

**Pennington Borough Council
Regular Meeting – May 7, 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, McClurg-Doldy, Ogren, and Tucker in attendance. Council Member Griffiths was 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.

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.

Mayor's Business

Mayor Persichilli asked Mrs. Heinzl if she would introduce the new Library Director, Kim Ha. Mrs. Heinzl stated that she is very pleased to introduce Ms. Kim Ha, who will be serving as the new Library Director. Mrs. Heinzl stated that Ms. Ha started around March 20th and in a very short time she has made a great impression on everyone who has come into the library. Mrs. Heinzl stated that she is very excited about some of the things that are happening in the library and she is very confident that there will be a lot of success.

Ms. Ha came forward and stated that in the past couple of months that she has been here, she has come to realize what a vibrant, friendly community Pennington is. Ms. Ha stated that everyone has been very willing to lend a helping hand. Ms. Ha spoke briefly about the Busy Town event that was held last week. Ms. Ha stated that this event highlighted our community helpers who took their own time to come and greet several hundred Toll Gate kindergartners and Pennington Presbyterian Nursery School students throughout the day.

Ms. Ha stated that she hopes to continue on this path of community involvement. Ms. Ha stated that the library recently began work on the new Strategic Plan which focuses on three goals. Ms. Ha stated that first is to develop the library as a hub for community connections, second, to enhance the library as a place where people feel comfortable and lastly to serve patrons of all ages from children to teens to adults. Ms. Ha stated that to implement the Strategic Plan, the Library Board has formed three committees and has also invited members of the community to join. Ms. Ha stated that these committees meet for the first time this month.

Ms. Ha stated that looking forward to the end of spring and start of summer she is proud to report a number of new library initiatives all supporting the Strategic Plan. Ms. Ha stated that the Board recently approved new hours for the library and starting on May 21st, the Library will be open on Monday through Thursday from 10 to 8pm and Friday from 10 to 5pm and Saturday from 10 to 2. Ms. Ha stated that the library now offers e-books which can be accessed via the library website. Ms. Ha stated that the Summer Reading Program will be available for the seventh year of the Wednesday program. Ms. Ha stated that this summer the library also plans to kick off and explore the World Discover Yourself initiative which includes a four week international film series and discussion, a possible talk and signing from a local author, a reception kicking off a collection of international prime books and for the first time an adult summer reading program.

Ms. Ha stated that there are many more ideas and much more programming in the works and as always the library is open to ideas and support.

Mr. Chris Fossil was scheduled to come and speak on the 5K race, but he had to cancel at the last minute.

Appointments (with Council Approval)

Mayor Persichilli recommended the appointment of David Clingman as a member of the Parks and Recreation Commission for a three year term to December 31, 2014. Council Member Dunn made a motion to approve the appointment, second by Council Member Heinzl with all members present voting in favor.

Committee Reports

Planning & Zoning / Environmental Commission / Library – Mrs. Heinzl stated that she wanted to add to the Library report given by Ms. Ha that the library is getting ready for a volunteer reception on May 24th and everyone is invited to stop by.

Mrs. Heinzl stated that the Friends of the Pennington Library will have a booth at Pennington Day.

Mrs. Heinzl stated that the Environmental Commission did not meet, however they are still planning to have a booth at Pennington Day.

Mrs. Heinzl stated that the Planning Board did not meet in April.

Mrs. Heinzl reported that the Pennington Farmers Market is gearing up for a new season at Rosedale Mills. Mrs. Heinzl stated that a new group is being formed, The Friends of the Pennington Farmers Market and they will be doing some fundraising and community awareness to promote the farmers market. Mrs. Heinzl stated that the Farmer’s Market is scheduled to open June 6th.

Public Works – Mr. Ogren reported that the Public Works committee did not meet in April. Mr. Ogren gave the following report for Water and Trash:

PENNINGTON BOROUGH PUBLIC WORKS

TO: Tom Ogren, Chairman
Public Works Committee

FROM: Jeff Wittkop, Superintendent

DATE: May 3, 2012

RE: **COUNCIL REPORT FOR THE MONTH OF APRIL 2012**

WATER

Water pumped for the month of April 2012:	6,670,000
Daily-	222,300
Water pumped for the month of April 2011:	6,587,000
Daily-	219,000

For the month of April 2012 we averaged 3,300 gallons more per day than April 2011.

TRASH

68.40 tons of household trash for the month of April 2012 vs. 84.65 tons in April 2011.

Residents are reminded that it is a violation to include recyclables in the trash.

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.

Mulch is available at the Senior Center for Borough residents only.

Mr. Ogren stressed the importance of making sure that recyclables are not put out with the trash. Mr. Ogren stated that the Borough pays tipping fees on tonnage and we save money when recyclables are properly recycled.

Mayor Persichilli asked Mr. Wittkop if they are finding a lot of recyclables in the trash. Mr. Wittkop stated that it is not uncommon to find bottles and cans in resident’s trash.

Personnel/Shade Tree –Mr. Ogren reported that the Personnel Committee did meet this month to review resumes that were submitted in response to the Borough Administrator advertisement. Mr. Ogren stated that a total of thirteen resumes were received and the committee has decided to schedule some interviews next week. Mr. Ogren stated that following the interviews, the committee would then present two or three candidates to Borough Council for further consideration.

Mr. Ogren stated that the Shade Tree Commission met in April to finalize plans for Arbor Day and the annual Arbor Day ceremony was held on April 27th, 2012. Mr. Ogren stated that they also discussed planting three memorial trees this year, two to honor teachers which they are hoping to plant in front of the Administration Building and the other one to be planted at Kunkel Park.

Public Safety – Mr. Tucker stated that a joint communication system is still under discussion and there is general agreement among the participating municipalities to continue discussions. Mr. Tucker stated that representatives from Lawrence Township are still willing to host the communication system.

Mr. Tucker represented the Borough at various events throughout the month.

Mr. Tucker stated that Tollgate Security Officer Greg Harkins met with Director Meytrott several times and they are now in the process of scheduling a tabletop school security drill sometime in May.

Mr. Tucker stated that the 2012 police budget was approved by the Borough Council on April 16th. Mr. Tucker stated that one Chevrolet Impala, included in the budget, has now been ordered.

Mr. Tucker reported that the School Board Election was held on April 17th with no need for police assistance.

Mr. Tucker stated that the Public Safety Committee met on April 18th to discuss replacement of one police vehicle and replacement of one police officer. Mr. Tucker stated that interviews for the position should take place by the end of this month.

Mr. Tucker stated that on April 18th, Director Meytrott attended a meeting of the Hopewell Valley Municipal Alliance on underage drinking. Mr. Tucker stated that the meeting was prompted by an incident at the Pennington School and this is a very important issue to stay on top of.

Mr. Tucker reported the following statistics for the month of April:

1	Theft
1	Fraud
1	Controlled Substance
133	Motor Vehicle Stops
10	Parking Summonses
1	DUI Summons
120	Motor Vehicle Summonses Issued
10	Police Reports
7	Arrests

Mr. Tucker stated that he and Director Meytrott attended a meeting of the Pennington Business and Professional Association where a discussion took place regarding parking. Mr. Tucker stated that some merchants complain if tickets are issued and some complain that not enough tickets are issued. Mr. Tucker stated that our officers are doing the best job they can given the situation.

Finance – No finance report due to Mr. Griffith’s absence.

Parks & Recreation/Economic Development – Mrs. McClurg-Doldy stated that the annual Easter Egg Hunt was held and it went very well. Mrs. McClurg-Doldy stated that the commission is working on the Memorial Day Parade and the event schedule for the summer. Mrs. McClurg-Doldy stated that more members are needed so if anyone knows of someone that might be interested in becoming a member please let her know.

Mrs. McClurg-Doldy stated that the Economic Development Commission had an event planned for the spring, but that event will be postponed until the fall. Mrs. McClurg-Doldy stated that they are working on an e-mail list and they are also working on trying to get the various boards and commissions within the Borough, including the Library to work together on events.

Mrs. McClurg-Doldy stated that with regard to the Farmer’s Market, the Economic Development Commission is dismayed that the market is not in Pennington Borough. Mrs. McClurg-Doldy asked if there might ever be a possibility that the Farmer’s Market would be moved back into or closer to Pennington Borough.

Mrs. Heinzl stated that when the Farmer’s Market was moving from the Quality Market, they looked at a lot of options and explored the cost benefits. Mrs. Heinzl stated that it is on their minds to try to move closer to Pennington to enhance local business and what was nice about being at the Quality Market was that residents could walk or ride their bikes to the Farmer’s Market. Mrs. Heinzl stated that for now Rosedale Mills offers a lot of advantages.

Historic Preservation – Mrs. Dunn stated that the Historic Preservation Commission did not meet in April as there were no applications. Mrs. Dunn stated that work at the corner of East Delaware and Main Street has begun and it looks like they are progressing nicely. Mrs. Dunn stated that they did not go with the cement siding, they went with vinyl siding due to the cost savings. Mrs. Dunn stated that they did agree to use Andersen 200 series windows instead of Andersen 400 series windows so that the windows will look more historic.

Ordinances for Introduction

Mayor Persichilli read Ordinance 2012-7 by title.

**BOROUGH OF PENNINGTON
ORDINANCE 2012-7**

**ORDINANCE CLARIFYING QUALIFICATIONS FOR MEMBERS OF THE HISTORIC
PRESERVATION COMMISSION
AND AMENDING THE CODE OF THE BOROUGH OF PENNINGTON**

WHEREAS, Borough Council seeks to clarify qualifications for members of the Borough's Historic Preservation Commission, as set forth in Chapter 119, Section 3 of the Code of the Borough of Pennington, to ensure compliance with the Municipal Land Use Law, as set forth in N.J.S.A. 40:55D-107;

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

1. The provisions of the Borough Code providing for appointments to the Historic Preservation Commission as now set forth in Section 119-3. B. of the Code, shall be amended as follows (with additions underlined and deletions bracketed):

B. Membership; appointment.

(1) The Commission shall consist of seven regular members and two alternate members who shall be appointed by the Mayor with the advice and consent of the Borough Council. [The Mayor shall appoint and the Borough Council shall approve, the full membership within 60 days from the effective date of this chapter.] Members shall serve without compensation. At the time of appointment, members shall be designated by [the following classes] class as provided further below [:].

(2) The Commission shall consist of at least one member of each of the following classes:

(a) Class A: A person who is knowledgeable in building design and construction or architectural history and who may reside outside the municipality; and

(b) Class B: A person who is knowledgeable, or with a demonstrated interest, in local history and who may reside outside the municipality [; and] .

[(c) Class C: Four residents of the Borough. At least one Class C member shall be a homeowner within the Historic District.

(d) Class D: A person who owns a business or commercial property located in the Borough.]

Of the regular members a total of at least one less than a majority shall be of Classes A and B.

(3) Those regular members who are not designated as Class A or B shall be designated as Class C. Class C members shall be citizens of the municipality who shall hold no other municipal office, position or employment except for membership on the Planning Board.

(4) At least one regular member of the Commission shall be a homeowner within the Historic District and one member shall be a person who owns a business or commercial property located in the Borough, provided the member otherwise qualifies as a Class A, B or C member.

[(2)] (5) Alternate members shall meet the qualifications of Class C members. At the time of appointment, alternate members shall be designated as "Alternate No. 1" and "Alternate No. 2."

2. This ordinance shall be effective upon passage and publication as provided by law.

Council Member McClurg-Doldy made a motion to introduce Ordinance 2012-7, second by Council Member Tucker. Mrs. Heinzl asked where this ordinance originated. Mrs. Dunn stated that a question arose about the Class D member, which calls for a business or commercial property owner. Mrs. Dunn stated that in researching the question there were a couple of land use issues that came up that Mr. Bliss addressed and this ordinance clears up any question that might come up down the road by eliminating the Class D member.

Mr. Bliss stated that the reason for this change is because the Municipal Land Use Law has a certain formula for the composition of a Historic Preservation Commission. Mr. Bliss stated that the Municipal

Land Use Law says that you have to have at least one A member, at least one B member, neither of which need to be a resident of the municipality and all other members who are not A or B have to be residents. Mr. Bliss stated that the Borough Ordinance has a couple of local add ons which require that someone be a business owner and someone that lives within the historic district. Mr. Bliss explained that these add ons are consistent with the Municipal Land Use because these members are residents. Mr. Bliss stated that in order to meet the requirements of the Municipal Land Use Law, anyone who is not an A or B member must be a resident. Mr. Bliss stated that the way the ordinance is currently written leaves open the possibility that someone could be appointed who owns a business, but does not live in Pennington. Mr. Ogren stated that was the intent when the ordinance was written. Mr. Bliss stated that would be inconsistent with the Municipal Land Use Law. Mr. Ogren stated that as far as he knows nothing has changed since the ordinance was adopted. Mr. Bliss stated that when the ordinance was adopted he explained that the classes of members was inconsistent with the Municipal Land Use Law, but as long as the appointments were consistent we could get by, but the ordinance would have to be "cleaned up" later. Mr. Ogren stated that he is not happy with the revision because most of the businesses in Pennington are owned by non-residents so this automatically excludes the majority of commercial property owners and the intent was to have representation on the commission for more balance. Mr. Bliss stated that a business owner could be appointed under A or B and that appointment would not require that they be a resident. After some discussion regarding the language of the amendment, Mr. Bliss stated that he would change the language to conform with Municipal Land Use Law. Upon a roll call vote, all members present voted in favor of introduction.

Ordinances for Public Hearing and Adoption

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 <u>Block Charge</u>	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-[100,000] <u>200,000</u> (per 1,000 gallons)	More than [100,000] <u>200,000</u> (per 1,000 gallons)
Less than 1	\$[27.13] <u>27.27</u>	\$[6.34] <u>6.40</u>	\$[6.55] <u>6.68</u>	\$[6.78] <u>7.08</u>	\$[7.55] <u>8.03</u>
1	\$[41.42] <u>41.63</u>	\$[6.34] <u>6.40</u>	\$[6.55] <u>6.68</u>	\$[6.78] <u>7.08</u>	\$[7.55] <u>8.03</u>
2	\$[117.71] <u>118.30</u>	\$[6.34] <u>6.40</u>	\$[6.55] <u>6.68</u>	\$[6.78] <u>7.08</u>	\$[7.55] <u>8.03</u>
3	\$[264.05] <u>265.37</u>	\$[6.34] <u>6.40</u>	\$[6.55] <u>6.68</u>	\$[6.78] <u>7.08</u>	\$[7.55] <u>8.03</u>
4	\$[388.04] <u>389.98</u>	\$[6.34] <u>6.40</u>	\$[6.55] <u>6.68</u>	\$[6.78] <u>7.08</u>	\$[7.55] <u>8.03</u>
6	\$[725.08] <u>728.71</u>	\$[6.34] <u>6.40</u>	\$[6.55] <u>6.68</u>	\$[6.78] <u>7.08</u>	\$[7.55] <u>8.03</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-[100,000] <u>200,000</u> Gallons (per 1,000 gallons)	More than [100,000] <u>200,000</u> Gallons (per 1,000 gallons)
All sizes	29.83 <u>30.10</u> per 1,000 gallons	6.75 <u>6.82</u> per 1,000 gallons	6.87 <u>7.10</u> per 1,000 gallons	6.99 <u>7.37</u> per 1,000 gallons	7.19 <u>7.72</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 Heinzl made a motion to open the Public Hearing on Ordinance 2012-5, second by Council Member Tucker. There were no comments from the public. Council Member Tucker made a motion to close the Public Hearing on Ordinance 2012-5, second by Council Member McClurg-Doldy with all members present voting in favor. Council Member Heinzl made a motion to adopt Ordinance 2012-5, second by Council Member Tucker with all members present voting in favor with the exception of Mr. Ogren who voted no.

Mayor Persichilli read Ordinance 2012-6 by title.

**BOROUGH OF PENNINGTON
ORDINANCE #2012 - 6**

AN ORDINANCE TO PROVIDE FOR AND DETERMINE THE RATE OF COMPENSATION OF OFFICERS AND EMPLOYEES OF THE BOROUGH OF PENNINGTON, COUNTY OF MERCER, STATE OF NEW JERSEY FOR THE YEAR 2012

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF PENNINGTON AS FOLLOWS:

SECTION I: EMPLOYMENT POSITIONS/ANNUAL COMPENSATION

a. The following official and employment designations are hereby confirmed and the rate of compensation of each officer and employee of the Borough of Pennington, whose compensation shall be on an annual basis, is:

Borough Administrator	\$ 30,000.00
Borough Clerk	\$ 37,802.57
Treasurer	\$ 59,967.96
Tax Collector	\$ 17,227.39
Utility Collector	\$ 17,227.39
Technical Assistant to Construction	\$ 10,560.06

Tax Assessor	\$ 14,037.95
Zoning Officer	\$ 7,805.37
Land Use Admin/Admin Asst.	\$ 45,492.53
Deputy Registrar	\$ 1,965.73
Supt. of Public Works	\$ 53,430.10
Supt. of Water Dept.	\$ 22,736.02
Supt. of Sewer Dept.	\$ 22,736.02
Judge of Municipal Court	\$ 10,966.07
Prosecutor	\$ 3,717.98
Court Administrator	\$ 15,325.90
Public Safety Director	\$ 54,737.11
Construction Official	\$ 24,216.51
Plumbing Sub-Code	\$ 35.82 / hour
Fire Sub-Code	\$ 36.36 / hour
Electric Sub-Code	\$ 9,692.96
Sidewalk Inspector – (Flat Fee per Inspection)	\$ 150.00

- b. One person may serve in more than one office or position of employment as listed in Section a hereof.
- c. The amounts shown in Section a. hereof are the maximum amounts to be paid, however, at the discretion of Borough Council, lesser amounts can be paid.
- d. The rate of compensation of each employee, paid on an hourly basis is as follows:

	Minimum	Maximum
Finance		
Municipal CFO(p/t)	\$ 25.00	\$ 73.01
Police Department:		
Crossing Guards	\$ 15.00	\$ 23.30
Special Police	\$ 16.92 per hour	
Part Time Employees – All Departments:		
Part Time or Temporary	\$ 8.00	\$ 20.95
Part Time/Temporary/Licensed	up to a maximum of	\$ 35.65

SECTION II: Employee/Personnel Manual.

The terms and conditions of employment as set forth in the Borough Employee or Personnel Manual, as the same may exist and change from time to time, are hereby incorporated herein by reference. The Personnel Manual does not create a contract of employment and except for employees who are tenured; no contract of employment other than “at will” has been expressed or implied. The policies, rules and benefits described in the Manual are subject to change at the sole discretion of the Borough Council at any time.

SECTION III:

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed.

SECTION IV:

Terms and Conditions of employment for Police and Public Works employees are specified in the respective labor agreements.

SECTION V:

This ordinance shall take effect upon final adoption and publication according to law, but the salaries herein provided for shall be retroactive to January 1, 2011.

Council Member McClurg-Doldy made a motion to open the Public Hearing on Ordinance 2012-6, second by Council Member Tucker. There were no comments from the public. Council Member Tucker made a motion to close the Public Hearing, second by Council Member Dunn with all members present voting in favor. Council Member Tucker made a motion to adopt Ordinance 2012-6, second by Council Member McClurg-Doldy with all members present voting in favor.

New Business

**Borough of Pennington
Resolution #2012 – 5.1**

RESOLUTION AUTHORIZING REFUNDS

BE IT RESOLVED, that a refund be issued to I Lee Dickstein, 39 South Main Street, Pennington, NJ 08534, for Block 601 Lots 18 & 19, 37 & 39 South Main Street, for Planning Board escrow balance, Application No. P07-011, in the amount of \$40.25.

BE IT RESOLVED, that a refund be issued to Craig Lewis, 20 East Welling Avenue, Pennington, NJ 08534, Block 1002 Lot 23, for fees of withdrawn Appeal to the Planning Board, Application No. P012-002, in the amount of \$200.00.

BE IT RESOLVED, that a refund be issued to Craig Lewis, 20 East Welling Avenue, Pennington, NJ 08534, Block 1002 Lot 23, for escrow of withdrawn Appeal to the Planning Board, Application No. P012-002, in the amount of \$500.00.

BE IT RESOLVED, that a refund be issued to Roma Bank, 2300 Route 33, Robbinsville, NJ 08691-1411, for an overpayment of second quarter 2012 taxes, in the amount of \$2341.94 for, 325 Hale Street, Block 706, Lot 3.

BE IT RESOLVED, that a refund be issued to Michael J. & Kaitlin C. Small-Duffy, 2 Kings Court, Pennington, NJ 08534, for an overpayment of second quarter 2012 taxes, in the amount of \$4165.78 for, 2 Kings Court, Block 801, Lot 11.

BE IT RESOLVED, that a refund be issued to Richard L. Sperry Jr. & Maria Jose, 129 King George Road, Pennington, NJ 08534, for an overpayment of second quarter 2012 taxes, in the amount of \$4260.55 for, 129 King George Road, Block 302, Lot 13.

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				absent	Ogren	X			
Heinzel	X				Tucker	X			

Council Member McClurg-Doldy made a motion to approve Resolution 2012-5.1, second by Council Member Dunn with all member present voting in favor.

**Borough of Pennington
Resolution #2012 – 5.2**

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 \$ 863,083.14 from the following accounts:

Current	\$ 774,096.96
W/S Operating	\$ 66,716.77
Grant Fund	\$ 3,498.50
Developers' Escrow	\$ 2,863.96
Other Trust Fund	\$ 15,600.00
Animal Control Account	\$ 262.80
Unemployment Trust	\$ 44.15
TOTAL	\$ 863,083.14

Record of Council Vote on Passage

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

Council Member Dunn made a motion to approve Resolution 2012-5.2, second by Council Member McClurg-Doldy with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2012 – 5.3**

**RESOLUTION APPROVING RAFFLE LICENSE RA: 4:12 FOR
THE PENNINGTON SCHOOL PARENTS ASSOCIATION**

WHEREAS, The Pennington School Parents Association submitted raffle application RA: 4.12 on April 16, 2012 for a raffle to take place on May 19th, 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 is satisfied on April 23rd, 2012; and

WHEREAS, The Pennington School Parents Association 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, The Pennington School Parents Association 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: 4.12 for The Pennington School Parents Association be approved; and

BE IT FURTHER RESOLVED that the Municipal Clerk will forward the annexed Findings and Determinations for RA: 4.12 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				absent	Ogren	X			
Heinzel	S				Tucker				abstain

Council Member Dunn made a motion to approve Resolution 2012-5.3, second by Council Member Heinzel with all members present voting in favor with the exception of Council Member Tucker who abstained. Mr. Tucker explained that his wife is employed by The Pennington School.

**Borough of Pennington
Resolution 2012 – 5.4**

**RESOLUTION TO AMEND THE 2012 ADOPTED BUDGET (CHAPTER 159)
SPECIAL ITEMS OF REVENUE AND APPROPRIATION FOR
2012 MUNICIPAL AID – DOWNTOWN STREETScape IMPROVEMENTS**

WHEREAS, NJSA 40A4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget, and

WHEREAS, said Director may also approve the insertion of an item of appropriation for an equal amount, and

WHEREAS, the Borough of Pennington has received \$ 220,000.00 from the New Jersey Department of Transportation and wishes to amend its 2012 Budget to include a portion of this amount as revenue;

NOW THEREFORE BE IT RESOLVED, that the Borough Council of the Borough of Pennington hereby requests the Director of the Division of Local Government Services to approve the insertion of a special item of revenue in the budget of the year 2012 in the sum of \$ 220,000.00, which is now available as revenue from:

NJDOT 2012 – Downtown Streetscape Improvements, and

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

NJDOT 2012 – Downtown Streetscape Improvements

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

Record of Council Vote on Passage

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

Council Member Ogren made a motion to approve Resolution 2012-5.4, second by Council Member Tucker with all members present voting in favor.

**Borough of Pennington
Resolution 2012 – 5.5**

**RESOLUTION TO AMEND THE 2012 ADOPTED BUDGET (CHAPTER 159)
SPECIAL ITEMS OF REVENUE AND APPROPRIATION FOR US DEPARTMENT OF
TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION -
TRANSPORTATION, COMMUNITY AND SYSTEM PRESERVATION PROGRAM – FY 2009**

WHEREAS, NJSA 40A4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget, and

WHEREAS, said Director may also approve the insertion of an item of appropriation for an equal amount, and

WHEREAS, the Borough of Pennington has received \$ 266,760.00 from the U.S. Department of Transportation, Federal Highway Administration and wishes to amend its 2012 Budget to include a portion of this amount as revenue;

NOW THEREFORE BE IT RESOLVED, that the Borough Council of the Borough of Pennington hereby requests the Director of the Division of Local Government Services to approve the insertion of a special item of revenue in the budget of the year 2012 in the sum of \$ 266,760.00, which is now available as revenue from:

Fed Hwy Admin. – Transportation, Community and System Preservation Program – FY 2009, and

BE IT FURTHER RESOLVED that a like sum of \$ 266,760.00 be and the same is hereby appropriated under the caption of:

Fed Hwy Admin. – Transportation, Community and System Preservation Program – FY 2009

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

Record of Council Vote on Passage

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

Council Member Ogren made a motion to approve Resolution 2012-5.5, second by Council Member Dunn with all members present voting in favor.

Mayor Persichilli asked for a consent agenda vote on Resolutions 2012-5.6, 2012-5.7, 2012-5.8 and 2012-5.9.

**Borough of Pennington
Resolution #2012 – 5.6**

**RESOLUTION AUTHORIZING REFUND OF REDEMPTION
MONIES TO OUTSIDE LIENHOLDER**

WHEREAS, at the Borough Tax Sale held on December 13, 2011, a lien was sold on Block 503.05, Lot 1.01, also known as 16 South Main Street, Unit 2A, Pennington, NJ, for 2010 delinquent tax charges; and,

WHEREAS, this lien, known as Tax Sale Certificate #11-00001, was sold to MTAG Services/ATCF II, for 0%, redemption fee and a \$7,000.00 premium; and,

WHEREAS, Pennington Court Co. Inc, owner, has effected redemption of Certificate #11-00001 in the amount of \$21,010.41.

NOW, THEREFORE, BE IT RESOLVED, that the Treasurer be authorized to issue a check in the amount of \$21,010.41, payable to MTAG Services as Custodian for ATCF II NEW JERSEY LLC, P.O. Box 54292, New Orleans, LA 70154-4292 for the redemption of Tax Sale Certificate #11-00001.

BE IT FURTHER RESOLVED, that the Treasurer be authorized to issue a check in the amount of \$7,000.00 (Premium) to the aforementioned lienholder.

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				absent	Ogren	X			
Heinzel	X				Tucker	M			

**Borough of Pennington
Resolution #2012 – 5.7**

**RESOLUTION AUTHORIZING REFUND OF REDEMPTION
MONIES TO OUTSIDE LIENHOLDER**

WHEREAS, at the Borough Tax Sale held on December 13, 2011, a lien was sold on Block 503.06, Lot 1.01, also known as 12 South Main Street, Unit 1A, Pennington, NJ, for 2010 delinquent tax charges; and,

WHEREAS, this lien, known as Tax Sale Certificate #11-00005, was sold to MTAG Services/ATCF II, for 0%, redemption fee and a \$15,600.00 premium; and,

WHEREAS, Pennington Court Co. Inc, owner, has effected redemption of Certificate #11-00005 in the amount of \$22,143.68.

NOW, THEREFORE, BE IT RESOLVED, that the Treasurer be authorized to issue a check in the amount of \$22,143.68, payable to MTAG Services as Custodian for ATCF II NEW JERSEY LLC, P.O. Box 54292, New Orleans, LA 70154-4292 for the redemption of Tax Sale Certificate #11-00005.

BE IT FURTHER RESOLVED, that the Treasurer be authorized to issue a check in the amount of \$15,600.00 (Premium) to the aforementioned lienholder.

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				absent	Ogren	X			
Heinzel	X				Tucker	M			

**Borough of Pennington
Resolution #2012 – 5.8**

**RESOLUTION AUTHORIZING REFUND OF REDEMPTION
MONIES TO OUTSIDE LIENHOLDER**

WHEREAS, at the Borough Tax Sale held on December 13, 2011, a lien was sold on Block 503.06, Lot 1.02, also known as 12 South Main Street, Unit 1B, Pennington, NJ, for 2010 delinquent tax charges; and,

WHEREAS, this lien, known as Tax Sale Certificate #11-00006, was sold to MTAG Services/ATCF II, for 0%, redemption fee and a \$15,100.00 premium; and,

WHEREAS, Pennington Court Co. Inc, owner, has effected redemption of Certificate #11-00006 in the amount of \$22,130.39.

NOW, THEREFORE, BE IT RESOLVED, that the Treasurer be authorized to issue a check in the amount of \$22,130.39, payable to MTAG Services as Custodian for ATCF II NEW JERSEY LLC, P.O. Box 54292, New Orleans, LA 70154-4292 for the redemption of Tax Sale Certificate #11-00006.

BE IT FURTHER RESOLVED, that the Treasurer be authorized to issue a check in the amount of \$15,100.00 (Premium) to the aforementioned lienholder.

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				absent	Ogren	X			
Heinzel	X				Tucker	M			

**Borough of Pennington
Resolution #2012 – 5.9**

**RESOLUTION AUTHORIZING REFUND OF REDEMPTION
MONIES TO OUTSIDE LIENHOLDER**

WHEREAS, at the Borough Tax Sale held on December 13, 2011, a lien was sold on Block 503.05, Lot 3.02, also known as 16 South Main Street, Unit 2D, Pennington, NJ, for 2010 delinquent tax charges; and,

WHEREAS, this lien, known as Tax Sale Certificate #11-00004, was sold to MTAG Services/ATCF II, for 0%, redemption fee and a \$12,000.00 premium; and,

WHEREAS, Pennington Court Co. Inc, owner, has effected redemption of Certificate #11-00004 in the amount of \$21,958.02.

NOW, THEREFORE, BE IT RESOLVED, that the Treasurer be authorized to issue a check in the amount of \$21,958.02, payable to MTAG Services as Custodian for ATCF II NEW JERSEY LLC, P.O. Box 54292, New Orleans, LA 70154-4292 for the redemption of Tax Sale Certificate #11-00004.

BE IT FURTHER RESOLVED, that the Treasurer be authorized to issue a check in the amount of \$12,000.00 (Premium) to the aforementioned lienholder.

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				absent	Ogren	X			
Heinzel	X				Tucker	M			

Council Member Tucker made a motion to approve Resolutions 2012-5.6, 2012-5.7, 2012-5.8 and 2012-5.9, second by Council Member McClurg-Doldy with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2012- 5.10**

**RESOLUTION AUTHORIZING CHANGE ORDER NO. 1 UNDER CONTRACT WITH JOHN
GARCIA CONSTRUCTION COMPANY FOR KING GEORGES
ROAD WATER MAIN EXTENSION**

WHEREAS, the Borough Water and Sewer Engineer has recommended that Change Order No. 1 be effected under the contract between the Borough of Pennington and John Garcia Construction Company for the project known as King Georges Road and Water Main Extension (VNHA file no. 39659-500-71) producing an increase of \$703.64 in total contract price;

WHEREAS, the purpose of the change order is to compensate for additional work required for connection of existing water services to the new main, installation of a new hydrant at the intersection of King Georges Road and Rockwell Green Drive, and to facilitate connection of Well #5 to the new main without modifying the piping required for disinfection contact time, as itemized and explained in the attached correspondence from Brandon Fetzer of Van Note Harvey Associates dated April 24, 2012 and accompanying change order documents;

WHEREAS, approval of this Change Order No. 1 shall increase the total contract price for this project from 381,120.05 to \$381,823.69;

WHEREAS, funds are available in Account No. W-06-07-009-000-250 for payment of the added amount due as a result of this Change Order No. 1;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the aforesaid Change Order No. 1 under the contract between the Borough of Pennington and John Garcia Construction Company for the project known as King Georges Road Water Main Extension is hereby approved in the amount of \$703.64.

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				Absent	Ogren	M			
Heinzel	S				Tucker	X			

Council Member Ogren made a motion to approve Resolution 2012-5.10, second by Council Member Heinzel with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2012- 5.11**

**RESOLUTION AUTHORIZING PAYMENT REQUEST NO. 3 TO JOHN GARCIA
CONSTRUCTION COMPANY, INC. FOR WORK COMPLETED ON THE KING GEORGE
WATER MAIN EXTENSION PROJECT**

WHEREAS, John Garcia Construction Company, Inc. has completed certain work pursuant to contract for the King George Water Main Extension Project (VNHA #39659-500-71); and

WHEREAS, Van Note Harvey Associates, P.C. has reviewed the application and recommends payment for completed work pursuant to the Contractor's Request for Payment No. 3 (\$ 1,320.00) less two percent (2%) retainage (\$ 26.40), the net due therefore amounting to \$1,293.60; and

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

WHEREAS, funds are available in the Water/Sewer Capital budget (W-06-07-009-000-250); and

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that payment to John Garcia Construction Company, Inc. in the amount of \$1,267.72 pursuant to payment request No.3 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				Absent	Ogren	M			
Heinzel	S				Tucker	X			

Council Member Ogren made a motion to approve Resolution 2012-5.11, second by Council Member Heinzel with all members present voting in favor.

**Borough of Pennington
Resolution #2012 – 5.12**

**RESOLUTION AUTHORIZING PAYMENT REQUEST NO. 4
TO JOHN GARCIA CONSTRUCTION COMPANY, INC. FOR WORK COMPLETED ON THE
KING GEORGE WATER MAIN EXTENSION PROJECT**

WHEREAS, John Garcia Construction Company, Inc. Has completed work pursuant to the contract for the King George Water Main Extension Project (VNHA #39659-500-71);

WHEREAS, Van Note Harvey Associates, P.C., Borough Water and Sewer Engineer, has reviewed and inspected the improvements that have been constructed and has approved final payment under the contract and return of all retainage pursuant to the contractor's Request for Payment No. 4 in the total amount of \$7,636.47;

WHEREAS, the aforesaid Request for Payment No. 4 is merely a request for return of all retainage to date in the amount of \$7,636.47;

WHEREAS, Van Note-Harvey Associates has recommended payment of Request for Payment No. 4 as the final payment under the aforesaid contract subject to delivery by John Garcia Construction Company, Inc. of all maintenance bonds required by the contract and approval of same by the Borough Water and Sewer Engineer;

WHEREAS, funds are available in the Water/Sewer Capital budget (W-06-07-009-000-250);

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that payment to John Garcia Construction Company, Inc. in the amount of \$7,636.47, pursuant to Payment Request No. 4, is hereby authorized subject to delivery of maintenance bonds 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				Absent	Ogren	X			
Heinzel	S				Tucker	X			

Council Member McClurg-Doldy made a motion to approve Resolution 2012-5.12, second by Council Member Heinzel with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2012-5.13**

RESOLUTION AUTHORIZING PAYMENT TO VAN NOTE HARVEY ASSOCIATES FROM THE OPEN SPACE TRUST FUND FOR PREPARATION OF UPDATED PLANS AND SPECIFICATIONS FOR PENNINGTON CONNECTION

WHEREAS, Borough Council seeks to have Van Note Harvey Associates, the Borough's Water and Sewer Engineer, revise plans and specifications as required by the New Jersey Department of Transportation (NJDOT) and make copies of plans and specifications for the advertisement for bids relating to work to be performed on the Pennington Connection of the Lawrence-Hopewell Trail;

WHEREAS, Van Note Harvey Associates has quoted the amount of \$2,000 to revise the plans and specifications as required by NJDOT, plus an additional \$1,500 for reproducing these plans and specifications in the quantities required, totaling \$3,500 for the project;

WHEREAS, Borough Council wishes to authorize the payment for this work from the Borough's Open Space Trust Fund;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Mayor and Clerk are hereby authorized to issue a purchase order to Van Note Harvey Associates for the described work in an amount not to exceed \$3,500., which sum is to be paid from the Borough's Open Space Fund.

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				Absent	Ogren	M			
Heinzel	S				Tucker	X			

Council Member Ogren made a motion to approve Resolution 2012-5.13, second by Council Member Heinzel. Mr. Ogren stated that this is for preparation of plans and specifications and to make changes to the plans as requested by NJ DOT. Upon a roll call vote, all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2012-5.14**

RESOLUTION AUTHORIZING BOROUGH TO ADVERTISE FOR BIDS ON CONTRACT TO PROVIDE BACKHOE-RELATED SERVICES AND EQUIPMENT TO THE DEPARTMENT OF PUBLIC WORKS

WHEREAS, the Department of Public Works of the Borough of Pennington has need from time to time to install and repair water and sewer lines and to dig in the street and elsewhere in close proximity to these lines as well as to gas lines and underground electric;

WHEREAS, making these installations and repairs and digging in proximity to underground utilities requires both knowledge and experience and skillful operation of a backhoe to ensure work that is both efficient and safe;

WHEREAS, the Superintendent of Public Works has advised Borough Council that the Department cannot meet this need in-house and must contract with an outside vendor;

WHEREAS, Borough Council has determined to contract with such a vendor to be on call to provide services and equipment as needed;

WHEREAS, the contractor shall be required to provide an OSHA-certified backhoe operator with backhoe;

WHEREAS, the backhoe operator must have extensive experience in installing and repairing water and sewer lines of the kind in use in the Borough, and in operating a backhoe in close proximity to underground utilities;

WHEREAS, the backhoe operator also must be able to work side by side and “in the ditch” with Department staff, as necessary, to provide them with direction and training in how to perform the installations and repairs safely and effectively;

WHEREAS, the backhoe operator with backhoe must be able to respond to emergencies within 2 hours and to non-emergency situations within 24 hours;

WHEREAS, compensation of the contractor shall not include the time or expenditures needed to travel to the site or to transport equipment to the site;

WHEREAS, these and related specifications are included in the attached Notice for bids attached to this Resolution;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Borough Clerk is hereby authorized to advertise for bids for the aforesaid contract in conformance with this Resolution and the attached Notice; and be it

FURTHER RESOLVED, that the Borough Attorney, in consultation with the Superintendent of Public Works, is authorized to prepare the form of contract and other documents to be included in the bid package.

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				absent	Ogren	M			
Heinzel	X				Tucker	S			

Council Member Ogren made a motion to approve Resolution 2012-5.14, second by Council Member Tucker with all members present voting in favor.

**Borough of Pennington
Resolution #2012 – 5.15**

**RESOLUTION AUTHORIZING PAYMENT REQUEST NO. 4 (Final) TO
PA CONTRACTORS, INC. FOR WORK COMPLETED ON THE SAFE ROUTES TO SCHOOLS
RECONSTRUCTION PROJECT**

WHEREAS, PA Contractors, Inc. has completed certain work pursuant to the contract for the Safe Routes to Schools Project (Hopewell Valley Engineering, PC Project No. 1108541A / Federal Project No. STP-BOOS (955) Con); and

WHEREAS, Hopewell Valley Engineering, PC has reviewed the application and recommends payment for completed work pursuant to the Contractor’s Request for Payment No. 4 (Final) in the amount of \$20,144.20 which includes release of retainage in the amount of \$3,618.11; and

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

WHEREAS, funds are available in Account #: G-02-44-941-000-250; and

WHEREAS, by letter dated February 29, 2012 received March 6, 2012, the Borough has received from Berkowitz & Associates, PC, on behalf of Statewide Striping Corporation, a First Amended Municipal Mechanic's Lien Claim against P.A. Contractors, Inc. that attaches to funds that are due or may become due from the Borough to P.A. Contractors, Inc. in the amount of \$15,862; and

WHEREAS, the payment authorized by this resolution shall therefore be subject to the prior satisfaction or resolution of the aforesaid mechanic's lien claim of Statewide Striping Corporation upon authorization from the lien claimant or otherwise in compliance with law; and

WHEREAS, the payment authorized by this resolution is further conditioned upon the prior receipt of all maintenance bonds required by the contract and approval of same by Hopewell Valley Engineering, PC;

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that final payment to PA Contractors, Inc. in the amount of \$20,144.20 pursuant to payment request No.4 is hereby authorized, provided, however, that no such payment shall be made until the aforesaid lien claim in the amount of \$15,862. has first been satisfied or resolved and until maintenance bonds have been received and approved as provided above.

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				Absent	Ogren	M			
Heinzel	X				Tucker	X			

Council Member Ogren made a motion to approve Resolution 2012-5.15, second by Council Member McClurg-Doldy with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2012-5.16**

RESOLUTION APPROVING RECOMMENDED REVISIONS TO THE BOROUGH OF PENNINGTON POLICIES AND PROCEDURES MANUAL

WHEREAS, Borough Council of the Borough of Pennington has adopted a Personnel Policies and Procedures Manual and Employee Handbook effective May 1, 2008, superseding all previous personnel policy manuals and handbooks of the Borough;

WHEREAS, the Joint Fund Commissioner has recommended revision to the Personnel Policies and Practices Manual in accordance with recommended changes by the Municipal Excess Liability; and

WHEREAS, Article II, Section B of the Personnel Policies and Procedures Manual and Employee Handbook concerns Anti-Discrimination Policy, Article IV, Section N concerns E-Mail, Voice Mail, Computer and Internet Usage Policy, Section and Article II, Section K concerns Access to Personnel Files Policy;

WHEREAS, Borough Council seeks to amend the aforesaid provisions of the Personnel Policies and Procedures Manual and Employee Handbook in conformance with the recommendations made the Municipal Excess Liability Joint Insurance Fund;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Personnel Policies and Procedures Manual and Employee Handbook is hereby amended (with new language denoted by underlining) as provided below:

1. Article II, Section B is hereby replaced with the following:

B. Americans with Disabilities Act Policy.

In compliance with the Americans with Disabilities Act, the ADA Amendments Act and the New Jersey Law Against Discrimination, the Borough of Pennington does not discriminate based on disability. The Borough of Pennington will endeavor to make every work environment handicap assessable and all future construction and renovation of facilities will be in accordance with applicable barrier-free Federal and State regulations and the Americans with Disabilities Act Accessibility Guidelines, as well as the ADA Amendments Act.

It is the policy of the Borough of Pennington to comply with all relevant and applicable provisions of the Americans with Disabilities Act, the ADA Amendments Act and the New Jersey Law Against Discrimination. We will not discriminate against any employee or job applicant with respect to any terms, conditions, or privileges of employment on the basis of a known or perceived disability. We will also make reasonable accommodations to known physical or mental limitations of all employees and applicants with disabilities, provided that the individual is otherwise qualified to safely perform the essential functions of the job and also provided that the accommodation does not impose undue hardship on the Borough of Pennington.

The Borough Administrator shall engage in an interactive dialogue with disabled employees and prospective employees to identify reasonable accommodations. All decisions with regard to reasonable accommodation shall be made by the Borough Administrator. Employees who are assigned to a new position as a reasonable accommodation will receive the salary for their new position. The Americans with Disabilities Act does not require the Borough Administrator to offer permanent "light duty", relocate essential job functions, or provide personal use items such as eyeglasses, hearing aids, wheelchairs, etc.

Employees should also offer assistance, to the extent possible, to any member of the public who requests or needs an accommodation when visiting the Borough of Pennington facilities. Any questions concerning proper assistance should be directed to the Borough Administrator.

2. Article IV, Section N is hereby replaced with the following:

N. E-Mail, Voice Mail, Computer and Internet Usage Policy:

The Borough of Pennington respects the individual privacy of its employees. However, e-mail, voicemail, Internet, township issued cellular devices and computer network are for official business, and use for non-business purposes is prohibited. All e-mail, voice mail and Internet message are public records subject to possible disclosure to the public pursuant to the provisions of the Open Public Records Act.

a. Management's Right to Access Information

E-mail, voicemail and computer network systems have been installed by the Borough of Pennington to facilitate business communications. The contents of the systems are accessible at all times by the Borough of Pennington. These systems should be treated like other shared filing systems.

E-mail and voicemail messages, to the extent these systems are utilized, are the Borough of Pennington's records. The Borough of Pennington reserves the right to monitor, obtain, review and disclose all e-mail messages, computer files, voice mail and Internet message on the computer and communications systems of the Borough of Pennington as deemed necessary and appropriate and without prior notice. By using the Borough of Pennington's e-mail, computer systems, voice mail and the Internet, each user agrees that the Borough of Pennington has unrestricted access and the right to disclose all information communicated or stored on the e-mail computer systems, voice mail and the Internet.

b. Care In Use of E-Mail, Voicemail, Internet and Computer Network Systems Formatted:

Employees must exercise a greater degree of caution in transmitting the Borough of Pennington's confidential information on the e-mail, voicemail, Internet and computer network systems than they take with other means of communicating information, because of the ease with which such information can be redistributed and the public access to such information through the Open Public Records Act. Please make sure that all addressees are appropriate recipients of the information to be distributed, via e-mail, voicemail, Internet, text message or other electronic forms of communication, especially when distributing information to a list of recipients.

Except in emergency situations or as part of their officially assigned or regular or permitted duties, employees are prohibited from taking any photographs, pictures, digital images or audio recordings of any crime scenes, traffic crashes, arrestees, detainees, people or job related incident or occurrence with any personal analog or digital device, camera, imaging device, audio recorder or cellular telephone. This section also applies in off duty scenarios regarding any law enforcement related activities. Any photographs, images or recordings taken with any personal device pursuant to or in violation of this section are considered evidence and are subject to applicable laws, code guideline or directive concerning storage release and disposal. Employees who have recorded any photographs, images or recordings with any personal device shall notify their supervisors as soon as practical. For the purposes of this section, an "emergency situation" involves a sudden and unforeseen combination of circumstances or the resulting state that calls for immediate action, assistance or relief, and may include accidents, crimes and flights from accidents or crimes.

Employees are prohibited from releasing or disclosing any photographs, pictures, digital images of any crime scenes, traffic crashes, arrestees, detainees, people or job related incident or occurrence taken with a personal or agency analog or digital device, camera or cellular phone to any person, entity, business or media or Internet outlet whether on or off duty without the express written permission of the Borough Administrator.

c. Personal Use of E-Mail, Voicemail, Internet and Computer Network Systems

Because the Borough of Pennington provides e-mail, voicemail, Internet, cell phones, and computer network systems to assist employees in performing their jobs, employees should use them for official business. The Borough of Pennington reserves the right to access and disclose as necessary all messages sent over its systems, without regard to content.

Since the contents of e-mail and voicemail may be accessed by the Borough of Pennington without prior notice to employees, and since the Borough of Pennington can monitor employees' use of its computer network systems, employees should not use any of the systems to transmit any messages they would not want to disclose to a third party. Employees that maintain personal web pages and web sites, including but not limited to Facebook, YouTube, Myspace, Twitter, etc., shall not post information on such sites that would constitute a violation of the personnel policies of the Borough of Pennington if expressed or published using any other medium or in any other manner. The posting of words, phrases, photographs, images or any kind of information on a personal web site may be grounds for the imposition of disciplinary action against the employee if the words, phrases, photographs, images or information adversely reflects on the employee's fitness for duty or constitutes a violation of the personnel policies of (local unit type). Moreover, employees should not use these systems for soliciting or proselytizing others for commercial ventures, religious or personal causes, outside organizations or other similar, non-job-related solicitations.

d. Forbidden Content of E-Mail, Voicemail, Internet and Computer Network Systems Communications

Employees may not use the e-mail, voicemail, Internet computer network systems, or Township Issued Cell Phone or any other township issued electronic device in any way that may be seen as insulting, defamatory,

obscene, harassing, disruptive, or offensive by other persons or as harmful to morale. Examples of forbidden transmissions or downloads include sexually-explicit messages; unwelcome propositions; ethnic or racial slurs; or any other message that can be construed to be harassment or disparaging to others based on their actual or perceived sex, sexual orientation, gender, gender identity, transgender, race color, national origin, citizenship status, ancestry, age, marital status, medical condition, mental or physical disability, veteran status, religious or political beliefs, or any other characteristic protected by federal, state, or local law, ordinance or regulation.

Violations of the (local unit type's) policy of the use of e-mail, voicemail, Internet, complete network systems and Township Issued Cell Phone or any other township issued electronic device will subject the employee to discipline, up to and including immediate termination.

e. Unauthorized Access

Employees are prohibited from the unauthorized use of the password(s) of other employees to gain access to another employee's messages in the e-mail, voicemail, Internet or computer network systems including but not limited to all secured access software that employees may have access to.

3. Article II, Section K is hereby replaced with the following:

K. Access to Personnel Files Policy

The official personnel file for each employee shall be maintained by the Borough Clerk. Personnel files are confidential records that must be secured in a locked cabinet and will only be available to authorized managerial and supervisory personnel on a need-to-know basis. Records relating to any medical condition will be maintained in a separate file. Electronic personnel and medical records must be protected from unauthorized access. Any employee may review their file in the presence of the Borough Clerk upon reasonable notice.

Upon request, employees may inspect their own personnel files at a mutually agreeable time on the Borough of Pennington premises in the presence of the Borough Clerk or a designated supervisor. The employee will be entitled to see any records used to determine his or her qualification for employment, promotion or wage increases and any records used for disciplinary purposes. Employees may not remove any papers from the file. Employees will be allowed to have a copy of any document they have signed relating to their obtaining employment. Employees may add to the file their versions of any disputed item.

Personnel files do not contain confidential employee medical information. Any such information that the Borough of Pennington may obtain will be maintained in separate files and treated at all times as confidential information. Any such medical information may be disclosed under very limited circumstances in accordance with any applicable legal requirements.

The Borough of Pennington endeavors to maintain the privacy of personnel records. There are limited circumstances in which the Borough of Pennington will release information contained in personnel or medical records to persons outside the Borough of Pennington. These circumstances include:

- In response to a valid subpoena, court order or order of an authorized administrative agency;
- To an authorized governmental agency as part of an investigation of the (local unit type's) compliance with applicable law;
- To the (local unit type's) agents and attorneys, when necessary;
- In a lawsuit, administrative proceeding, grievance or arbitration in which the employee and the Borough of Pennington are parties;
- In a workers' compensation proceeding;
- To administer benefit plans;
- To an authorized health care provider;
- To first aid or safety personnel, when necessary; and
- To a potential future employer or other person requesting a verification of your employment as described in the following section titled, "Requests for Employment Verification and Reference Procedure."

BE IT FURTHER RESOLVED, that the Personnel Policies and Procedures Manual and Employee Handbook shall be further amended and supplemented to provide that Borough employees be provided health plan benefits known as the "Premium Option Plan (POP)" and "Flexible Spending Account" (FSA) pursuant to Section 125 of the Internal Revenue Code, to the extent required by law.

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				absent	Ogren	X			
Heinzel	S				Tucker	X			

Council Member McClurg-Doldy made a motion to approve Resolution 2012-5.16, second by Council Member Heinzl. Mrs. Sterling stated that the Mid Jersey Joint Insurance Fund is requiring these amendments to the Borough Policy and Procedures Manual so that we are in compliance and will then qualify for a lower deductible and also for a premium reduction for next year's assessment. Mrs. Sterling stated that the language for all of the changes except for the one regarding Flexible Spending Accounts came directly from the Joint Insurance Fund. Mr. Bliss stated that the Joint Insurance Fund did not provide language for the FSA section and in order to meet the deadline we think that the language of the resolution covers the Borough, but we will have to work on the details of the language for the manual. Upon a roll call vote, all members present voted in favor.

Council Discussion

Festivals and Large Assemblies – Mayor Persichilli invited Mr. Meytrott to comment on this item. Mr. Meytrott stated that this was briefly discussed at the Public Safety Committee meeting. Mr. Meytrott stated that this came about most recently because of a couple of incidences that have occurred during large events at the Pennington School. Mr. Meytrott stated that this issue has also come up over the past several years because there have been events held that stream over into Pennington Borough and we have not had the opportunity to address the issue prior to the event. Mr. Meytrott stated that a couple of occasions got out of hand and became too much for one officer on duty to handle. Mr. Meytrott stated that the Borough was not able to request that the sponsors of these events hire additional police for the event. Mr. Meytrott stated that the committee discussed passing an ordinance to put some requirements in place for large gatherings. Mr. Meytrott stated that Council has a copy of Hopewell Township's current ordinance and application and he would suggest that the Public Safety Committee take a look at the ordinance and come up with something very similar to what Hopewell Township has in place.

Mayor Persichilli stated that if he understands correctly there are large gatherings taking place and the Borough does not have anything in place to require that event sponsors get Borough approval. Mr. Meytrott stated that an ordinance would put those requirements in place.

Sergeant Friedman stated that there have been a couple of events recently at the Pennington School where the school had a permit for a certain number of people, issued by the Bureau of Fire Safety, and they far exceeded the number allowed. Sergeant Friedman stated that Hopewell Townships ordinance requires approval from the Police Department, the Bureau of Fire Safety and the Health Department before an event is approved.

Sergeant Friedman stated that the Memorial Day Soccer Tournament is another problem. Sergeant Friedman stated that the Soccer Association goes through the approval process in Hopewell Township, but they also use fields here in Pennington Borough and we are never notified. Sergeant Friedman stated that there have been fights between out of state soccer teams in the past and the Police Department has nothing on record as to who to contact if there is a problem. Sergeant Friedman stated that part of the approval process involves Health Department approval because there are food vendors involved and now that Pennington contracts with Montgomery Township, our Health Department has no way of knowing or inspecting vendors.

Mr. Meytrott stated that this ordinance would apply Borough wide so that any entity that wanted to sponsor an event that would draw a large number of people would have to go through the same process.

Mr. Tucker stated that the Public Safety Committee will meet to come up with a recommendation for Council.

Block Party Request – Scudder Court – Mayor Persichilli stated that every once in a while a request comes in for a block party in town. Mayor Persichilli asked if Mr. Meytrott or Mr. Wittkop had any issue with this request. There were no issues. Council Member Ogren made a motion to approve the request, second by Council Member Tucker with all members present voting in favor.

Welcome to Pennington Sign – Mayor Persichilli stated that he provided Council Members with a copy of an e-mail that he received. Mayor Persichilli stated that this has been discussed before but he would like to get Council's thoughts on the request. Mayor Persichilli stated that Peyton Associates and several other businesses in town sponsored Welcome to Pennington signs several years ago. Mayor Persichilli stated that Rick Willever came to him and said that his mother's business sponsored a sign and that business no longer exists. Mayor Persichilli stated that Mr. Willever stated that he owns a business and he would like to put his business name on the sign. Mayor Persichilli stated that his initial reaction was that the Borough never intended for the sponsorships to change or be transferred to another business. Mrs. Heinzl stated that a similar request came about when Peyton Associates was closing and Council discussed the issue and decided that these signs were not meant to be advertisements and so the understanding was that the name of the business would be there as a donor recognition only. Mrs. Dunn stated that given that these signs were not set up to be advertisements, it seems that if the business no longer exists that the sign can either stay there or be removed without any replacement. After some discussion it was agreed that the current policy that the signs were not intended to be advertisements should stand. Mrs. Sterling stated that the signs are Borough property and are covered under the Borough insurance policy.

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.

Mr. Rick Willever came forward and stated that he believes that when the signs were put up the people who sponsored the signs viewed their contributions as a donation and viewed the signs as a source of advertisement. Mr. Willever stated that if that is not the case then he would like the sign taken down. Mr. Willever stated that he is disappointed in the Borough's decision. Mayor Persichilli stated that when the Borough was seeking sponsors for the signs, the intent was to enlist help to fund the signs and not to promote the signs for advertisements. Mrs. Dunn stated that this is comparable to dedicating a bench to someone and putting a plaque on it, that's a one time dedication. Mrs. Dunn stated that when the donations were sought for the signs, a benefit for that sponsorship was that the sponsor got to put their name on the sign.

Mayor Persichilli asked Mr. Bliss if he felt that the Borough should have some sort of policy to clean this issue up. Mr. Bliss stated that as a bit of history, the Economic Development Commission came to Borough Council and stated that they wanted to put up Welcome to Pennington signs to promote our identity as a municipality and these signs would not cost anything because local businesses are going to pay for them. Mr. Bliss stated that these signs are fully owned by the Borough and there were no strings attached, they were just given to the Borough with the representation that they had been donated by the people whose names were hanging below the signs. Mr. Bliss stated that we can certainly clean up the issue. Mr. Bliss stated that he works from the assumption that these were a gift, they are owned by the Borough and the question now is whether the Borough wants to sell the rights to hang signs from the Borough property. Mr. Bliss stated that it is a given that these signs already in place have a right to be there and whether we accept signs to replace them is a totally separate matter.

At 8:17 PM, Council Member Heinzl made a motion to adjourn the meeting, second by Council Member McClurg-Doldy.

Respectfully submitted,

Elizabeth Sterling
Borough Clerk