

**Pennington Borough Council  
Regular Meeting – December 29, 2014**

Mayor Persichilli called the Regular Meeting of the Borough Council to order at 3:00 pm. Borough Clerk Betty Sterling called the roll with Council Members Davy, Gnatt, Marciante and Tucker in attendance. Council Members Griffiths and Lawver were absent.

Also present were Borough Administrator Eileen Heinzl, Superintendent of Public Works Rick Smith and Borough Attorney, Walter Bliss.

Mayor Persichilli announced that notice of this meeting has been given to the Hopewell Valley News, The Times of Trenton 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.**

There were no comments from the public.

**Ordinances for Public Hearing and Adoption**

Mayor Persichilli read Ordinance 2014-21 by title.

**BOROUGH OF PENNINGTON  
ORDINANCE NO. 2014-21**

**AN ORDINANCE AUTHORIZING ACQUISITION OF A REVOCABLE EASEMENT ON THE  
PROPERTY KNOWN AS 2 SOUTH MAIN, BLOCK 503, LOT 14 ON THE TAX MAP OF THE  
BOROUGH**

**WHEREAS**, Karen Marino and David C. Clark (“Owners”) are the owners of certain real property known as 2 South Main Street, also known as Block 503, Lot 14 on the Tax Map of the Borough of Pennington, located at the corner of Main Street and Delaware Avenue adjacent to the public right-of-way on both South Main Street and West Delaware Avenue and presently used as a beauty salon owned and operated by Owners (“the Property”);

**WHEREAS**, the Borough has constructed a sidewalk in the public right-of-way which dips down at the corner of the Property and for a distance along South Main Street, requiring construction of an inner curb between the sidewalk and that portion of the adjoining land at a higher elevation than the sidewalk (“Inner Curb”);

**WHEREAS**, Borough and Owners agree that it is in their mutual interests to place and maintain planters along the inside edge of the Inner Curb extending wholly or in part onto the Property, subject to the terms and conditions set forth in the attached Agreement (“Agreement”);

**WHEREAS**, the Agreement provides that the Borough will be permitted to enter onto the Property as needed to place and maintain planters extending wholly or in part onto the Property, the planters to be placed side by side along the full length of the Inner Curb at a height of 18 inches, extending back from the edge of the Inner Curb approximately 12 inches, any changes in the dimensions or arrangement of the planters requiring written agreement;

**WHEREAS**, the Agreement further provides that the Borough agrees to procure the planters and any replacements for them at its sole expense;

**WHEREAS**, the planters shall be filled with soil and, at the Borough’s discretion, also contain plantings, the planters and any plantings to remain the property of the Borough;

**WHEREAS**, the Agreement provides further that the Borough shall, at its sole expense, maintain the planters and repair and replace them from time to time as it reasonably determines to be necessary, and, also in its discretion, shall care for and replace any plantings;

**WHEREAS**, Owners agree to permit the Borough and its employees and contractors to enter upon the Property to the extent as reasonably necessary to maintain, repair and replace the planters and to care for and replace any plantings;

**WHEREAS**, Owners agree that they shall not disturb the planters or plantings and, absent an emergency, shall not alter or move or attempt to repair or replace the planters;

**WHEREAS**, the Agreement shall be revocable by either party upon 90 days' prior written notice;

**WHEREAS**, the Borough shall indemnify and hold harmless Owners from and against any and all liability arising from the presence of the planters on the Property;

**WHEREAS**, the parties also agree to cooperate in recording the Agreement or any revocation of the Agreement, at the expense of the Borough;

**WHEREAS**, it is the intention of the Borough, with the agreement of the Owners, to acquire a revocable easement in the Property requiring the adoption of an authorizing ordinance in a form suitable for recording;

**NOW, THEREFORE, BE IT ORDAINED**, by the Borough Council of the Borough of Pennington, that the Mayor, with the attestation of the Borough Clerk, is hereby authorized (a) to enter into the attached Agreement on behalf of the Borough for the purpose of acquiring an easement in the Owners' Property subject to the terms of the Agreement, and (b) to take such steps as may be necessary to have the Agreement recorded for this purpose; and

**BE IT FURTHER ORDAINED**, that this Ordinance shall be effective upon passage and publication as provided by law.

Council Member Tucker made a motion to open the Public Hearing on Ordinance 2014-21, second by Council Member Gnatt. There were no comments from the public. Council Member Marciante made a motion to close the Public Hearing, second by Council Member Gnatt with all members present voting in favor. Council Member Davy made a motion to adopt Ordinance 2014-21, second by Council Member Tucker with all members present voting in favor.

**New Business**

**Borough of Pennington  
Resolution #2014 – 12.8**

**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 \$ 348,149.55 from the following accounts:

Current	\$ 285,598.70
W/S Operating	\$ 40,400.06
Trust Other	\$ 2,359.37
Grant Fund	\$ 11,199.21
General Capital	\$ 5,409.33
Open Space Fund	\$ 592.00
Animal Control Fund	\$ 2,513.76
Water/Sewer Capital	\$ 69.27
Recreation Trust	\$ 7.85
TOTAL	\$ 348,149.55

**Record of Council Vote on Passage**

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Davy	X				Lawver				absent
Gnatt	S				Marciante	X			
Griffiths				absent	Tucker	M			

Council Member Tucker made a motion to approve Resolution 2014-12.8, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON  
 RESOLUTION 2014 – 12.9**

**RESOLUTION AUTHORIZING WATER AND SEWER SERVICE FOR A SINGLE FAMILY  
 RESIDENCE ON VANNOY AVENUE**

**WHEREAS**, the Borough of Pennington is party to an Agreement dated August 15, 1977 (“Agreement”, attached) among the Borough of Pennington, the Township of Hopewell and the Hopewell Township Municipal Utilities Authority which grants to Pennington Borough the sole and exclusive right or franchise to provide sewer service to certain properties located in Hopewell Township which are contiguous to Pennington Borough and have frontage on Vannoy Avenue, identified in Schedule “A” of the Agreement, as amended by Agreement dated April 10, 1980 (“Amended Agreement”, also attached); and

**WHEREAS**, the owner of 2635 Pennington Road, Hopewell Township, New Jersey, (Block 68, Lot 4 on the Hopewell Township Tax Map, Block 908, Lot 1 on the Pennington Borough Tax Map) requested and was given confirmation of sewer and water service for a proposed single family residential lot that he intends to sub-divide from his main lot and which will have frontage on Vannoy Avenue in the Borough; and

**WHEREAS**, the owner of the main lot at 2635 Pennington Road, Hopewell Township, New Jersey, (Block 68, Lot 4 on the Hopewell Township Tax Map, Block 908, Lot 1 on the Pennington Borough Tax Map), which has property frontage on Vannoy Avenue in the Borough, has now requested sewer and water service for the existing single family residential lot at 2635 Pennington Road that is currently serviced by a septic system and private well, in the event the septic system and/or well should fail or be closed for any reason.

**WHEREAS**, approval of the proposed subdivision from the lot at 2635 Pennington Road will be required from the Planning Boards of both Pennington Borough and Hopewell Township; and

**WHEREAS**, at its meeting on September 8, 2014, the Pennington Borough Council authorized water and sewer service for a single family residential lot consistent with all applicable Borough ordinances, rules and regulations, provided that the new lot is duly approved for subdivision by the respective planning boards of Hopewell Township and Pennington; and

**WHEREAS**, at its meeting on December 1, 2014, the Pennington Borough Council authorized sewer and water service for the existing single family residential lot at 2635 Pennington Road, Hopewell Township, New Jersey, (Block 68, Lot 4 on the Hopewell Township Tax Map, Block 908, Lot 1 on the Pennington Borough Tax Map), in the event the septic system and/or well should fail or be closed for any reason. Any such service connection shall be consistent with all applicable Borough ordinances, rules and regulations.

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

1. Water and Sewer service for the single-family residential lot known as 2635 Pennington Road in Hopewell Township which has property frontage on Vannoy Avenue in Pennington Borough is hereby conditionally authorized, consistent with the decision of Borough Council at its meeting on December 1,, 2014, which this resolution adopts and ratifies;
2. This authorization is conditioned upon (a) approval of the proposed subdivision creating the two new lots by the Planning Boards of Hopewell Township and Pennington Borough, (b) compliance with the terms and conditions of the attached Agreement and Amended Agreement and all applicable Borough ordinances, rules and regulations; and (c) such amendment of the Agreement and Amended Agreement as may be necessary to include the newly created single-family lot and the existing lot at 2635 Pennington Road, Hopewell Township .

**Record of Council Vote on Passage**

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Davy	X				Lawver				Absent
Gnatt	X				Marciante	S			
Griffiths				absent	Tucker	M			

Council Member Marciante made a motion to approve Resolution 2014-12.9, second by Council Member Tucker with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2014-12.10**

**RESOLUTION AUTHORIZING DISCHARGE OF LIEN ON 15 INGLESIDE AVENUE IN THE  
BOROUGH OF PENNINGTON UNDER BOROUGH HOUSING REHABILITATION PROGRAM**

**WHEREAS**, on May 10, 2006, the Borough of Pennington, under the Pennington Borough Housing Rehabilitation Program, granted a loan in the amount of \$16,500 to Judith S. Fuellhart for the repair of the property owned and occupied by her at 15 Ingleside Avenue in the Borough of Pennington (Block 24, Lot 21 on the Borough Tax Map) (“the Property”);

**WHEREAS**, the aforesaid loan was for a term of six years and was without interest or repayment of principal provided that during the six-year term the Borrower occupy and remain the sole owner of the Property and not rent the Property;

**WHEREAS**, to secure the loan and continued compliance with its terms, the Borough, as Lender/Mortgagee, entered into a Mortgage with Judith S. Fuellhart, as Borrower/Mortgagor (“the Mortgage”), incorporating the terms of the loan which provided for forgiveness after six years if the terms of the loan were met;

**WHEREAS**, the Mortgage is dated May 10, 2006 and was recorded in Mercer County on November 9, 2006 in Mortgage Book 9658, Page 116;

**WHEREAS**, Judith S. Fuellhart died on April 30, 2014, outside the six-year lien period of the Mortgage;

**WHEREAS**, the Estate of Judith S. Fuellhart has sold the Property subject to release of the Borough’s Mortgage;

**WHEREAS**, Lisa H. Jantorno, Administrator of the Estate of Judith S. Fuellhart, has provided the attached Affidavit confirming the satisfaction of the terms of the Mortgage together with the attached form of release of the Mortgage lien;

**WHEREAS**, recording of the release of the Mortgage shall be effected by the Estate or the purchaser of the Property, at its sole expense;

**WHEREAS**, the Borough Attorney has approved release of the Mortgage;

**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, upon advice of the Borough Attorney, to execute all such documents as are needed to release the lien of the aforesaid Mortgage including the attached Release document.

**Record of Council Vote on Passage**

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Davy	X				Lawver				absent
Gnatt	X				Marciante	S			
Griffiths				absent	Tucker	M			

Council Member Tucker made a motion to approve Resolution 2014-12.10, second by Council Member Marciante with all members present voting in favor.

**Public Comment**

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

There were no comments from the public.

Mayor Persichilli stated that Council Members have been provided a list of Council assignments for 2015 and he asked that Council Members review the list and get back to him with any changes.

At 3:17 pm, Council Member Tucker made a motion to adjourn the meeting, second by Council Member Marciante.

Respectfully submitted,

Elizabeth Sterling  
Borough Clerk