Pennington Borough Council
Regular Meeting – July 10, 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 Griffiths, McClurg-Doldy, Ogren, and Tucker in attendance. Council Members Dunn and Heinzel 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.

Open to the Public – Agenda Items Only

Mayor Persichilli read the following statement:

Meeting open to the public for comments on items on the agenda for which no public discussion is provided. In an effort to provide everyone interested an opportunity to address his or her comments to the Governing Body, a public comment time limit has been instituted for each speaker. **Please come forward and state your name and address for the record. Please limit comments to the Governing Body to a maximum of 3 minutes.**

There were no comments from the public**.**

Approval of Minutes

Council Member Tucker made a motion to approve the minutes of the June 4th, 2012 Regular Meeting, second by Council Member Ogren with all members present voting in favor with the exception of Council Member McClurg-Doldy who abstained.

Mayor's Business

Mayor Persichilli invited Roger Demaresky of the Pennington Fire Department to come forward. Mr. Demaresky of 1 Walking Purchase Drive and Michael Balderosi of 11 Chase Hollow Road in Hopewell came forward to address Council. Mr. Demaresky stated that they are on the committee at the fire house to expand and renovate their facility. Mr. Demaresky stated that the fire house is on Broemel Place and is just about forty years old and while it has served them well it is in need of repair, maintenance and expansion. Mr. Demaresky stated that the expansion is primarily in three main areas. Mr. Demaresky stated that the first area is recruitment and retention. Mr. Demaresky stated that the Fire Company is proud to be all volunteers since 1891 and they would like to remain that way but it is a challenge today to recruit young people with so many other competing interests. Mr. Demaresky stated that if the fire house were more of a destination and offered more things for the young people then they would attract more members to join and more would stay with them. Mr. Demaresky stated that the second is training; when the building was built in 1967, fires were primarily farm related and were wood or paper materials. Mr. Demaresky stated that training was pretty straight forward, but today we are dealing with plastics, houses made of lightweight construction and hospital facilities and so training is a significant part of what they do. Mr. Demaresky stated that they do not have a training facility and presently they are using their common hall in the back for meetings, rentals, training and not having a dedicated classroom is a loss for the department. Mr. Demaresky stated that the third is general administrative space. Mr.Demaresky stated that they are running their whole operation which consists of 20 officers all working out of a small 12 x 12 office. Mr. Demaresky stated that may have been okay years ago, but today they are jammed for space. Mr. Demaresky stated that this expansion would add office space, a conference/meeting room and a ready room. Mr. Demaresky stated that they have been working on this for the past year, they have retained an architect and an attorney to help them through the process and they are submitting the project to the Planning Board for approval. Mr. Demaresky stated that no parking will be lost and the impervious coverage will not change at all. Mr. Demaresky stated that the addition will be 1,500 square feet at the front of the building and other areas will offset the impervious coverage so that stormwater will not become an issue for them.

Mr. Demaresky stated that the reason that they are here before Council is that in their deed which was issued to the Fire Company in 1967, it spells out in Section B that any building on said premises shall not be nearer than 30 feet to the southerly line of Broemel Place. Mr. Demaresky stated that this is an unusual restriction to have in a deed, but in order for them to move forward with the project the deed would have to be modified. Mr. Demaresky stated that they wanted to make Borough Council aware of the project and also if they are successful at the Planning Board they will be back before Council to request that the deed be modified so that they can move forward with the project.

Mr. Tucker asked for more detail as to where the addition will be erected. Mr. Demaresky explained that they tried many alternatives such as going to the side or the back of the building and even going up and each of those options had challenges and were financially impossible. Mr. Demaresky stated that the front of the building became the best option and the addition will only be ten feet out from the front of the building. Mr.

Demaresky stated that the bell will have to be relocated to accommodate the addition. Mr. Demaresky explained that survey measures from the actual property line and that is not the curb line. Mr. Demaresky stated that the addition would be thirteen feet from the property line but it would be twenty-seven feet from the actual curb line.

Mayor Persichilli stated that he met with Mr. Demaresky about a month ago to discuss the process and since that time he has received some calls from firemen that are not in favor of this project. Mayor Persichilli asked if there is general agreement in the fire company for this project. Mr. Demaresky stated that whenever a project like this is undertaken and there is a committee and a membership there will never be one-hundred percent approval. Mr. Demaresky stated that as per their by-laws, they made a motion before the company and the motion passed more than two to one. Mr. Demaresky stated that there is a group of fire fighters, primarily of the older generation who feel that the fire house should remain the way it is and that the financial cost to the fire company is more than they are willing to take on. Mr. Demaresky stated that there are those of them that know that volunteer fire fighting is a dying trade and as property owners and taxpayers they know that if they don't remain all volunteer the other option is to have a paid company. Mr. Demaresky stated that a paid company would push the volunteers out and result in payment of significant salary costs.

Mayor Persichilli asked if Mr. Demaresky could explain how the project will be financed. Mr. Demaresky stated that the project cost is $650,000 and they have about $200,000 in alternates. Mr. Demaresky stated that they have asked Hopewell Township for a small piece of the Capital Health money to cover the alternates. Mr. Demaresky stated that the base project is $650,000 and will be funded through $300,000 of cash on hand, fundraising of $100,000 and borrowing $250,000 probably from Hopewell Valley Community Bank. Mr. Demaresky stated that this exact scenario was presented to the fire company prior to voting on the project.

Mr. Griffiths stated that amount of money for a 1,500 square foot addition sounds like a lot. Mr. Demaresky stated that the project also includes renovations to the existing building including a new roof which alone costs $100,000.

Mayor Persichilli stated that when he met with Mr. Demaresky there was some discussion about waiving engineering fees and he advised that he did not think the Borough could waive the fees. Mr. Demaresky stated that part of their request tonight is to ask Council to consider waiving fees. Mr. Demaresky stated that they have been out fundraising at every major donor in the Fire District including both Pennington Borough and Hopewell Township. Mr. Demaresky stated that these are not great economic times, and they would prefer to put every dollar that they raise into bricks and mortar and not towards fees.

Mr. Griffiths stated that he would oppose such a request. Mr. Griffiths stated that we are different taxing entities and for the sake of accountability the Fire Department needs to raise all of the money to pay all of the expenses for this project. Mr. Griffiths stated that he did not feel that it would be appropriate to pass these costs onto the Pennington Borough taxpayers.

Mayor Persichilli stated that Pennington Borough watches every nickel and dime that is spent and we have had other volunteer organizations come and ask for money or waivers and we just don't make a practice of it because we don't have the money.

Mr. Matt Pollack, a resident of Hopewell Township stated that the Pennington Borough Fire Company is not a taxing entity and they raise funds to operate their building. Mr. Demaresky stated that the Fire Company is funded through two mechanisms, one is the fire tax that all residents pay. Mr. Demaresky stated that the fire tax is administered by the commissioners and the fire tax pays for the apparatus, equipment and training. Mr. Demaresky stated that the Fire Company owns the building and has a deed for the land. Mr. Demaresky stated that the Fire Company receives funds via a rent payment from the commissioners for the apparatus space, an annual mailer to residents, revenue from the cell tower and pancake breakfasts and Pennington Day. Mr. Griffiths stated that even though they are not a separate taxing entity, the Fire Company is still a non-profit and it has been the Borough's practice to deny request to waive fees for non-profits because the Borough is also a non-profit.

Mr. Demaresky stated that the Fire Company is different from other non profits in that they are volunteers who are on call and get up and respond to calls at all hours and they serve all the residents of Pennington Borough.

Mayor Persichilli asked Mr. Wittkop if there are any problems that he is aware of with regard to the project. Mr. Wittkop stated that he became aware that there is a drainage issue as there is an easement at the front of the building. Mr. Wittkop stated that he spoke to Mr. Bliss about it and they are waiting for a print from the Fire Company's attorney showing where the structure will be and where the drainage is. Mr. Wittkop stated that he is concerned that there will not be enough easement in the event that something happens. Mr. Wittkop stated that from what he can tell, the addition will encroach on the easement.

Mr. Demaresky stated that the initial plan had the building coming out square and two items came up through the survey, the storm easement and also the water line. Mr. Demaresky stated that the design of the building has been adjusted so that they are not encroaching on the easement and they will have to relocate a portion of the water line to provide water service to the building.

Mayor Persichilli stated that the next step is for the Fire Company to go before the Planning Board with their proposal and depending upon what the Board says Borough Council will have to determine whether or not to make an adjustment to the deed.

Mr. Demaresky stated that the plans have been submitted to the Borough for the Planning Board, they had some scheduling problems and right now Winn Thompson is scheduling September 19th for them to appear before the Board.

Committee Reports

Planning & Zoning / Environmental Commission / Library – No report due to Mrs. Heinzel's absence.

Public Works – Mr. Ogren reported that the Public Works Committee did not meet last month. Mr. Ogren stated that in late June a preconstruction meeting was held for the Sked Street Reconstruction Project and the Borough Engineer has issued a notice to proceed. Mr. Ogren stated that the project is now scheduled to begin on July 23rd. Mr. Ogren stated that one of the first things that will be done is removal of trees on the park side of the street.

Mr. Griffiths asked if there will be sidewalks on both sides of the street. Mr. Ogren stated no there will only be sidewalks on the park side but, there will be curbing on both sides. Mr. Ogren stated that a resident meeting was held and they are aware that the sidewalks will only be on one side. Mr. Ogren stated that the contractor will be distributing fliers to residents as to when the project will start and providing contact information in case there are any questions.

Mr. Ogren stated that the Borough received a grant from DVRCP to perform a redevelopment study of the landfill site and the project period began July 1st, however the Borough still has not received an agreement yet. Mr. Ogren stated that he is hoping to have the agreement for the August meeting. Mr. Ogren stated that a committee was going to be formed for this project which would include representatives from the Planning Board, the Economic Development Commission and the Environmental Commission. Mr. Ogren stated that names have been submitted and he will work on getting the committee going fairly soon.

Personnel/Shade Tree – Mr. Ogren stated that the Personnel Committee did not meet. Mr. Ogren stated that the Shade Tree Commission met and the important thing to note is that there are some very large trees that need to be taken down which might be rather costly. Mr. Ogren stated that there are two large oak trees on Eglantine and one on Curlis and another tree in Kunkel Park. Mr. Wittkop stated that Michelle Needham was going to meet with Gabe Rosko to look at all the trees in the Kunkel Park. Mr. Ogren stated that the four trees could most likely be covered through the budget, but the question is will there be other trees that need to come down. Mr. Wittkop stated that he marked twelve trees in town today that need to be taken down. Mr. Wittkop stated that this is a result of the drought of two years ago.

Mayor Persichilli stated that he is looking into using Open Space Funds for maintenance at the parks. Mr. Wittkop stated that the Public Works Department is trying to see if they can do some of the work in house, but it would help if the Open Space Funds could be used.

Mr. Wittkop stated that the electric at Kunkel Park is out and he is in the process of working with Public Service to revamp the electricity. Mr. Wittkop stated that if the electricity can be changed then they are looking at removing the building at Kunkel Park once the electricity is removed.

Mr. Ogren stated that the Borough continues to be faced with the Bacterial Leaf Scorch problem, these trees are not just dying they are diseased, especially the Pin Oaks.

Public Safety – Mr. Tucker stated that a very successful July 4th concert and fireworks sponsored by the Veteran's Association was held on July 8th, 2012.

Mr. Tucker reported that for the past 20 plus years, Mr. Murray Peyton has organized races for children ages three to nine on July 4th and again this year the event was held and was well attended.

Mr. Tucker reported that John Fitzgerald, the candidate for the vacant position in the Police Department was scheduled for appointment this evening; however he has withdrawn his application and has taken a position with another department. Mr. Tucker stated that the Police Department will resume its search for a candidate to fill the vacancy.

Mr. Tucker reported that on June 2nd, the Pennington School held their annual graduation exercises. Mr. Tucker reported that one officer was hired under the paid detail program and there were no reported issues.

Mr. Tucker reported that on June 5th, the Primary Election was held and there were no issues reported to the police department.

Mr. Tucker reported that the Director of Public Safety represented the Department at various events throughout the month.

Mr. Tucker reported that on June 18th, Hopewell Valley Regional High School held their annual graduation ceremony. Mr. Tucker reported that Pennington Police assisted with traffic at the intersection of Route 31 and West Delaware Avenue.

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

1	Simple Assault
1	Theft

2	Controlled Substances
1	Criminal Mischief
1	Trespassing
148	Motor Vehicle Stops
66	Warnings
8	Parking Summons
105	Motor Vehicle Summons
4	Adult Male Arrests
2	Adult Female Arrests
2	Juvenile Arrests
21	First Aid Calls

Mayor Persichilli stated that he has been talking with Mr. Meytrott about an article that was in the paper about Hightstown Borough hiring ten part-time police officers. Mayor Persichilli stated that there are categories of police officer who are paid $10 to $15 per hour to cover special events. Mayor Persichilli stated that presently we are paying $75 per hour under the paid detail program for police officers to cover special events in the Borough. Mayor Persichilli stated that this year we had to enlist help from the Mercer County Sheriff's Department at the same rate of pay. Mayor Persichilli stated that he will be discussing this with the Public Safety Committee to try to save some dollars for special events such as the Memorial Day Parade, Pennington Day and the Holiday Walk.

Finance – Mr. Griffiths stated that a discussion was held with regard to increasing fees and there are two ordinances for introduction later on the agenda.

Parks & Recreation/Economic Development – Mrs. McClurg-Doldy stated that as Mr. Tucker reported the July 4th Races were very successful this year. Mrs. McClurg-Doldy stated that Parks and Recreation will not be meeting during the summer and will reconvene August 18th to prepare for the concert on Labor Day.

Mrs. McClurg-Doldy reported that the Economic Development Commission did not have a quorum for the last meeting. Mrs. McClurg-Doldy reported that Entrepreneur Day was held at the Tollgate Grammar School and the children seemed to enjoy the event. Mrs. McClurg-Doldy stated that the Economic Development Commission will not be meeting this summer.

Historic Preservation – No report due to Mrs. Dunn's absence.

Ordinances for Introduction

Mayor Persichilli read Ordinance 2012-9 by title.

BOROUGH OF PENNINGTON
ORDINANCE NO. 2012 - 9

ORDINANCE AMENDING CHAPTER 98 OF THE CODE
OF THE BOROUGH OF PENNINGTON CONCERNING FEES

WHEREAS, Borough Council seeks to amend certain of the fees set forth in Chapter 98 of the Code of the Borough of Pennington;

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

1. Subsections A, B, C, E and F of Section 98-31, concerning retail food establishments, are amended as follows:[1]

98-31. Retail food establishments.

License fees and related charges for retail food establishments as provided in Section 112-1 of this Code shall be:

A. Retail food establishments at a permanent location that prepare food: $[120] 200 per year or any part thereof for establishments with fewer than 25 seats; $250 per year or any part thereof for establishments with 25 or more seats.

B. Retail food establishments at a permanent location that sell only prepackaged food items: $[60]75 per year or any part thereof.

C. Mobile food vendors: $[60]75 per year or any part thereof.

[1]As used in this Ordinance, underlining denotes new language; brackets [ ] indicate language to be deleted. Asterisks (* * * *) indicate the omission of one or more subsections of the quoted section from the text of the Ordinance because these subsections are intended to remain unchanged.

* * * *

E. Establishments for temporary events and not licensed as permanent establishments: $[30]50 per event or any part thereof.

F. Plan review fee required for all retail food establishments except those owned by charitable and/or nonprofit organizations: $[120]150.

2. Section 98-33, concerning use of parks, is amended as follows:

98-33. Use of parks.

Fees for use of Borough parks as provided in Section 143-4 of this Code shall be:

A. Permit for use of park by documented nonprofit or Pennington resident: $[25]50.

B. All others: $[50]100.

3. Section 98-34, concerning trash pickup, is amended by adding the following new subsection C:

98-34. Trash pickup.

* * * *

C. Truck rental, if Borough truck is parked at the property overnight or for a weekend: $200.

4. Subsection A of Section 98-35, concerning trash pickup for adjacent properties, is amended as follows:

98-35. Adjacent properties.

Fees for trash pickup for non-taxpayers who are adjacent property owners pursuant to Section 172-13 of this Code shall be:

A. Per year for two thirty-gallon containers twice/week:$[340]350. No container may exceed 40 pounds.

* * * *

5. Subsections A and B of Section 98-36, concerning snow and ice removal by the Borough, are amended as follows:

98-36. Snow and ice removal by Borough.

Computation of charges for the costs incurred by the Borough for removal and remediation of snow and ice on sidewalks pursuant to Section 177-3 of this Code shall be based on the following rates:

A. Equipment hourly rates, including the time required to mobilize and demobilize from the site, subject to a one-hour minimum, shall be as follows:

(1) Snowblower: $25.

(2) Service truck: $75.

(3) Dump truck: $100.

(4) Deicer: cost plus 15%.

B. Labor hourly rates, including the time required to mobilize and demobilize from the site, subject to a one-hour minimum, shall be as follows:

(1) Foreman: $85.

(2) Operator: $75.

(3) Laborer: $65.

* * * *

6. Subsection A of Section 98-42, concerning standby fees for fire protection systems, is amended as follows:

98-42. Standby fees.

Quarterly standby fees for private fire-protection systems pursuant to Section 206-2 of this Code are as follows:

A. Quarterly standby fees for private fire-protection systems regardless of the rate or quantity of that service:

Size of Private Lines (inches)	**Fee (per connection)**
2	$[119]125
3	$[262]300
4	$[439]450
6	$[907]925
8	$[1,545]1,600

* * * *

7. Subsections A and B of Section 98-44, concerning water and sewer tapping fees, are amended as follows:

98-44. Tapping fees.

Tapping fees pursuant to Section 206-4 of the Code are the following:

A. Water tapping fees.

(1) Water Type 1 (full service - full width) (30 feet or more): $[2,807]3,000. Full service includes all inspection, excavation, bedding, backfill, pavement restoration, parts, equipment and labor to install a complete service connection to the curb stop located just beyond the curbline. Service connections exceeding 60 feet or located within county roads will be assessed additional fees on a case-specific basis.

(2) Water Type 2 (full service - half width): $[2,400]2,500. Full service includes all inspection, excavation, bedding, backfill, pavement restoration, parts, equipment and labor to install a complete service connection to the curb stop located just beyond the curbline. Service connections located within county roads will be assessed additional fees on a case-specific basis.

(3) Water Type 3 (cut-in service): $[800]1,000. Cut-in service includes only the physical tapping of the water main, including the corporation stop, equipment and labor. The applicant's plumber provides for the remainder of the service connection. Road opening and inspection fees apply.

Note: Taps one inch and smaller must be performed by the Borough. Taps greater than one inch must be performed by the applicant's plumber.

B. Sewer tapping fees.

(1) Water Type 1 (full service - full width) (30 feet or more): $[2,400]3,000. Full service includes all inspection, excavation, bedding, backfill, pavement restoration, parts, equipment and labor to install a complete lateral connection to the cleanout located just beyond the curbline. Lateral connections exceeding 60 feet or located within county roads will be assessed additional fees on a case-specific basis.

(2) Water Type 2 (full service - half width): $[1,900]2,500. Full service includes all inspection, excavation, bedding, backfill, pavement restoration, parts, equipment and labor to install a complete lateral connection to the cleanout located just beyond the curbline. Lateral connections located within county roads will be assessed additional fees on a case-specific basis.

(3) Water Type 3 (cut-in service): $[800]1,000. Cut-in service includes only the physical tapping of the sewer main, including the tee saddle, equipment and labor. The applicant's plumber provides for the remainder of the lateral connection. Road opening and inspection fees apply.

Note: Lateral taps grater than four inches must be performed by the applicant's plumber.

* * * *

8. Section 98-47, concerning certain administrative fees, is amended by the following amendment of subsection F and the addition of the following new subsections G and H:

98-47. Administrative fees.

Administrative fees pursuant to Section 206-7 of the Code shall be charged as follows:

* * * *

F. House inspections: Regular fee -$60; fee if less than 2 weeks notice - $120.

G. Tanker of water: $200 plus per-gallon charge for water in accordance with water rates.

H. Shutting off and turning on water at curb: $100.

9. Subsection C of Section 98-51, concerning charges for costs incurred by Borough for grass cutting and lawn work pursuant Sections 136-7 and 136-8 of Borough Code, is amended as follows:

98-51. Charges for costs incurred by Borough for grass cutting and lawn work pursuant Sections 136-7 and 136-8 of Borough Code.

* * * *

C. For overtime (OT), a multiplier will be applied to labor rates equal to the highest applicable multiplier from the following:

(1) Work before 7:30 a.m.: 1.5.

(2) Work after 3:30 p.m.: 1.5.

(3) Work on Saturday: 1.5.

(4) Work on Sunday: 1.5.

(5) Work on Borough-recognized holidays: 2.0.

(6) Continuous work in excess of 12 hours: 2.0.

10. This Ordinance shall be effective upon its passage and publication as provided by law.

Council Member McClurg-Doldy made a motion to introduce Ordinance 2012-9, second by Council Member Griffiths. Mr. Griffiths stated that this ordinance and also Ordinance 2012-10 reflect price adjustments that attempt to bring Pennington Borough fees closer in line with fees charged for similar services by surrounding communities. Mr. Griffiths stated that these are user fees that benefit only individuals that request a specific service and they help the Borough by providing miscellaneous income which helps maintain the tax rate.

Mr. Wittkop stated that he is concerned about the recommendation to increase the fee for trash pickup for adjacent property owners from $340 to $450. Mr. Wittkop stated that he thinks the risk in raising the fee so drastically is that Pennington Point will go elsewhere for its trash pickup. Mr. Wittkop stated that an increase of thirty percent would cost the Borough in the neighborhood of $17,000 per year. Mr. Griffiths asked what the savings would be for the Borough if we did not have to pick up trash at Pennington Point. Mr. Wittkop stated that there are 52 units in Pennington Point and typically they don't pick up 104 cans of garbage. Mr. Wittkop stated that they are lucky if they get one can per unit per pick up and sometimes there are no cans. Mr. Wittkop stated that he does not think it is worth the risk of losing $17,000 per year and maybe a five percent increase would be better. Mr. Griffiths suggested changing the fee from $340 to $350 for adjacent property owners. A brief discussion took place with regard to some of the other increases and upon a roll call vote, all members present voted in favor of introducing the ordinance as amended.

Mayor Persichilli read Ordinance 2012-10 by title.

Borough of Pennington
Ordinance No. 2012- 10

AN ORDINANCE AMENDING CHAPTER 83 OF THE CODE OF THE BOROUGH OF PENNINGTON CONCERNING CONSTRUCTION CODE FEES

WHEREAS, Borough Council seeks to amend Chapter 83 of the Code of the Borough of Pennington ("Code"), concerning Construction Codes, Uniform, to relocate construction code fees to Chapter 98, concerning Fees;

WHEREAS, the purpose of relocating construction code fees to Chapter 98 is to place ordinance fees in one place in the Code;

WHEREAS, Borough Council also seeks to amend certain of the construction code fees relocated to Chapter 98;

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

1. Chapter 83 of the Code is amended by substituting for Subsection B of Section 83-2 and for Sections 83-3, 83-4, 83-5, 83-6, 83-7, 83-8, 83-9, 83-10, 83-11 and 83-12, the following:

83-2.B. The fee to be charged for a construction permit will be the sum of all the subcode fees and basic construction fees plus any applicable special fees, such as elevator or sign fees, pursuant to Chapter 98.

83-3. Plan review fees as percentage of construction permit fees.

Plan review fees and fees for projects that do not require plan review for all subcodes are set forth in Chapter 98.

83-4. Certificate of occupancy fees.

Fees to be charged for a certificate of occupancy shall be computed and paid pursuant to Chapter 98.

83-5. Code variation fees.

The fee for variations from the code are set forth in Chapter 98.

83-6. Fee for training and certification of inspectors.

The fee for training and certification of inspectors shall be determined in accordance with Chapter 98.

83-7. Building subcode fees.

Building subcode fees for permitting shall be determined pursuant to Chapter 98.

83-8. Mechanical subcode fees.

There shall be no fees for mechanical inspections because the Borough does not issue mechanical permits.

83-9. Elevator fees.

Elevator fees for inspections and tests are set forth in Chapter 98.

83-10. Fire subcode fees.

Fire subcode fees for permitting shall be determined pursuant to Chapter 98.

83-11. Plumbing subcode fees.

Plumbing subcode fees for permitting shall be determined pursuant to Chapter 98.

83-12. Electrical subcode fees.

Electrical subcode fees for permitting shall be determined pursuant to Chapter 98.

2. All other sections, subsections and provisions of Chapter 83 shall remain unchanged. Section 83-14, concerning Additional Fees, and Section 83-15, concerning Construction to promote accessibility for handicapped, shall appear in both Chapter 98 and Chapter 83.

3. Chapter 98 of the Code is hereby amended and supplemented by the addition of a new Article XV, concerning Construction Code, Uniform, which shall read as follows:

Article XV. Construction Code, Uniform.

98-52. Plan review fees as percentage of construction permit fees.

A. Plan review fees shall be computed at 10% of the fee to be charged for the construction permit. For projects which do not require plan review for all subcodes, the fee shall be the appropriate percentage of the subcode fee that is applicable. The minimum plan review fee is $75.

B. In accordance with N.J.A.C. 5:23-2.26, a fee of 20% for plan review fees for the Department of Community Affairs will be deducted.

98-53. Certificate of occupancy fees.

A. The fee to be charged for a certificate of occupancy shall be paid before a

certificate is issued. The fee will be in addition to the construction permit fee. See N.J.A.C. 5:23-4.18(a)3.

B. The fee for a certificate of occupancy for new construction for a residential property shall be 10% of the fee charged for the construction permit.

C. The fee for a certificate of occupancy for a commercial or industrial building for new construction shall be 10% of the fee charged for the construction permit.

D. The for a certificate of continued uniform construction codes occupancy in accordance with N.J.A.C. 5:23-4.18(f)2 shall be $125.

E. The fee for a certificate of occupancy for any change of use in any use group shall be $150.

98-54. Code variation fees.

The fee for variations from the code shall be as defined in the uniform construction codes (N.J.A.C. 5:23-4.20(c)3.viii) and shall be as follows:

A. Class 1 structures: $594, plus $200 for each resubmission.

B. Class 2 and 3 structures: $120, plus $50 for each resubmission.

C. Residential dwellings: $50.

98-55. Fee for training and certifications of inspectors.

A fee will be charged for training and certifications of inspectors as required in accordance with N.J.A.C. 5:23-4.19(b). The fee shall be $0.00265 per cubic foot volume of new buildings and additions and $0.00135 per $1,000 of the value of construction for alterations.

98-56. Building subcode fees.

Building subcode fees for permitting shall be as follows:

A. The fees for any new construction or for any addition to an existing building or structure shall be based on $0.03 per cubic foot or additional cubic foot of building or structure volume in use group AFS, $0.007 per cubic foot or additional cubic foot of building or structure volume for farms, $0.055 per cubic foot or additional cubic foot of building or structure volume for all other use groups, or a minimum of $75.

B. Fees for renovations, wood decks, alterations and repairs or site construction associated with pre-engineered systems of commercial farm buildings, premanufactured construction and the external utility connection for premanufactured construction shall be based upon the estimated cost of the work. The fee shall be in the amount of $25 per $1,000 up to $50,000 of the estimated cost of the work. From $50,001 to and including $100,000, the fee shall be in the amount of $20 per $1,000 of estimated cost above $50,000. Above $100,000, the fee shall be in the amount of $15 per $1,000 of estimated cost above $100,000. The minimum fee shall be $75. For the purpose of determining estimated cost, the applicant shall submit to the enforcing agency such cost data as may be available, produced by the architect or engineer of record or by a recognized estimating firm or by the contractor. A bona fide contractor's bid, if available, shall be submitted. The enforcing agency shall make the final decision regarding estimated cost.

C. The flat fee for swimming pools shall be $75 for aboveground pools, $200 for in-ground pools and $500 for public pools.

D. The fees for demolition of a building or structure shall be $100 for a residential building or structure and $150 for a nonresidential building or structure, except the fee for a structure of less than 1,000 square feet shall be $50.

E. The fees for relocating a building or structure shall be $24 for each $1,000 of total estimated cost of the move.

F. The fee for a sign shall be $50.

G. The fee for a swimming pool barrier or fence shall be a flat fee of $75.

H. The fee for a temporary structure (tents) shall be a flat fee of $75.

I. The fee for removal of abandoned underground storage tanks shall be $65 for each tank of up to 1,000 gallons and $120 for each tank over 1,000 gallons.

J. The fee for a trailer shall be $75.

K. The fee for asbestos abatement shall be $84, and the fee for issuance of an asbestos abatement certificate shall be an additional $17.

L. The fee for lead abatement shall be $84, and the fee for issuance of a lead abatement certificate shall be an additional $17.

M. The fee for roofing and siding shall be $25 per $1,000 of estimated costs for all use groups.

N. The fee for a raised patio shall be $125.

98-57. Elevator fees.

Elevator fees for inspections and tests shall be determined pursuant to N.J.A.C. 5:23-12.

98-58. Fire subcode fees.

Fire subcode fees for permitting shall be as follows:
A. The fee for fuel storage tanks and similar equipment shall be $25 per 1,000 gallons or a minimum of $75.

B. Sprinkler heads.

(1) The fee for 20 or fewer sprinkler heads or alarms shall be $70 for alarm systems and $85 for sprinkler systems.

(2) For 21 to and including 100 heads or alarms, the fee shall be $125 for alarm systems and $150 for sprinkler systems.

(3) For 101to and including 200 heads or alarms, the fee shall be $229 for alarm systems and $300 for sprinkler systems.

(4) For 201 to and including 400 heads or alarms, the fee shall be $594 for alarm systems and $600 for sprinkler systems.

(5) For 401 to and including 1,000 heads or alarms, the fee shall be $825 for alarm systems and $1,050 for sprinkler systems.

(6) For over 1,000 heads or alarms, the fee shall be $1,050 for alarm systems and $1,100 for sprinkler systems.

C. The fee for each standpipe shall be $230.

D. The fee for each independent pre-engineered system shall be $100.

E. The fee for each gas- or oil-fired appliance shall be a flat fee of $50.,

F. The fee for each commetcial kitchen exhaust system shall be $100.

G. The fee for each fireplace, coal stove or woodburning stove shall be $24 per $1,000 of estimated cost of construction.

H. The fee for each incinerator shall be $350.

I. The fee for each crematorium shall be $350.

J. The fee for each fire pump installation shall be $250.

K. The minimum fire subcode fee shall be $50.

98-59. Plumbing subcode fees.

For plumbing fixtures and equipment, the fees shall be as follows:

A. The fee shall be in the amount of $20 per fixture, piece of equipment or appliance connected to the plumbing system, and for each appliance connected to the gas piping or oil piping system, except as indicated below.

B. The fee shall be $75 per special device for the following: gas piping, fuel oil piping, grease traps, oil separators, refrigeration units, water-cooled air-conditioning units, utility service connections, backflow preventers equipped with test ports (double check valve ports, double check valve assembly, reduced pressure zone and pressure vacuum breaker backflow preventers), steam boilers, hot water boilers (excluding those for domestic water heating), active solar systems, sewer pumps and interceptors, sewer connection and water service connection. There shall be no inspection fee charged for gas service connections.

C. The minimum plumbing fee shall be $50.

98-60. <u>Electrical subcode fees</u>.

The electrical subcode fee shall be as defined in N.J.A.C. 5:23-4.20(c)iii, except there shall be a minimum fee of $75. The fees are as follows:

A. For from one to 25 receptacles or fixtures, the fee shall be in the amount of $50; for each group of up to 40 receptacles or fixtures in addition to this, the fee will be $25. For the purpose of computing this fee, receptacles or fixtures shall include lighting outlets, wall switches, fluorescent fixtures, convenience receptacle, smoke and heat detectors or similar fixtures and a motor or device of less than or equal to one horsepower or one kilowatt. Communication and phone outlets shall be prices as above but in separate groups.

B. For each motor or electrical device greater than one horsepower and less than or equal to 10 horsepower and for transformers and generators greater than one kilowatt and less than or equal to 10 kilowatts, the fee shall be $25.

C. For each motor or electrical device greater than 10 horsepower and less than or equal to 50 horsepower; for each service panel, service entrance or subpanel less than or equal to 200 amps; and for each utility loan management device, the fee shall be $75.

D. For each transformer and generator greater than 10 kilowatts and less than or equal to 45 kilowatts, the fee shall be $75.

E. For each motor or electrical device greater than 50 horsepower and less than or equal to 100 horsepower; for each service panel, service entrance or subpanel greater that 200 amperes and less than or equal to 1,000 amperes; and for transformers and generators greater than 45 kilowatts and less than or equal to 112.5 kilowatts, the fee shall be $120.

F. For each motor or electrical device greater than 100 horsepower; for each service panel, service entrance or subpanel greater than 1,000 amperes; and for each transformer or generator greater than 112.5 killowatts, the fee shall be $457.

G. For each burglar alarm panel or fire alarm panel, the fee shall be $75.

H. The fee for annual pool bond inspection shall be $75.

I. The minimum electrical fee shall be $75. For the purpose of computing these fees, all motors, except those in plug-in appliances, shall be counted, including control equipment, generators, transformers and all heating, cooking or other devices consuming or generating electrical current.

98-61. <u>Additional fees</u>.
In addition to the fees set forth in this article, the Borough shall collect such other construction fees as are required and set forth in the Uniform Construction Code or in regulations adopted pursuant thereto.

98-62. <u>Construction to promote accessibility for handicapped.</u>

No person shall be charged a construction permit surcharge fee or enforcing agency fee for any construction, reconstruction, alteration or improvement designed and undertaken solely to promote accessibility by people with disabilities to an existing public or private structure or any of the facilities contained therein.

4. This Ordinance shall take effect upon passage and publication as provided by law.

Council Member McClurg-Doldy made a motion to introduce Ordinance 2012-10, second by Council Member Griffiths. Mr. Ogren stated that the ordinance does not show what the fee was prior to the increase. Mr. Bliss stated that has to do with the mechanics of the ordinance because all of Chapter 83 is being relocated to Chapter 98 it is not amendatory and therefore the changes do not appear. Mrs. Sterling stated that Wayne Blauth and John Hall compared the Borough's construction fees to fees in neighboring communities and made some changes to bring our fees more in line. Mr. Bliss stated that he has a memo in the form of an e-mail that was used to make the changes. Mr. Ogren asked if the fees were compared to Hopewell Township as he thinks they just revised their fees. Mrs. Sterling stated she did not think so, but we did have fee ordinances from Montgomery and Robbinsville Township. Mrs. Sterling stated that she would forward the e-mail to Council Members so that they could see what fees were changed. Upon a roll call vote, all members present voted in favor of introduction of the ordinance.

Ordinances for Public Hearing and Adoption

Mayor Persichilli read Ordinance 2012-8 by title.

BOROUGH OF PENNINGTON
ORDINANCE #2012-8

AN ORDINANCE AMENDING "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."

WHEREAS, Borough Council by Resolution adopted Ordinance 2012-6 on May 7, 2012;

WHEREAS, a calculation error was made on the salaries for Tax Collector and Utility Collector;

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

1. Section Ia of Borough of Pennington Ordinance No. 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") is hereby amended to provide for the following salary for the positions of Tax Collector and Utility Collector:

a.

Tax Collector	$17,558.68
Utility Collector	$17,558.68

2. Section V of the aforesaid Ordinance is further amended by the addition of the following sentence:

"This Ordinance shall remain in effect until superceded."

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

Council Member Griffiths made a motion to open the public hearing on Ordinance 2012-8, second by Council Member Ogren. Mrs. Sterling asked that the public hearing on this ordinance be carried to the August meeting as there was a mix-up with publication of the ordinance and we do not meet the required 10 days in between advertisement and public hearing.

New Business

Borough of Pennington
Resolution #2012 – 7.1

RESOLUTION AUTHORIZING REFUNDS

BE IT RESOLVED, that a refund be issued to Richard & Kelly Dec, 324 Sked Street, Pennington, NJ 08534, for a refund of the balance of Planning Board escrow, in the amount of $180.68, Account P11-003.

Record of Council Vote on Passage

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

Council Member Griffiths made a motion to approve Resolution 2012-7.1, second by Council Member Ogren with all members present voting in favor.

Borough of Pennington
Resolution #2012 – 7.2

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 $ 2,143,826.41 from the following accounts:

Current	$ 2,068,373.87
W/S Operating	$ 36,835.82
Developers' Escrow	$ 1,451.35
Water/Sewer Capital	$ 8,930.07
COAH Trust Fund	$ 28,094.10
Other Trust Fund	$ 125.00
Animal Control Fund	$ 16.20
TOTAL	$ 2,143,826.41

Record of Council Vote on Passage

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

Council Member Tucker made a motion to approve Resolution 2012-7.2, second by Council Member McClurg-Doldy with all members present voting in favor.

Borough of Pennington
Resolution #2012 – 7.3

RESOLUTION APPOINTING TIMOTHY L. MATHENY AS BOROUGH ADMINISTRATOR FOR THE BOROUGH OF PENNINGTON

WHEREAS, the Code of the Borough of Pennington establishes the position of Borough Administrator for the Borough of Pennington who shall serve at the pleasure of the Borough Council and shall have such powers and duties as are set forth in the Borough Code; and

WHEREAS, there presently exists a vacancy in the position of Borough Administrator; and

WHEREAS, pursuant to N.J.S.A. 40A:9-137, appointment to the office of Borough Administrator shall be made by the Mayor with the advice and consent of the Borough Council; and

WHEREAS, the Mayor has identified and recommends for appointment Timothy L. Matheny, as Borough Administrator, on a part-time basis; and

WHEREAS, Mayor and Council believe that Timothy L. Matheny possesses the education, experience and abilities for the position of Borough Administrator as required by the Borough Code;

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

1. that Borough Council hereby advises and consents to the appointment of Timothy L. Matheny as Borough Administrator for the Borough of Pennington, on a part-time basis, to serve at the pleasure of Borough Council, beginning in the week of July 16, 2012 subject to the conditions further set forth herein;

2. that the terms of Mr. Matheny's appointment as Borough Administrator shall be described in a written agreement of substantially the same form and substance as the form of Agreement attached to this resolution;

3. that the final form of the Agreement shall be subject to approval as to form by the Borough Attorney; and

BE IT FURTHER RESOLVED, that the Mayor with the attestation of the Borough Clerk is hereby authorized to enter into the Agreement as so approved.

Record of Council Vote on Passage

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

Council Member Ogren made a motion to approve Resolution 2012-7.3, second by Council Member Griffiths. Mr. Bliss stated that there are some outstanding issues that need to be discussed. Mr. Bliss asked that this matter be discussed in Closed Session.

BOROUGH OF PENNINGTON
RESOLUTION 2012 – 7.4

RESOLUTION AUTHORIZING AND APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE BOROUGH OF PENNINGTON AND THE MERCER COUNTY IMPROVEMENT AUTHORITY FOR CURBSIDE COLLECTION OF RECYCLABLES FOR THE TERM OF ONE YEAR (1) COMMENCING ON JANUARY 1, 2013 THROUGH DECEMBER 31, 2013

WHEREAS, there exists a need in the Borough of Pennington to provide recycling services to the residents of Mercer County; and

WHEREAS, the Mercer County Improvement Authority ("MCIA") has been designated by the County of Mercer as the implementing agency for the Solid Waste Management Plan within Mercer County under the Solid Waste Management Act N.J.S.A. 13:1E-1 et seq. for the curbside collection of recyclables; and

WHEREAS, the Borough of Pennington, wishes to continue its participation in the Mercer County Solid Waste Management Plan by having MCIA provide for the Curbside Recycling Program throughout the Borough during the term of the agreement; and

WHEREAS, N.J.S.A. 40:8A-1 et seq., the New Jersey Interlocal Services Act permits the Borough to enter into an Agreement with the MCIA to provide for said Curbside Recycling Services during the Term of the Agreement; and

WHEREAS, the Agreement between the MCIA and the Borough for the Curbside Recycling Collection Program is for a period of one (1) year commencing on January 1, 2013 through December 31, 2013; and

WHEREAS, on the effective date, the Agreement between the Borough and the MCIA will supersede all prior Interlocal Agreements for Curbside Recycling;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, in the County of Mercer and State of New Jersey, that the Interlocal Services Agreement by and between the Borough and the MCIA for curbside collection of recyclables for the Term of the Agreement be and hereby is authorized and accepted by the Borough of Pennington to execute said Agreement; and

BE IT FURTHER RESOLVED, that the Agreement shall take effect according to its terms upon the adoption of an appropriate resolution by the MCIA and the execution of the Agreement by and between the Borough of Pennington and the MCIA in accordance with N.J.S.A. 40:8A-1 et seq.; and

BE IT FURTHER RESOLVED, that the form of the agreement shall be subject to approval by the Borough Attorney who shall be guided by the offer letter of June 25th, 2012 by Philip S. Miller to Ms. Elizabeth Sterling, of which a copy is annexed.

Record of Council Vote on Passage

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

Council Member Griffiths made a motion to approve Resolution 2012-7.4, second by Council Member Ogren. Mr. Ogren stated that the agreement does not have a cost. Mrs. Sterling stated that she has called Mr. Napoleon to verify the amount and he has not called her back, however in the cover letter it does state that the amount will not change from what it is this year and that amount is $1,968.12 per month. Mr. Ogren asked if we can approve this resolution without the amount filled in. Mr. Bliss stated that Council can approve the agreement subject to verification of the amount by the Mayor or the Borough Clerk. Upon a roll call vote, all members present voted in favor.

BOROUGH OF PENNINGTON
RESOLUTION 2012 – 7.5

RESOLUTION PROVIDING COMMITMENT TO FUND AFFORDABLE HOUSING SPENDING PLAN

WHEREAS, the Borough of Pennington, County of Mercer, State of New Jersey, has adopted an Affordable Housing Program; and

WHEREAS, the Borough of Pennington submitted on or about December 30, 2008 its Housing Plan Element, Fair Share Plan and Spending Plan as well as its Petition for Substantive Certification of its Affordable Housing Program to the Council on Affordable Housing ("COAH"); and

WHEREAS, on or about May 14, 2009, the Borough was advised by COAH that there were no objections received to said plans; and

WHEREAS, the submitted and pending Spending Plan commits funding to the following affordable housing initiatives: (a) Accessory Apartment Program: ten (10) units: $240,000.00; (b) Construction Subsidy Program: four (4) affordable housing units on the Capital Health System site: $50,000.00; (c) Affordability Assistance Programs as authorized by *N.J.A.C.* 5:97-8.8: $134,000.00; (d) affordable housing administrative expenses as permitted by *N.J.A.C.* 5:97-8.9: $85,000.00; Total: $509,000.00; and

WHEREAS, the Borough of Pennington remains committed to implementing locally its Affordable Housing Program as it awaits formal approval of same by COAH; and

WHEREAS, the Borough's program will assist with the creation of housing affordable to low- or moderate-income households and by this Resolution shall be deemed to having committed a portion of the Borough's affordable housing development fees to the aforementioned affordable housing initiatives.

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

1. The Pennington Borough Chief Financial Officer is hereby authorized and directed to withdraw from the Pennington Borough Affordable Housing Development Fee Account a total sum of one hundred ninety-five thousand nine hundred sixty-five ($195,965.00) dollars and transfer said funds to the Borough's Other Trust/Reserve Accounts and to establish the following specific accounts in order to have the Borough commit for funding of the following affordable housing initiatives:

   A. Other Trust/Reserve Line Item:
   Accessory Apartment Program. . . . . : $ 92,400.00

   B. Other Trust/Reserve Line Item:
   Construction Subsidy Program. . . . . : $ 19,250.00

   C. Other Trust/Reserve Line Item:
   Affordability Assisted Program. . . . . : $ 51,590.00

   D. Affordable Housing Administrative
   Expense Account. . . . . .: $ 32,725.00

   TOTAL: $195,965.00

2. A certified true copy of this Resolution shall be furnished upon its adoption to the Borough's Chief Financial Officer.

Record of Council Vote on Passage

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

Council Member Griffiths made a motion to approve Resolution 2012-7.5, second by Council Member Ogren with all members present voting in favor.

BOROUGH OF PENNINGTON
RESOLUTION 2012 – 7.6

RESOLUTION AUTHORIZING LIEN AND TAX AGAINST ABUTTING LAND FOR COSTS OF GRASS CUTTING, PURSUANT TO SECTION 136-8 OF THE PENNINGTON BOROUGH CODE

WHEREAS, the Borough Police Department has received a property maintenance complaint regarding high grass at 404 Burd Street; and

WHEREAS, after investigation by the Police Department it determined that this high grass condition constituted a nuisance as defined by Section 136-3A (6) of the Borough Code;

WHEREAS, pursuant to Section 136-7 of the Code, whenever a nuisance of this kind is declared, a violation shall be given to the owner in writing to remove or abate the same within a specified time not less than five (5) days from the service of the violation notice; and

WHEREAS, on June 14, 2012, a notice of violation was posted at 404 Burd Street by the Pennington Police Department notifying the homeowner that if the problem was not taken care of by June 21st, 2012, the owner would be subject to fines and penalties as set forth in local and state regulations; and

WHEREAS, pursuant to Section 136-8 of the Code, whenever the owner, tenant or occupant notified has not complied with the notice as specified and the nuisance has not been abated or removed under the direction of the enforcing official, any cost or expense incurred by the Borough for abating or removing the nuisance or condition or causing it to be abated or removed may be recovered; and

WHEREAS, on June 25th, 2012, the owner of 404 Burd Street in the Borough, also known as Block 905, Lot 15 on the Borough Tax Map, had failed to cut the grass as directed in the violation notice; and

WHEREAS, on June 25th and June 26th, 2012, the Department of Public Works cut the grass and incurred costs totaling $1,402.50 as set forth in the attached certification by Jeff Wittkop, Superintendent of Public Works;

WHEREAS, the computation of charges in the annexed certification is based on the rates set forth in Chapter 98 of the Borough Code, and Mayor and Council find same to be reasonable;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the aforesaid amount of $1,402.50 is hereby certified to the Tax Collector and shall be charged against Block 905, Lot 15 and shall become a lien and tax thereon and be added to and become part of the taxes next to be levied and assessed against such property, pursuant to Section 136-8 of the Pennington Borough Code.

Record of Council Vote on Passage

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

Council Member Griffiths made a motion to approve Resolution 2012-7.6, second by Council Member McClurg-Doldy with all members present voting in favor.

Borough of Pennington
Resolution #2012 7.7

RESOLUTION CERTIFYING THAT ALL MEMBERS OF THE BOROUGH COUNCIL OF THE BOROUGH OF PENNINGTON HAVE REVIEWED THE SECTIONS OF THE 2011 ANNUAL AUDIT ENTITLED GENERAL COMMENTS AND RECOMMENDATIONS

WHEREAS, N.J.S.A. 40A:5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions, and

WHEREAS, The Annual Report of Audit for the year 2011 has been filed by a Registered Municipal Accountant with the Borough Clerk as per the requirements of N.J.S.A. 40A:5-6, and a copy has been received by each member of the governing body, and

WHEREAS, the Local Finance Board of the State of New Jersey is authorized to prescribe reports pertaining to the local fiscal affairs as per R.S. 52:27BB-34, and

WHEREAS, The Local Finance Board has promulgated a regulation requiring that the governing body of each municipality shall by resolution certify to the Local Finance Board that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled **General Comments and Recommendations**; and

WHEREAS, the members of the governing body have personally reviewed as a minimum the sections of the Annual Audit entitled **General Comments and Recommendations**, as evidenced by the group affidavit form of the governing body, and

WHEREAS, such resolution of certification shall be adopted by the governing body no later than forty-five days after the receipt of the annual audit as per the regulations of the Local Finance Board, and

WHEREAS, all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board, and

WHEREAS, failure to comply with the promulgations of the Local Finance board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52 – to wit:

> R.S. 52:27BB-52 – "A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the Director (Director Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars ($1,000.00) or imprisoned for not more than one year, or both, and in addition shall forfeit his office."

NOW THEREFORE BE IT RESOLVED, that the Borough Council of the Borough of Pennington, hereby states that it has complied with the promulgation of the Local Finance Board of the State of New Jersey and does hereby submit a certified copy of this resolution and the required affidavit to said board to show evidence of said compliance.

Record of Council Vote on Passage

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

Council Member Tucker made a motion to approve Resolution 2012-7.7, second by Council Member Griffiths with all members present voting in favor.

BOROUGH OF PENNINGTON
RESOLUTION #2012-7.8

RESOLUTION AUTHORIZING LEASE OF PENNINGTON BOROUGH SENIOR CITIZENS' CENTER TO THE COUNTY OF MERCER

WHEREAS, the Borough of Pennington has leased the multi-purpose room and kitchen facilities of the Hopewell Valley Senior Citizens' Center to the County of Mercer for use between the hours of 8:00 a.m. and 1:00 p.m., Monday through Friday, by the Mercer County Senior Citizens Nutrition Program;

WHEREAS, the aforesaid lease is now proposed to be renewed for the term of two years beginning January 1, 2012 and ending December 31, 2013 at the rate of $9,500.00 for 2012 and $10,000.00 for 2013, payable quarterly;

WHEREAS, the proposed renewal lease provides for termination by either party upon 90 days' notice in writing, with rent to be adjusted on a per diem basis;

WHEREAS, pursuant to the proposed lease, the County agrees to indemnify and hold harmless the Borough from liability relating to the acts or omissions of the County, provided such acts are not attributed in any way to the negligence of the Borough;

WHEREAS, the proposed lease requires the Borough to pay for utilities and to arrange for snow removal as necessary, while requiring the County to be responsible for repairs and replacements relating to its activities on the premises as well as for the costs of a telephone installed specifically for its use;

NOW, THEREFORE, BE IT RESOLVED, by Borough Council of the Borough of Pennington, that the Mayor, with the attestation of the Clerk, is hereby authorized to enter into the aforesaid Lease, of which a copy is attached, on behalf of the Borough.

Record of Council Vote on Passage

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

Council Member Griffiths made a motion to approve Resolution 2012-7.8, second by Council Member Tucker with all members present voting in favor.

BOROUGH OF PENNINGTON
RESOLUTION 2012 – 7.9

RESOLUTION AUTHORIZING CHANGE ORDER NO. 4 UNDER CONTRACT WITH LIBERTY CONSTRUCTION AND DEVELOPING, INC. FOR WELL #8 WATER TREATMENT SYSTEM

WHEREAS, the Borough Engineer has recommended that Change Order No. 4 be effected under the contract between the Borough of Pennington and Liberty Construction and Developing, Inc. for the project known as Well #8 Water Treatment System (VNHA 39659-400-21) producing a net decrease of $6,000.00 in total contract price;

WHEREAS, the purpose of the change order is to provide a credit to the Borough from Liberty Construction and Developing Inc. serving as Liberty's share in the cost for PSE & G to run 3-phase closed delta service to the Well #8 pump station;

WHEREAS, funds are available in Account No., W-06-07-009-000-250 (Ordinance 2007-9) for payment of the added amount due;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that Change Order No. 4 under the contract between the Borough of Pennington and Liberty Construction and Developing, Inc. for the project known as Well #8 Water Treatment System is hereby

approved.

Record of Council Vote on Passage

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

Council Member Ogren made a motion to approve Resolution 2012-7.9, second by Council Member Griffiths with all members present voting in favor.

Borough of Pennington
Resolution #2012 – 7.10

A RESOLUTION AUTHORIZING PAYMENT REQUEST NO. 9 TO LIBERTY CONSTRUCTION AND DEVELOPMENT, INC. FOR WORK COMPLETED ON THE WELL 8 WATER TREATMENT SYSTEM PROJECT

WHEREAS, Liberty Construction and Development, Inc. has completed certain work pursuant to contract for the Well 8 Water Treatment System Project (VNHA #39203-520-22); 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. 9 ($ 3,665.00) less two percent (2%) retainage ($ 73.30), the net due therefore amounting to $ 3,591.70; and

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

WHEREAS, funds are available in the Water/Sewer Capital budget; and

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that payment to Liberty Construction and Development, Inc. in the amount of $ 3,591.70 pursuant to payment request No. 9 is hereby authorized.

Record of Council Vote on Passage

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

Council Member Ogren made a motion to approve Resolution 2012-7.10, second by Council Member McClurg-Doldy with all members present voting in favor.

Borough of Pennington
Resolution #2012 – 7.11

A RESOLUTION AUTHORIZING PAYMENT REQUEST NO. 10 (Final) TO LIBERTY CONSTRUCTION AND DEVELOPMENT, INC. FOR WORK COMPLETED ON THE WELL 8 WATER TREATMENT SYSTEM PROJECT

WHEREAS, Liberty Construction and Development, Inc. has completed all work pursuant to contract for the Well 8 Water Treatment System Project (VNHA #39203-520-22); and

WHEREAS, Van Note Harvey Associates, P.C. has reviewed the application and recommends final payment for completed work pursuant to the Contractor's Request for Payment No.10 in the amount of $4,042.47;

WHEREAS, funds are available in the Water/Sewer Capital budget; 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 Van Note Harvey Associates, P.C.;

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that final payment to Liberty Construction and Development, Inc. in the amount of $ 4,042.47 pursuant to payment request No. 10 is hereby authorized.

Record of Council Vote on Passage

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

Council Member Ogren made a motion to approve Resolution 2012-7.11, second by Council Member Griffiths with all members present voting in favor.

BOROUGH OF PENNINGTON
RESOLUTION 2012-7.12

RESOLUTION AUTHORIZING A CONTRACT BETWEEN THE BOROUGH OF PENNINGTON AND THE NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY

Mayor Persichilli stated that Resolution 2012-7.12 has been pulled off the agenda. Mayor Persichilli stated that numerous calls have been made and there are still questions that need to be answered and until we hear back from them we are going hold off on this agreement.

Council Discussion

Curbing and other items in the public right-of-way between sidewalks and the street – Mrs. Sterling stated that we received a request from a resident to put Belgian block curbing in front of his house on Burd Street where the grass and the roadway meet. Mrs. Sterling stated that this resident stated that cars park in front of his house on the grass and when it is raining the grass gets rutted and becomes a mud pit. Mrs. Sterling stated that the request was discussed in the office and it was determined that this would not be allowed. Mrs. Sterling stated that when she called the resident back his wife stated that she knows of several other residences who have put curbing or poles or large rocks to prevent people from parking and that should also not be allowed. Mrs. Sterling stated that she discussed this with Mayor Persichilli and Mr. Meytrott to figure out where we go from here. Mr. Ogren asked if there is an ordinance that prohibits residents from putting obstructions in the right of way to prevent people from parking on the grass. Mr. Wittkop stated that he was not aware of anything that would prevent a resident from putting a curb in. Mrs. Sterling stated that it is in the public right of way. Mr. Wittkop stated that if the curb in front of someone's house becomes deteriorated it is the homeowner's responsibility to repair or replace the curb. Mr. Wittkop stated that he is not saying that he likes the idea of homeowners putting curbs in because when they re plowing snow, they know where the curbs are and so they are not expecting a residence to have a section of curb sticking out. Mr. Bliss stated that this is really a right of way issue. Mr. Ogren stated that he has heard complaints from residents about this problem and he does not see how putting some stones out to prevent people from parking on the grass is a problem.

Mr. Wittkop stated that residents have various ways to prevent people from parking on the grass. Mr. Wittkop stated that some residents have placed large rocks out and he himself has a couple of stakes in front of his house. Mayor Persichilli stated that he has also seen residences with Belgian block curbing.

Mr. Meytrott inquired as to whether there would be an issue of liability for the Borough if we allow these items to be in the right of way. Mr. Wittkop stated that they dealt with one issue on Vannoy Avenue involving a resident who planted material in the right of way that created a problem.

Mr. Bliss stated that if there is a need for the curb, there is no reason that the Borough can't consent providing that the work is done properly and meets specifications. Mr. Bliss stated that it is really a question of controlling what is permissible and what is not. Mr. Wittkop stated that there are quite a few residents who have planted items in the right of way area and it does create a situation because when they are plowing snow it is difficult to pile the snow off the road.

Mr. Wittkop stated that if the blocks are laid flat, that would be one thing, but if they create a curb that could be a problem because the rest of the street does not have curbing. Mr. Wittkop stated that another issue might come up if someone puts a curb in and the Public Works Department has to access the curb valve and the blocks have to be removed, the Borough would be responsible for putting the blocks back in unless there was an ordinance that says it is the homeowner's responsibility.

Mr. Wittkop stated that this is a similar situation to the agreements that we have with residents who have erected fences on portions of a Borough Easement. Mr. Wittkop stated that those agreements stipulate that if the Borough has to access the easement, the Borough is not responsible for replacing the fence.

Mr. Bliss stated that language could be incorporated into the ordinance that would state that the Borough would not be responsible for any damages. Mr. Bliss stated that he would come up with an ordinance regarding putting items in the public right of way.

Professional Reports

There were no comments from the professionals.

Mr. Bliss asked for 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, 8:15 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 / Springpoint
- Litigation – McNulty Tax Appeal
- Litigation – PA Contractors
- Litigation – Castoro & Company
- Personnel – Business Administrator

AT, 8:44 PM, Mayor and Council returned to open session.

Borough of Pennington
Resolution #2012 – 7.3

RESOLUTION APPOINTING TIMOTHY L. MATHENY AS BOROUGH ADMINISTRATOR FOR THE BOROUGH OF PENNINGTON

A motion and second were recorded earlier in the meeting. Upon a roll call vote, all members present voted in favor of Resolution 2012-7.3.

At 8:44 PM, Council Member Griffiths made a motion to adjourn the meeting, second by Council Member Tucker.

Respectfully submitted,

Elizabeth Sterling
Borough Clerk