

**Pennington Borough Council
Regular Meeting – September 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 Dunn, Griffiths, Heinzl, Ogren, and Tucker in attendance. Council Member McClurg-Doldy was absent.

Also present were Borough Administrator, Tim Matheny, Borough Attorney, Walter Bliss, Public Works Superintendent, Jeff Wittkop, Public Safety Director, Bill Meytrott and Chief Financial Officer Sandra Webb.

Mayor Persichilli announced that notice of this meeting has been given to the 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 August 6th, 2012, Regular Meeting, second by Council Member Dunn. Mrs. Dunn made a correction to page two regarding funding for the siding on the house owned by the Presbyterian Church. Upon a roll call vote, all members present voted in favor of the minutes as amended, with the exception of Council Member Griffiths who abstained.

Mayor's Business

Mayor Persichilli invited Kit Chandler of 123 South Main Street and Heather Wurtz of 205 Van Dyke Road in Hopewell to come forward and speak about the Library Annual 5K run. Mrs. Chandler stated that they are pleased to announce that the Library Annual Run will be held on Sunday, October 28th, 2012. Mrs. Chandler stated that they have contacted Mercer County and received permission to close a portion of North Main Street from Delaware Avenue to Knowles Street. Mrs. Chandler stated that they have had a meeting with Pennington Police and received preliminary approval. Mrs. Chandler explained that the route has been changed due to some confusion in previous years and they will require approval from the Borough to close roads in Pennington Borough. Mrs. Chandler encouraged Mayor and Council to participate in the event. Mrs. Chandler stated that registration forms will be available in the Library.

Mayor Persichilli announced the resignation of Matt Reading from the Public Works Department effective August 30, 2012.

Mayor Persichilli announced the resignation of Alyce Mc-Clurg-Doldy from her seat on Borough Council effective August 28, 2012. Mayor Persichilli stated that the Democratic Committee will be submitting three names of candidates to fill the vacancy temporarily. Mayor Persichilli stated that a Special Meeting will be scheduled for sometime next week.

Mayor Persichilli stated that he would like to move the Public Comment Period to this point in the meeting to accommodate a resident in the audience.

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.

Elizabeth Kemp of 14 Eglantine Avenue came forward. Mrs. Kemp stated that she would be reading a letter on behalf of herself and her husband Eric. Mrs. Kemp stated that they would like express to Borough Council their increasing concern about a situation on their property. Mrs. Kemp stated that after hearing of a decision to allow hunting in Hopewell Township to try to address the deer issue they feel compelled to ask for Borough Council's help in addressing a very real problem that they are experiencing. Mrs. Kemp explained that since they moved here in 2008, their yard has become an unsafe environment for their family. Mrs. Kemp stated that their property is home to a herd of deer that sleep, eat and defecate there year round.

Mrs. Kemp stated that this is causing considerable damage to their property and health risks to their family which includes an alarmingly increased likelihood for Lyme Disease.

Mrs. Kemp stated that what is troubling about their situation is that it has been exacerbated by a neighbor's deer feeding machine. Mrs. Kemp stated that they have made significant attempts to discourage the deer from residing on their property. Mrs. Kemp stated that their efforts have been unsuccessful due to the presence of the deer feeder.

Mrs. Kemp stated that they have contacted Borough Hall, the Board of Health, the Police Department and Animal Control only to be told that there is no law or ordinance prohibiting feeding deer. Mrs. Kemp stated that she would like to know why Pennington has an ordinance prohibiting feeding wildlife on public property, but not on private property. Mrs. Kemp stated that the ordinance prohibits feeding of unconfined wildlife "in order to protect the public health, safety and welfare" and the same health and safety concerns exist on their property and yet they have no means by which to address the concerns.

Mrs. Kemp stated that by bringing this situation to the attention of Borough Council she is hoping that a dialogue will begin to introduce an ordinance to prohibit the feeding of deer in Pennington on private property as well as on public property.

Council Members Griffiths and Ogren were in favor and such an ordinance. Mayor Persichilli asked Mr. Bliss if he had any comments. Mr. Bliss stated that there is a clear distinction between public and private property and it would take some care to properly craft an ordinance.

Mayor's Appointments

Mayor Persichilli announced the appointment of Guy McPhail to the Economic Development Commission for a one (1) year term ending December 31, 2012.

Appointments (with Council Approval)

Mayor announced the appointment of Emily Matticoli as a Class C member of the Historic Preservation Commission for a four (4) year term ending December 31, 2015. Council Member Dunn made a motion to approve the appointment, second by Council Member Heinzl with all members present voting in favor.

Public Hearing – Best Practices 2012

Ms. Sandy Webb, Chief Financial Officer stated that this is the second year that the Best Practices Worksheet has had to come before Borough Council. Ms. Webb stated that there are fifty questions on the worksheet, sixteen are new from last year and some have been reworded from old questions. Ms. Webb stated that one of the requirements is that a public hearing has to be held and that is why this is on the agenda for tonight. Ms. Webb stated that the number of no responses on the worksheet could affect anticipated state aid for the end of this year. Ms. Webb stated that there were only a couple of questions that we were not able to answer yet to. Ms. Webb asked if anyone had any questions on the worksheet. Mrs. Heinzl stated that one of the questions pertained to light duty and she would like to know if there is any distinction between small and large municipalities. Ms. Webb stated that unfortunately there is no distinction and the worksheet did not allow non-applicable as an answer. Ms. Webb stated that fortunately we are not in any jeopardy to lose state aid for this year, but we can include a comment on the worksheet.

Ordinances for Introduction

Mayor Persichilli read Ordinance 2012-11 by title.

BOROUGH OF PENNINGTON ORDINANCE NO. 2012- 11

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

WHEREAS, Borough Council seeks to amend Chapter 98, Article XV, of the Code of the Borough of Pennington ("Code"), concerning Construction Codes Fees, as well as Chapter 98, Article X, concerning Street Opening Permits;

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

1. Section 98-56, concerning Building Subcode Fees, is amended as follows: ¹

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

¹ Deletions are denoted by brackets [] and new language is underlined.

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.

O. The minimum building subcode fee shall be \$75.00.

2. Section 98-58, concerning Fire Subcode Fees, is amended as follows:

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 101 to 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 commercial 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] 75.

3. Section 98-59, concerning Plumbing Subcode Fees, is amended as follows:

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 subcode fee shall be \$[50] 75.

4. Section 98-60, concerning Electrical Subcode Fees, is amended as follows:

98-60. Electrical subcode fees.

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 priced 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 load 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 than 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 kilowatts, 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 subcode 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.

5. Section 98-37, concerning Street Opening Permits, is amended as follows:

Section 98-37. Street Opening Permits.

Fees pursuant to Chapter 177, Streets and Sidewalks, Article II, Openings and Excavations, shall be as follows: One hundred (\$100.00) dollars for each permit or five hundred (\$500) dollars for a blanket permit issued to a public utility valid for [one] all or the remainder of the calendar year in which it is issued.

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

Council Member Griffiths made a motion to introduce Ordinance 2012-11, second by Council Member Dunn. Mrs. Sterling explained that this ordinance is just to correct a few things that were overlooked on the amendment that was adopted at the last meeting. Upon a roll call vote, all members present voted in favor of introduction.

Committee Reports

Planning & Zoning / Environmental Commission / Library – Mrs. Heinzl reported that the Planning Board met on August 8th and heard one application for Villa Francesco. Mrs. Heinzl stated that the application was for outdoor dining and the board approved the application. Mrs. Heinzl stated that the outdoor dining will be visible from Route 31 and will hopefully attract more customers. Mrs. Heinzl stated that the board also approved their request for music outside. Mrs. Heinzl stated that the Planning Board had some discussion with regard to COAH and other potential ordinances involving home occupations and porous pavers.

Mrs. Heinzl stated that the Library had a very successful summer. Mrs. Heinzl stated that the new director is very energetic and has started many new programs for adults including a film series and book groups. Mrs. Heinzl stated that the summer children's program was held and was very successful. Mrs. Heinzl stated that the library is working very hard to develop a new collection which will be tailored to the community in accordance with the strategic plan done in the spring. Mrs. Heinzl stated that a flyer is available outlining the fall adult programs and there seems to be something for everyone.

Mrs. Heinzl stated that the Environmental Commission did not meet over the summer, but they will be meeting in September.

Public Works – Mr. Ogren stated that the Public Works Committee met and a couple of the major items that were discussed are on the agenda for Council Discussion. Mr. Ogren stated those items are the boiler replacement and the NJ DOT grant application.

Mr. Ogren stated that the Sked Street project was on hold due to the rain last week, but work resumed today. Mr. Ogren stated that there are a couple of resolutions on the agenda with regard to the Safe Routes to Schools Project. Mr. Ogren stated that the Borough has received approval from DOT for an increase in the grant to fund the cost of the additional flashing light that is being required. Mr. Ogren stated that the other resolution is for the change order. Mr. Ogren stated that the increase in the grant does not include funds for the request from Hopewell Valley Engineering for additional construction, inspection and management costs. Mr. Ogren stated that at the last meeting Council was made aware of the request from Hopewell Valley Engineering for an additional \$4000. Mr. Ogren stated that he and Borough Administrator, Tim Matheny went to Cherry Hill to meet with DOT and they were told that because there is a pay to play clause in the contract the FHWA would not cover any additional work. Mr. Ogren stated that given the outcome of the meeting with DOT, he contacted Hopewell Valley Engineering to discuss what they could do to lower the cost since the costs will now have to come out of the Borough budget. Mr. Ogren stated that first they offered to reduce the bill by \$400, but after further discussion they have offered to reduce the quote by \$1,300 bringing the final amount to \$2,760. Mr. Ogren stated that there is no resolution on for tonight but he would like to have a resolution done for the October meeting.

Mr. Bliss questioned the reason for not allowing pay to play language in the contract. Mr. Matheny explained that in 2004 an executive order was signed by Governor Codey stating that for DOT contracts where federal highway money is involved you do not use a pay to play contract.

Mr. Griffiths asked Mr. Ogren what the amount of money is and where the funds will be coming from. Mr. Ogren stated that the amount is \$2,760 and it will be coming out of the engineering budget. Mr. Griffiths asked when this project will be completed so that the Borough can submit for reimbursement. Mr. Griffiths questioned pursuing the trail project given that also involves federal money.

Mr. Ogren stated that regarding the DVRCP grant project involving a study of the Route 31 corridor redevelopment area. Mr. Ogren stated that Mayor Persichilli appointed a committee, they have met and they have approved a request for proposals that will be sent out to consultants for the study. Mr. Ogren stated that if anyone on Council would like to see the proposal he would e-mail it. Mr. Ogren stated that this project is to study the landfill site from Broemel to Delaware Avenue.

Mr. Ogren stated that part of this project includes a preliminary assessment, Phase One Study for the area that does not include the landfill because that was never done. Mr. Ogren stated that this phase one study was included as a match for the grant and the funds have been budgeted for this year. Mr. Ogren stated that requests for proposals have been sent out to three environmental firms. Mr. Ogren stated that one of the price quotes received is close to our budget amount and that will be awarded at the next meeting.

Mr. Ogren stated that Council Members have the following Water/Trash report for the month of August 2012:

PENNINGTON BOROUGH PUBLIC WORKS

TO: Tom Ogren, Chairman
Public Works Committee
FROM: Jeff Wittkop, Superintendent
DATE: September 4, 2012
RE: COUNCIL REPORT FOR THE MONTH OF AUGUST 2012

WATER

Water pumped for the month of August 2012:	6,941,000
Daily-	223,900
Water pumped for the month of August 2011:	6,973,000
Daily-	224,900

For the month of August 2012 we averaged 1,000 gallons less per day than August 2011.

TRASH

79.33 tons of household trash for the month of August 2012 vs. 91.82 tons in August 2011
12.49 tons less in 2012 than 2011.

Correction - last month we reported 69.31 tons for the month of July, it should have been 79.67.

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 still available at the Senior Center.

Repaving has started on Sked Street.

Personnel/Shade Tree – Mr. Ogren had no report for Personnel or Shade Tree.

Public Safety – Mr. Tucker reported that the selection process for a new Police Officer continues, six candidates have been selected and background checks are underway. Mr. Tucker stated that quotes for lighting and equipment for the new police vehicle are being received and will be submitted to the Borough Administrator for consideration.

Mr. Tucker stated that Director Meytrott has been busy representing the Department at various meetings and events.

Mr. Tucker stated that no meetings have been held with regard to the North Mercer Communication System, meetings should resume in September.

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

2	Simple Assaults
3	Thefts
148	Motor Vehicle Stops
56	Warnings Issued
1	DUI Summons
118	Motor Vehicle Summonses Issued
5	Arrests – Male
2	Arrests – Female

Finance – Mr. Griffiths stated that the Finance Committee did not meet so he did not have a report.

Historic Preservation – Mrs. Dunn reported that the Historic Preservation Commission will be meeting next week. Mrs. Dunn stated that there are no new applications, but they will still have the meeting. Mrs. Dunn stated that the Presbyterian Church that owns the house on the corner of Delaware and Main has taken the recommendation of the Historic Preservation Committee and they will be installing the types of windows that the commission recommended. Mrs. Dunn stated that at first the church indicated that they could not afford the cement siding, but now as you can see they have been able to put up cement siding. Mrs. Dunn stated that the community stepped in and they were able to negotiate a lower price. Mrs. Dunn stated that half of the funding for the siding is coming from a Pennington Day Grant and the remainder was paid for by some members of the community who will be forming a committee to do some fundraising to recoup some of the money.

New Business

**Borough of Pennington
Resolution #2012 – 9.1**

RESOLUTION AUTHORIZING REFUNDS

BE IT RESOLVED, that a refund be issued to US Bancorp Service Providers c/o CoreLogic Tax Services, LLC, 1 CoreLogic Drive, Westlake, TX 76262, for an overpayment of third quarter 2012 taxes, in the amount of \$99.71 for, 3 Maple Lane, Block 1005, Lot 1.

Record of Council Vote on Passage

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

Council Member Griffiths made a motion to approve Resolution 2012-9.1, second by Council Member Dunn with all members present voting in favor.

**Borough of Pennington
Resolution #2012 – 9.2**

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 \$ 2,498,892.68 from the following accounts:

Current	\$ 2,249,509.60
W/S Operating	\$ 240,311.93
Developers’ Escrow	\$ 352.00
Water/Sewer Capital	\$ 3,779.90
COAH Trust Fund	\$ 858.00
Grant Fund	\$ 4,081.25
TOTAL	\$ 2,498,892.68

Record of Council Vote on Passage

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

Council Member Griffiths made a motion to approve Resolution 2012-9.2, second by Council Member Heinzel. Council Member Tucker questioned specific bills on the bill list and upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2012 – 9.3**

**RESOLUTION APPROVING RAFFLE LICENSE RA: 6.12 FOR
ST. MATTHEWS CHURCH**

WHEREAS, St. Matthews Church submitted raffle application RA: 6.12 on August 30, 2012 for a raffle to take place on November 3, 2012 and a copy of that application is attached to this resolution; and

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

WHEREAS, the required waiting period was satisfied on September 6, 2012; and

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

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

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington that raffle license RA: 6.12 for St. Matthews Church be approved; and

BE IT FURTHER RESOLVED, that the Municipal Clerk will forward the annexed Findings and Determinations for RA: 6.12 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								
Griffiths	X				Ogren	X			
Heinzel	S				Tucker				abstain

Council Member Dunn made a motion to approve Resolution 2012-9.3, second by Council Member Heinzel with all members present voting in favor with the exception of Mr. Tucker who abstained. Mr. Tucker explained that he is a member of St. Matthews Church.

**Borough of Pennington
Resolution #2012 – 9.4**

**RESOLUTION AUTHORIZING PAYMENT REQUEST NO. 1 TO
F & P CONTRACTORS, INC. FOR WORK COMPLETED ON THE SKED STREET
RECONSTRUCTION PROJECT**

WHEREAS, F & P Contractors, Inc. has completed work pursuant to the contract for the Sked Street Reconstruction Project (Roberts Engineering Group, LLC. Project No. PEN3703); and

WHEREAS, Roberts Engineering Group, LLC has reviewed the application and recommends payment for completed work pursuant to the Contractor's Request for Payment No. 1 (\$114,948.28) less two percent (2%) retainage (\$2,298.97), the net due therefore amounting to \$112,649.32; and

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

WHEREAS, funds are available in Account #: G-02-44-947-000-250;

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that payment to F & P Contractors, Inc. in the amount of \$112,649.32 pursuant to payment request No.1 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								
Griffiths	X				Ogren	M			
Heinzel	S				Tucker	X			

Council Member Ogren made a motion to approve Resolution 2012-9.4, second by Council Member Heinzel with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION NO. 2012 – 9.5**

**RESOLUTION AUTHORIZING AGREEMENT MODIFICATION FOR THE
SAFE ROUTES TO SCHOOL PROGRAM**

WHEREAS, the New Jersey Department of Transportation approved an application submitted by the Borough of Pennington for a Federal Safe Routes to School Program grant for crosswalk and other improvements which will encourage and enable children, including those with disabilities, to walk to school in greater safety;

WHEREAS, the Borough’s application for funding under the Safe Routes to School Program included safety improvements at the following crosswalks: South Main Street and Curlis Avenue; Burd Street and Curlis Avenue; and West Delaware Avenue and Green Street, and the replacement of deteriorated sidewalks and missing curbing along South Main Street.

WHEREAS, the original award amount was \$205,824.00 for construction of the above mentioned improvements including construction management services in accord with state and federal requirements associated with the Safe Routes to School Program;

WHEREAS, in a letter dated September 29, 2011 and authorized by Resolution 2011-10.6, the New Jersey Department of Transportation approved additional funding in the amount of \$13,258.00 for change order No. 1 and construction stakeout costs, bringing the total approved cost of the project to \$219,082. under Agreement No. 10-DT-BLA-583;

WHEREAS, in a letter dated August 30, 2012, a copy of which is attached to this resolution, the New Jersey Department of Transportation approved additional funding in the amount of \$13,213.00 for additional work under change order No. 3, bringing the total approved cost of the project to \$232,295. under Agreement No. 10-DT-BLA-583 approved on 2/10/11;

WHEREAS, the New Jersey Department of Transportation requires approval of the annexed Agreement Modification by the governing body of the Borough;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington that, the Mayor is hereby authorized to execute the annexed Agreement Modification with the New Jersey Department of Transportation for the aforesaid additional funding under the Safe Routes to School Program.

Record of Council Vote on Passage

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

Council Member Ogren made a motion to approve Resolution 2012-9.5, second by Council Member Heinzel. Mr. Ogren explained that this Resolution approves the agreement modification that provides the additional funds for the third light that is being required by the Federal Government for the Safe Routes to Schools Project. Upon a roll call vote all members present voted in favor of the Resolution.

**BOROUGH OF PENNINGTON
RESOLUTION 2012 – 9.6**

**RESOLUTION AUTHORIZING ADDITION OF ACCESSORY APARTMENT TO AFFORDABLE
UNITS ADMINISTERED PURSUANT TO CONTRACT BETWEEN THE
BOROUGH OF PENNINGTON AND THE NEW JERSEY HOUSING
AND MORTGAGE FINANCE AGENCY UNDER THE BOROUGH’S AFFORDABLE HOUSING
PROGRAM**

WHEREAS, New Jersey’s Fair Housing Act (N.J.S.A. 52:27D-301, et seq) permits municipalities to contract with the New Jersey Housing and Mortgage Finance Agency (“HMFA”) to administer on their behalf the resale and rental controls applicable to deed-restricted affordable housing units when no appropriate administrative agency exists within the municipality to administer such controls;

WHEREAS, the Borough of Pennington has entered into such a contract with HMFA by which that agency has agreed to administer on behalf of the Borough controls on the purchase, sale and rental of deed-restricted affordable units in the Borough’s Affordable Housing Program for the duration of the controls, the functions of HMFA to include eligibility determinations, determination of initial occupants, oversight and approval of the marketing of units, maintenance of eligibility lists for subsequent purchasers or renters, determination of purchasers and renters, and determination of maximum resale prices or rents (“Agreement”);

WHEREAS, the Agreement presently covers a designated inventory of six (6) units in the Borough and, upon written request by the Borough accompanied by an appropriate resolution and payment of a \$500 fee, it permits the addition of units to this inventory as additional affordable units are developed;

WHEREAS, the purpose of this Resolution is to authorize the making of such a request to HMFA with respect to the accessory apartment presently being developed by Craig and Antonia Lewis at 20 East Welling Avenue under the Borough’s Accessory Apartment Program;

WHEREAS, Section 215-97 of the Code of the Borough of Pennington establishes an Accessory Apartment Program as part of the Borough’s Affordable Housing Program and provides for the creation of accessory apartments affordable to low-income households;

WHEREAS, Craig and Antonia Lewis are the owners of real property, a single-family dwelling and a garage with a second-floor space located at 20 East Welling Avenue in Pennington, also known as Lot 23 in Block 1002 on the Borough Tax Map;

WHEREAS, pursuant to Resolution 2012-6.8, adopted on June 6, 2012, Borough Council has authorized an agreement between the Borough and Craig and Antonia Lewis providing for the creation of an accessory unit for low-income households in the second-floor space over the aforesaid garage at 20 East Welling Avenue (“the Lewis Affordable Unit”), to be eligible for subsidization by the Borough’s Affordable Housing Trust Fund, as more fully set forth in the Resolution, of which a copy is attached;

WHEREAS, the Lewis’ development of the accessory apartment for low-income households and its qualification for subsidy under the Borough’s Accessory Apartment Program is conditioned, inter alia, on the Lewis’ compliance with all applicable COAH rules and regulations and with the provisions of the Borough’s Accessory Apartment ordinance, as the same may be amended from time to time, including the recording of a deed restriction that will ensure that the apartment will be utilized as a rental dwelling for low-income qualified households for a period of ten (10) years from the date of initial occupancy;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Mayor and Municipal Housing Liaison of the Borough of Pennington are hereby authorized (a) to submit to HMFA on behalf of the Borough a written request for the addition of the Lewis Affordable Unit to the inventory of affordable units covered by the Agreement, and to include with the request a copy of this Resolution and the attached Resolution 2012-6.8 and related agreement; (b) to cause to be disbursed from the Affordable Housing Trust Fund of the Borough, upon acceptance of the additional unit by HMFA, a check payable to the New Jersey Housing and Mortgage Finance Agency in the amount of \$500; and (c) to take such additional steps as may be required to ensure coverage of the Lewis Affordable Unit under the HMFA Agreement.

Record of Council Vote on Passage

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

Council Member Tucker made a motion to approve Resolution 2012-9.6, second by Council Member Ogren. Mr. Griffiths stated that Cindy Coppola’s letter that is on for Council Discussion indicates that the Borough can not spend any COAH funds until the spending plan is approved. Mr. Ogren stated that this expenditure falls under the approved spending plan and is an allowable expense. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2012- 9.7**

**RESOLUTION APPROVING REVISED CHANGE ORDER
NO. 3 UNDER CONTRACT WITH PA CONTRACTORS, INC.
FOR THE SAFE ROUTES TO SCHOOLS PROJECT**

WHEREAS, Hopewell Valley Engineering has recommended that Change Order No. 3 be effected under the contract between the Borough of Pennington and PA Contractors, Inc. for the project known as Pennington Borough Safe Routes to Schools (Federal Project No. STP-BOOS (955)) producing an increase of \$ 18,400.00 in total contract price;

WHEREAS, the purpose of the change order is to install additional rapid rate flashing pedestrian crosswalk beacon per FHWA direction as explained in the attached change order documents from Hopewell Valley Engineering, dated June 26, 2012; and

WHEREAS, on August 6, 2012 Borough Council adopted Resolution 2012-8.7 approving change order No. 3 subject to required approvals by NJDOT;

WHEREAS, NJDOT has directed that the Borough resubmit change order No. 3 with a revised project completion date of March 30, 2013;

WHEREAS, Borough Council therefore rescinds Resolution 2012-8.7 and substitutes for it this resolution approving revised change order No. 3 extending the date for project completion from September 22, 2012 to March 30, 2013;

WHEREAS, the work covered by this Change Order No. 3 will be paid for under the NJDOT grant for the project pending approval of the Change Order by the NJDOT;

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

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the aforesaid Revised Change Order No. 3 under the contract between the Borough of Pennington and PA Contractors, Inc. for the Pennington Borough Safe Routes to Schools Project (Federal Project No. STP-BOOS (955), which provides for an increase in the contract price of \$ 18,400.00 and a revised project completion date of March 30, 2013, is hereby approved, subject to such further approvals as required by NJDOT pursuant to its letter to the Borough dated August 30, 2012 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	X								
Griffiths	X				Ogren	M			
Heinzel	X				Tucker	S			

Council Member Ogren made a motion to approve Resolution 2012-9.7, second by Council Member Tucker with all members present voting in favor.

Council Discussion

Lawrence Hopewell Trail – Mayor Persichilli stated that tonight at the Hopewell Township Council Meeting they will be discussing the trail project and the possibility that they may be willing to take over the project. Mayor Persichilli stated that they would handle engineering and maintenance of the trail. Mayor Persichilli stated that he has had discussions with the Township Administrator and a couple of committee members and they are interested in doing the project. Mayor Persichilli stated that if the Township decides to take on the project he will work with Mr. Matheny and Mr. Ogren to transfer the project.

NJ DOT Grant Application – Mr. Ogren stated that the Public Works Committee discussed what streets would be next in line for repairs. Mr. Ogren stated that Lower King George Road needs to be finished however Carmela Roberts indicated that the cost would be around \$200,000 which is below the grant amounts that the Borough has been getting in recent years. Mr. Ogren stated that in order to maximize the amount that the Borough would apply for, the committee felt that another option would be to include one block on West Curlis Avenue that is in poor condition. Mr. Ogren stated it is unlikely that the Borough would submit an application for just one block so submitting these two items together might be the best option. Mr. Ogren asked if anyone else has any ideas for roads that need repair. Council Members thought that submitting for the two projects mentioned would be the best option. Mr. Ogren stated that the application is due by October 16th. Mrs. Dunn asked if engineering has already been done for the remaining portion of King George Road that needs to be done. Mrs. Dunn stated that if the engineering has been done that would save some time and money on the remaining portion. Mr. Ogren stated that he would check with Van Note Harvey to see if they have anything that would be useful for this project.

Update on Boiler Replacement – Mr. Matheny stated that the boiler we have now is a 700,000 BTU unit which is too big and was over engineered at that time of installation. Mr. Matheny stated that he has looked into a smaller unit and talked with CM3 and they feel that replacing the unit we have with a 500,000 BTU unit would be no problem. Mr. Matheny stated that he found the bigger unit on State Contract and he has contacted the vendor and the smaller unit is also under state contract. Mr. Matheny stated that the difference in price is around \$1,000. Mr. Matheny stated that the installation will be around \$9,800 and the boiler will be around \$10,000. Mr. Matheny stated that he will be requesting prices for the installation portion of the project. Mr. Matheny stated that by getting the boiler under State Contract we do not have to go out to bid for the project. Mr. Matheny stated that he should be able to have this ready to be approved at the October meeting. Mr. Matheny stated that the newer unit should be slightly more energy efficient. Mr. Wittkop stated that the current unit can be compared to a V8 car and we don't need that we need more like a V6. Mr. Wittkop stated that the current unit starts up, heats up and shuts down and we get waves of temperature differences. Mr. Wittkop stated that the new boiler will run for a longer period of time which should result in a more constant temperature. Mr. Wittkop stated that this is the best deal for our dollar, though it may not be the most energy efficient. Mr. Wittkop stated that when the original system was designed it was over engineered. Mr. Griffiths asked how long the boiler can be expected to last. Mr. Wittkop stated that the current boiler was installed in 1995 and he would estimate 15 years for the new unit.

Pennington Fire Company Application – Mr. Wittkop stated that the Pennington Fire Company came before Council a couple of months ago regarding putting an addition on the building. Mr. Wittkop stated that he and Borough Engineer, Carmela Roberts, reviewed that application to determine where the building would be in relation to a storm drain easement. Mr. Wittkop stated that the actual structure of the building is on the edge of the easement which means that when they dig for the foundation they will over dig to allow room for cinder block placement so they will be encroaching on the easement and will be within 1.7 feet of the drainage pipe. Mr. Wittkop stated that means that if something ever happens and the Borough needs to access the pipe they would be 3.7 feet close to the foundation and that is too close. Mr. Wittkop stated that the Borough Engineer agreed and the only proper way for the Fire Company to do this is for them to move

the drainage pipe and the catch basin in an easterly direction and grant the Borough a new easement by doing that. Mr. Wittkop stated that the Fire Company will probably not like this solution because it will cost them more money, but it does protect the Borough in two ways; one that we won't have an encroachment on the easement and two that if we have to go in for any repair work we would not be right next to the building. Mayor Persichilli stated that he feels this is a reasonable request. Mr. Griffiths stated that he agrees with Mr. Wittkop's recommendation; however he is still opposed to the project. Council Members discussed where the funding for the project would be coming from and the difference between the Fire Company and the Fire Commission.

Letter from Cindy Coppola – Affordable Housing Spending Plan – Mr. Griffiths stated that the key point in the letter for him is protecting the COAH Funds that we have collected from seizure by the State. Mrs. Heinzl stated that as she reads the letter, Mrs. Coppola is suggesting that the Borough resubmit our spending plan from 2008 so that we can encourage COAH to actually approve the plan. Mr. Griffiths suggested that Council do a resolution to protect any additional funds that are still unprotected. Mr. Ogren stated that he was not sure how the Borough could go about committing funds under the 2008 spending plan because that plan has not been approved yet.

Ms. Heinzl stated that she would support resubmission of the 2008 Spending Plan. Mr. Griffiths stated that he does not want to incur any further expenses. Mr. Griffiths stated that he feels with regard to COAH, the less we do the better. Mr. Griffiths stated that it is just too confusing. Council Members discussed COAH and where it stands now. Mayor Persichilli stated that given the situation with COAH, he is not willing to spend any more money to do anything. Mayor Persichilli stated that if the State takes the money then so be it. Mr. Ogren stated that the letter from Ed Schmierer indicates that a resolution can be done to protect additional funds from seizure. Council Members agreed to doing a resolution to protect whatever funds can be protected for the October meeting.

Professional Reports

There were no comments from the professionals.

Mr. Bliss requested a closed session.

Closed Session

AT, 8:21 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:

- Personnel – Public Works Department
- Presbyterian Homes
- PA Contractors
- Castoro & Company
- McNulty Tax Appeal

AT, 9:14 PM, Mayor and Council returned to open session.

At 9:14 PM, Council Member Tucker made a motion to adjourn the meeting, second by Council Member Dunn.

Respectfully submitted,

Elizabeth Sterling
Borough Clerk