

**Pennington Borough Council  
Regular Meeting – May 13, 2013**

Mayor Persichilli called the Regular Meeting of the Borough Council to order at 7:00 pm. Borough Clerk Betty Sterling called the roll, all members were present with the exception of Mrs. Heino.

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 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 asked 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.**

**Approval of Minutes**

Council Member Ogren made a motion to approve the minutes of the March 4, 2013, Regular Meeting, second by Council Member Griffiths with all members present voting in favor.

Council Member Tucker made a motion to approve the minutes of the April 1, 2013, Regular Meeting, second by Council Member Dunn with all members present voting in favor.

**Mayor’s Business**

**Appointments – (with Council Approval)**

Mayor Persichilli recommended the following appointments to the Hopewell Valley Open Space:

- Alan Hershey – 3 year term
- Tom Ogren – 3 year term

Council Member Tucker made a motion to approve the appointments, second by Council Member Heinzl with all members present voting in favor.

**Ordinances for Introduction**

Mayor Persichilli read Ordinance 2013-5 by title.

**BOROUGH OF PENNINGTON  
ORDINANCE #2013 -5**

**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 2013**

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

**SECTION I: EMPLOYMENT POSITIONS/ANNUAL COMPENSATION**

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

Borough Administrator	\$ 30,000.00
Borough Clerk	\$ 38,558.62
Treasurer	\$ 61,167.32
Tax Collector	\$ 17,571.94
Utility Collector	\$ 17,571.94
Technical Assistant to Construction	\$ 10,771.26

<b>Tax Assessor</b>	\$ 14,318.71
Zoning Officer	\$ 7,961.48
Land Use Admin/Admin Asst.	\$ 46,402.38
Deputy Registrar	\$ 2,005.04
Supt. of Public Works	\$ 54,498.70
Supt. of Water Dept.	\$ 23,190.74
Supt. of Sewer Dept.	\$ 23,190.74
Judge of Municipal Court	\$ 11,185.39
Prosecutor	\$ 3,792.34
Court Administrator	\$ 15,632.42
Public Safety Director	\$ 55,831.85
Construction Official	\$ 24,700.84
Plumbing Sub-Code	\$ 36.54 / hour
Fire Sub-Code	\$ 37.09 / hour
Electric Sub-Code	\$ 9,886.82
Sidewalk Inspector – (Flat Fee per Inspection)	\$ 150.00

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

	Minimum	Maximum
<b>Finance</b>		
<b>Municipal CFO(p/t)</b>	\$ 25.00	\$ 74.47
<b>Police Department:</b>		
Crossing Guards	\$ 15.00	\$ 23.77
Special Police	\$ 16.92 per hour	
<b>Part Time Employees – All Departments:</b>		
Part Time or Temporary	\$ 8.00	\$ 21.00
Part Time/Temporary/Licensed	up to a maximum of	\$ 35.00

**SECTION II: Employee/Personnel Manual.**

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

**SECTION III:**

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

**SECTION IV:**

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

**SECTION V:**

This ordinance shall take effect upon final adoption and publication according to law, but the salaries herein provided for shall be retroactive to January 1, 2013.

Council Member Griffiths made a motion to introduce Ordinance 2013-5, second by Council Member Dunn with all members present voting in favor.

Mayor Persichilli read Ordinance 2013-6 by title.

**BOROUGH OF PENNINGTON  
ORDINANCE NO. 2013-6**

**AN ORDINANCE AMENDING CERTAIN REGISTRAR FEES AND INCORPORATING  
REGISTRAR FEES INTO THE CODE OF THE BOROUGH OF PENNINGTON**

**WHEREAS**, the Registrar of the Borough of Pennington is authorized to collect fees from the public for the issuance of certain permits and licenses and for providing certified copies of documents, as last revised by Borough Ordinance No. 2005-14;

**WHEREAS**, Borough Council seeks to incorporate these fees into Chapter 98 of the Code of the Borough of Pennington, concerning Fees;

**WHEREAS**, Borough Council also seeks to increase from \$8 to \$10, in line with increased costs, the fee for certified copies of Birth certificates, Death certificates and Marriage licenses;

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

Chapter 98 of the Code of the Borough of Pennington is hereby amended to include a new Article XVI, entitled Registrar Fees, which shall read as follows (with amendments to existing fees denoted by brackets [ ] for deletions and underlining for new fees):

**Section 98-63. Authorized Fees.**

The Registrar of the Borough of Pennington is authorized to collect the following fees from persons requesting issuance of permits and licenses or provision of certified copies of documents:

Birth certificate (certified copy) .....	\$ [8] <u>10.00</u>
Burial permit .....	\$ 5.00
Death certificate (certified copy) .....	\$ [8] <u>10.00</u>
Marriage License/Domestic Partnership (\$25.00 State) .....	\$ 28.00
Marriage License (certified copy) .....	\$ [8] <u>10.00</u>
Corrections .....	\$ 5.00

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

Council Member Dunn made a motion to introduce Ordinance 2013-6, second by Council Member Heinzl with all members present voting in favor.

Mayor Persichilli read Ordinance 2013-7 by title.

**BOROUGH OF PENNINGTON  
ORDINANCE NO. 2013- 7**

**AN ORDINANCE AMENDING PENALTIES FOR UNLAWFUL  
PARKING IN ACADEMY COURT CONDOMINIUM DEVELOPMENT**

**WHEREAS**, Pennington Borough Council seeks to amend the Borough Code to subject unlawful parking in the Academy Court Condominium Development to the same range of penalties provided by the Code for other parking violations in the Borough;

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

1. Article VI of Chapter 200 of the Code of the Borough of Pennington, at Section 200-25, regulating parking in the Academy Court Condominium Development, is hereby amended to read as follows (with deletions denoted by brackets [ ] and new language underlined):

Section 200-25. Academy Court Condominium Development.

- A. Parking is hereby prohibited in the Academy Court Condominium Development in driveways, driving aisles or any space other than the designated parking spaces as indicated on the paving.
- B. A vehicle parked in violation of the foregoing section may be removed at the owner's expense.
- C. [Owners of vehicles found parked in violation of the foregoing section shall be, upon conviction, subject to a fine of \$10 and the vehicle may be removed at the owner's expense.] Unless another penalty is expressly provided by New Jersey statute, every

person convicted of a violation of a provision of this article or any supplement thereto shall be liable for a penalty of not more than \$200 or imprisonment for a term not exceeding 15 days, or both.

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

Mr. Bliss stated that there are two versions of the ordinance for Council to review. Mr. Bliss stated that the preferred version is version 2. Mr. Bliss explained that the difference in the two versions is that version 2 has a subsection B which is eliminated in version 1. Mr. Bliss explained that this amendment came about through the Municipal Court because the fine for illegally parking in this particular parking lot was not sufficient and was not the same as for other parking offenses in the code. Mr. Griffiths asked why the Borough is enforcing parking on private property. Mr. Meytrott stated that a number of years ago the condominium association requested that the Police Department enforce Title 39 and the Borough is permitted to do that at the request of the property owner. Council Member Heinzl made a motion to introduce version 2 of Ordinance 2013-7, second by Council Member Tucker with all members present voting in favor.

**Committee Reports**

**Planning & Zoning / Environmental Commission / Library** – Mrs. Heinzl reported that the Library is continuing to do a great job with programming. Mrs. Heinzl reviewed the April programs that were held. Mrs. Heinzl stated that on May 10<sup>th</sup> a Murder Mystery Night was held with thirty people in attendance. Mrs. Heinzl stated that Busy Town was held and featured in the Hopewell Valley News. Mrs. Heinzl stated that Busy Town is a nice collaboration of Borough Organizations and businesses in town. Mrs. Heinzl stated that the Library will have a booth at Pennington Day this year. Mrs. Heinzl stated that the Library renovation project is still being discussed and Library Director Kim Ha is working with the planner to develop the most appropriate plan for the library improvements.

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

Mrs. Heinzl stated that the Environmental Commission is planning for Pennington Day with the focus for this year being Anti-Idling. Mrs. Heinzl stated that the Environmental Commission also discussed and approved the filing of an ANJEC Grant which as already been awarded. Mrs. Heinzl stated that this grant will be used to fund a trail guide.

**Public Works/Shade Tree** – Mr. Ogren stated that the Shade Tree Commission met and discussed Arbor Day which was held on April 26<sup>th</sup>. Mr. Ogren stated that they also discussed tree planting for this year.

Mr. Ogren stated that the full Public Works Committee did not meet, but he and Mrs. Dunn met with Borough Engineer, Carmella Roberts to discuss the schedule for two pending DOT Grant projects. Mr. Ogren stated that discussion of the two projects is on for discussion later in the meeting.

Mr. Ogren stated that Council Members have a copy of the water and trash report for the month of April.

**PENNINGTON BOROUGH PUBLIC WORKS**

TO: Tom Ogren, Chairman  
Public Works Committee

FROM: Jeff Wittkop, Superintendent

DATE: May 1, 2013

RE: COUNCIL REPORT FOR THE MONTH OF APRIL 2013

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**WATER**

Water pumped for the month of April 2013: 6,712,000  
Daily- 223,700

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

For the month of April 2013 we averaged 1,400 gallons more per day than April 2012.

We flushed all our hydrants on April 2<sup>nd</sup> and 3<sup>rd</sup> using about 172,000 gallons. That would give us an adjusted amount of 6,540,000 or 218,000 per day.

**TRASH**

87.98 tons of household trash for the month of April 2013 vs. 68.40 tons in April 2012.

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

Mulch is now available at the Senior Center for Pennington residents.

Mr. Ogren stated that the landfill redevelopment study is reaching the end of the grant period which is the end of June. Mr. Ogren stated that there will be a public presentation of the report on May 22<sup>nd</sup> followed by a presentation at the Planning Board meeting on June 12<sup>th</sup>. Mr. Ogren stated that Maser Consulting has done a lot of work and they have prepared seven technical memorandums on various aspects of the site. Mr. Ogren stated that copies of the memorandums are available in the Borough Clerk's office. Mr. Ogren stated that the grant oversight committee has met four times to provide direction to the consultant and to review the memorandums that have been prepared. Mr. Ogren stated that he has met with adjacent property owners. Mr. Ogren stated that this report will provide specific language for zoning ordinance amendments that would be appropriate based on the conceptual plans that they have developed for the site. Mr. Ogren stated that this report does not include the landfill itself which is three acres of the eight acre site.

**Community Services/Economic Development/Personnel** – No report due to Mrs. Heino's absence.

**Public Safety** – Mr. Tucker reported that the Public Safety Committee met to discuss the possibility of applying for a COPS grant which would fund seventy five percent of an officers salary for three years with the Borough agreeing to keep the officer on for a fourth year. Mr. Tucker stated that the Public Safety Committee recommends that the Borough not proceed with applying for a COPS grant as talks are ongoing with Hopewell Township regarding the night shift.

Mr. Tucker reported that on April 11<sup>th</sup> an Active Shooter Drill was held at the Brandywine Senior Living Facility at their request. Mr. Tucker stated that this was a table top drill involving representatives from Brandywine and the Pennington Police Department only.

Mr. Tucker reported that Mr. Meytrott and Borough Clerk, Betty Sterling attended an educational seminar sponsored by Mid Jersey Joint Insurance Fund, various insurance topics were covered. Mr. Tucker also attended a meeting on Safety in the Workplace.

Mr. Tucker reported that Mr. Meytrott has been meeting with representatives of Pennington Day to coordinate efforts for the event.

Mr. Tucker reported that on April 18<sup>th</sup>, Mr. Meytrott conducted a meeting with Borough staff regarding safety issues and is part of the annual safety incentive program.

Mr. Tucker reported the following statistics for April 2013:

1	Theft
1	Trespass
1	Harassment
159	Motor Vehicle Stops
50	Warnings Issued
5	Parking Summonses
142	Motor Vehicle Summonses
1	Juvenile Female Arrest
1	Fire Call
12	First Aid Calls
467	Calls for Service

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

**Historic Preservation** – Mrs. Dunn stated that the Historic Preservation Committee met in April and continued a discussion of the Pennington School proposal for a new building. Mrs. Dunn stated that Pennington School Representatives returned with three options for the building. Mrs. Dunn stated that the Committee unanimously agreed on one of the plans presented. Mrs. Dunn stated that the plan proposes moving the former headmaster's house to a new location on Delaware Avenue and the lodge would be demolished. Mrs. Dunn stated that the new building would be constructed in the quad facing Delaware Avenue. Mrs. Dunn stated that discussion took place with regard to trying to save both buildings. Mrs. Dunn stated that the Pennington School can submit their plans in pieces or all together and they were going to begin that process in May. Mrs. Dunn stated that they are hoping that will delay the submission of the new building further into the year in the hopes of finding a way to save the lodge. Mrs. Dunn stated that the application will require a set back variance and the Historic Preservation Commission would support the approval of that variance.

Mrs. Dunn stated that the Historic Preservation Commission also discussed signage for the Historic District and they are working with a local graphic artist to come up with a design for the signage. Mrs. Dunn stated that the signs will be very simplistic and mimic the signs that appear on some of the houses in town. Mrs. Dunn stated that a design was submitted to the commission and it was well received. Mrs. Dunn stated that there is still some discussion going on as to color. Mrs. Dunn stated that the signs will

say “Welcome to Pennington Crossroads Historic District – Settled 1725”. Mrs. Dunn stated that the date was investigated and researched. Mrs. Dunn stated that there will be four signs all together at the entrances to town.

**New Business**

**Borough of Pennington  
Resolution #2013 – 5.2**

**AUTHORIZING PAYMENT OF BILLS**

**WHEREAS**, certain bills are due and payable as per itemized claims listed on the following schedules, which are made a part of the minutes of this meeting as a supplemental record;

**NOW, THEREFORE BE IT RESOLVED**, by the Mayor and Council of the Borough of Pennington that the bills be paid on audit and approval of the Mayor, the Appropriate Council Member and the Treasurer in the amount of \$ 564,209.33 from the following accounts:

Current	\$ 338,390.58
W/S Operating	\$ 140,048.40
Grant Fund	\$ 28,545.90
Animal Control Fund	\$ 251.40
Open Space Trust	\$ 53,500.00
Developers’ Escrow	\$ 3,473.05
<b>TOTAL</b>	<b>\$ 564,209.33</b>

**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	M				Ogren	X			
Heino				absent	Tucker	X			

Council Member Griffiths made a motion to approve Resolution 2013-5.2, second by Council Member Dunn. Mr. Griffiths asked if the payment of \$60,000 for tree work was work related to Hurricane Sandy and if so are we getting any reimbursement from FEMA. Mr. Wittkop stated that applications have been submitted and we should be getting reimbursed. Mr. Griffiths stated that he would like the charges for Rosedale Mills for playground mulch and West Amwell for sandbox sand to be charged to Open Space Funds. Mr. Bliss stated that to the extent that these bills represent maintenance of the park they can be charged to Open Space. Those two bills were removed from the bill list and upon a roll call vote, all members present voted in favor of Resolution 2013-5.2.

**BOROUGH OF PENNINGTON  
RESOLUTION # 2013 – 5.3**

**RESOLUTION AUTHORIZING APPLICATION FOR  
RECYCLING TONNAGE GRANT BASED ON 2012 RECYCLING**

**WHEREAS**, the Mandatory Source Separation and Recycling Act, P.L. 1987, c.102, has established a recycling fund from which tonnage grants may be made to municipalities in order to encourage local source separation and recycling programs; and

**WHEREAS**, it is the intent and the spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue and to expand existing programs; and

**WHEREAS**, the New Jersey Department of Environmental Protection has promulgated recycling regulations to implement the Mandatory Source Separation and Recycling Act; and

**WHEREAS**, the recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including, but not limited to, making and keeping accurate, verifiable records of materials collected and claimed by the municipality; and

**WHEREAS**, this resolution, authorizing this municipality to apply for a tonnage grant based on calendar year 2012 recycling, will memorialize the commitment of this municipality to recycling and to meeting the requirements contained in the Recycling Act and recycling regulations; and

**WHEREAS**, this resolution must designate the individual authorized to ensure that the application is properly completed and timely filed;

**NOW, THEREFORE, BE IT RESOLVED** by the Council of Pennington Borough that Pennington Borough hereby endorses the submission of the recycling tonnage grant application to the New Jersey Department of Environmental Protection;

**BE IT FURTHER RESOLVED**, that Richard Smith, a Certified Recycling Coordinator, is hereby designated to ensure that the application is properly completed and timely filed;

**BE IT FURTHER RESOLVED** that the monies received from the recycling tonnage grant be deposited in a dedicated recycling trust fund to be used solely for the purposes of recycling.

**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	M			
Heino				absent	Tucker	X			

Council Member Ogren made a motion to approve Resolution 2013-5.3, second by Council Member Dunn with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2013 – 5.4**

**RESOLUTION GRANTING CONDITIONAL AUTHORIZATION FOR DOS GRINGOS  
SOUTHWESTERN GRILL TO MAINTAIN A TEMPORARY OUTDOOR DINING AREA IN THE  
PUBLIC RIGHT- OF- WAY IN 2013**

**WHEREAS**, Richard Wade is the principal owner of a restaurant known as Dos Gringos Southwestern Grill, LLC, a restaurant located at 20 N. Main Street in the Borough of Pennington;

**WHEREAS**, Mr. Wade has applied to Borough Council for permission to place movable tables and chairs on the sidewalk immediately adjacent to the restaurant, in particular, 2 tables and up to 8 chairs on the Main Street side of the restaurant, as shown in the attached sketch;

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

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

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

1. Richard Wade and Dos Gringo’s Southwestern Grill, LLC are hereby granted permission to locate 2 tables and up to 8 chairs on the sidewalk immediately adjacent to the Main Street side of the restaurant, provided the following conditions are met;

- A. The tables and chairs shall be arranged as shown on the attached sketch.
- B. The outdoor dining area and affected sidewalk shall at all times be kept clean and free of litter and in compliance with all applicable health regulations.
- C. The outdoor dining area shall not obstruct pedestrian circulation on the sidewalk.
- D. Operation of the outdoor dining area shall comply with the Borough Noise Ordinance, as set forth in Chapter 133 of the Borough Code.
- E. The outdoor dining area may be used only during the operating hours of the restaurant. When the restaurant is not open, all tables and chairs shall be removed from the sidewalk.
- F. Richard Wade and Dos Gringo’s Southwestern Grill LLC, shall indemnify and hold harmless the Borough of Pennington and its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorney fees, arising out of the operation of the outdoor dining area approved by this resolution.

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

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

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

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

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

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

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

3. This conditional authorization shall in any event expire on December 31, 2013, subject to extension of insurance coverage through that date.

**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				absent	Tucker	M			

Council Member Tucker made a motion to approve Resolution 2013-5.4, second by Council Member Dunn. Mrs. Dunn pointed out two typographical errors. Mrs. Heinzel stated that the drawings that are attached to these requests for outdoor dining are frustrating because it is hard to tell the size of the tables and chairs and whether or not there will be appropriate clearance on the sidewalk. Mrs. Heinzel stated that she supports the idea of outdoor dining, but it is hard to tell given the drawings that are submitted. Mrs. Dunn stated that the resolution addresses the issue and gives the Borough the right to regulate the placement of tables and chairs for safety. Mrs. Dunn stated that for next year if dimensions could be provided it would make it easier for Council. Upon a roll call vote, all members present voted in favor.

**Borough of Pennington  
Resolution #2013 – 5.5**

**RESOLUTION AUTHORIZING A PROFESSIONAL  
SERVICES AGREEMENT WITH PARS ENVIRONMENTAL  
INCORPORATED FOR THE COMPLETION OF THE  
2012 RIGHT TO KNOW SURVEY**

**WHEREAS**, the Borough Council of the Borough of Pennington seeks to retain the services of PARS Environmental, Inc., licensed engineers, to assist the Borough in completion of the 2012 Right To Know Survey; and

**WHEREAS**, the contemplated services include inventory of areas that contain hazardous chemicals and completion of the 2012 Right to Know Survey for each area as follows:

1. Borough Hall/Library/Police Dept.
2. Senior Citizen Center
3. Public Works Garage
4. Well House 4 & 5
5. Well House 6
6. Well House 7
7. Well House 8 & 9

**WHEREAS**, PARS Environmental, Inc. will prepare the appropriate number of surveys and distribute them to all required state and local agencies as well as provide a copy for the Borough files; and

**WHEREAS**, PARS Environmental, Inc. has agreed to perform these functions at a lump sum amount of \$1,800.00;

**NOW THEREFORE BE IT RESOLVED**, by the Borough Council of the Borough of Pennington, that the Mayor and Borough Clerk of the Borough are hereby authorized to enter into an agreement on behalf of the Borough for services as stated above, subject to approval of the form of agreement by the Borough Attorney.

**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				Absent	Tucker	S			

Council Member Heinzel made a motion to approve Resolution 2013-5.5, second by Council Member Tucker with all members present voting in favor.

**Borough of Pennington  
Resolution 2013 – 5.6**

**RESOLUTION TO AMEND THE 2013 ADOPTED BUDGET (CHAPTER 159)  
SPECIAL ITEMS OF REVENUE AND APPROPRIATION FOR  
2013 MUNICIPAL AID – 2013 ROAD IMPROVEMENT PROGRAM**

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

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

**WHEREAS**, the Borough of Pennington has received \$ 249,500.00 from the New Jersey Department of Transportation and wishes to amend its 2013 Budget to include this amount as revenue;

**NOW THEREFORE BE IT RESOLVED**, that the Borough Council of the Borough of Pennington hereby requests the Director of the Division of Local Government Services to approve the insertion of a special item of revenue in the budget of the year 2013 in the sum of \$ 249,500.00, which is now available as revenue from:

NJDOT 2013 – 2013 Road Improvement Program, and

**BE IT FURTHER RESOLVED** that a like sum of \$ 249,500.00 be and the same is hereby appropriated under the caption of:

NJDOT 2013 – 2013 Road Improvement Program

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

**Record of Council Vote on Passage**

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

Council Member Ogren made a motion to approve Resolution 2013-5.6, second by Council Member Dunn with all member present voting in favor.

**Borough of Pennington  
Resolution #2013 – 5.7**

**RESOLUTION SUPPORTING S-1896/A-1503 SHARING THE BURDEN OF PROPERTY  
ASSESSMENT APPEAL REFUNDS**

**WHEREAS**, when County Tax Board appeals are granted the municipality must reimburse the property taxpayer 100% of the appealed tax levy, which includes the municipal, school, county and any special district tax; and

**WHEREAS**, the municipal tax collector makes the adjustment from the appeal as a credit on the 4<sup>th</sup> quarter tax bill resulting in the municipality’s fund balance for the preceding year to be diminished, if not completely depleted; and

**WHEREAS**, a League of Municipalities’ survey measured the extent to which residents have filed and won tax appeals in 2010; and

**WHEREAS**, one hundred fifty (150) municipalities, representing both large and small municipalities in all 21 counties, that participated in the survey reported property value declines of more than \$87,900,000, which resulted from 19,788 tax appeals filed in 2010; and

**WHEREAS**, those responding to the survey indicated that 13,760 appeals were filed in 2009, compared to 19,788 in 2010, representing an increase of 43.7%; and

**WHEREAS**, a municipality often experiences an increase in tax appeals because it has conducted a revaluation, however, only 5 of the 150 municipalities, which participated in our survey, indicated that their 2010 appeals resulted from revaluations; and

**WHEREAS**, as a way of comparison, 23 of the participating municipalities conducted revaluations in 2009, when fewer tax appeals were presented to the County Tax Boards; and

**WHEREAS**, the 2010 spike in appeals should be attributed to the economic down-turn, which lowered property values and placed increased stress on the income of homeowners, all around our Garden State; and

**WHEREAS**, the survey also indicated that in 2010 the various County Tax Boards have granted average property value reductions of close to \$5,000, per appeal; and

**WHEREAS**, fifty-six percent of those responding indicated that the successful tax appeals would have an impact on fund balances and place additional pressures on local officials during 2011; and

**WHEREAS**, the reductions, which were granted by County Tax Boards in 2010, likely had a multiplier in subsequent years when neighbors learned of their neighbor’s tax reduction; and

**WHEREAS**, successful tax appeals have a three-fold negative impact on municipal budgets. First, the municipality, as the collector of taxes for the School district, county and special districts, must fund the full cost of the legal defense of the assessment. Second, since State law guarantees to the county and the school district 100% of their levies, the municipality bears the full cost of any re-imbursements resulting from the appeal (as well as the full burden for any uncollected taxes). Third, the end result will be a further decline in the property tax base used to support Municipalities, County governments and School systems; and

**WHEREAS**, in light of the revenue limitations that have been placed on all levels of local government by the Legislature (2% cap), such declining values will compound and add additional stress to local public officials, as they grapple with the issues confronting the tax paying public; and

**WHEREAS**, Senator Bucco, Assemblyman Carroll and Assemblyman Bucco have recently introduced S-1896/A-1503, which requires fire districts, school districts, and county governments to share in the burden of property assessment appeal refunds;

**NOW, THEREFORE, BE IT RESOLVED**, on this 13<sup>th</sup> day of May, 2013, that the governing body of the Borough of Pennington hereby urge the swift passage and signing of S-1896/A-1503; and

**BE IT FURTHER RESOLVED**, that copies of this Resolution be forwarded to New Jersey Governor Christopher Christie, to Senate President Stephen Sweeney, to Assembly Speaker Shiela Oliver, to our State Senator Shirley Turner, to our Representatives in the General Assembly Reed Gusciora and Bonnie Watson-Coleman, and to the New Jersey League of Municipalities.

**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				absent	Tucker	S			

Council Member Dunn made a motion to approve Resolution 2013-5.7, second by Council Member Tucker with all members present voting in favor.

**Borough of Pennington  
Resolution 2013 – 5.8**

**RESOLUTION TO AMEND THE 2013 ADOPTED BUDGET (CHAPTER 159)  
SPECIAL ITEMS OF REVENUE AND APPROPRIATION FOR  
2013 CLEAN COMMUNITIES GRANT AWARDS**

**WHEREAS**, NJSA 40A4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or

municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget, and

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

**WHEREAS**, the Borough of Pennington has received \$ 4,894.81 from the New Jersey Department of Environmental Protection and wishes to amend its 2013 Budget to include this amount as revenue;

**NOW THEREFORE BE IT RESOLVED**, that the Borough Council of the Borough of Pennington hereby requests the Director of the Division of Local Government Services to approve the insertion of a special item of revenue in the budget of the year 2013 in the sum of \$ 4,894.81, which is now available as revenue from:

DEP – Clean Community Grant Award Program

**BE IT FURTHER RESOLVED** that a like sum of \$ 4,894.81 be and the same is hereby appropriated under the caption of:

DEP – Clean Community Grant Award Program

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

**Record of Council Vote on Passage**

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

Council Member Griffiths made a motion to approve Resolution 2013-5.8, second by Council Member Tucker with all members present voting in favor.

**Borough of Pennington  
Resolution 2013 – 5.9**

**RESOLUTION TO AMEND THE 2013 ADOPTED BUDGET (CHAPTER 159)  
SPECIAL ITEMS OF REVENUE AND APPROPRIATION FOR  
2013 – ANJEC – OPEN SPACE STEWARDSHIP PROJECT**

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

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

**WHEREAS**, the Borough of Pennington has received \$ 1,400.00 from the Association of NJ Environmental Commissions (ANJEC) and wishes to amend its 2013 Budget to include this amount as revenue;

**NOW THEREFORE BE IT RESOLVED**, that the Borough Council of the Borough of Pennington hereby requests the Director of the Division of Local Government Services to approve the insertion of a special item of revenue in the budget of the year 2013 in the sum of \$ 1,400.00, which is now available as revenue from:

ANJEC – Open Space Stewardship Project

**BE IT FURTHER RESOLVED** that a like sum of \$ 1,400.00 be and the same is hereby appropriated under the caption of:

ANJEC – Open Space Stewardship Project

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

**Record of Council Vote on Passage**

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

Council Member Ogren made a motion to approve Resolution 2013-5.9, second by Council Member Tucker with all members present voting in favor.

**Tabled Resolution**

**Borough of Pennington  
Resolution #2013 – 4.6**

**RESOLUTION CONSENTING TO THE PROPOSED WATER QUALITY MANAGEMENT (WQM) PLAN AMENDMENT ENTITLED: PROPOSED AMENDMENT TO THE MERCER COUNTY WATER QUALITY MANAGEMENT PLAN**

**WHEREAS**, the Borough of Pennington desires to plan for the orderly development of wastewater facilities within Pennington Borough; and

**WHEREAS**, the New Jersey Department of Environmental Protection (NJDEP) requires that proposed wastewater treatment and conveyance facilities and wastewater treatment service areas, as well as related subjects, be in conformance with an approved WQM plan; and

**WHEREAS**, the NJDEP has established the WQM plan amendment procedure as the method of incorporating unplanned facilities into a WQM plan; and

**WHEREAS**, a proposed WQM plan amendment noticed in the New Jersey Register on March 4, 2013 that proposes a Wastewater Management Plan (WMP) for Mercer County prepared by Mercer County with its consultants CDM Smith;

**NOW, THEREFORE, BE IT RESOLVED**, on this 1<sup>st</sup> day of April, 2013, by the governing body of the Borough of Pennington that:

1. The Borough of Pennington hereby consents to the amendment entitled proposed amendment to the Mercer County Water Quality Management Plan, and publicly noticed on March 4, 2013, prepared by Mercer County with its consultants CDM Smith, for the purpose of its incorporation into the applicable WQM plan(s).
2. This consent shall be submitted to the NJDEP in accordance with N.J.A.C. 7:15-3.4.

Mayor Persichilli stated that this resolution was tabled at the last meeting so that more information could be obtained. Mrs. Sterling stated that at the last meeting there was a motion and a second on the resolution and following the discussion Council agreed to table the resolution. Mrs. Sterling stated that additional information has been obtained. Mr. Bliss stated that a motion and second to reopen the discussion is needed to continue the discussion. Council Member Tucker made a motion to reopen the discussion on Resolution 2013-4.6, second by Council Member Heinzel with all members present voting in favor. Mr. Ogren stated that he would move to table the resolution because he does not feel that Council has the proper expertise to vote on the resolution. Mrs. Dunn stated that she has read all the documentation and she still does not feel like she has enough information to make a decision. Mr. Matheny stated that he spoke to Hopewell Township Administrator Paul Pogorzelski and apparently the DEP has requested that Mercer County develop a Wastewater Management Plan so this is the County’s attempt to do that for the entire County. Mr. Matheny stated that it is not specifically for the Kooltronic site. Mr. Matheny stated that if you read through the document, it really doesn’t affect Pennington in any way because Pennington Borough has their own Wastewater Management Plan. Mr. Matheny explained that Mercer County’s Plan does recognize that Pennington Borough has a plan and permits us to operate within their plan. Mr. Matheny stated that from that perspective it would make sense to go along with the County’s plan because their plan recognizes and validates our plan. Mrs. Heinzel asked what would happen if Pennington Borough does not approve this resolution. Mayor Persichilli stated that Mercer County will adopt the plan anyway. Mrs. Heinzel stated that it makes better sense for the Borough to abstain from this because we are not participants in the plan and will not be affected by the plan. Mrs. Dunn stated that Pennington Borough is not a participant, but Hopewell Township and Hopewell Borough are and so Pennington would indirectly be affected by for instance the Kooltronic property. Mr. Ogren stated that he did not agree with that because Pennington’s water quality management plan stands by itself under the 208 process. After some discussion as to how Pennington would or would not be affected, Council Member Ogren made a motion to table the resolution indefinitely, second by Council Member Griffiths with all members present voting in favor.

### Council Discussion

**Request from Rockwell Green for Block Party** – Mayor Persichilli stated that a request has been made for a road closing on June 2, 2013 for a block party on Rockwell Green. Council Member Dunn made a motion to approve the request, second by Council Member Heinzl with all members present voting in favor.

**Financial Disclosure Forms** – Mayor Persichilli stated that he asked that this item be put on the agenda. Mayor Persichilli stated that he had a very hard time filing the form and if you don't have the right computer you can't get to the form. Mayor Persichilli stated that he would be willing to assist anyone who is having difficulty filing the form. Mrs. Sterling stated that at the end of the process you should get a receipt that needs to be printed out, signed and given to her so that she can submit a report to the State.

**Senior Services Coordinator** – Mayor Persichilli stated that he received a call from Hopewell Township Mayor Vanessa Sandom requesting that Pennington Borough consider a contribution towards the position. Mayor Persichilli stated that an e-mail was received requesting \$10,000 but Mayor Sandom stated that they would be happy with a \$5,000 contribution. Mayor Persichilli stated that there is an issue because no funds were budgeted this year. Mayor Persichilli stated that Hopewell Borough has agreed to contribute \$5,000 to the Township. Mayor Persichilli stated that if Council does decide to contribute he would like to ensure that the funds are not part of a salary or benefits nor will it be tied into anything in the future unless the Borough is given the opportunity to negotiate. Mayor Persichilli stated that he would like to say that when this position was originally filled the intention was that this employee would search for additional grants to fund the position. Mayor Persichilli stated that somewhere along the way she was put on the payroll including benefits, the grant from Princeton Hospital ended and funds expected from Capital Health did not come through. Mayor Persichilli stated that the main issue is that funds were not budgeted. Mayor Persichilli stated that the possibility of making a transfer in November is not an option because the line item for Senior Services Coordinator does not exist in this budget. Mrs. Sterling stated that she spoke with Borough Auditor, Joanne Boos and Chief Financial Officer Sandy Webb to see if there was some way to fund the money if Council decides to contribute. Mrs. Sterling stated that because no funds were allocated in the budget, we are unable to transfer funds into a line item that has a zero balance. Mrs. Sterling stated that according to both Joanne and Sandy, the only way to do this is by emergency resolution which we would do at the next meeting and fund in the 2014 budget.

Mr. Griffiths stated that he would be inclined to decline the request. Mr. Griffiths stated that the reason for that would be that Hopewell Township chose to unilaterally negotiate with Capital Health and excluding Pennington Borough from the process. Mr. Griffiths stated that he feels that this position should have been part of the agreement that was made with Capital Health.

Mr. Tucker stated that this program has been ongoing for six years and has been funded by two three year grants funded through Princeton Healthcare. Mr. Tucker stated that there was talk that Capital Health would pick up the funding at the end of the grant period. Mr. Tucker stated that presently the program is well run and the Senior Coordinator does an outstanding job. Mr. Tucker stated that more than money, this is a shared service valley wide program for the benefit of all seniors in the valley. Mr. Tucker stated that for Pennington Borough to not join with Hopewell Township and Hopewell Borough would disenfranchise Pennington Borough seniors from the program.

Mr. Griffiths stated that earlier in the meeting Council agreed not to apply for a grant for a new police officer because the grant would expire after three years. Mr. Griffiths stated that the fiduciary principle of this is that when a grant expires, the employment expires whether it's a good cause or not. Mr. Tucker stated that Hopewell Township is going to continue with the program and Hopewell Borough has agreed to contribute and Pennington Borough will look bad not contributing.

Mr. Griffiths stated that he would be willing to reconsider this decision in 2014, if Pennington Borough were given the opportunity to proactively insert a line item. Mr. Griffiths stated that he does not want to see an emergency appropriation done when knowingly the funds were not budgeted and Council Members voted for the budget. Mr. Griffiths stated that he would like to know what effect an emergency resolution would have on State Aid and the budget going forward. Mrs. Heinzl asked what the criteria for an emergency resolution was and if this would even qualify. Mrs. Sterling stated that both the CFO and the Auditor stated that an emergency could be done. Mrs. Heinzl stated that she would agree that if Council were to agree to make a contribution that it not be labeled as salary because she is not on our payroll. Mrs. Heinzl stated that she shares Mr. Griffiths objections regarding the grants, however if Hopewell Borough is making a contribution in order to preserve access for seniors in our town to be able to participate in programs, she would be willing to contribute.

Mrs. Dunn stated that she has some questions moving forward as to how these services could be provided to seniors in a different format. Mrs. Dunn stated that she has reviewed the data that was submitted and from what she can tell is that the total cost of the programs is around \$28,000 and the weighted cost of the employee is close to \$80,000. Mrs. Dunn stated that she would rather contribute funds towards senior programs rather than salary. Mrs. Dunn stated that the graphs on senior center attendance indicate that about one person from Pennington is participating in each program. Mrs. Dunn stated that she would rather pay for each person by program than make one big contribution.

Following a rather heated discussion, Council Member Heinzl stated that she would like to have more information regarding emergency authorizations and she would also like to find out what would happen if

Council decided not to contribute funds. Mrs. Heinzl stated that she would like to know if Pennington residents would still be able to participate in programs and would they be charged to participate. Mr. Griffiths stated that he would like to see more detail as to where funds are being spent. Mayor Persichilli stated that he would like to see a detailed breakdown by event and see how many Pennington residents are actually participating. Mayor Persichilli stated that he appreciates the discussion and unless Council wants to continue the discussion then a decision needs to be made as to how Council feels about the request.

Mr. Griffiths stated that he would like more information as to the validity of treating this request as an emergency authorization and the potential consequences in 2014. Mr. Matheny stated that he received an e-mail from Chief Financial Officer, Sandra Webb who stated that emergency appropriations have to be approved by the State. Mr. Griffiths stated that he would like to see a full budget including salary, use of the building and operating expenses and where the funds are spent. Mrs. Dunn stated that she would also like to see a breakdown per program of actual Pennington residents who participate as opposed to a total number of participants for a total number of programs because the same person could be counted multiple times when it is not broken out by program. Mr. Griffiths stated that there are also services available for seniors through Mercer County.

Mrs. Heinzl stated that she supports the program in principle so that Pennington senior citizens can continue to get the service that they have been getting; however she is concerned about just continuing a program just because it always was. Mrs. Heinzl stated that she would like answers to the questions that were raised and she would like to carry this discussion for another month to get those answers. Mrs. Dunn stated that she would like to have more information as this position has been funded for the past six years by a grant and now Pennington is being asked to contribute without having had any input into salary and operating expenses. Mrs. Dunn stated that she would like to make sure that Pennington senior citizens would be benefiting from whatever amount is contributed for the program. Mrs. Dunn stated that requesting \$5,000 without knowing where the funds are being spent this is not the fair way to go about this. Council Member Tucker made a motion to continue the discussion at the next meeting after gathering more information for Council to review, second by Council Member Heinzl. Mayor Persichilli stated that he would work with Mr. Matheny and Mrs. Sterling to get answers to the questions that were raised. Upon a roll call vote, all members present voting in favor of continuing the discussion at the next meeting.

**NJ DOT Project Schedule** – Mr. Ogren stated that he has met with Borough Engineer, Carmella Roberts to try to nail down a schedule for the Streetscape project. Mr. Ogren stated that in order to get the work done during the summer before school is back in session; they have come up with a very aggressive schedule to get the project going. Mr. Ogren stated that the earliest date that Council could award the project is June 10<sup>th</sup> and since the Council meeting is scheduled for June 4<sup>th</sup>, he would like to request that the meeting be postponed to June 10<sup>th</sup>. Council Members agreed to change the meeting date to June 10<sup>th</sup>.

Mr. Ogren stated that the second project is the King George Road / Curlis Avenue project and he would like to see that project done this year as well. Mr. Ogren stated that engineering for the design phase has been budgeted this year and Roberts Engineering is prepared to begin as soon as possible. Mrs. Dunn stated that she is in favor of moving forward with this project but she is concerned that there might not be enough money in the engineering budget to cover inspection costs for the two projects. Mr. Ogren stated that some engineering can be charged to the grant if there are funds available, but we will not know that until bids are received. Mrs. Dunn stated that the rules on DOT grants have changed and now office work related to inspections is no longer grant eligible. Mrs. Dunn stated that she supports going ahead with the projects as long as there is engineering funds available. Mr. Ogren stated that he does not think that inspection costs not covered by the grant would amount to much and transfers could also be made at the end of the year.

### **Professional Reports**

There were no reports from professionals.

### **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.

### **Approval of Closed Session Minutes (for content but not for release)**

Council Member Griffiths made a motion to approve the closed session minutes for February 4<sup>th</sup>, 2013 for content, but not for release, second by Council Member Heinzl with all members present voting in favor.

At 8:30 PM, Council Member Heinzl made a motion to adjourn the meeting, second by Council Member Dunn.

Respectfully submitted,

Elizabeth Sterling  
Borough Clerk