

**Pennington Borough Council
Regular Meeting – January 7, 2013**

Mayor Persichilli called the Regular Meeting of the Borough Council to order at 7:19 pm. Borough Clerk Betty Sterling called the roll, all members were present.

Also present were Borough Administrator, Timothy Matheny, 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.

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 November 2, 2012 Regular Meeting, second by Council Member Dunn with all members present voting in favor.

Council Member Tucker made a motion to approve the minutes of the November 19, 2012 Regular Meeting, second by Council Member Ogren with all members present voting in favor with the exception of Council Members Dunn and Heinzl who abstained.

Council Member Tucker made a motion to approve the minutes of the December 11, 2012 Regular Meeting, second by Council Member Heinzl with all members present voting in favor with the exception of Council Member Heino who abstained.

Mayor's Business

Mayor Persichilli announced that Judy Lindenberger of the Hopewell Valley Special Needs Advisory Committee was supposed to come and talk to Council but it appears that she is not here.

Committee Reports

Planning & Zoning / Environmental Commission / Library – Mrs. Heinzl reported that the Library Strategic Plan will be guiding decisions and directions for the Library this year including design renovations to accommodate more work space, meeting space and public seating. Mrs. Heinzl stated that the Library Strategic Plan was featured in an article in the NJ League of Municipalities magazine in October that highlighted the community approach to planning that Pennington resident Jim Davy employed in leading the process. Mrs. Heinzl stated that the three goals of the strategic plan were to improve the Library facility, improve the Library connection to the community and to expand programming for patrons. Mrs. Heinzl stated that included in the water/sewer bills this quarter was a winter program for the library. Mrs. Heinzl reviewed some of the upcoming programs. Mrs. Heinzl stated that a lot of this has come about because of the new Library Director Kim Ha and because of that the Library Board approved an increase in hours from 25 to 30 hours.

Mrs. Heinzl stated that the Planning Board met on December 12th and heard two applications. Mrs. Heinzl stated that the first application was the Pennington Fire Company for construction of an addition to the existing fire house at the northeast front of the building. Mrs. Heinzl stated that the application is for two variances and the expansion proposed is 1897 square feet and will include a lounge, two offices, a radio room and an entry vestibule. Mrs. Heinzl stated that the plan is designed to enhance the functionality of the building with dedicated office and training spaces while preserving the public rental space. Mrs. Heinzl stated that the design also improves the exterior appearance of the building consistent with the location. Mrs. Heinzl stated that many of the issues concerning the application were resolved prior to the hearing through meetings with the Fire Company and Borough Professionals including encroachment on the Borough Easement. Mrs. Heinzl stated that one of the outstanding issues concerns the 1996 condition of sale of the land by the Borough to the Fire Company. Mrs. Heinzl stated that the condition states that any building erected on said premises shall not be nearer than thirty feet to the southerly line of Broemel Place and shall not be erected over the pipeline right of way. Mrs. Heinzl stated that Borough Planner Cindy Coppola suggested that the Borough release this condition as it seems to be unnecessary given the approvals that the Fire House has received. Mrs. Heinzl stated that the other issue was concerning parking. Mrs. Heinzl stated that some of the members of the Fire Company expressed concern that there is inadequate parking at

the site. Mrs. Heinzl stated that she mentioned this to Mr. Ogren and he stated that the Committee that is looking into redevelopment of the landfill site would be happy to meet with the Fire Company to discuss issue with regard to parking.

Mayor Persichilli invited Mr. Mark Blackwell to come forward to comment on the parking issue. Mr. Blackwell stated that he is a Fire Commissioner as well as being a thirty year member of the Fire Company. Mr. Blackwell stated that he is the one that brought up the issue of the parking. Mr. Blackwell stated that if the parking issue cannot be resolved then putting money into the addition makes no sense. Mr. Blackwell stated that they have very limited parking and they have sixty members. Mr. Blackwell stated that the current parking is shared with the First Aid Squad. Mr. Blackwell stated that if the deed restriction is lifted the Fire Company will start building the addition immediately and then there will be a building with a lot of money invested that they can't use because they don't have parking. Mr. Blackwell stated that it doesn't make sense to do anything until the parking issue is resolved.

Mrs. Heinzl stated that the second application was a variance for 238 South Main Street for a one story addition to the rear of the existing home. Mrs. Heinzl stated that this property is within the historic district and the testimony presented from the potential buyer was that she was attracted to the property because it is in the historic district. Mrs. Heinzl stated that there was some discussion about whether an approval from the Historic Preservation Commission is needed and it was determined that would not be needed because the addition would be at the rear of the property. Mrs. Heinzl stated that there was mention of improvements to the existing property and the potential owners indicated that they would consult with the Historic Preservation Commission on those.

Mrs. Heinzl stated that the Environmental Commission will meet on January 21st. Mrs. Heinzl stated that the Commission will have two student representatives from the High School this year. Mrs. Heinzl stated that the Hopewell Valley Green Team and the Valley Environmental Commissions will be sponsoring a Styrofoam recycling event on February 2nd, information can be found on the Borough website.

Public Works/Shade Tree – Mr. Ogren stated that the Public Works Committee did not meet and neither did the Shade Tree Commission.

Community Services/Economic Development/Personnel – Mrs. Heino stated that the Parks and Recreation Commission did not meet in December. Mrs. Heino stated that Parks and Recreation will be meeting tomorrow evening.

Mrs. Heino stated that the Economic Development Commission did not meet, but they will be meeting next week.

Mrs. Heino stated that the Personnel Committee met and discussed formal job descriptions for all positions. Mrs. Heino stated that related to that was a discussion of limited or part time duty where necessary and needed by the Borough to fulfill duties not being met due to the absence of an employee. Mrs. Heino stated that Mr. Meytrott did a lot of research on this as did Mr. Ogren and a job description was drafted for one of the positions in the Police Department.

Mr. Meytrott stated that he submitted the proposed job description to the Borough Administrator.

Public Safety – Mr. Tucker stated that statistical information for the month of December will be provided upon the return of Sergeant Friedman. Mr. Tucker stated that the hiring process for one replacement police officer is on hold pending the return of Sergeant Friedman. Mr. Tucker stated that the 2013 Chevrolet Impala is currently being equipped with emergency lights, sirens etc. and should be placed in service in January.

Mr. Tucker stated that all active duty police officers have successfully completed firearms qualifications.

Mr. Tucker stated that due to increased awareness of school safety brought about by recent events, the Police Department along with Hopewell Township Police Department are reviewing the issue of school safety and speaking with representatives of the Hopewell Valley Regional School District. Mr. Tucker stated that additional meetings are being scheduled in addition to meetings with private schools in the Borough.

Mr. Tucker stated that no additional services were needed for New Years Eve and calls were normal with no reported problems.

Finance – Mr. Griffiths stated that the Finance Committee did not meet.

Historic Preservation – Mrs. Dunn stated that the Historic Preservation Commission did not meet in December but they will be meeting in January.

Mr. Ogren stated that Council Members received a copy of the water and trash report for December and it is worth noting that water usage is down from last year. Mr. Ogren stated that he will be working on a comparison of water billed versus water pumped.

New Business

**Borough of Pennington
Resolution #2013-1.15**

**RESOLUTION AUTHORIZING AND APPROPRIATING A TEMPORARY BUDGET FOR THE
BOROUGH OF PENNINGTON FOR THE YEAR 2013**

WHEREAS, the Local Budget Law (N.J.S.A. 40A:4-19) provides that where any contract, commitments or payments are to be made prior to the final adoption of the 2012 budget, temporary appropriations in an amount not to exceed 26.25% of the total appropriations for the prior year shall be made for the purpose and amounts required in the manner and time therein provided; and

WHEREAS, 26.25% of the total appropriations of the 2012 budget exclusive of any appropriations for interest, debt redemption charges, Capital Improvement Fund and Public Assistance, in the said budget, is the sum of \$ 730,615.39 for the current fund budget and \$ 248,768.00 for the water and sewer utility fund;

NOW, THEREFORE, BE IT RESOLVED, that the attached temporary appropriations be made and that a certified copy of this resolution be transmitted to the Borough Finance Officer.

Record of Council Vote on Passage

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

Council Member Griffiths made a motion to approve Resolution 2013-1.15, second by Council Member Tucker with all members present voting in favor.

**Borough of Pennington
Resolution #2013 – 1.16**

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 \$12,482.48 from the following accounts:

Current	\$ 10,999.50
W/S Operating	\$ 784.48
Open Space	\$ 698.50
TOTAL	\$ 12,482.48

Record of Council Vote on Passage

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

Council Member Heinzel made a motion to approve Resolution 2013-1.16, second by Council Member Heino with all members present voting in favor.

**Borough of Pennington
Resolution #2013 – 1.17**

**RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A
SHARED SERVICES AGREEMENT WITH THE BOARD OF FIRE
COMMISSIONERS OF HOPEWELL TOWNSHIP FIRE DISTRICT NO. 1
FOR THE PROVISION OF BASIC LIFE SUPPORT SERVICES FOR THE YEAR 2013**

WHEREAS, the Borough of Pennington (the “Borough”), is responsible for providing a system for the provision of emergency care and transportation of persons who are sick or injured and in need of immediate medical care within the boundaries of the Borough; and

WHEREAS, for this purpose, pursuant to the Uniform Shared Services and Consolidation Act (N.J.S.A. 40A:65-1 et.seq.), the Borough desires to contract with the Board of Fire Commissioners of Hopewell Township Fire District No. 1 for the provision of Basic Life Support Services within the boundaries of the Borough;

WHEREAS, the proposed Shared Services Agreement, of which a copy is attached, is in substantially the same form as the 2012 agreement between these parties including the \$3,000 annual fee for the services;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Mayor of the Borough of Pennington is hereby authorized and directed to execute the attached Shared Services Agreement between the Borough of Pennington and the Board of Fire Commissioners of Hopewell Township Fire District No.1 for the provision of Basic Life Support Services within the boundaries of the Borough, subject to approval as to final form by the Borough Attorney of the Borough of Pennington.

Record of Council Vote on Passage

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

Council Member Tucker made a motion to approve Resolution 2013-1.17, second by Council Member Dunn with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2013 – 1.18**

A RESOLUTION AUTHORIZING SHARED SERVICES AGREEMENT WITH THE BOARD OF FIRE COMMISSIONERS OF HOPEWELL TOWNSHIP FIRE DISTRICT NO. 1 TO PROVIDE ALL REQUIRED FIRE INSPECTION SERVICES FOR THE PERIOD JANUARY 1, 2013 THROUGH DECEMBER 31, 2014

WHEREAS, the Borough of Pennington (“Borough”) is responsible for certain fire inspection services pursuant to the Uniform Fire Safety Act (N.J.S.A. 52:27D-195, et. seq.) (the “Fire Safety Act”); and

WHEREAS, pursuant to the Uniform Shared Services and Consolidation Act (N.J.S.A. 40A:65-1, et seq.) the Borough desires to contract with the Board of Fire Commissioners of Hopewell Township Fire District No. 1 (the “Board”) for the provision of fire inspection services and other certain services required by the Fire Safety Act; and

WHEREAS, the Borough and the Board are both “local units” and the fire inspection services and other certain services required by the Fire Safety Act are “shared services” within the meaning of N.J.S.A. 40A:65-3;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Mayor of the Borough, with the attestation of the Borough Clerk, is hereby authorized to enter into and execute on behalf of the Borough a Shared Services Agreement providing for the aforesaid services in substantially the form annexed to this Resolution.

Record of Council Vote on Passage

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

Council Member Tucker made a motion to approve Resolution 2013-1.18, second by Council Member Dunn with all members present voting in favor.

**Borough of Pennington
Resolution #2013– 1.19**

A RESOLUTION AUTHORIZING AN AGREEMENT WITH VALLEY HEALTH MEDICAL GROUP TO PERFORM ALCOHOL AND DRUG TESTING SERVICES FOR THE BOROUGH OF PENNINGTON FOR THE YEAR 2013

WHEREAS, the Borough is required to provide an alcohol and controlled substances program for CDL (commercial drivers license) drivers and other participants in compliance with 49 CFR 382 and 49 CFR 40; and

WHEREAS, Valley Health Medical Group is experienced in and capable of providing such services; and

WHEREAS, this contract shall be for specific services set forth in the Agreement attached to this resolution;

WHEREAS, the Borough agrees to the fees per service (ranging from \$40.00 to \$180.00) set forth in the Fee Schedule included in the Agreement;

WHEREAS, the services authorized by the contract are professional services and the amount of expense expected to be incurred under this contract for these services is in any event substantially below the threshold for public bidding;

WHEREAS, Valley Health Medical Group has completed and submitted a sworn Business Entity Disclosure Certification which certifies that neither the group nor any of its members has made or shall make any political contribution prohibited by relevant provisions of N.J.S.A. 19:44A-20.5 or Chapter 15, Article I of the Pennington Borough Code, regarding pay-to-play;

NOW THEREFORE BE IT HEREBY RESOLVED, that the Mayor of the Borough, with the attestation of the Clerk, and subject to such changes in form as may be required by the Borough Attorney, is hereby authorized to execute the attached Agreement between the Borough and Valley Health Medical Group for the provision of Alcohol and Drug Testing Services for 2013

Record of Council Vote on Passage

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

Council Member Dunn made a motion to approve Resolution 2013-1.19, second by Council Member Tucker with all members present voting in favor.

**Borough of Pennington
Resolution #2013 – 1.20**

RESOLUTION AUTHORIZING REFUNDS

BE IT RESOLVED, that a refund be issued to Odette Adrian, 413 Burd Street, Pennington, NJ 08534, for the balance of Planning Board escrow account P12-001, in the amount of \$700.40 for Block 906, Lot 8, 413 Burd Street.

Record of Council Vote on Passage

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

Council Member Heinzel made a motion to approve resolution 2013-1.20, second by Council Member Tucker with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2013 – 1.21**

RESOLUTION SUPPORTING SUSTAINABLE STATE FUNDING FOR PRESERVATION AND STEWARDSHIP OF OPEN SPACE, PARKS, FARMLAND AND HISTORIC SITES IN NEW JERSEY

WHEREAS, New Jersey has a long and successful history of preserving open space, parks, farmland and historic sites; and

WHEREAS, the Green Acres Program has helped to preserve over 650,000 acres of land and supported more than 1,100 park development projects over the past 50 years; the State Agricultural Development Committee has preserved 200,000 acres of farmland over the past 30 years; and the Historic Trust has preserved 477 historic sites over the past 45 years; and

WHEREAS, all remaining funds for these programs under the Green Acres, Water Supply and Floodplain Protection, Farmland and Historic Preservation Bond Act of 2009 will be fully allocated by the end of 2012; and

WHEREAS, Pennington Borough has been a direct beneficiary of, and partner to, these critical state preservation programs; and

WHEREAS, substantial unmet needs remain for additional land and water protection, park development, and farmland and historic preservation, for the health and welfare of our communities and resident; and

WHEREAS, it is imperative that a long-term, dedicated source of funding be established in order to:

- Sustain open space, farmland, and historic preservation programs beyond the 2009 Bond Act.
- Improve and ensure proper stewardship of parts, preserved lands, and historic sites.
- Provide equitable access to quality parks and recreation in urban, suburban, and rural areas.
- Match and leverage local, county, and private funds for these purposes.
- Protect drinking water supplies, water quality, and alleviate costly flood damages.
- Preserve fish and wildlife habitat and provide public access for hunting and fishing.
- Revitalize cities and towns.
- Protect our quality of life and economic prosperity.

NOW, THEREFORE, BE IT RESOLVED, on this 7th day of January, 2013, by the Borough of Pennington, in the County of Mercer, State of New Jersey, that;

1. Pennington Borough supports establishment of a long-term, dedicated source of state funding for these purposes.
2. A certified copy of this resolution be served upon Governor Chris Christie, Senator Shirley Turner, Assemblyman Reed Gusciora, Assemblywoman Bonnie Watson Coleman, and County Freeholders of Mercer County, NJ Keep it Green, and the New Jersey State League of Municipalities.

Record of Council Vote on Passage

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

Council Member Ogren made a motion to approve Resolution 2013-1.21, second by Council Member Tucker with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION NO. 2013- 1.22**

**RESOLUTION AMENDING BOROUGH PERSONNEL POLICIES
TO AUTHORIZE LIMITED DUTY FOR ESSENTIAL SERVICES**

WHEREAS, Borough Council seeks to amend the Borough’s Personnel Policies and Procedures Manual and Employee Handbook to permit the Borough in its discretion to meet emergent needs by asking an employee on leave of absence to return voluntarily to work on a limited basis, to the extent medically cleared to do so, to perform one or more essential functions of the employee’s job which no other employee is currently able to perform;

WHEREAS, the text of the proposed new policy is set forth in the attached Amendment to Personnel Policies and Procedures Manual and Employee Handbook;

WHEREAS, the Amendment shall be inserted in the Personnel Policies and Procedures Manual and Employee Handbook as new sub-section P of Section IV;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the attached Amendment to Personnel Policies and Procedures Manual and Employee Handbook is hereby adopted.

Record of Council Vote on Passage

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

Council Member Tucker made a motion to approve Resolution 2013-1.22, second by Council Member Dunn. Mr. Bliss stated that following Council’s discussion at the December 27th meeting, his sense was that this might not be enough, but it is a start and gets the Borough where it needs to be right now. Mr. Bliss stated that the policy can be amended later if necessary. Mr. Matheny expressed concerns regarding light duty

policies in general. Mr. Matheny stated that he felt that this particular policy is well crafted however it could still be challenged. Mr. Matheny stated that the policy gives the Borough a lot of authority in terms of management but it also leaves the door open. Mr. Matheny stated that the policy is worded so that only employees with administrative type duties are eligible and that sounds good, however this policy is voluntary and if an employee does not want to come back then those duties would have to be assigned to someone else and some training might be involved. Mr. Matheny explained a scenario that may cause the Borough some problems down the road with regard to employees asked to fill in for other employees. Mr. Matheny stated that it may be a stretch and this policy given the immediate scenario will work fine, but down the road it could cause problems. Mr. Griffiths stated that the foundation to good policies is good job descriptions and we are working towards that. Mrs. Heino stated that this policy is driven by the Borough's need and not an employee's desire and that does somewhat protect the Borough against someone asking and being denied a request for limited duty. Upon a roll call vote, all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION NO. 2013 - 1.23**

**RESOLUTION AUTHORIZING EXPENDITURES FROM
OPEN SPACE FUND FOR MAINTENANCE OF KUNKEL PARK**

WHEREAS, Pennington citizens have authorized the creation of an Open Space Trust Fund in accordance with N.J.S.A. 40:12-15.7, which authorizes use of such funds for, among other things, development and maintenance of lands acquired for recreation and conservation purposes, as determined by the governing body of the municipality;

WHEREAS, Kunkel Park in the Borough is owned, operated and maintained by the Borough for recreation and conservation purposes as contemplated by the statute;

WHEREAS, Borough Council has determined that parts of Kunkel Park are in need of maintenance and redevelopment to preserve the utility of the Park for recreation and conservation purposes;

WHEREAS, the maintenance and development work proposed for Kunkel Park is described in the attached Exhibit prepared by the Borough's Department of Public Works;

WHEREAS, the estimated cost of the proposed work is \$ 3,500.00;

WHEREAS, the funds are available in the Open Space Trust Fund for this purpose;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Borough Administrator is hereby authorized to make expenditures from the Borough's Open Space Fund for the aforesaid maintenance and development work up to an amount not exceeding \$ 3,500.00.

Record of Council Vote on Passage

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

Council Member Ogren made a motion to approve Resolution 2013-1.23, second by Council Member Heinzel with all members present voting in favor.

**Borough of Pennington
Resolution # 2013-1.24**

RESOLUTION AUTHORIZING BUDGET TRANSFERS

WHEREAS, N.J.S.A. 40A:4-58 provides that during the last two months of the fiscal year, should it become necessary to expend funds for any purposes specified in the budget an amount in excess of the respective sums appropriated therefore and there shall be an excess in any appropriations over and above the amount deemed to be necessary to fulfill the purpose of such appropriations transfers may be made; and

WHEREAS, transfers may not be permitted to appropriations for contingent expenses or deferred charges; and

WHEREAS, transfers may not be permitted from appropriations for contingent expenses, deferred charges, cash deficit of the preceding year, reserve for uncollected taxes, down payments, capital improvement fund or interest and redemption charges;

NOW THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Pennington that transfers be made between the following year 2011 budget appropriations:

Current Fund Appropriations:	From:	To:
Police – Salaries and Wages	\$ 2,300.00	
Police – Other Expense		\$ 1,000.00
Telephone – Other Expense		\$ 1,000.00
Environmental Comm – Other Expense		\$ 300.00
Total Current Fund	\$ 2,300.00	\$ 2,300.00

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington that transfers be made between the following year 2012 budget appropriations effective December 31, 2012, Nunc Pro Tunc.

Record of Council Vote on Passage

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

Council Member Griffiths made a motion to approve Resolution 2013-1.24, second by Council Member Tucker with all members present voting in favor.

**Borough of Pennington
Resolution #2013 – 1.25**

RESOLUTION AUTHORIZING A CONTRACT WITH CM3 BUILDING SOLUTIONS ON BEHALF OF INVENSYS BUILDING SYSTEMS FOR THE SUPPORT AND MAINTENANCE OF ITS PROPRIETARY SOFTWARE AND FOR RELATED EQUIPMENT REPAIR IN CONNECTION WITH OPERATION OF THE HVAC SYSTEM FOR BOROUGH HALL FOR YEARS 2013, 2014 AND 2015

WHEREAS, Invensys Building Systems (“Invensys”) is the designer of specialized software and equipment for the monitoring and regulation of HVAC systems and the identification of system-related problems requiring maintenance and repair; and Invensys has designed and installed such a control system for Borough Hall;

WHEREAS, the central component of the Invensys control system installed in Borough Hall for the monitoring and regulation of the HVAC system is a central control module designed and constructed by Invensys which consists of proprietary hardware and software and is connected to an Invensys-designed circuit of sensors throughout the building;

WHEREAS, CM3 Building Solutions (“CM3”) is an authorized factory representative of Invensys and is licensed by Invensys to conduct all operations necessary to support and maintain the proprietary hardware and software of Invensys;

WHEREAS, the Borough seeks to enter into an agreement with CM3 on behalf of Invensys for the years 2013, 2014 and 2015 for the maintenance of the central control module and related circuitry and sensors and for the performance of equipment repairs as needed by this control system;

WHEREAS, the most important services to be provided by CM3 on behalf of Invensys under the proposed agreement relate to the support and maintenance of the central control module and related proprietary hardware and software used to monitor and regulate the HVAC system;

WHEREAS, the equipment repair services to be performed by CM3 on behalf of Invensys under the proposed agreement are incidental to and interrelated with maintenance of its proprietary hardware and software and combining responsibility for maintenance of that proprietary system in a single contract with responsibility for related equipment repair ensures accountability for repairs;

WHEREAS, the contract price for services relating solely to repair of equipment is substantially below the threshold for public bidding, and the amount in question combined with the problems inherent in coordinating repairs with the use of proprietary software makes solicitation of competitive quotations not practicable;

WHEREAS, the proposed agreement, for a term of three years beginning January 1, 2013, subject to annual renewals as appropriate thereafter, is therefore exempt from public bidding pursuant to the exceptions set forth in N.J.S.A. 40A:11-5(1)(dd) and N.J.S.A. 40A:11-6.1a and related regulations;

WHEREAS, the terms of the contract with CM3 on behalf of Invensys will be reviewed and revised to the satisfaction of the Borough Attorney and such contract shall not exceed the contract price of \$13,092. for 2013, \$ 13,428. for 2014 and \$ 13,764. for 2015;

WHEREAS, prior to entering into the contract, CM3 and Invensys shall provide sworn statements made under penalty of perjury that neither they nor any of their covered principals, partners, officers or subsidiaries has made or will make during the term of this contract a political contribution in violation of the Code of the Borough of Pennington or N.J.S.A. 19:44A-20.5 prohibiting certain political contributions by business entities awarded contracts by the Borough for professional services;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Mayor and Borough Clerk are hereby authorized to execute a contract with CM3 on behalf of Invensys as aforesaid.

Record of Council Vote on Passage

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

Council Member Dunn made a motion to approve Resolution 2013-1.25, second by Council Member Heino with all members present voting in favor.

Council Discussion

Hopewell Township Senior Services Coordinator – Mr. Matheny stated that presently Abigail Waugh is employed by Hopewell Township and her services are shared by Hopewell Borough, Pennington Borough and Hopewell Township. Mr. Matheny stated that for the first couple of years, her salary was covered by a grant and operating costs were shared by the three municipalities. Mr. Matheny stated that the grant is no longer being funded by Princeton Medical Center and Capital Health Systems was going to pick up the salary costs, but they have backed out. Mr. Matheny stated that Hopewell Township has worked up what it would cost for the three municipalities to pick up the salary costs and the Borough’s cost which amounts to about thirteen percent would be \$11,050. Mr. Matheny stated that the \$11,050 would be in addition to what the Borough is supposed to be contributing for operating expenses which is around \$3,600. Mr. Matheny stated that the bottom line for the new year for salary and expenses would be around \$15,000.

Mayor Persichilli stated that when this first came up all three municipalities agreed with the understanding that there was a grant from Princeton to cover salary. Mayor Persichilli stated that at the time a statement was made that going forward this position would be self funded. Mayor Persichilli stated that we are now at a point where Princeton is no longer funding the position and Capital Health, who indicated a year ago that they would be willing to pick up the salary costs to develop a relationship with the community, has backed out of their offer. Mayor Persichilli stated that Hunterdon Medical Center was also approached and they are not interested in participating. Mayor Persichilli stated that now we have a Senior Services Coordinator who does a wonderful job, but in order to keep the position, it means additional expense for the Borough to continue. Mr. Tucker reviewed some of the things that the Senior Services Coordinator does. Mr. Griffiths stated that though this is the right way for the Township to proceed, it is an abrupt increase for the Borough. Mr. Griffiths stated that these types of government costs, once started become seductive and manipulative. Mr. Griffiths stated that when the stream of cash for a grant dries up, the community is accustomed to the service, but not accustomed to paying for the service. Mr. Griffiths asked what the consequences would be for letting this position go away and how critical is this position. Mr. Griffiths stated that this position, just as with the teen center, targets a select group of residents.

Mr. Matheny stated that he spoke with Michelle Hovan, Hopewell Borough Administrator and she explained that it will be very difficult for them to come up with additional funds for this position. Mr. Matheny stated that Hopewell Borough will be having a discussion at their meeting regarding this subject.

Mr. Griffiths stated that the 2013 budget is already facing some challenges both in the regular and water/sewer budgets. Mrs. Heino raised the question of a water/sewer rate increase. Mr. Griffiths stated that historically the Borough has done a rate increase of one to three percent skewed more towards the larger consumers of services.

Some discussion followed regarding contracting with Montgomery Township for these services. Mayor Persichilli suggested that Council hold off on making any decisions and asked that a meeting be set up with Hopewell Borough to explore options.

Mr. Tucker stated that that Ms. Waugh does a great job as Senior Services Coordinator and he would hate to see the position eliminated. Mayor Persichilli stated that this issue is not about the work that Ms. Waugh does it’s about the strain on the budget. Mayor Persichilli stated that this is another example of something that would be nice to do, but it’s something we may not be able to do based on the money. Mayor Persichilli stated that the intention when this position was originally discussed was that the position would be funded by grants and now unfortunately the grants have run out.

Professional Reports

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

Mayor Persichilli recognized Mercer County Clerk, Paula Solami-Covello.

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, 8:09 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 – Castoro & Co.

AT, 8:21 PM, Mayor and Council returned to open session.

At 8:21 PM, Council Member Heinzl made a motion to adjourn the meeting, second by Council Member Tucker.

Respectfully submitted,

Elizabeth Sterling
Borough Clerk