yard setback distance required...in order to be consistent with language in the ordinance. Mr. Bliss stated that there were also a couple of typographical corrections. Mr. Bliss stated that this would not be a substantial change to the ordinance and Council could proceed with action on the ordinance. Council Member Dunn made a motion to close the Public Hearing, second by Council Member Dunn with all members present voting in favor. Council Member Ogren made a motion to adopt Ordinance 2012-2, second by Council Member Tucker with all members present voting in favor.

New Business

**Borough of Pennington
Resolution #2012 – 3.2**

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 \$ 2,159,765.07 from the following accounts:

Current	\$ 1,985,867.99
W/S Operating	\$ 161,244.66
Grant Fund	\$ 5,749.58
Water/Sewer Capital	\$ 500.00
Animal Control Fund	\$ 525.00
COAH Trust	\$ 203.50
Developers' Escrow	\$ 5,674.34
TOTAL	\$ 2,159,765.07

Record of Council Vote on Passage

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

Council Member Dunn made a motion to approve Resolution 2012-3, second by Council Member Ogren. Council Members raised questions on specific bills on the bill list. Upon a roll call vote, all members present voted in favor.

**Borough of Pennington
Resolution #2012-3.3**

**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.

Tax Map Maintenance	Other Expense	\$ 3,000.00
Legal	Other Expense	\$ 5,000.00
Police	Salaries	\$ 40,000.00
Streets	Salaries	\$ 10,000.00
Streets	Other Expense	\$ 5,000.00
Library	Salaries	\$ 10,000.00
Library	Other Expense	\$ 10,000.00
Telephone	Other Expense	\$ 5,000.00
Gas, Fuel, Lubricants	Other Expense	\$ 7,000.00
Social Security	Other Expense	\$ 5,000.00
Public Defender	Other Expense	\$ 1,000.00
Total		\$ 101,000.00

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	\$ 40,000.00
Water	Salaries	\$ 10,000.00
Sewer	Salaries	\$ 10,000.00
Stonybrook Sewer Authority	Other Expense	\$146,109.00
Group Insurance	Other Expense	\$ 20,000.00
TOTAL		\$ 226,109.00

Record of Council Vote on Passage

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

Council Member Heinzel made a motion to approve Resolution 2012-3.3, second by Council Member Ogren with all members present voting in favor.

**Borough of Pennington
Resolution #2012 – 3.4**

**RESOLUTION AUTHORIZING A SELF-EXAMINATION OF THE
2012 MUNICIPAL BUDGET OF THE MAYOR AND COUNCIL OF
THE BOROUGH OF PENNINGTON**

WHEREAS, N.J.S.A. 40A:4-78b has authorized the Local Finance Board to adopt rules that permit municipalities in sound fiscal condition to assume the responsibility, normally granted to the Director of the Division of Local Government Services, of conducting the annual budget examination; and

WHEREAS, N.J.A.C. 5:30-7 was adopted by the Local Finance Board on February 11, 1997; and

WHEREAS, pursuant to N.J.A.C. 5:30-7-2 through 7-5, the Borough of Pennington has been declared eligible to participate in the program by the Division of Local Government Services, and the Chief Financial Officer has determined that the local government meets the necessary conditions to participate in the program for the 2012 budget year.

NOW THEREFORE BE IT RESOLVED, by the governing body of the Borough of Pennington that in accordance with N.J.A.C. 5:30-7.6a & 7.6b and based upon the Chief Financial Officer’s certification, the governing body has found the budget has met the following requirements:

1. That with reference to the following items, the amounts have been calculated pursuant to law and appropriated as such in the budget:
 - a. Payment of interest and debt redemption charges
 - b. Deferred charges and statutory expenditures
 - c. Cash deficit of preceding year
 - d. Reserve for uncollected taxes
 - e. Other reserves and non-disbursement items
 - f. Any inclusions of amounts required for school purposes
2. That the provisions relating to limitation on increases of appropriations pursuant to N.J.S.A. 40A:4-45.2 and appropriations for exceptions to limits on appropriations found at N.J.S.A. 40A:4-45.3 et seq., are fully met (complies with CAP law).
3. That the budget is in such form, arrangement and content as required by the Local Budget Law and N.J.A.C. 5:30-4 and 5:30-5.
4. That pursuant to the Local Budget Law:
 - a. All estimates of revenue are reasonable, accurate and correctly stated.
 - b. Items of appropriation are properly set forth
 - c. In itemization, form arrangement and content, the budget will permit the exercise of the comptroller function within the municipality.
5. The budget and associated amendments have been introduced and publicly advertised in accordance with the relevant provisions of the Local Budget Law, except that failure to meet the deadlines of N.J.S.A. 40A:4-5 shall not prevent such certification.
6. That all other applicable statutory requirements have been fulfilled.

BE IT FURTHER RESOLVED that a copy of this resolution will be forwarded to the Director of the Division of Local Government Services upon adoption.

Record of Council Vote on Passage

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

Council Member Dunn made a motion to approve Resolution 2012-3.4, second by Council Member Heinzel with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2012 - 3.5**

**RESOLUTION GRANTING CONDITIONAL AUTHORIZATION FOR DOS GRINGO’S
SOUTHWESTERN GRILL TO MAINTAIN A TEMPORARY OUTDOOR DINING AREA IN THE
PUBLIC RIGHT- OF- WAY IN 2012**

WHEREAS, Richard Wade is the co-owner of Dos Gringos Southwestern Grill, a restaurant located at 20 N. Main Street in the Borough of Pennington;

WHEREAS, Mr. Wade has applied to Borough Council for permission to place movable tables and chairs on the sidewalk immediately adjacent to the restaurant, in particular, 2 tables and 6 chairs on the Main Street side of the restaurant, as shown in the attached sketch;

WHEREAS, Borough Council finds that the availability of outdoor dining contributes to the vitality of the Town Center and is consistent with the pedestrian-friendly environment envisioned for this area;

WHEREAS, Borough Council determines that approval of the proposed outdoor dining area for Dos Gringos Southwestern Grill, on a temporary and conditional basis as set forth further below, is in the public interest;

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

1. Dos Gringo’s Southwestern Grill is hereby granted permission to locate up to 2 tables and 6 chairs on the sidewalk immediately adjacent to the restaurant provided the following conditions are met:

A. The tables and chairs shall be arranged as shown on the attached sketch with no more than 2 tables and 6 chairs on the Main Street side of the restaurant.

B. The outdoor dining area and affected sidewalk shall at all times be kept clean and free of litter and in compliance with all applicable health regulations.

C. The outdoor dining area shall not obstruct pedestrian circulation on the sidewalk.

D. Operation of the outdoor dining area shall comply with the Borough Noise Ordinance, as set forth in Chapter 133 of the Borough Code.

E. The outdoor dining area may be used only during the operating hours of the restaurant. When the restaurant is not open, all tables and chairs shall be removed from the sidewalk.

F. Richard Wade and Dos Gringo’s Southwestern Grill shall indemnify and hold harmless the Borough of Pennington and its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorney fees, arising out of the operation of the outdoor dining area approved by this resolution.

G. The outdoor dining area approved by this resolution shall not operate until Mr. Wade and Dos Gringo’s Southwestern Grill has filed with the Borough Clerk a current Certificate of Insurance which certifies that:

(1) the obligation to indemnify and hold harmless the Borough as provided above is insured by an insurance carrier authorized to do business in the State of New Jersey;

(2) the Borough of Pennington and its agents and employees are named as additional insureds under this insurance with respect to claims, damages, losses and expenses arising out of operation of the outdoor dining area; and

(3) the insurance in effect provides (a) at least \$1,000,000. of incurred liability coverage under each of the following types of coverage: general liability; premises liability; products and completed operations liability; personal and advertising injury liability; (b) property liability coverage in the amount of \$50,000.; (c) medical expense coverage in the amount of \$5,000.; (d) workers compensation coverage with the limits required by statute; and (e) employer’s liability coverage in the amount of \$500,000. per person/per occurrence.

(4) the Borough will be given 10 days’ written notice of any cancellation of this insurance.

H. The outdoor dining area complies with all applicable requirements of Section 215-94 of the Borough Code which regulates out door dining areas otherwise permitted by the Code.

2. The conditional authorization for outdoor dining granted by this resolution may be revoked by the Borough at any time, with or without notice to Mr. Wade or Dos Gringo’s Southwestern Grill. This conditional authorization also shall be subject to such additional or amended conditions as Borough Council may deem appropriate at any time.

3. This conditional authorization shall in any event expire on December 31, 2012.

Record of Council Vote on Passage

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

Council Member Tucker made a motion to approve Resolution 2012-3.5, second by Council Member Dunn. Mayor Persichilli stated that he sent letters to the three restaurants on Main Street that usually put tables out and we received only one response from Dos Gringos. Mayor Persichilli stated that no one is allowed to put out tables without Council approval so the soonest that Vito’s or Emily’s Café can put tables out would be after the April meeting. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2012 -3.6**

RESOLUTION TO UTILIZE A THREE YEAR AVERAGE TO CALCULATE THE RESERVE FOR UNCOLLECTED TAXES

WHEREAS, N.J.S.A. 40A:4-41 provides that the Governing Body may authorize to determine the reserve for uncollected taxes by using the average of the percentages of taxes levied that were received in cash by the last day of each of the three preceding fiscal years.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Pennington hereby directs the Chief Financial Officer to utilize the three year average of the Reserve for Uncollected Taxes for 2012.

Record of Council Vote on Passage

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

Council Member Heinzel made a motion to approve Resolution 2012-3.6, second by Council Member Dunn with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2012 - 3.7**

RESOLUTION AUTHORIZING GRANT AGREEMENT WITH THE STATE OF NEW JERSEY, DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR A GREEN ACRES GRANT

WHEREAS, the New Jersey Department of Environmental Protection, Green Acres Program (“State”), provides loans and/or grants to municipal and county governments and grants to nonprofit organizations for assistance in the acquisition and development of lands for outdoor recreation and conservation purposes; and

WHEREAS, the Borough of Pennington desires to further the public interest by obtaining a loan of \$400,000 and/or a grant of \$400,000 from the State to fund the following project: Pennington Greenbelt Planning Incentive (Project #: 1108-02-001);

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington that Anthony Persichilli or the successor to the office of Mayor is hereby authorized to:

- a. make application for such a loan and/or such a grant
- b. provide additional application information and furnish such documents as may be required
- c. act as the authorized correspondent of the above named applicant, and

WHEREAS, the state shall determine if the application is complete and in conformance with the scope and intent of the Green Acres Program, and notify the applicant of the amount of the funding award; and

WHEREAS, the applicant is willing to use the State’s funds in accordance with such rules, regulations and applicable statutes, and is willing to enter into an agreement with the State for the above named project;

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Pennington;

1. That the Mayor of the above named body or board is hereby authorized to execute an agreement and any amendment thereto with the State known as Pennington Greenbelt Planning Incentive (Project #: 1108-02-001); and
2. That the applicant has its matching share of the project, if a match is required, in the amount of \$ 400,000; and
3. That, in the event that State’s funds are less than the total project cost specified above, the applicant has the balance of funding necessary to complete the project; and
4. The applicant agrees to comply with all applicable federal, state, and local laws, rules and regulations in its performance of the project.
5. That this resolution shall take effect immediately.

Record of Council Vote on Passage

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

Council Member Ogren made a motion to approve Resolution 2012-3.7, second by Council Member Heinzel. Mr. Ogren explained that this is an amendment to an existing agreement that the Borough has had with Green Acres since 2003. Mr. Ogren stated that the Borough submitted an application to Green Acres about a year ago and this is the paperwork associated with that application. Mr. Ogren explained that this is money that is available to the Borough to purchase open space and as of right now we do not have a deal pending. Mr. Ogren stated that when and if a deal is made, this agreement would provide fifty percent of the funding for the acquisition. Mr. Ogren stated that Mercer County would provide thirty percent of the funding and the remaining twenty percent would come out of the Open Space Trust Fund. Mr. Ogren stated that the property that is being considered is the Curlis Lake property. Mr. Ogren stated that a subdivision was needed and the property owner has made an application to Hopewell Township. Mr. Ogren stated that the \$400,000 amount might be less depending on the purchase price of the property. Mrs. Dunn asked if the Borough would have to apply to the County for the thirty percent or is that a given. Mr. Ogren stated it is not a given and that the Borough would have to apply to the County for the money. Upon a roll call vote all members present voted in favor.

Mayor Persichilli stated that the next resolution 2012-3.8 is to introduce the budget for 2012. Council Members received copies of the budget document for review. Council Member Heinzel made a motion to introduce the budget for 2012, second by Council Member Tucker. Mayor Persichilli stated that Council will be holding a Special Meeting on March 12th, 2012 at 6:00 pm to review the budget with the finance committee. Mayor Persichilli stated at that time council members will have the opportunity to comment on prioritizing work that needs to be done and looking at available funds to decide what can and can’t be done. Mayor Persichilli stated that it is important to identify what needs to be done as opposed to what would be nice to do. Mayor Persichilli stated that the Borough has held municipal taxes for the past three years, but it looks like this year we will be looking at a tax increase. Mayor Persichilli stated that Glen Griffiths who is not here tonight is working on a presentation for Council and Chief Financial Officer; Sandy Webb will also be available on March 12th so that Council can get all of their questions answered. Mr. Ogren stated that he is confused as to the process of introducing the budget and then having the workshop. Mrs. Dunn stated that in order to comply with the tool kit, municipalities are required to introduce their budget at the March meeting. Mrs. Dunn stated that the finance committee is aware that there are some items that have been left out that may need to be added in after the budget meeting next week. Mr. Ogren stated that is fine as long as the budget can be amended prior to adoption. Mr. Ogren stated that a grant of \$266,760 was left off of the grant page. Mrs. Sterling stated that it will either be added on or Council will have a Chapter 159 resolution for the next meeting.

Council Discussion

DVRPC Grant – Mr. Ogren stated that council members received a copy of a letter in their packages indicating approval of a \$30,000 grant that was applied for in October 2011. Mr. Ogren stated that this grant is for a planning study for the landfill site. Mr. Ogren stated that the project is called the Route 31 Revitalization Project. Mr. Ogren stated that one of the things that the Borough committed to doing in the application was to appoint a project steering committee and the Mayor will be taking care of that in the next couple months. Mr. Ogren stated that he is seeking a member from the Planning Board, the Economic Development Commission and possibly the Environmental Commission, plus some other residents and business representatives. Mr. Ogren had copies of the application for Council Members if they were interested.

Recertification of Mercer County HOME Investment Partnerships Program Consortium – Mrs. Sterling stated that the Borough signed up for this program three years ago and it is up for renewal. Mrs. Sterling stated that there is a deadline of March 23rd and if Council would like to participate again perhaps we could do the resolution at the special meeting on March 12th. Mr. Ogren explained that this is a consortium of all of the municipalities in Mercer County. Mr. Ogren stated that municipalities do not receive any funds,

but if the municipality is participating then eligible homeowners within the municipality would be able to receive assistance under this program. Council agreed to participate.

Professional Reports

There were no comments from the professionals. Mr. Bliss requested a closed session.

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, 7:58 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, 8:32 PM, Mayor and Council returned to open session.

At 8:32 PM, Council Member Tucker made a motion to adjourn the meeting, second by Council Member Dunn.

Respectfully submitted,

Elizabeth Sterling
Borough Clerk