

**Pennington Borough Council
Regular Meeting – March 4, 2013**

Mayor Persichilli called the Regular Meeting of the Borough Council to order at 7:04 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 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.**

Mr. Neal Blackwell of 20 Brookside Avenue, representing The Pennington School stated that the school has an application in for a fireworks display on May 18th. Mr. Blackwell stated that the resolution is on for approval later in the meeting, but he is on call for the First Aid Squad and he wanted to offer Council Members the opportunity to ask any questions or comments in case he has to leave for a call.

Mayor Persichilli stated that Council discussed this at the last meeting and one of the concerns was paid detail for Police coverage at the event.

Mr. Blackwell stated that they have filed a permit with the Bureau of Fire Safety and he will be meeting with them tomorrow to discuss the event. Mr. Blackwell stated that they are using the same company that does the fireworks at Aliger Park so they are familiar with what is required. Mr. Blackwell stated that he has talked with Sergeant Friedman regarding paid detail police coverage and street closing for the event.

Presentations

Mayor Persichilli introduced Joann Held of the Hopewell Valley Green Team. Mrs. Held stated that she is a resident of 103 Lanning Avenue. Mrs. Held stated that the Hopewell Valley Green Team is an organization that represents all three municipalities in the Valley. Mrs. Held stated that Council has appointed two residents to the Green Team and Mrs. Heinzl also serves as a member. Mrs. Held thanked Borough Council for all of their support for many of their projects both alone and in conjunction with the Environmental Commission. Mrs. Held stated that there has been good cooperation between various groups in the Valley. Mrs. Held stated that the recycling projects have been a great way for the Green Team to reach out to the residents and not only collect items that would otherwise go to a landfill, but to provide residents with education about ways to reduce their impact on the environment.

Mrs. Held stated that now it is time to reach out to the business community as their charge is to reach out to all the different sectors in the Valley. Mrs. Held stated that the Green Team has been discussing having a Green Business Recognition Program and they are close to having a program laid out. Mrs. Held stated that the Green Team has an opportunity through the New Jersey Clean Energy Program to do a mailing for free to all businesses in the Valley. Mrs. Held stated that the basic idea for the program is to have a list of criteria that would be fairly straight forward relating to things like waste management, water conservation, recycling, purchasing, transportation and those types of issues. Mrs. Held stated that there would be a checklist based on models that other Sustainable Communities have used. Mrs. Held stated that a business would go through the checklist and check off things they have done with each item having an assigned point value. Mrs. Held stated that this program would be open to any type of business throughout the Valley. Mrs. Held stated that for Phase One the bar will be set fairly low to encourage participation followed by Phase Two which would be a bit more challenging. Mrs. Held stated that future Phases would include outreach to provide businesses with the tools they need to be more sustainable.

Mrs. Held stated that they are within a month or two of having the pieces of the program together and reaching out to all of the businesses is the problem and that is where the NJ Direct Install Program comes in. Mrs. Held stated that this program is available to small to medium sized building owners who can sign up for a free energy efficiency assessment and after the assessment they would be provided with recommendations to become more efficient. Mrs. Held stated that there is money in the fund to cover up to seventy percent of the cost of upgrades and there is a contractor already in place to do the work. Mrs. Held stated that the Direct Install Program is anxious to get more businesses involved and so they have asked through Sustainable Jersey if they would be willing to send a letter to local businesses telling them about the program and they would pay for the printing of the letters and postage and they would do the mailing. Mrs. Held stated that the

only thing they require is a letter signed by the Mayor, envelopes and a list of local businesses. Mrs. Held stated that businesses are more likely to open a letter from the Borough and they would like businesses to know that the Borough supports this program. Mrs. Held stated that in addition to the letters they will have something printed in the local papers and also information available at their booth for Pennington Day.

Mayor Persichilli thanked Mrs. Held for her presentation. Mrs. Heinzl stated that she learned today that Mrs. Held would be receiving the Jack Gleason Environmental Award this year and she wanted to offer congratulations.

Mayor Persichilli introduced Mr. Eric Holterman to present the annual report for the Historic Preservation Commission. Mr. Holterman introduced Mr. Bob Chandler, Vice Chairman of the Historic Preservation Commission. Mr. Holterman stated that he submitted a report and most of the information he will go over is in the report. Mr. Holterman stated that he mainly wanted to have an opportunity to attend and answer any questions or address any concerns that Council Members might have. Mr. Holterman stated that the ordinance was written so as to avoid issues with regard to site, landscaping, outbuilding etc. Mr. Holterman stated that there have not been a lot of applications for the Historic Preservation Commission and where there have been applications they have dealt with the primary structure. Mr. Holterman stated that the purpose of the ordinance was protection of primary structures. Mr. Holterman stated that they have received many inquiries regarding items such as antennas, equipment, walkways, fences, awnings, signs etc. and where appropriate they have referred people to the Zoning Officer or Borough Hall. Mr. Holterman stated that one application they had was the Presbyterian Church corner house. Mr. Holterman stated that they came before the Commission with an application that included vinyl windows and siding. Mr. Holterman stated that the Commission recommended that they upgrade the windows to a better quality window for the same cost, that change was made and they also recommended that they consider a siding other than vinyl, though vinyl is allowed under the ordinance. Mr. Holterman stated that in that case, the church did not feel that they could afford the upgrade. Mr. Holterman stated that the Commission contacted other parties in town and funds were raised and given to the church so that the upgrade from vinyl siding to fiber-cement siding was done.

Mr. Holterman stated that they have not had any development applications so far that required action from the Historic Preservation Commission. Mr. Holterman stated that the Planning Board did have an application recently but it was for an addition to the rear of the house. Mr. Holterman stated that the ordinance was carefully written so that if an addition is to the rear of a house and doesn't come beyond the sides there is no need to go before the Historic Preservation Commission.

Mr. Holterman stated that an important development application is coming up from The Pennington School. Mr. Holterman stated that the school is considering a new building on their site. Mr. Holterman stated that The Pennington School came to the last meeting of the Historic Preservation Commission with a single proposal. Mr. Holterman stated that the initial thought was that there are two historic white houses on the property and they were interested in relocating one and demolishing the other one. Mr. Holterman stated that the Commission offered some options and there has not been any resolution yet. Mr. Holterman stated that they will continue discussions with them and when the time comes to submit an application to the Planning Board the Commission will chime in with their thoughts. Mr. Holterman stated that the school has a donor for a major new building and so that is what they are interested. Mr. Holterman stated that the school will be attending the next Planning Board meeting to present their idea. Mrs. Heinzl stated that when she recently spoke to Mary Mistretta, Land Use Administrator, she had not yet received an application.

Mr. Holterman stated that the Commission is pursuing an Certificate of Eligibility for State and National Registration. Mr. Holterman stated that the State and National listings are basically the same thing because if you get one, you automatically get the other. Mr. Holterman stated that a Local Listing is something completely different and is more difficult to get. Mr. Holterman stated that a Local Listing also has regulations attached to it where State and National Listings do not have regulations or limitations. Mr. Holterman stated that there are some benefits to having State and National Registration mainly the ability to apply for grants and building code items. Mr. Holterman stated that they are at the very beginning stages right now with more information to come.

Mrs. Heinzl asked if the grant funding that would be available would be for the Commission or would it be a grant where an applicant for instance the Presbyterian Church could apply to make upgrades. Mr. Holterman stated that the answer is both. Mr. Holterman stated that the church is already pursuing individual listing because they want to be able to apply for grants. Mr. Holterman stated whether individually listed or as part of a Historic District, applicants can apply for the same grants. Mr. Holterman stated that if they are able to get the District listed it means any property in the district would be able to apply for a grant.

Mayor Persichilli thanked Mr. Holterman and the Commission for their hard work and the process has been smooth and so far it seems to be working well.

Mrs. Dunn also thanked Mr. Holterman and Mr. Chandler for attending and presenting their report.

Ordinances for Introduction

Mayor Persichilli read Ordinance 2013-1 by title.

**BOROUGH OF PENNINGTON
ORDINANCE 2013-1**

ORDINANCE PROHIBITING THE FEEDING OF DEER ON LANDS EITHER PUBLICLY OR PRIVATELY OWNED IN THE BOROUGH, AMENDING CHAPTER 67, ARTICLE IV, OF THE CODE OF THE BOROUGH OF PENNINGTON

WHEREAS, Pennington Borough remains concerned about the significant impact of the growth of the white-tailed deer population inhabiting the Pennington area, including deer/vehicle collisions, Lyme disease, the reduction or elimination of native plant materials and habitat for other wild animals, the erosion of stream banks, and damage to ornamental plantings within the community; and

WHEREAS, the feeding of deer has been shown to increase the concentration of deer in the area of feeding, thereby increasing the likelihood of deer/vehicle collisions, the numbers of nymphal deer ticks and damage to vegetation and landscaping in that area and nearby;

WHEREAS, the feeding of deer is counter to the Borough's goal of reducing the local deer population and its adverse impact on the community; and

WHEREAS, the feeding of deer also can be detrimental to the overall health and well-being of the deer;

WHEREAS, Chapter 67, Article IV, of the Code of the Borough of Pennington presently prohibits the feeding of unconfined wildlife in public parks and on other property owned or operated by the Borough, Borough Council now seeks to extend the prohibition on feeding deer to private property as well;

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

1. Section 67-25 of the Code of the Borough of Pennington is hereby amended to read:

“A. No person shall feed, in any public park or on any other property owned or operated by the Borough, any unconfined wildlife. Examples of confined wildlife include wildlife confined in zoos, parks or rehabilitation centers, wildlife held at environmental education centers, and feral cats detained as part of an approved trap-neuter-release program.

B. No person shall purposely or knowingly, as said terms are defined in Title 2C of the New Jersey Revised Statutes, feed wild white-tailed deer (*Odocoileus virginianus*) on lands either publicly or privately owned within the Borough of Pennington.”

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

Council Member Griffiths made a motion to introduce Ordinance 2013-1, second by Council Member Dunn. Mr. Tucker stated that reluctantly he will support this measure because of the health hazard related to deer ticks and deer feces and also deer collisions. Mr. Tucker stated that there is a problem and it needs to be addressed. Upon a roll call vote, all members present voted in favor of introduction of the ordinance.

Mayor Persichilli read Ordinance 2013-2 by title.

**BOROUGH OF PENNINGTON
ORDINANCE NO. 2013-2**

AN ORDINANCE REDUCING THE TESTING SCHEDULE FOR GREASE INTERCEPTORS IN ESTABLISHMENTS SHOWN REPEATEDLY TO DISCHARGE SUBSTANTIALLY LESS THAN THE MAXIMUM PERMITTED CONCENTRATION OF GREASE, AND AMENDING CHAPTER 159 OF THE CODE OF THE BOROUGH OF PENNINGTON

WHEREAS, Chapter 159 of the Borough Code requires food establishments and facilities to install grease interceptors to trap grease in wastewater that would otherwise be discharged to the Borough's sewer system;

WHEREAS, the Code permits a food establishment or facility to defer installation of a grease interceptor if instead it installs a control manhole to permit sampling of wastewater and it demonstrates through quarterly laboratory testing that its wastewater does not contain more than the maximum permitted concentration of grease;

WHEREAS, Borough Council determines that when the sampled wastewater from a particular establishment is repeatedly found to contain substantially less than the maximum permitted concentration of grease, it is fair to reduce the frequency of testing for that establishment, subject to conditions;

WHEREAS, Borough Council of the Borough of Pennington therefore seeks to amend Chapter 159 of the Code to provide that when the results of three consecutive quarterly samples are found to be no more than twenty percent (20%) of the maximum concentration permitted, the owner may petition the Borough in writing to reduce laboratory testing to two (2) tests per calendar year on a schedule approved by the Borough, subject to reinstatement of quarterly testing if the situation changes;

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

1. Chapter 159, Section 159-13.2 of the Code of the Borough of Pennington, is hereby amended to read:

The owner of a property containing a food establishment or facility in operation at the time of the adoption of this amendatory ordinance may elect to defer installation of one or more exterior grease interceptors otherwise required by this chapter, provided this election shall expire if the establishment or facility expands, constructs new facilities or makes renovation, repair or alteration of existing facilities in a manner which requires issuance of a permit by the municipal Construction Office, and provided further that deferring the installation of the exterior grease interceptor may continue only for as long as the owner demonstrates to the reasonable satisfaction of the Borough, based on the testing of wastewater as prescribed herein, that the food establishment or facility does not discharge grease, fat or oil in excess of the maximum concentration permitted by § 159-8D of the Code. The testing of wastewater shall comply with the following standards and procedures.

A. The owner, at the owner's sole expense, shall install and maintain a suitable control manhole in the building sewer conveying wastewater from the property to permit observation, sampling and measurement of wastes. The manhole shall be installed downstream of all fixtures discharging grease or oil and upstream of the building sewer. The owner also shall at its expense modify the building sewerage conveyance system by installing waste piping as needed to effect the complete segregation of fixtures receiving grease or oil so that only the waste from these fixtures is monitored through the manhole. Such manhole shall be accessible and safely located and, together with all related system modifications, shall be constructed in accordance with plans approved by the Borough Plumbing Subcode Official or the Borough Engineer, as appropriate.

B. The owner shall, at owner's sole expense, contract with a laboratory certified by the New Jersey Department of Environmental Protection to obtain suitable samples from the control manhole to determine the concentration of grease and oil in the monitored wastewater under representative operating conditions. The laboratory shall test the sampled wastewater in compliance with EPA Method 1664A HEM or such other testing protocol as may hereafter be approved by the Department of Environmental Protection for this purpose. The sampling and testing shall be performed at least quarterly. The owner shall promptly submit full details and results of such sampling and testing to the Borough Department of Health and shall maintain copies on the premises. Sampling and testing information shall include for each sample the date, exact location, method, volume and time of sampling, the name of the person(s) taking the sample, the date or dates of analysis of the sample, the name of the person(s) performing the analysis, the analytical techniques or methods used, and the results of the analysis. When the results of tested samples in three consecutive quarters indicate no more than 20% of the maximum concentration permitted by § 159-8D of the Code, the owner may petition the Borough in writing to reduce laboratory testing to two (2) tests per calendar year on a schedule approved by the Borough. Any change in ownership of the business or building, a change in use of the building likely to increase the discharge of grease, a substantial change in the product produced by the business, any indication between tests that the discharge of grease or oil has increased, or a single test with a result in excess of 20% of the maximum amount permitted by the Code shall require the immediate reinstatement of quarterly testing.

C. The sampling of wastewater shall be performed when the establishment or facility is in full operation and shall be of sufficient frequency during an ordinary day and week to permit reliable measurement of whether maximum permissible concentrations of grease, fat and oil have been exceeded. It shall be unlawful to add water to the monitored wastewater for the purpose of diluting wastes. The Borough reserves the right to conduct its own sampling and testing, at the owner's expense. For this purpose, the owner or the operator of the food establishment or facility, as appropriate, shall afford the Borough and its authorized representatives immediate, full and safe access to the control manhole upon request, without prior notice.

D. Upon a determination by the Borough, based on the described sampling and facility is not discharging grease, fat or oil in excess of the maximum concentration permitted by Section 159-8D of the Code, the Borough shall notify the property owner that installation of one or more exterior grease interceptors is required. The notice shall provide a deadline for completing the installation as set forth in Section 159-13.3 of the Code.

E. All engineering, laboratory and other professional fees incurred by the Borough in connection with approvals required by this chapter or in connection with implementation of the sampling and testing procedures set forth herein shall be promptly reimbursed to the Borough by the owner.

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

Council Member Dunn made a motion to introduce Ordinance 2013-2, second by Council Member Griffiths. Mr. Ogren asked if the twenty percent requirement might be a little low. Mrs. Dunn stated that the readings are so small that they are not even close to twenty percent. Mr. Wittkop stated that this actually affects only

two businesses, The Pennington School and Mr. Ed's Creamery. Upon a roll call vote, all members present voted in favor of introduction with the exception of Mr. Tucker who abstained.

Mayor Persichilli read Ordinance 2013-3 by title.

**BOROUGH OF PENNINGTON
ORDINANCE # 2013-3**

AN ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK IN ACCORDANCE WITH N.J.S.A. 40A: 4-45.14 IN THE BOROUGH OF PENNINGTON, NEW JERSEY

WHEREAS, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 2.5% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the Mayor and Council of the Borough of Pennington, Mercer County hereby determines that it is advisable and necessary to increase its CY 2013 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

NOW THEREFORE BE IT ORDAINED, by the Mayor and Council of the Borough of Pennington, in the County of Mercer, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2013 budget year, the final appropriations of the Borough of Pennington shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5 %, amounting to \$32,432.82 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, and that the CY 2013 municipal budget for the Borough of Pennington be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that the Mayor and Council of the Borough of Pennington hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

BE IT FURTHER ORDAINED, that any that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon be filed with said Director within 5 days after such adoption.

Council Member Griffiths made a motion to introduce Ordinance 2013-3, second by Council Member Heino with all members present voting in favor.

Mayor Persichilli read Ordinance 2013-4 by title.

**BOROUGH OF PENNINGTON
County of Mercer**

Ordinance No. 2013-4

AN ORDINANCE INCREASING RATES CHARGED BY THE PENNINGTON BOROUGH WATER AND SEWER UTILITY, AND AMENDING THE CODE OF THE BOROUGH OF PENNINGTON

WHEREAS, the Pennington Borough Water and Sewer Utility continues to incur increased costs;

WHEREAS, Borough Council of the Borough of Pennington has determined that as a result of these increased costs the rates charged by the Utility for water and sewer services must be increased and the rates must be further differentiated for customers based on amount of usage;

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

- 1. Section 206-1 of the Code of the Borough of Pennington, pertaining to base and usage charges, is hereby amended as follows (with deletions bracketed and new language underlined):**

§ 206-1. Base and usage charges.

A. There are hereby established the following quarterly charges for water customers:

Usage Meter Size (inches)	Base Charge	First Excess Usage Block Charge	Second Excess Usage Block Charge	Third Excess Usage Block Charge	Fourth Excess Usage Block Charge
	4,000 Gallons or Less	4,001-20,000 Gallons (per 1,000 gallons)	20,001-60,000 Gallons (per 1,000 gallons)	60,001-[100,000] 200,000 (per 1,000 gallons)	More than [100,000] 200,000 (per 1,000 gallons)
Less than 1	\$[27.27]27.41	[\$6.40]6.46	[\$6.68]6.81	[\$7.08]7.38	[\$8.03]8.54
1	\$[41.63]41.84	[\$6.40]6.46	[\$6.68]6.81	[\$7.08]7.38	[\$8.03]8.54
2	\$[118.30]118.89	[\$6.40]6.46	[\$6.68]6.81	[\$7.08]7.38	[\$8.03]8.54
3	\$[265.37]266.70	[\$6.40]6.46	[\$6.68]6.81	[\$7.08]7.38	[\$8.03]8.54
4	\$[389.98]391.93	[\$6.40]6.46	[\$6.68]6.81	[\$7.08]7.38	[\$8.03]8.54
6	\$[728.71]732.36	[\$6.40]6.46	[\$6.68]6.81	[\$7.08]7.38	[\$8.03]8.54

NOTE: Usage charges are per one-thousand-gallon increments, or portion thereof.

B. There are hereby established the following quarterly charges for sewer customers:

Usage Meter Size (inches)	Base Charge	First Excess Usage Block Charge	Second Excess Usage Block Charge	Third Excess Usage Block Charge	Fourth Excess Usage Block Charge
	4,000 Gallons or Less	4,001-20,000 Gallons (per 1,000 gallons)	20,001-60,000 Gallons (per 1,000 gallons)	60,001-[100,000] 200,000 (per 1,000 gallons)	More than [100,000] 200,000 (per 1,000 gallons)
All sizes	[\$30.10]30.37 per 1,000 gallons	[\$6.82]6.89 per 1,000 gallons	[\$7.10]7.34 per 1,000 gallons	[\$7.37]7.77 per 1,000 gallons	[\$7.72]8.29 per 1,000 gallons

NOTE: Usage charges are per one-thousand-gallon increments, or portion thereof.

C. The minimum quarterly base charge for multiunit residential or multiunit commercial or a combination thereof serviced through a single water meter shall be determined by the product of the number of units by the minimum quarterly base charge of a one-inch meter, regardless of the size of the meter(s) that feeds the units.

D. Sewage or other wastes containing unduly high concentrations of other substances which add to the operating costs of the sewage treatment works will be subject to a surcharge to be determined by the borough on the basis of the character and volume for such sewage and wastes. Where, in the opinion of the borough, sewage and other wastes of a deleterious character adversely affect the treatment processes, the borough reserves the right to require that such sewage and wastes be treated by the contributor to remove or neutralize the objectionable substances before discharge into the sewers.

E. Base and usage charges shall be due on March 1, June 1, September 1 and December 1.

F. Premises introducing water into a permanent private pool may be allowed a reduction in the charge of sewer usage in an amount equal to the volume of water introduced into the pool. This will require the installation and rental of a temporary meter in conformance with the Borough Code.

2. This ordinance shall take effect upon its passage and publication as provided by law.

Council Member Griffiths made a motion to introduce Ordinance 2013-4, second by Council Member Heino. Mr. Griffiths stated that this Ordinance reflects the same rate structure that we have introduced the past couple of years. Mr. Griffiths stated that the target weighted average percent increase is 1.9 percent or about \$20,000 in actual revenue for the year. Mr. Griffiths stated that last year we increased revenue by only \$15,000 which is a weighted average of roughly 1.5 percent. Mr. Griffiths stated that given the lower

volume of billed water this rate structure is down to 1.5 percent and may decline further if water usage declines further. Mr. Griffiths stated that the 1.5 percent is weighted with higher volume customers paying a higher percentage of increase and residential consumers paying less than one percent which will probably amount to an increase per household of about \$10.00 per year. Mr. Griffiths stated that we continue to introduce and hopefully approve this rate structure so that we can continue to invest in the infrastructure of the water and sewer utility. Upon a roll call vote, all members present voted in favor of introduction of the ordinance.

Committee Reports

Planning & Zoning / Environmental Commission / Library – Mrs. Heinzl reported that the Library has been doing outstanding programming. Mrs. Heinzl stated that yesterday kicked off the Environmental Film Festival which is being jointly sponsored with the Stonybrook Watershed Association. Mrs. Heinzl stated that the State Climatologist was here to explain about the movie and water issues. Mrs. Heinzl stated that last Sunday, Rush Holt was here attending the Library kick off of the Library's any age grant program which will fund programming called Bridging Cultures Bookshelf. Mrs. Heinzl stated that the program will allow the Library to purchase books, materials and films which will help with understanding other cultures in the world. Mrs. Heinzl stated that on February 13th a Senior Program was held in coordination with Abigail Waugh as part of a Baby Boomer Series that the senior group is hosting. Mrs. Heinzl stated that this first program was conducted by Judge Waugh and focused on estate planning and will preparation. Mrs. Heinzl stated that these types of programming are consistent with the Library Strategic Plan. Mrs. Heinzl stated that one of the focuses of the plan is to reach out and work with other groups on programming. Mrs. Heinzl stated that story time and the children's programming continue to be well attended. Mrs. Heinzl stated that the Library Spring Brochure was included in the recent mailing of water/sewer bills. Mrs. Heinzl encouraged attendance at the next movie in the film series entitled Sourlands which was filmed and done by a local Hopewell resident.

Mrs. Heinzl stated that the Library Board will meet this Thursday and one of the items they will hear about is the proposed facility plan. Mrs. Heinzl stated that the Library retained a Library Planner who has put together some suggestions for improving the Library facility.

Mrs. Heinzl stated that the 1/3 of a mil calculation of the amount to be budgeted for the Library is down from last year. Mrs. Heinzl stated that the library will be tightening some of their spending to compensate for the reduction.

Mrs. Heinzl stated that the Planning Board met in February and heard one application for 206 Burd Street. Mrs. Heinzl stated that many of the smaller houses in Pennington are undergoing additions. Mrs. Heinzl stated that the application is for a second floor addition with a front portico and the Board did approve the application.

Mrs. Heinzl stated the Planning Board heard a request from Emily's Café and Catering. Mrs. Heinzl stated that Emily's Café is planning to add square footage directly behind the kitchen by taking over a portion of the travel agency to allow the Café to expand. Mrs. Heinzl stated that the Planning Board felt that the request was fine as there would be no additional seating added and there was no indication that they would exceed any of their grease interceptor capacity.

Mrs. Heinzl stated that the Environmental Commission has two new student members from the High School and they are looking forward to having them on the Commission. Mrs. Heinzl stated that at the last meeting they discussed Pennington Day and this year they are planning to highlight Anti-Idling to expand education as to what idling does and ways to cut down on idling. Mrs. Heinzl stated that the Commission is also monitoring the Pennytown/Kooltronic Development application with regard to water and sewer concerns.

Mrs. Heinzl stated that the Styrofoam collection event held on February 2nd was well attended and two truckloads of styrofoam were collected as well as large quantities of CD's, DVD's, Jewel Cases and wine corks. Mrs. Heinzl stated that the Commission is hoping to make this an annual event.

Mrs. Heinzl stated that the Commission along with the Public Works Committee are investigating the possibility of composting to reduce the cost of tipping fees and also expand recycling of food waste and other types of waste that would otherwise go into the regular trash collection.

Public Works/Shade Tree – Mr. Ogren reported that the Shade Tree Commission met and the main topic of discussion is locations for tree plantings.

Mr. Ogren stated that Dina Dunn has done further analysis of water pumped versus water billed to try to narrow the percentage of unaccounted for water. Mr. Ogren stated that the percentage has increased from 19 percent to 21 percent and that is something that Council should keep an eye on.

Mr. Ogren stated that Council Members have been provided with the Water and Trash report for the month of February 2013.

PENNINGTON BOROUGH PUBLIC WORKS

TO: Tom Ogren, Chairman
Public Works Committee

FROM: Jeff Wittkop, Superintendent

DATE: March 1, 2013

RE: **COUNCIL REPORT FOR THE MONTH OF FEBRUARY 2013**

WATER

Water pumped for the month of February 2013:	5,957,000
Daily-	212,700

Water pumped for the month of February 2012:	6,048,000
Daily-	208,500

For the month of February 2013 we averaged 4,200 gallons more per day than February 2012.

TRASH

55.07 tons of household trash for the month of February 2013 vs. 52.25 tons in February 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.

Mr. Ogren reported that the Public Works Committee did meet a couple of times with the topic of discussion being the Downtown Streetscape Project. Mr. Ogren stated that he will report more details under Council Discussion items.

Community Services/Economic Development/Personnel – Mrs. Heino stated that under Personnel the Borough has instituted the new Light Duty Policy that was put into place and now Sergeant Friedman has returned to full duty. Mrs. Heino stated that they continue to work on Job Descriptions for other profiles throughout the Borough.

Mrs. Heino stated that Parks and Recreation met on February 13th and one of the topics discussed was the Adopt a Flag program which is an ongoing commitment for Parks and Recreation. Mrs. Heino stated that Parks and Recreation will be working with two Eagle Scout candidates to come up with different projects that could be done in Pennington. Mrs. Heino stated an upcoming event for Parks and Recreation is the Easter Egg Hunt which will be held on March 30th. Mrs. Heino stated that they are still trying to figure out what the best site for holding the hunt will be as it is normally held at Kunkel Park. Mrs. Heino stated that other options are Sked Street Park or Howe Commons.

Mrs. Heino stated that there is a lot of community interest in being part of the clean up at Kunkel Park and including making donations. Mrs. Heino stated that they have discussed this with Borough Attorney, Walter Bliss and there is a way to do it through the existing budget. Mrs. Heino stated that she would like Council to consider producing an opinion on this so that when Council Members are approached by residents they are informed as to what can or can't be done. Mrs. Heino stated that there is also interest in having a Grand Reopening of Kunkel Park when it becomes safe for the public. Mrs. Heino stated that other items that were discussed was the possibility of creating a Friends of the Park group and also production of a survey to get a feel for what residents of Pennington want most from their parks.

Mrs. Heino stated that the Economic Development Commission met on February 25th. Mrs. Heino stated that the Business Person of the Year event was held in February to honor Erwin Harbat and there were about forty-five attendees.

Mrs. Heino stated that Mrs. Heinzl and Mrs. Held were in attendance at the meeting to present the Green Initiative and the aspect of bringing the businesses in. Mrs. Heino stated that the EDC felt that reaching out to commercial real estate owners would be a good way to start. Mrs. Heino stated that Mr. Ogren also made a presentation to update the commission on the Downtown Streetscape Project. Mrs. Heino stated that the members of the EDC were very pleased with the concept and updated drawings showing bench and bollard layout for Main Street.

Mrs. Heinzl stated that she and Mrs. Held also talked to the EDC about the Pennington Farmers Market. Mrs. Heinzl stated that there was a good discussion and ideas were shared. Mrs. Heino stated that the EDC would like to see at least part of the Farmers Market take place in Downtown Pennington to bring pedestrian traffic into Pennington.

Public Safety – Mr. Tucker reported that the Police Department budget has been submitted. Mr. Tucker stated that Hopewell Township has approved a Shared Services agreement to provide dispatch services for Pennington Borough with a two percent increase over last year. Mr. Tucker stated that computers in the department have been updated and new anti-virus software has been installed.

Mr. Tucker stated that Director Meytrott represented the Department at various events throughout the month.

Mr. Tucker reported that the Police Department assisted Hopewell Township and the Hopewell Valley Regional School District with their most recent active shooter drill held at the High School on February 13th. Mr. Tucker stated that meetings and drills involving the public school system, private and nursery schools will continue and it is anticipated that by the end of the school year all schools in the Borough will have plans in place.

Mr. Tucker reported the following statistics for the month of February 2013:

143	Motor Vehicle Stops
156	Motor Vehicle Summonses issued
2	Adult Male Arrests
3	Adult Female Arrests
2	Juvenile Males Arrests
1	Juvenile Female Arrest
17	First Aid Calls
1	Fire Call
62	Community Policing
475	Calls for Service

Mr. Tucker stated that the Board of Health is looking into an ordinance banning smoking in parks. Mr. Tucker stated that more information on that will be coming.

Finance – Mr. Griffiths stated that the Finance Committee met twice to craft the budget for 2013 and he will save his comments for later in the meeting.

Historic Preservation – Mrs. Dunn stated that the Historic Preservation Commission met with the main discussion being The Pennington School proposal. Mrs. Dunn stated that the two white buildings that are under discussion are on Delaware Avenue across from the tennis courts. Mrs. Dunn stated that both of these buildings are in the Historic District. Mrs. Dunn stated that The Pennington School presented a proposal which would involve moving one of the buildings potentially to Green Street and demolishing the other. Mrs. Dunn stated that the building that would be moved is the old headmaster's house and The Pennington School recognizes the historic value of the building. Mrs. Dunn stated that there was discussion as to some options that could be looked at. Mrs. Dunn stated that The Pennington School appreciated the feedback and they will be working with members of the Commission to come up with a plan so that it can be presented at the 175th Anniversary Celebration. Mrs. Dunn stated that The Pennington School will be making application to the Planning Board and after that the Historic Preservation Commission will meet with them again to discuss the application.

Mrs. Dunn stated that Mr. Ogren attended to update the Commission on the Streetscape Project and the changes that need to be made to the sidewalk.

Mayor Persichilli stated that he had a meeting with The Pennington School to request assistance from them as presently they do not make any payment in lieu of taxes to the Borough. Mayor Persichilli stated that he will be following up with the school.

New Business

Borough of Pennington Resolution #2013 – 3.1

RESOLUTION AUTHORIZING REFUNDS

BE IT RESOLVED, that a refund be issued to PHH Mortgage c/o CoreLogic Real Estate Tax Service, P.O. Box 961250, Fort Worth, TX 76161-9887, for an overpayment of first quarter 2013 taxes, in the amount of \$56.43 for, 316 Hale Street, Block 701, Lot 21.

BE IT RESOLVED, that a refund be issued to CoreLogic Real Estate Tax Service, P.O. Box 961250, Fort Worth, TX 76161-9887, for an overpayment of first quarter 2013 taxes, in the amount of \$35.00 for, 19 Academy Court, Block 503.02, Lot 3.

BE IT RESOLVED, that a refund be issued to James E. & Nancy L. McNulty, Est. c/o Teeters Harvey Gilboy & Kaier, LLP, 1835 Market Street, Philadelphia, PA 19103-2968, for an overpayment of first quarter 2013 taxes, in the amount of \$8,073.29 for, State Highway 31, Block 206, Lot 3, per Tax Court of New Jersey.

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	S				Ogren	X			
Heino	X				Tucker	M			

Council Member Tucker made a motion to approve Resolution 2013-3.1, authorizing refunds, second by Council Member Griffiths with all members present voting in favor.

**Borough of Pennington
Resolution #2013 – 3.2**

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 \$ 2,863,275.59 from the following accounts:

Current	\$ 2,734,085.48
W/S Operating	\$ 107,481.64
Grant Fund	\$ 3,528.32
Open Space Fund	\$ 9,237.25
Trust Fund	\$ 200.00
Developers' Escrow	\$ 8,742.90
TOTAL	\$ 2,863,275.59

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 2013-3.2, second by Council Member Tucker with all members present voting in favor.

**Borough of Pennington
Resolution #2013-3.3**

**RESOLUTION AUTHORIZING AMENDMENTS TO THE
2013 TEMPORARY BUDGET**

WHEREAS, the 2013 Budget for the Borough of Pennington has not been adopted; and

WHEREAS, additional funds are necessary to meet various obligations of the Borough of Pennington;

NOW, THEREFORE, BE IT RESOLVED, that the following additional appropriations be made in the 2013 Temporary Budget for the Current Account.

Administration	Other Expense	\$ 2,000.00
Municipal Clerk	Salaries	\$ 7,000.00
Finance	Salaries	\$ 6,000.00
Finance	Other Expense	\$ 7,500.00
Tax Collection	Other Expense	\$ 5,000.00
Tax Map Maintenance	Other Expense	\$ 1,500.00
Legal	Other Expense	\$ 6,000.00
Engineering	Other Expense	\$ 30,000.00
Construction	Salaries	\$ 8,000.00
Police	Salaries	\$ 25,000.00
Streets	Salaries	\$ 20,000.00

Streets	Other Expense	\$ 20,000.00
Trash	Salaries	\$ 10,000.00
Borough Property	Other Expense	\$ 9,000.00
Library	Salaries	\$ 10,000.00
Library	Other Expense	\$ 35,000.00
Electricity	Other Expense	\$ 5,000.00
Telephone	Other Expense	\$ 1,000.00
PERS	Other Expense	\$ 12,319.00
Social Security	Other Expense	\$ 7,500.00
I/L – Dispatch	Other Expense	\$ 40,527.10
I/L – Recycling	Other Expense	\$ 7,500.00
Municipal Court	Salaries	\$ 6,000.00
Safe Routes to Schools	Other Expense	\$ 12,295.00
	Total	\$ 294,141.10

BE IT FURTHER RESOLVED, that the following additional funds be appropriated for the 2013 Temporary Budget for the Water and Sewer Fund:

Water	Salaries	\$ 20,000.00
Water	Other Expense	\$ 40,000.00
Sewer	Salaries	\$ 20,000.00
	TOTAL	\$ 80,000.00

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 2013-3.3, second by Council Member Tucker with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2013 – 3.4**

**RESOLUTION APPROVING RAFFLE LICENSE RA: 1.13 FOR
THE PENNINGTON FIRE COMPANY LADIES AUXILIARY**

WHEREAS, The Pennington Fire Company Ladies Auxiliary submitted raffle application RA: 1.13 on February 20, 2013 for a raffle to take place on March 30, 2013 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 February 27, 2013; and

WHEREAS, The Pennington Fire Company Ladies Auxiliary meets the qualifications for issuance of a license for said raffle based on the findings and determination set forth in the annexed form 5-A, as required by law;

WHEREAS, The Pennington Fire Company Ladies Auxiliary 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: 1.13 for The Pennington Fire Company Ladies Auxiliary be approved; and

BE IT FURTHER RESOLVED that the Municipal Clerk will forward the annexed Findings and Determinations for RA: 1.13 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	X				Heinzel	X			
Griffiths	X				Ogren	X			
Heino	S				Tucker	M			

Council Member Tucker made a motion to approve Resolution 2013-3.4, second by Council Member Heino with all members present voting in favor.

**Borough of Pennington
 Resolution #2013 – 3.5**

**RESOLUTION AUTHORIZING PAYMENT REQUEST NO. 5 (Final) TO
 PA CONTRACTORS, INC. FOR WORK COMPLETED ON THE SAFE ROUTES TO SCHOOLS
 RECONSTRUCTION PROJECT**

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

WHEREAS, Hopewell Valley Engineering, PC has reviewed PA Contractors’ application for final payment and recommends payment of same pursuant to the Contractor’s Request for Payment No. 5 (Final) in the amount of \$18,400.00; and

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

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

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

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that final payment to PA Contractors, Inc. in the amount of \$18,400.00 pursuant to payment request No.5 is hereby authorized, provided, however, that no such payment shall be made until the aforesaid maintenance bonds have been received and approved as provided above.

Record of Council Vote on Passage

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

Council Member Ogren made a motion to approve Resolution 2013-3.5, second by Council Member Tucker with all members present voting in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION #2013 – 3.6**

**RESOLUTION AUTHORIZING BOROUGH OF PENNINGTON TO ENTER INTO
 A SHARED SERVICES AGREEMENT WITH HOPEWELL TOWNSHIP FOR
 POLICE DISPATCHING SERVICES FOR THE YEAR 2013**

WHEREAS, the Borough of Pennington desires to contract with Hopewell Township for the provision of emergency and police dispatch services; and

WHEREAS, the Uniform Shared Services and Consolidation Act permits a local unit to enter into a contract with another local unit for the provision of any services which any party to the agreement is empowered to render within its own jurisdiction; and

WHEREAS, the term of the proposed contract, entitled “Shared Services Agreement for Police Dispatching And Emergency Communication Services Between The Township Of Hopewell And Borough Of Pennington”, shall be for one year beginning January 1, 2013 and continue through December 31, 2013; and

WHEREAS, the cost to the Borough for police dispatch services as outlined in the Shared Services agreement would be \$66,300.00, which represents an increase of 2% over the previous year;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Mayor, with the attestation of the Borough Clerk, is hereby authorized to execute the aforesaid Shared Services Agreement with Hopewell Township for the provision of emergency dispatching services during the period January 1, 2013 through December 31, 2013; and

BE IT FURTHER RESOLVED, that the aforesaid Agreement shall be substantially in the form attached to this Resolution, subject to approval 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	X			
Griffiths	X				Ogren	X			
Heino	S				Tucker	M			

Council Member Tucker made a motion to approve Resolution 2013-3.6, second by Council Member Heino. Mayor Persichilli asked Mr. Meytrott if reverse 9-1-1 service was included as part of this agreement. Mr. Meytrott stated that he, Mr. Matheny, Mr. Pogozewski and Chief Meyer are still discussing that. Mr. Meytrott stated that emergency notification is not included in this agreement. Mr. Meytrott stated that he has included funds in the police budget in case that service cannot be covered under this agreement. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2013 – 3.7**

**RESOLUTION AUTHORIZING SHARED SERVICES AGREEMENT AFFECTING USE,
MAINTENANCE AND CLEANING OF THE SENIOR CENTER**

WHEREAS, use of the Senior Center on Reading Street in the Borough of Pennington is shared by Hopewell Borough, Hopewell Township and Pennington Borough;

WHEREAS, responsibilities for maintenance of the Senior Center are also shared among the three municipalities;

WHEREAS, the three municipalities intend to enter into a shared services agreement for 2013, superceding prior agreements, by which Hopewell Township will continue to provide weekly cleaning services at the Center and pay to Pennington Borough the sum of \$4,501.06; Hopewell Borough will pay Pennington \$1,125.26 for the year; and Pennington will provide cleaning supplies for the building and be responsible for all maintenance to the outside of the building, snow and ice removal, HVAC maintenance, plumbing, painting and replacement of light bulbs;

WHEREAS, the proposed form of agreement is annexed to this Resolution;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Mayor, with the attestation of the Borough Clerk, is hereby authorized to execute the annexed agreement on behalf of Pennington Borough.

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	S				Ogren	X			
Heino	X				Tucker	M			

Council Member Tucker made a motion to approve Resolution 2013-3.7, second by Council Member Griffiths. Mayor Persichilli stated that both Hopewell Borough and Hopewell Township agreed to a two percent increase. Upon a roll call vote, all members present voted in favor.

**Borough of Pennington
Resolution #2013 – 3.8**

**RESOLUTION AUTHORIZING A SELF-EXAMINATION OF THE
2013 MUNICIPAL BUDGET OF THE MAYOR AND COUNCIL OF
THE BOROUGH OF PENNINGTON**

WHEREAS, N.J.S.A. 40A:4-78b has authorized the Local Finance Board to adopt rules that permit municipalities in sound fiscal condition to assume the responsibility, normally granted to the Director of the Division of Local Government Services, of conducting the annual budget examination; and

WHEREAS, N.J.A.C. 5:30-7 was adopted by the Local Finance Board on February 11, 1997; and

WHEREAS, pursuant to N.J.A.C. 5:30-7-2 through 7-5, the Borough of Pennington has been declared eligible to participate in the program by the Division of Local Government Services, and the Chief Financial Officer has determined that the local government meets the necessary conditions to participate in the program for the 2012 budget year.

NOW THEREFORE BE IT RESOLVED, by the governing body of the Borough of Pennington that in accordance with N.J.A.C. 5:30-7.6a & 7.6b and based upon the Chief Financial Officer's certification, the governing body has found the budget has met the following requirements:

1. That with reference to the following items, the amounts have been calculated pursuant to law and appropriated as such in the budget:
 - a. Payment of interest and debt redemption charges
 - b. Deferred charges and statutory expenditures
 - c. Cash deficit of preceding year
 - d. Reserve for uncollected taxes
 - e. Other reserves and non-disbursement items
 - f. Any inclusions of amounts required for school purposes
2. That the provisions relating to limitation on increases of appropriations pursuant to N.J.S.A. 40A:4-45.2 and appropriations for exceptions to limits on appropriations found at N.J.S.A. 40A:4-45.3 et seq., are fully met (complies with CAP law).
3. That the budget is in such form, arrangement and content as required by the Local Budget Law and N.J.A.C. 5:30-4 and 5:30-5.
4. That pursuant to the Local Budget Law:
 - a. All estimates of revenue are reasonable, accurate and correctly stated.
 - b. Items of appropriation are properly set forth
 - c. In itemization, form arrangement and content, the budget will permit the exercise of the comptroller function within the municipality.
5. The budget and associated amendments have been introduced and publicly advertised in accordance with the relevant provisions of the Local Budget Law, except that failure to meet the deadlines of N.J.S.A. 40A:4-5 shall not prevent such certification.
6. That all other applicable statutory requirements have been fulfilled.

BE IT FURTHER RESOLVED that a copy of this resolution will be forwarded to the Director of the Division of Local Government Services upon adoption.

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	X				Tucker	X			

Council Member Griffiths made a motion to approve Resolution 2013-3.8, second by Council Member Dunn with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2013 - 3.9**

**RESOLUTION PERMITTING A FIREWORKS DISPLAY BY THE
PENNINGTON SCHOOL ON MAY 18, 2013**

WHEREAS, The Pennington School has made application for permission to hold a fireworks display on May 18, 2013 at 8:45 PM;

WHEREAS, a copy of the application completed by the School is attached to this Resolution, copies of which have been referred to the Director of Public Safety, the Borough's Fire Code Official and the Chief of the Fire Department;

WHEREAS, the Uniform Fire Code (NJAC 5:18 et seq.) and the New Jersey Fireworks Act (NJSA 21:2-1 et. Seq.) provides that the governing body of the municipality may, upon application in writing, grant permission for a public display of fireworks by organizations or groups of individuals, subject to the following conditions:

1. the posting of a suitable bond and proof of adequate insurance to protect the public and the municipality in the event of personal injury or property damage;
2. approval of the competence of the operator and the location and proposed operation of the display by the Director of Public Safety, the Borough Fire Official and Chief of the Fire Department;
3. approval of the location proposed for storing the fireworks by the Fire Official

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington that in reliance on the attached application it does hereby grant permission to The Pennington School to hold a fireworks display on May 18, 2013, subject to the following conditions:

1. posting of the bond required by N.J.S.A 21:3-5;
2. presentation of a certificate of insurance by the vendor covering the fireworks reflecting coverage amounts of no less than \$3,000,000;
3. written confirmation of all necessary approvals by the Fire Official and the Director of Public Safety.

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	M				Ogren	X			
Heino	X				Tucker				abstain

Council Member Griffiths made a motion to approve Resolution 2013-3.9, second by Council Member Heinzel. Mrs. Heino asked if police coverage should be specified within this resolution. Mr. Meytrott stated that he did not believe it needed to be part of the resolution because the resolution requires approval of the application by the Director of Public Safety and that would be addressed as part of the approval. Mr. Meytrott stated that if the Pennington School does not agree with paying for police coverage then police approval would not be granted. Mrs. Heino asked if there would be any clean up costs that might occur outside the Pennington School boundaries. Mr. Blackwell stated that there is a minimum requirement of a 210 foot radius for a 3 inch shell because that is the proposed fall out zone. Mr. Blackwell stated that if there is a 20 mile an hour wind that might change, but they stop shooting fireworks at 22 mile an hour wind. Mr. Meytrott stated that part of Burd Street might be closed, but that hasn't been worked out yet. Mrs. Heino stated that there is the potential for trash other than fall out to be left behind and maybe part of the approval process could include placement of trash receptacles in certain areas. Upon a roll call vote, all members present voted in favor with the exception of Mr. Tucker who abstained.

**BOROUGH OF PENNINGTON
RESOLUTION 2013 – 3.10**

**RESOLUTION AGREEING TO ADDITIONAL FUNDING FOR THE
PENNINGTON EXTENSION OF LAWRENCE-HOPEWELL TRAIL**

WHEREAS, the Borough of Pennington has received approval for a US DOT Transportation Community and Systems Preservation Program grant in the amount of \$266,760; and

WHEREAS, the Borough of Pennington has received approval for a Bikeway Grant from the NJ Department of Transportation in the amount of \$24,700; and

WHEREAS, Resolution 2011-9.13 authorized \$160,000 from the Open Space Trust Fund be allocated towards this project; and

WHEREAS, the Borough of Pennington will be awarding a contract to DeSantis Construction, Inc. in the amount of \$465,929.66 leaving a shortfall of \$14,469.66;

WHEREAS, the Borough is prepared to supplement grant funding for the project from the Open Space Trust Fund; and

WHEREAS, Borough Council believes that use of Open Space Funds for this purpose is consistent with the uses of such funds authorized by the Borough Code;

NOW THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Pennington that additional funds in the amount of \$14,469.99 be authorized to be expended from the Open Space Trust Fund.

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	S				Ogren	M			
Heino	X				Tucker	X			

Council Member Ogren made a motion to approve Resolution 2013- 3.10, second by Council Member Griffiths with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2013-3.11**

**RESOLUTION AWARDING CONTRACT FOR CONSTRUCTION OF PENNINGTON
CONNECTION TO LAWRENCE-HOPEWELL TRAIL**

WHEREAS, the Borough of Pennington has advertised for bids for the Pennington Connection to the Lawrence-Hopewell Trail Project;

WHEREAS, twenty-four bidders purchased plans and specifications and ten contractors submitted bids, which were opened on January 10, 2013;

WHEREAS, the Borough Engineer has reviewed the bids and recommended that the lowest bid of \$402,790.70, by Andy Matt, Inc., be rejected, and that, subject to the availability of funding, the contract be awarded to the second lowest bidder, DeSantis Construction, Inc., at \$465,929.66;

WHEREAS, a copy of the Borough Engineer’s written analysis is attached to this resolution;

WHEREAS, Borough Council notes that the low bidder, Andy Matt, Inc., has faxed an undated letter to the Borough Clerk (faxed on January 24, 2013) “rescinding” its bid “due to mathematical errors and subcontract error;”

WHEREAS, while the form and timing of the attempted rescission by Andy Matt, Inc. may not meet statutory requirements for a rescission as of right, it is obvious that the bid is in very substantial error and unreliable because, for example, its price for the concrete retaining wall at \$85/LF is only 18% of the Borough Engineer’s estimate, amounting to an unrealistic \$405/LF less than the Borough Engineer’s estimate and \$340/LF less than the next lowest price bid for this part of the project;

WHEREAS, the rescission letter by Andy Matt, Inc. also reveals that it is relying on a subcontractor’s price or prices in preparing part or all of the bid and that the subcontractor is at least partially responsible for the errors in the bid, yet, contrary to the bid instructions, Andy Matt, Inc. has failed to identify subcontractors in its bid proposal, making the bid unresponsive as well as unreliable;

WHEREAS, for these reasons Borough Council rejects the bid of Andy Matt, Inc.;

WHEREAS, the bid of the next lowest bidder, DeSantis Construction, Inc., exceeds the Borough Engineer’s estimate for the project by \$40,631.26 or 9.55%, yet the Borough Engineer recommends award to this contractor, if funds be available, because its unit prices are reasonable and it has favorable references;

WHEREAS, this project will be managed by Hopewell Township under a shared services agreement, and the engineer retained by the Township for this purpose, Van Cleef Engineering Associates, after reviewing the bids, concurs in the conclusions of the Borough Engineer and also recommends that the contract be awarded to DeSantis Construction, Inc.;

WHEREAS, rejecting all bids at this point and rebidding the project is unlikely to produce a better result and further delay is not viable;

WHEREAS, the concurrence of the Federal Highway Administration (“FHWA”) is required for this award;

WHEREAS, funds for the project are available in the following accounts:

- G-02-44-952-000-250 – US DOT Trans. Community & Systems Preservation Program – \$266,760
- G-02-44-949-000-250 – DEP Recreation Trails Grant - \$24,700
- T-03-00-850-850-255 – Open Space Trust Fund - \$174,469.66

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the aforesaid contract for construction of the Pennington Connection to the Lawrence-Hopewell Trail is hereby awarded to DeSantis Construction, Inc. in the total amount of \$465,929.66, subject to the aforesaid approval of the FHWA; and the Mayor, with the attestation of the Borough Clerk, is hereby authorized to enter into said contract on behalf 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	X				Heinzel	X			
Griffiths	X				Ogren	M			
Heino	S				Tucker	X			

Council Member Ogren made a motion to approve Resolution 2013-3.11, second by Council Member Heino with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION NO. 2013 – 3.12**

**RESOLUTION AUTHORIZING EXPENDITURES FROM
OPEN SPACE FUND FOR TREE WORK AT 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 tree work as a result of damages caused by Hurricane Sandy; and

WHEREAS, the maintenance and development work proposed for Kunkel Park is described in the attached estimate from Rich Tree Service;

WHEREAS, the estimated cost of the proposed work is \$ 53,500.00;

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 \$ 53,500.00.

Record of Council Vote on Passage

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

Council Member Heinzel made a motion to approve Resolution 2013-3.12, second by Council Member Dunn. Mr. Wittkop stated that FEMA will reimburse up to seventy-five percent of the cost so there should be a reimbursement coming after the work is done. Mrs. Heino stated that Parks and Recreation has asked whether there is a plan in place for tree replacement of the significant loss of trees in the Borough. Mr. Ogren stated that logically it would be the Shade Tree Commission who would look into that. Mrs. Heinzel asked if there is a time frame for completion of the work and would this work be completed in time for the Easter Egg Hunt. Mr. Matheny stated that the pavilion should be done. Mr. Matheny stated that the tree work might not be done, however it should be at a point where the park would be safe to open the park for the day of the egg hunt and then close it again to complete the tree work. Mr. Matheny stated that Mr. Wittkop is working very hard to get work done so that the Easter Egg Hunt can take place. Mrs. Heino stated that the public has a misconception of what is involved in getting through this process and it might be a good idea to put out a communication indicating what has been done, what is scheduled to be done and an idea as to when the park might be opening. Mr. Ned Fletcher of Parks and Recreation was in attendance and he stated that he would be willing to write a letter to the paper thanking Mr. Wittkop and his crew for getting the Borough through the storm and highlighting the work that has already been done at the park. Mr. Ogren stated that he expressed his concerns about this work at the last meeting and he would also like to point out that if funds are going to be spent out of the Open Space Fund it should have been discussed with the committee first. Upon a roll call vote all members present voted in favor with the exception of Mr. Ogren who voted no. .

**BOROUGH OF PENNINGTON
RESOLUTION 2013 – 3.13**

**RESOLUTION AUTHORIZING AWARD OF CONTRACT TO RICH TREE SERVICE, INC. FOR
TREE REMOVAL IN KUNKEL PARK AND PENNINGTON AFRICAN CEMETERY**

WHEREAS, the Borough requires services for the removal of storm-damaged trees, pruning of damaged branches and similar remedial work at Kunkel Park and the Pennington African Cemetery;

WHEREAS, the needed services are available under State Contract A80902;

WHEREAS, the Borough Administrator has informally solicited proposals from qualified vendors under the State Contract and determined that the most favorable is that of Rich Tree Service, Inc., of which a copy is attached;

WHEREAS, the attached proposal by Rich Tree Service, Inc. provides for a flat fee of \$53,500. for the described work at Kunkel Park and a flat fee of \$6,850 for the described work at Pennington African Cemetery;

WHEREAS, funds for the work at Kunkel Park are available in the Borough’s Open Space Fund and funds for the work at the Pennington African Cemetery are available in the Borough Streets Budget;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Borough Administrator is hereby authorized to issue such purchase order(s) as are needed to secure the services of Rich Tree Service, Inc. in conformance with its attached proposal and the terms and conditions of State Contract A80902.

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 2013-3.13, second by Council Member Tucker with all members present voting in favor.

**Borough of Pennington
Resolution #2013-3.14**

**RESOLUTION AUTHORIZING ADVERTISEMENT FOR BIDS
FOR THE DOWNTOWN STREETScape PROJECT**

WHEREAS, the Borough of Pennington seeks to make improvements to the downtown area; and

WHEREAS, the funds for the proposed project are being provided through the New Jersey Department of Transportation; and

WHEREAS, the Borough now seeks to advertise for bids for this project as required by the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Borough Clerk is hereby authorized to take all actions necessary to advertise for and receive, in the manner provided by law, bids for the Downtown Streetscape Project.

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	X				Tucker	X			

Council Member Ogren made a motion to approve Resolution 2013-3.14, second by Council Member Dunn with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2013 3.15**

**RESOLUTION AUTHORIZING SHARED SERVICES AGREEMENT WITH HOPEWELL
TOWNSHIP FOR ASSISTANCE IN CONNECTION WITH CONSTRUCTION
OF PENNINGTON EXTENSION TO LAWRENCE-HOPEWELL
TRAIL IN HOPEWELL TOWNSHIP**

WHEREAS, the Borough of Pennington seeks to construct a bike path and retaining wall to connect the Lawrence-Hopewell Trail to Pennington, to be funded by federal and state grants and the Borough’s Open Space Fund totaling \$486, 450;

WHEREAS, the Borough of Pennington seeks to enlist the assistance of Hopewell Township in the management of this project because, among other things, it is located in Hopewell Township;

WHEREAS, Hopewell Township has agreed to enter into a shared services agreement by which it would supervise construction of the project through its engineer as well as assume financial responsibility for any costs that exceed the amount of the Borough’s budget for the project (\$486,450. minus the amounts already spent by the Borough);

WHEREAS, a copy of the proposed agreement, as authorized and executed by Hopewell Township, is attached to this Resolution;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Mayor, with the attestation of the Borough Clerk, is hereby authorized to enter into the

attached Shared Services Agreement between the Township of Hopewell and Borough of Pennington for Extension of the Lawrence-Hopewell Trail.

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	S				Ogren	X			
Heino	X				Tucker	X			

Council Member Heinzel made a motion to approve Resolution 2013-3.15, second by Council Member Griffiths. Mr. Ogren asked if this agreement is the same as the draft that was e-mailed a couple weeks ago. Mr. Matheny stated that it is the same agreement; the only difference is that the blanks for figures on what the Borough has already spent are now filled in. Upon a roll call vote, all members present voted in favor.

Introduction of Budget for 2013

Council Members were provided a copy of the 2013 budget in their packages. Council Member Griffiths made a motion to introduce the 2013 budget, second by Council Member Dunn. Mr. Griffiths thanked Mrs. Heino, Mrs. Dunn, Mr. Matheny, Mrs. Sterling and Mrs. Webb for their work on the budget. Mr. Griffiths also thanked Mr. Wittkop and Mr. Meytrott for their continued fiscal prudence and indirectly all of the Borough employees as well. Mr. Griffiths stated that the headline for this budget is no tax increase for 2013. Mr. Griffiths stated that the budget is a shade over \$3.2 million of which \$2.0 million is tax revenue. Mr. Griffiths stated that the difference is then made up by non-recurring revenue items as well as surplus and general municipal revenues. Mr. Griffiths stated that in contrast to 2012, this budget is very positive as last year the Borough faced some short-term fiscal issues and this year those issues have been resolved and we are moving forward with a much brighter picture. Mr. Griffiths stated that this is the first year of declining debt service and stabilization of the Borough's finance and the forecast is a slow but sure path towards continued improvement in fiscal aspects for the Borough. Mr. Griffiths stated that we are working on balancing the limitations of State budget caps and inevitable expense increases for items beyond our control with the demands of maintaining a capital infrastructure. Mr. Griffiths stated that the water/sewer infrastructure is a primary asset for the Borough and it is important to maintain the infrastructure. Mr. Griffiths stated that in 2013, the Borough will be able to fund capital maintenance projects which include painting the interior of the water tower and updating related equipment that was requested. Mr. Griffiths stated that we will also be able to fund rehabilitation of well 5. Mr. Griffiths stated that non-recurring items that will be funded include the operations manual and the emergency plan for the water/sewer department. Mr. Griffiths stated that in public safety the budget includes new communication equipment for the patrol vehicles. Mr. Griffiths stated that the committee has taken some steps towards balancing on a long-term basis the water utility expense to revenue ratio and the first step in that process is included in this budget. Mr. Griffiths reminded Council that there are items that need to be identified as risks, such as an aging fleet of public works equipment. Mr. Griffiths stated that last year when the chipper went down it was a big problem, but this year the Borough is in a better position to deal with those types of issues. Mr. Griffiths stated that being said, Council should be planning for replacement of vehicles in 2014.

Mr. Griffiths stated that while the Water/Sewer Utility is in good shape in terms of water production and infrastructure, the ratio of gallons pumped versus gallons billed continues to be a challenge. Mr. Griffiths stated that the risks of continuing adequate water production will remain indefinitely and keeping an eye on things is important with regard to wells going dry or the need for new wells. Mr. Griffiths stated the water storage is also something that needs to be monitored. Mr. Griffiths stated that though the picture is a little brighter this year, there are still issues in the background that are not going to go away.

Mayor Persichilli asked if Mr. Griffiths could update Council on debt service. Mr. Griffiths stated that this year the Borough's debt service went down considerably in both the current and water/sewer budgets and that trend will accelerate over the next couple of years until 2015 or 2016 when several significant instruments will be retired.

Mr. Tucker thanked Mr. Griffiths and the Finance Committee for a great job. Mr. Tucker asked if Mr. Griffiths would be having a budget workshop meeting as has been done in prior years. Mr. Griffiths stated that would be happy to do that and he could prepare a presentation for the next meeting.

Mr. Ogren stated that the capital plan attached to the budget provides for an expenditure from the Open Space fund for the Lawrence Trail and the amount listed is incorrect. Mr. Griffiths stated that the capital budget is simply a wish list and not a commitment to spend money. Mr. Griffiths stated that the capital budget is not included in the total for the operating budget. Mr. Griffiths stated that the format of the plan is State mandated and it is simply a best guess for future capital requirements and the funds are not committed or appropriated at this time. Mr. Griffiths stated that the capital plan is superfluous and is amended as funds are committed.

Upon a roll call vote, all members present voted in favor of introduction of the budget.

Council Discussion

Kunkel Park Update – Mr. Matheny stated that this item was addressed earlier in the meeting.

Downtown Streetscape Update – Mr. Ogren stated that at the last meeting it was brought to Council's attention that the Borough Engineer in the course of developing plans for the project determined that there is a problem with the elevation of the sidewalk on the west side of North Main Street. Mr. Ogren stated that the problem is that the elevation of the street to the top of the sidewalk is approximately ten inches and the curb elevation under DOT requirements can only be six inches so the additional four inches would have to be accommodated by a second curb or step running the entire length of the block from Vito's Pizza to Dos Gringos. Mr. Ogren stated that the step is proposed to be just beyond the two foot brick paving strip that would be along the curb. Mr. Ogren stated that the Borough Engineer suggested that there should be something installed along the step to alert people that there is a step there. Mr. Ogren stated that the Public Works Committee has discussed this at length and they have come up with a proposal that would involve benches and bollards. Mr. Ogren provided a sketch to Council Members of how the proposal would look. Mr. Ogren stated that Council had discussed benches at the last meeting what is new is the bollards. Mr. Ogren stated that the idea for the bollards came from a landscape architect that he met with since the last meeting. Mr. Ogren stated that he met with the Economic Development Committee and the Historic Preservation Commission to get their reaction to the design and both were in favor of it. Mr. Ogren stated that we are at the point now where Roberts Engineering is ready to proceed with final design of the project for submission to NJDOT and Mercer County for approval. Mrs. Heino asked Mr. Ogren to comment on tree fences versus tree grates. Mr. Ogren stated that a decision has not been made as to whether to go with tree grates or tree guards. Mr. Ogren stated that tree guards are small fences around the perimeter of the tree pit. Mr. Ogren stated that there are pros and cons to both. Mr. Ogren stated that they are also looking at a third alternative which would be to just put a crushed granite surface around the tree and not put grates or guards. Mrs. Dunn stated that her understanding was that even if the crushed granite option was chosen there would still be some sort of tree guard so that the granite would not be washed away. Mr. Ogren stated that it is possible to do that. Mrs. Heinzl asked how many benches were being proposed. Mr. Ogren stated that there will be six street trees, three decorative light poles and maybe three benches. Mr. Griffiths and Mrs. Heino both stated that they would like the tree guards.

Mr. Ogren stated that the original proposal for the project included both sides of North Main Street, but only the west side of South Main Street. Mr. Ogren stated that recently he had the Borough Engineer take a second look at the east side, which is the church side, and the thought is that to compliment what will be on the west side, the brick pavers should be included on the east side of the street. Mr. Ogren stated that it was not in the original proposal and is not part of the Engineer's estimate and it would involve extra funds. Mr. Ogren stated that it could be bid as an add alternate and if the Borough can find the funds go ahead with it. Mr. Ogren stated that he would estimate roughly \$20,000. Mrs. Heinzl stated that this is an important project of this Council and in order to do it right she would like to see the additional work included so that there is symmetry of the intersection and there may not be another opportunity to do it.

Van Note Harvey Proposal (O & M Operations Manual and Emergency Operations Plan) – Mrs. Dunn stated that Council has copies of a proposal from Van Note Harvey which is for two items. Mrs. Dunn stated that the first item is completion of the O & M Operations and Procedural Manual. Mrs. Dunn stated that we do have the framework for this item but there are substantial gaps that need to be filled in. Mrs. Dunn stated that with the pending retirement of Mr. Wittkop, it is very important for the Borough to have this manual for future employees. Mrs. Dunn stated that some of the items included in the manual are a schedule of the routine meter readings and tests and a schedule of all the paperwork associated.

Mrs. Dunn stated that the second item is the Emergency Operations Plan which would offer guidelines as to how to deal with things such as high bacteria readings. Mrs. Dunn stated that the plan would address what tests need to be done, how often tests need to be done and other details so that someone who hasn't been dealing with these things for years would be able to deal with issues as they come up.

Mr. Griffiths stated that these items are included in the budget for 2013.

Professional Reports

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

Public Comment

Mayor Persichilli read the following statement for anyone interested in speaking before Council:

Please come forward and state your name and address for the record. Please limit comments to the Governing Body to a maximum of three (3) minutes.

Mr. Charles Sabino of 30 Baldwin Street, a resident of Pennington for 26 years and a prior Council Member stated his concerns about the lack of ratables in the Borough. Mr. Sabino expressed concern about residential tax appeals which are affecting property values and also the many exempt properties here in the Borough. Mr. Sabino suggested that Council should be pro-active and work with the school district to move some of the functions housed in the administration building to other locations. Mr. Sabino stated that the school

district has a lot of excess property that they need to get rid of so that more ratables can be brought into Pennington.

Mr. Sabino stated that another property that he is concerned about is the Capital Health Property on West Franklin Avenue. Mr. Sabino suggested that this property is surplus property for Capital Health and the Borough should be encouraging sale of the property to a developer. Mayor Persichilli stated that the Borough has had a couple of developers express interest in the property. Mayor Persichilli stated that the problem with the property is water and sewer and most developers do not want to expend the money that would be involved. Mayor Persichilli stated that not much can be done until the sewer capacity issue is resolved. Mr. Sabino stated that another property that needs attention is the eyesore on the corner of North Main and Brookside Avenue. Mr. Sabino stated that this property needs to be policed better. Mr. Sabino stated that someone should be initiating conversations with the owners of these properties.

Mr. Sabino stated that the services that residents receive in Pennington are outstanding and the people that work for the Borough are great, but we have now reached a point where things should be reexamined. Mr. Sabino stated that maybe there is a cheaper way to handle garbage collection such as privatizing or trucks with mechanical features. Mr. Griffiths stated that Council has been looking into discontinuance of garbage collection and the only way that the cost structure goes away is to fire three people. Mr. Wittkop stated that there was a time when this was being considered and the public works department bid against the contractors for garbage collection and the public works department was \$21,000 cheaper than the next closest bid.

Mayor Persichilli stated that Borough Council is constantly looking into ways of potentially saving money for the Borough. Mayor Persichilli stated that if it makes financial sense to do something they will do it.

Mr. Sabino suggested selling the water company. Mr. Griffiths stated that has also been looked into and now is not the time for that consideration.

Mr. Tucker did not stay for the Closed Session.

Closed Session

AT, 9:04 PM, BE IT RESOLVED, that Mayor and Council shall hereby convene in closed session for the purpose 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, 9:17 PM, Mayor and Council returned to open session.

Open Session

BOROUGH OF PENNINGTON RESOLUTION 2013 – 3.17

RESOLUTION AUTHORIZING EXECUTION OF LETTER AGREEMENT WITH SELECTIVE INSURANCE PROVIDING REPRESENTATION BY COUNSEL ASSIGNED BY SELECTIVE IN CASTORO ENVIRONMENTAL LITIGATION, SUBJECT TO RESERVATION OF RIGHTS

WHEREAS, the Borough of Pennington is one of approximately 36 defendants joined in a lawsuit by Castoro & Co., Inc. under the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10-23.11, seeking to recover a portion of the costs incurred for the clean-up of plaintiff's property in West Windsor Township, Mercer County, known as "Cramer's Pit," Block 5, Lots 42 and 55 on the tax maps of West Windsor Township ("Castoro Litigation");

WHEREAS, the Castoro Litigation is filed in the Superior Court of New Jersey, Law Division, Mercer County, under Docket No. MER-L-864-11;

WHEREAS, the thrust of the Castoro Litigation against the Borough of Pennington is the allegation that the plaintiff Castoro & Co., Inc. performed road and/or sewer-related projects for the Borough in the early 1970's in connection with which it removed asphalt and other materials that it then dumped in Cramer's Pit;

WHEREAS, the claim against Pennington Borough is similar in kind to plaintiff's claims against the other defendants in the Castoro Litigation;

WHEREAS, the Borough Attorney has entered an appearance, filed an Answer and participated in a non-binding Alternative Dispute Resolution Process on behalf of the Borough to date, subject to identification of the Borough's applicable insurance coverage and assignment of counsel by the applicable carrier, if any;

WHEREAS, the applicable insurance policies dating back to 1972 and extending through 1982 appear to have been issued respectively by the Insurance Company of North America ("INA") and Selective Insurance ("Selective");

WHEREAS, the attached letter agreement dated February 14, 2013 from Selective (“Selective Letter Agreement”) describes the applicable Selective policies and also describes reasons they may not be applicable when all the facts are known, but subject to this reservation of rights, offers to provide legal representation for the Borough through assigned counsel Steven A. Kunzman, Esquire of the firm of DiFrancesco, Bateman, et al in Warren, New Jersey;

WHEREAS, attorney Kunzman presently represents Montgomery Township on a similar assignment by Selective in the Castoro Litigation;

WHEREAS, the Borough seeks to obtain the services of assigned counsel at Selective’s expense provided the representation is coordinated with the representation owed by INA, and Selective and INA are now in communication on this subject through their respective claims representatives;

WHEREAS, the intent of this Resolution is to authorize the Mayor to sign the Selective Letter Agreement attached subject to a determination by the Borough Attorney, based on continued communications with INA through its representative Brandywine Holdings, Inc., that to do so will not compromise participation by INA;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Mayor is hereby authorized to execute the Selective Letter Agreement on behalf of the Borough subject to the advice of the Borough Attorney as aforesaid.

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	S				Ogren	X			
Heino	X				Tucker				absent

Council Member Heinzel made a motion to approve Resolution 2013-3.17, second by Council Member Griffiths with all members present voting in favor.

At 9:18 PM, Council Member Griffiths made a motion to adjourn the meeting, second by Council Member Heino.

Respectfully submitted,

Elizabeth Sterling
Borough Clerk