

**Pennington Borough Council
Regular Meeting – July 6, 2015**

Mayor Persichilli called the Regular Meeting of the Borough Council to order at 7:00 pm. Borough Clerk Betty Sterling called the roll. Council Members Davy, Griffiths, Lawver and Marciante were present. Mrs. Chandler and Mrs. Gnatt arrived after the roll call.

Also present were Borough Administrator Eileen Heinzl, Public Safety Director Bill Meytrott, 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, Trenton Times 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.

Approval of Minutes

Council Member Marciante made a motion to approve the minutes of the June 1, 2015 Regular Meeting, second by Council Member Griffiths with all members present voting in favor.

Presentations

Mayor Persichilli invited Mr. John Kantorik and Mr. Harry Compton to come forward for a presentation on the Stony Brook Sewer Authority. Mr. Kantorik distributed information packets to Mayor and Council. Mr. Kantorik stated that he was in attendance to give the Borough an update on capacity status for the Pennington plant. Mr. Kantorik stated that this has been a long process but they are finally starting to make a little progress. Mr. Kantorik referred to the handout and stated that the first graph shows the daily flows. Mr. Kantorik stated that according to the graph, flows have gone down about 40,000 gallons per day. Mr. Kantorik stated that the Capacity Status Report which is a report that is done every month for each of the three plants. Mr. Kantorik stated that the committed flow for the Pennington plant is 256,820 and the permitted flow is 300,000 which indicates that in the month presented in the handout the available flow is 43,180 gallons. Mr. Kantorik stated that this number varies from month to month. Mr. Kantorik stated that rain plays a big part in the numbers and we have not had a very wet year in a long time. Mr. Kantorik stated that in the past the available flow number has been in the negative so it cannot be used as a real number for available capacity. Mr. Kantorik stated that existing available capacity changes due to rainfall and also the numbers include Bristol Meyers Squibb and they are sending about 10,000 gallons per day less than they used to. Mr. Kantorik stated that population and I and I removal also play a part in the numbers and they are watching these factors as well. Mr. Kantorik stated that the answer that they give when the question of available capacity is raised is 10,000 to 15,000 gallons per day. Mr. Compton stated that a rough estimate for calculating flow for new construction is 100 gallons per bedroom.

Mr. Kantorik stated that in October of 2009 a Wastewater Management Plan was approved and that allows expansion of the plant from 300,000 gallons per day to 445,000 gallons per day capacity. Mr. Kantorik stated that was step one and for the last five years they have been negotiating with DEP to try to come up with a permit that makes sense for the environment and for the users of the system. Mr. Kantorik stated that in December of 2014, they received the final permit which included the ability to expand to 445,000 gallons per day. Mr. Kantorik stated that during the five years they were negotiating with DEP on five new effluent limits that were put into the permit. Mr. Kantorik stated that these limits were stringent and they would have cost a lot of money and some of them had nothing to do with the environment. Mr. Kantorik stated that the bottom line is that the new permit reflects removal of effluent limits for copper and arsenic. Mr. Kantorik stated that modifications are being made to disinfection systems at the plant to account for another of the limits. Mr. Kantorik stated that the only two that still remain are nitrates and total dissolved solids. Mr. Kantorik stated that during the process of negotiating the permit, they have been talking to DEP about other smaller plants statewide that are on small streams that have problems similar to Stony Brook with regard to nitrate and TDS limits. Mr. Kantorik stated that DEP has agreed with their position and they have developed a tiered use regulation which once approved would eliminate nitrate and TDS limits. Mr. Kantorik stated that even though the DEP presented this in an informal meeting back in 2013, they still have not actually gone forward and put the regulations in place so that it is official. Mr. Kantorik stated that until they can do that it cannot be taken into account when writing the permit. Mr. Kantorik stated that the fact that they are closer and are down to two limits they have contracted with

Kleinfelder consultants, who are Wastewater Engineers to prepare a Process Evaluation Study which is the next step once the Waste Water Management Plan is complete. Mr. Kantorik stated that the study will be done this October. Mr. Kantorik stated that the next step would be the design of the treatment plant upgrade which could begin in January of 2016 if the DEP completes the permit process. Mr. Kantorik stated that the design would take about one year in a best case scenario.

Mr. Kantorik stated that in 2004, they bonded for this project so now with inflation and other factors, obviously the project is going to cost more than anticipated. Mr. Kantorik stated that they have used some of the 2004 monies for the study and the DEP permit and so remaining funds will be supplemented by NJEIT funds and other borrowing if necessary. Mr. Kantorik stated that NJEIT funds are awarded on their terms and that can add time onto the project completion schedule. Mr. Kantorik stated that if the project is bid in October or November of 2017 then construction could begin in January of 2018. Mr. Kantorik stated that given a two year construction schedule the additional capacity could be available by December of 2019. Mr. Kantorik stated that if traditional bonding is used instead of NJEIT funding, that could take as much as six months off the project schedule, however the debt service payments would be higher.

Mr. Kantorik explained that anything that happens at the plant is distributed across the board to all members. Mr. Kantorik explained that Pennington’s responsibility would be about 2.5 percent of the expansion and with flow increases it could go to around 3 percent.

Mr. Kantorik answered questions for Council Members. Mayor Persichilli thanked both Mr. Kantorik and Mr. Compton for coming out to the meeting.

Mayor Persichilli announced that at this time Council will consider Resolution 2015-7.6.

**BOROUGH OF PENNINGTON
RESOLUTION 2015 - 7.6**

**RESOLUTION AUTHORIZING THE HIRING OF ANTHONY DYLAN STURCHIO AS
PROBATIONARY POLICE OFFICER IN THE PENNINGTON POLICE DEPARTMENT**

WHEREAS, the Borough of Pennington has a need for a qualified person to fill the position of Police Officer in the Pennington Police Department; and

WHEREAS, the Oral Interview Board established by the Public Safety Director interviewed 9 applicants, and has recommended the hiring of Anthony Dylan Sturchio for this position;

WHEREAS, the recommended hiring of Anthony Dylan Sturchio is contingent on successfully passing both a medical and psychological exam;

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

1. the hiring of Anthony Dylan Sturchio as Probationary Police Officer in the Pennington Police Department is hereby approved;
2. Mr. Sturchios’ salary and other terms and conditions of employment shall be governed by the contract between the Borough and the Pennington Borough Police Association;
3. Mr. Sturchios’ start date shall be determined by the Public Safety Director.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2015-7.6, second by Council Member Marciante with all members present voting in favor.

Mayor Persichilli invited Mr. Sturchio to come forward.

Mr. Meytrott stated that a long discussion took place with regard to the process for hire. Mr. Meytrott explained the NJ Training Commission does not recognize Mr. Sturchio’s former police training in New York City. Mr. Meytrott stated that up until yesterday, Mr. Sturchio was employed by the New York City Police Department for a period of two years. Mr. Meytrott read from Mr. Sturchio’s latest performance evaluation from the City of New York Police Department which indicated “proficiency well beyond his experience and consistently generates high summons and arrest activity that is amongst the highest on his platoon. He can handle various tasks and be counted on to perform them without having to be followed up on. His positive attitude and desire to succeed make him a valuable asset to both his platoon and the department and he is a pleasure to supervise.”

Mr. Bliss administered the Oath of Office to Mr. Sturchio.

Mr. Meytrott stated that Mr. Sturchio has already successfully passed his psychological and medical exams. Mr. Meytrott presented Mr. Sturchio with his badge and ID cards and stated that he would begin work effective July 7, 2015.

Committee Reports

Planning & Zoning / Open Space – Mrs. Gnatt stated that a variance application for a renovation has been carried to the August meeting. Mrs. Gnatt stated that the application for a Use Variance for a coffee shop was approved. Mrs. Gnatt stated that Planning Board meeting ran very late and she was unable to stay for the entire meeting.

Public Works / Personnel – Mr. Davy had no report for personnel. Mr. Davy stated that the Public Works committee is making great progress on the Teamsters contract. Mr. Davy asked that Resolution 2015-7.5 regarding PSE & G solar panels, be removed from the agenda as there are some issues that need to be resolved.

Parks & Recreation / Library / Shade Tree / Senior Advisory – Mr. Lawver reported that the Shade Tree Commission is not meeting over the summer however they are aware of the need to clean up some ordinances and will address that in the fall. Mr. Lawver stated that the Shade Tree Commission would like to come to a council meeting as they have some things that they want to discuss.

Mr. Lawver reported that there is no movement on the new senior center and the Senior Advisory Board is trying to add pressure by throwing their voice behind Hopewell Townships in an effort to get approval for a senior center in the building on Reed Road.

Mr. Lawver reported that the Library Board unanimously approved payment of the administrative fee to the Borough.

Mr. Lawver stated that the 4th of July races were held with about 80 kids participating. Mr. Lawver thanked Michelle Needham, Sudi Southall, Bob Chandler, Murray Peyton and all of the volunteers who helped the event run smoothly.

Public Safety – Mr. Marciante reported that intersections are under review to determine where there are sight issues due to overgrown foliage and once a list is developed, letters will go out to property owners. Mr. Marciante reported that contract negotiations are ongoing. Mr. Marciante reported that last week there was a home invasion on Laning Avenue. Mr. Marciante stated that had he known a notice could have gone out through Code Red. Mr. Meytrott stated that there is more to the story and it turned out that the homeowner could not identify when the incident occurred. Mr. Meytrott explained that while it is technically classified as a burglary, it was not a forced entry burglary. Mr. Meytrott stated that no other reports have come in. A brief discussion took place with regard to solicitors permits.

Finance – Mr. Griffiths had no report.

Historic Preservation / Board of Health / Environmental / Economic Development – Mrs. Chandler had no report.

New Business

**BOROUGH OF PENNINGTON
 RESOLUTION #2015 – 7.1**

RESOLUTION AUTHORIZING REFUNDS

BE IT RESOLVED, that a refund be issued to Howard Spencer, Custom Construction, 9 Holly Jill Lane, Stockton, NJ 08559 for refund of escrow balance, P06-006, Block 503, Lot 06, 9 Burd Street, in the amount of \$205.72.

Record of Council Vote on Passage

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

Council Member Gnatt made a motion to approve Resolution 2015-7.1, second by Council Member Griffiths with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2015 – 7.2**

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 \$ 1,212,394.92 from the following accounts:

Current	\$ 1,000,707.32
W/S Operating	\$ 188,331.46
General Capital	\$ 16,500.00
Developers Escrow	\$ 5,091.94
Animal Control	\$ 13.20
Open Space Trust	\$ 1,751.00
TOTAL	\$ 1,212,394.92

Record of Council Vote on Passage

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

Council Member Griffiths made a motion to approve Resolution 2015-7.2, second by Council Member Chandler with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2015 – 7.3**

**RESOLUTION TO AMEND THE 2015 ADOPTED BUDGET (CHAPTER 159)
SPECIAL ITEMS OF REVENUE AND APPROPRIATION FOR
FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)
HAZARD MITIGATION GRANT**

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

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

WHEREAS, the Borough of Pennington has received \$ 83,000.00 from the Federal Emergency Management Agency (FEMA) consisting of a Federal Share of \$75,000.00 and a non-Federal Share of \$8,000.00 from the New Jersey Department of Environmental Protection and wishes to amend its 2015 Budget to include this amount as revenue;

NOW THEREFORE BE IT RESOLVED, that the Borough Council of the Borough of Pennington hereby requests the Director of the Division of Local Government Services to approve the insertion of a special item of revenue in the budget of the year 2015 in the sum of \$83,000.00, which is now available as revenue from:

FEMA – Hazard Mitigation Grant

BE IT FURTHER RESOLVED that a like sum of \$ 83,000.00 be and the same is hereby appropriated under the caption of:

FEMA – Hazard Mitigation Grant

BE IT FURTHER RESOLVED that the Borough Clerk file the required documents with the Director of Local Government Services.

Record of Council Vote on Passage

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

Council Member Davy made a motion to approve Resolution 2015-7.3, second by Council Member Griffiths with all members present voting in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION #2015 – 7.4**

**RESOLUTION AUTHORIZING BOROUGH OF PENNINGTON TO ENTER INTO
 A SHARED SERVICES AGREEMENT WITH MERCER COUNTY COMMUNITY
 COLLEGE FOR PRINTING SERVICES FOR THE PERIOD OF JULY 1, 2015
 THROUGH DECEMBER 31, 2015**

WHEREAS, the Borough of Pennington desires to contract with Mercer County Community College for the provision of Printing Services as needed; and

WHEREAS, the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1 et. seq. 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 Between Pennington Borough, New Jersey and Mercer County Community College”, shall be for the period of July 1, 2015 through December 31, 2015; and

WHEREAS, the form of the proposed contract is attached to this resolution;

WHEREAS, the cost to the Borough for printing services under the contract shall be based on the pricing schedule attached to the contract;

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 Mercer County Community College for printing services during the period May 1, 2015 through December 31, 2015; 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.
Chandler	X				Griffiths	X			
Davy	X				Lawver	X			
Gnatt	S				Marciante	M			

Council Member Marciante made a motion to approve Resolution 2015-7.4, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION 2015-7.5**

**RESOLUTION AUTHORIZING ACCEPTANCE OF BID OF PUBLIC
 SERVICE ELECTRIC AND GAS COMPANY AND EXECUTION OF
 RELATED MEMORANDUM OF UNDERSTANDING FOR NEGOTIATION
 OF LEASE OF PUBLIC WORKS LANDS FOR CONSTRUCTION AND OPERATION OF
 SOLAR ENERGY ELECTRIC GENERATING FACILITY**

As per Mr. Davy’s request, Council took no action on Resolution 2015-7.5.

Resolution 2015-7.6 was acted on earlier in the meeting.

**BOROUGH OF PENNINGTON
 RESOLUTION #2015 – 7.7**

**RESOLUTION AUTHORIZING A PROFESSIONAL
 SERVICES AGREEMENT WITH PARS ENVIRONMENTAL INCORPORATED FOR THE
 COMPLETION OF THE 2014 RIGHT TO KNOW SURVEY**

WHEREAS, the Borough Council of the Borough of Pennington seeks to retain the services of PARS Environmental, Inc., licensed engineers, to assist the Borough in completion of the 2014 Right To Know Survey;

WHEREAS, a copy of the PARS proposal, dated July 2, 2015, is annexed to this resolution;

WHEREAS, the contemplated services include inventory of areas that contain hazardous chemicals, completion of the 2014 Right to Know Survey for each area, together with update of the Written Hazard Communications Plan (Tasks 1 and 2 in attached proposal);

WHEREAS, the areas inventoried for hazardous chemicals will include:

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

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

WHEREAS, PARS Environmental, Inc. has agreed to perform Tasks 1 and 2 for the lump sum amount of \$1,800.00;

WHEREAS, the attached PARS proposal includes additional tasks which may be optional, namely tasks 3 through 5, as described on pages 3 through 5 and priced on page 4 of the proposal;

WHEREAS, Borough Council wishes to authorize the Borough Administrator and the Borough Clerk, as appropriate, to obtain the performance of such of the additional Tasks numbered 2 through 5 as may be legally required;

NOW THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Borough Administrator and Borough Clerk of the Borough are hereby authorized to issue one or more purchase orders or enter into one or more agreements with PARS to ensure performance of Tasks 1 and 2 at the cost of \$1,800. and to issue or enter into such additional purchase orders or agreements as needed to obtain performance of such of the additional Tasks 3 through 5 as may be legally required, at the price or prices indicated in the proposal.

Record of Council Vote on Passage

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

Council Member Lawver made a motion to approve Resolution 2015-7.7, second by Council Member Davy with all members present voting in favor.

**BOROUGH OF PENNINGTON
COUNTY OF MERCER
STATE OF NEW JERSEY
RESOLUTION 2015-7.8**

RESOLUTION OF THE BOROUGH OF PENNINGTON, COUNTY OF MERCER, STATE OF NEW JERSEY AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH MASON, GRIFFIN & PIERSON P.C. FOR THE BOROUGH’S AFFORDABLE HOUSING PROGRAM

WHEREAS, the Borough of Pennington (hereinafter referred to as the “Borough”) has developed an affordable housing program to provide opportunities for persons of low and moderate income to live within said Borough; and

WHEREAS, on March 10, 2015, the New Jersey Supreme Court issued a decision entitled In the Matter of the Adoption of N.J.A.C. 5:96 and 97 by the New Jersey Council on Affordable Housing, 221 NJ 1 (2015) at which time the Court outlined a process whereby municipalities such as the Borough could apply to the Court through a Declaratory Judgment process in order to have the Borough’s Fair Share Plan and Housing Element approved; and

WHEREAS, the Borough requires the assistance of special legal counsel in order to undertake and process the above referenced Declaratory Judgment action; and

WHEREAS, the New Jersey local public contracts law, N.J.S.A. 40A:11-1, et seq., requires that a Resolution authorizing the award of a “professional services” contract without competitive bidding and the contract itself must be available for public inspection.

NOW THEREFORE BE IT RESOLVED as follows:

1. The Borough hereby retains Mason, Griffin & Pierson P.C., 101 Poor Farm Road, Princeton, NJ 08540 to serve as its special counsel in connection with the above referenced Declaratory Judgment action for a sum not to exceed fourteen thousand dollars (\$14,000.00). The agreement authorized by this Resolution is on file with the Borough Clerk and may be inspected during regular office hours.
2. This contract is being awarded without competitive bidding as a “professional service” contract. In accordance with the provisions of N.J.S.A. 40A:11-5(1)(a) of the New Jersey Local Public Contracts Law for services to be performed by a person authorized by law to practice a recognized profession that is by law regulated
3. To the extent permitted by N.J.A.C. 5:97-8.9, costs associated with the retention of special counsel to have the Borough’s Third Round Plan reviewed and approved shall be charged to the Pennington Borough Affordable Housing Trust Fund.
4. This resolution shall take effect immediately upon its adoption.

Record of Council Vote on Passage

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

Council Member Marciante made a motion to approve Resolution 2015-7.8, second by Council Member Griffiths with all members present voting in favor.

**BOROUGH OF PENNINGTON
COUNTY OF MERCER
STATE OF NEW JERSEY
RESOLUTION 2015 – 7.9**

RESOLUTION OF THE BOROUGH OF PENNINGTON, COUNTY OF MERCER, STATE OF NEW JERSEY AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH MICHAEL P. BOLAN, PP/AICP FOR THE BOROUGH’S AFFORDABLE HOUSING PROGRAM

WHEREAS, the Borough of Pennington (hereinafter referred to as the “Borough”) has developed an affordable housing program to provide opportunities for persons of low and moderate income to live within said Borough; and

WHEREAS, on March 10, 2015, the New Jersey Supreme Court issued a decision entitled In the Matter of the Adoption of N.J.A.C. 5:96 and 97 by the New Jersey Council on Affordable Housing, 221 NJ 1 (2015) at which time the Court outlined a process whereby municipalities such as the Borough could apply to the Court through a Declaratory Judgment process in order to have the Borough’s Fair Share Plan and Housing Element approved; and

WHEREAS, the Borough requires the assistance of a Planner in order to assist with the processing of the above referenced Declaratory Judgment action; and

WHEREAS, the New Jersey local public contracts law, N.J.S.A. 40A:11-1, et seq., requires that a Resolution authorizing the award of a “professional services” contract without competitive bidding and the contract itself must be available for public inspection.

NOW THEREFORE BE IT RESOLVED as follows:

5. The Borough hereby retains Michael P. Bolan, PP/AICP, P.O. Box 295, Pennington, NJ 08534 to serve as its Planning Consultant in connection with the above referenced Declaratory Judgment action for a sum not to exceed eleven thousand dollars (\$11,000.00). The agreement authorized by this Resolution is on file with the Borough Clerk and may be inspected during regular office hours.
6. This contract is being awarded without competitive bidding as a “professional service” contract. In accordance with the provisions of N.J.S.A. 40A:11-5(1)(a) of the New Jersey Local Public Contracts Law for services to be performed by a person authorized by law to practice a recognized profession that is by law regulated
7. To the extent permitted by N.J.A.C. 5:97-8.9, costs associated with the retention of special

counsel to have the Borough’s Third Round Plan reviewed and approved shall be charged to the Pennington Borough Affordable Housing Trust Fund.

8. This resolution shall take effect immediately upon its adoption.

Record of Council Vote on Passage

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

Council Member Lawver made a motion to approve Resolution 2015-7.9, second by Council Member Chandler with all members present voting in favor.

**BOROUGH OF PENNINGTON
COUNTY OF MERCER
STATE OF NEW JERSEY**

RESOLUTION 2015-7.10

RESOLUTION OF THE BOROUGH OF PENNINGTON, COUNTY OF MERCER, STATE OF NEW JERSEY AUTHORIZING (1) FILING OF A DECLARATORY JUDGMENT ACTION CONCERNING ITS AFFORDABLE HOUSING PROGRAM, (2) THE FILING OF A MOTION FOR TEMPORARY IMMUNITY AND (3) JOINING WITH OTHER MUNICIPALITIES TO HIRE AN EXPERT TO PROPOSE A REALISTIC APPROACH TO THE BOROUGH’S THIRD ROUND AFFORDABLE HOUSING OBLIGATION AND AUTHORIZING THE EXECUTION OF A SHARED SERVICES AGREEMENT FOR SAID EXPERT

Mayor Persichilli announced that Resolution 2015-7.10 will be considered after the Closed Session discussion.

**BOROUGH OF PENNINGTON
COUNTY OF MERCER
STATE OF NEW JERSEY**

RESOLUTION #2015-7.11

RESOLUTION OF SUPPORT FOR A4488 CONCERNING AFFORDABLE HOUSING

WHEREAS, the Borough of Pennington (hereinafter referred to as the “Borough”) has received substantive certification from the New Jersey Council on Affordable Housing (“COAH”) for its First and Second Round Affordable Housing Plan; and

WHEREAS, the Borough filed with COAH a Third Round Affordable Housing Compliance Plan which was never reviewed by COAH; and

WHEREAS, on March 10, 2015, the New Jersey Supreme Court issued an opinion in the matter entitled, In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 NJ 1 (2015), providing that due to the inaction of COAH to review and approve Third Round Affordable Housing Compliance Plans, jurisdiction over said plans was to be transferred to said courts; and

WHEREAS, the Borough of Pennington will participate in the court-mandated process to have its Third Round Affordable Housing Compliance Plan reviewed and approved; and

WHEREAS, said Third Round Affordable Housing Compliance Plan may require amendment as the court determines municipal Fair Share obligation for the period 1999-2025; and

WHEREAS, the above-referenced New Jersey Supreme Court decision anticipates that revisions to municipal Fair Share Plans and Housing Elements are likely to be required and provided a five-month period within which to do so; and

WHEREAS, A4488 has been introduced on June 4, 2015 to allow municipalities such as the Borough to revise if necessary their Fair Share Plans and Housing Element starting however from the point whereby the Courts determine municipal Fair Share obligation and the standards to which municipalities must comply in order to obtain approval of their Third Round Affordable Housing Compliance Plan.

NOW, THEREFORE, be it resolved by the Mayor and Council of the Borough of Pennington, County of Mercer, State of New Jersey as follows:

1. Pennington Borough hereby expresses its support for A4488. The adoption of this legislation will avoid unnecessary expense to the Borough in reviewing and perhaps amending its Third Round Affordable Housing Plan before the Borough’s Affordable Housing obligation has been determined by the Courts. The five-month deadline to file an Affordable Housing Plan

for Third Round Affordable Housing compliance should not commence until the Court having jurisdiction over the Borough's Affordable Housing Plan establishes and articulates standards with which the municipality must comply.

2. A certified true copy of this resolution shall be furnished upon its adoption to: Assemblyman Sean T. Kean, 1955 Highway 34, Building 2A, Wall, New Jersey, 07719; Assemblyman David P. Rible, 1955 Highway 34, Building 2A, Wall, New Jersey, 07719; Senator Thomas H. Kean, Jr., 425 North Avenue East, Westfield, New Jersey, 07090; Senator Linda R. Greenstein, 1249 South River Road, Suite 105, Cranbury, New Jersey, 08512; Assemblyman Daniel R. Benson, 3691A Nottingham Way, Hamilton Square, New Jersey, 08690; Assemblyman Wayne P. Deangelo, 4621A Nottingham Way, Hamilton Square, New Jersey, 08690; Senator Shirley K. Turner, 1440 Pennington Road, First Floor, Trenton, New Jersey, 08618; Assemblyman Reed Gusciora, 144 West State Street, Trenton, New Jersey, 08608; Assemblywoman Elizabeth Maher Muoio, 144 West State Street, Trenton, New Jersey, 08608; and New Jersey State League of Municipalities, 222 West State Street, Trenton, New Jersey, 08608, Attention Michael Cerra, Assistant Executive Director.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2015-7.11, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2015-7.12**

**RESOLUTION AUTHORIZING RETENTION OF SERVICE FOR CONTINUING DISCLOSURE
AUDIT IN CONNECTION WITH ISSUANCE OF BONDS BY THE BOROUGH**

WHEREAS, in connection with the issuance of bonds the Borough has covenanted with bondholders to provide certain secondary market disclosure information on an annual basis to the Nationally Recognized Municipal Securities Information Repositories (pre-2009) and to the Municipal Securities Rulemaking Board's Electronic Municipal Market Access Data Port (2009 to present), including audited financial statements, municipal budgets and/or other financial and operating data and ratings changes;

WHEREAS, by Resolution 2014-9.4 adopted on September 8, 2014, Borough Council authorized the Chief Financial Officer to engage the services of Phoenix Advisors, LLC, of Bordentown, New Jersey, to conduct a Disclosure Audit related to bonds previously issued by the Borough;

WHEREAS, the purpose of the Disclosure Audit was to ensure Borough compliance with its continuing disclosure obligations under bond covenants and SEC regulations;

WHEREAS, Borough Council now seeks to authorize an agreement with Phoenix Advisors, LLC, to continue its services in the current year to ensure continued disclosure compliance by the Borough;

WHEREAS, a proposed form of Agreement submitted by Phoenix Advisors to the Borough's Chief Financial Officer, by letter dated June 4, 2015, is attached to this resolution;

WHEREAS, the proposed Agreement would retain Phoenix Advisors to perform in this fiscal year continuing disclosure agent service for an annual fee of \$650 plus \$100 for each additional outstanding bond issue;

WHEREAS, the proposed Agreement would also name Phoenix Advisors as the Borough's Independent Registered Municipal Advisor of Record, for no additional fee, to ensure its availability to answer questions and provide preliminary project and financing analysis for the Borough as needed;

WHEREAS, the funds for this service are available in the Borough's operating budget [?];

NOW, THEREFORE, B E IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Chief Financial Officer is hereby authorized to retain Phoenix Advisors LLC for the aforesaid services, as provided in the attached Agreement, for a sum not to exceed \$650.

Record of Council Vote on Passage

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

Council Member Griffiths made a motion to approve Resolution 2015-7.12, second by Council Member Lawver with all members present voting in favor.

Council Discussion

Ferriero Engineering Letter – Request for Sanitary Sewer Connection – 312 N. Main Street – Mrs. Heinzl stated that she put together some background information regarding the request. Mrs. Heinzl stated that council might recall that the agreement attached to the request came up when Mr. Fucello requested a connection on Vannoy Avenue. Mrs. Heinzl stated that the agreement from 1977 that was amended in 1980 specifically identifies properties that are eligible for Borough water and/or sewer services. Mrs. Heinzl stated that the property owner included a copy of the agreement with their request. Mrs. Heinzl stated that this property is entirely outside of the Borough. Mrs. Heinzl stated that these types of requests fall into categories where if a property has any piece of property in the Borough or if there is some benefit to the Borough the connection was allowed. Mrs. Heinzl stated that this property does not fall into that category. Mr. Marciante stated that when he served on the Sewerage Authority a request was made by a developer for sewer connections for 380 houses and Pennington did not approve the sewer connection. Mr. Marciante asked if approving this request would open the Borough up the door for that builder to come after the Borough. Mr. Bliss stated that it would. Mr. Bliss stated that if Council is going to start letting in Hopewell Township properties there needs to be a well-defined policy rationale for doing so that would distinguish properties that are allowed from those that are excluded. Mr. Bliss stated that all of the properties listed in the existing agreements are adjacent to the Borough or they have a portion of property in the Borough. Mr. Bliss stated that this property would be an exception relative to the past because it has no connection with the Borough. Mr. Bliss stated that there are properties that are hooked up to sewer that are not in the Borough and are not adjacent, but they are properties where the Borough has a direct municipal interest, such as Timberlane Middle School, the High School and the County Library. Mr. Bliss stated that he looked at the tax maps and the properties named in the 1977 agreement and determined that there were some properties outside the Borough but they were all adjacent to the Borough. Mr. Bliss stated that the 1980 agreement is an addendum and the properties there are the Sewerage Authority itself and Lot 8 which is Bristol Meyers Squibb. Mrs. Heinzl stated that this request is essentially to add this property to the agreement. Mr. Bliss stated that the only way to avoid potential problems is to have a well-defined policy that would define the reason for deviation from past practice. Mr. Bliss explained that heretofore the past practice has been adjacency to the Borough. Following discussion with regard to prior requests and with regard to protecting the Borough, Council agreed that the exposure was too great and the request was denied. Mrs. Heinzl stated that she would send a letter to the homeowners.

E-mail – Hugh Goode – Will Serve Letter request – Ingleside Avenue – Mrs. Heinzl stated that this request is different from the previous case because this property is already served with a sewer connection and they are requesting a water connection. Some discussion took place with regard to the location of the property and what might be proposed for the property. Council Members were in agreement to grant this request. Mr. Bliss was asked to prepare a resolution for the August meeting.

Route 31 – Pennington Circle – Mrs. Chandler stated that she thought that the Borough was against having a light at Ingleside on Route 31 because that would increase traffic coming into the Borough. Mrs. Chandler stated that putting a full traffic light there would cause people to avoid the light by cutting through town. Mr. Lawver agreed that he could see an increase in traffic on Borough streets if a full traffic light was put in. Mr. Meytrott stated that years ago there was a discussion at a council meeting and the Borough Council at the time went on record either officially or unofficially as being opposed to a full traffic light at Ingleside and Route 31. Mr. Meytrott stated that he attended the public meeting conducted by the DOT at Hopewell Township he heard several people complaining about the lack of a fully operating traffic signal there. Mr. Meytrott stated that the Borough does not have any data that he knows of to either support or not support this issue. Mr. Lawver asked if we could request that the County put something in place to monitor the current traffic through that intersection. Mr. Lawver stated that at the meeting, a request was made to move the proposed traffic light to the circle, up to Ingleside Avenue. Mr. Meytrott stated that the proposal was for two metering devices rather than a fully functioning traffic signal. Mr. Meytrott stated that the metering devices would stop the traffic in each direction on Route 31. Mrs. Chandler stated that the residents that back up to Route 31 should be notified of these discussions because there will be a lot more noise from trucks braking if there is a full light there. Mr. Davy stated that he could see how metering devices would cause traffic to back up on Route 31 and vehicles would make the left onto Ingleside Avenue and the same issues with increased traffic through the Borough would occur. Mr. Meytrott stated that another issue is the possibility of development and who would pay for a traffic signal. Mr. Griffiths stated that the circle is a disaster and all of this discussion of metering devices and traffic lights are band-aids. Mr. Griffiths stated that in a 10 to 15 year period Route 31 needs to be completely revamped and the highway should be divided with cement barriers and it will be costly. Mrs. Chandler stated that it is already happening farther up Route 31. Mr. Meytrott stated that he could contact Mercer County. Mr. Davy stated that the Borough should stand for protecting our residents and pass a resolution indicating that we do not support a full traffic signal at that location. Mr. Lawver stated that in the packet of information provided there is a letter from a Pennington resident asking that a full traffic signal be considered. Mrs. Chandler stated that people don't realize that it might be easier for them at that intersection, but it would not be for everyone else. Mr. Lawver stated that without further improvements to Route 31, cutting through Pennington would become the preferred route. Mayor Persichilli stated that perhaps council should wait until a decision is made and then voice our opinion. Mrs. Heinzl stated that according to the e-mail from the Township Administrator, the DOT will consider this if the Township Committee formally requests that they do so. Mrs. Chandler stated that we should reach out to the Township Committee and indicate that the Borough is against a traffic light and list the reasons why. Mr. Davy and Mr. Lawver both stated that the Borough's concerns should be expressed directly to the DOT. After some discussion as to how to proceed, Council agreed to do a formal resolution and submit it to both the DOT and the Hopewell Township Committee.

Professional Reports

Mrs. Heinzel stated that Kimberly Nance of the NJ DOT wants to hold a public information session, here at Borough Hall regarding the CSX bridge replacement. Mrs. Heinzel stated that the proposed dates are July 22nd or 23rd from 5pm to 8pm.

Mrs. Heinzel stated that the office has received several phone calls regarding the 624 Bus Route and the elimination of bus stops. Mr. Meytrott explained that NJ Transit has combined two routes into one. Mr. Meytrott stated that he spoke to the bus driver and the only authorized stop is the one that Borough Council approved on Broemel Place. Mr. Meytrott stated that the driver has been instructed not to stop on Delaware Avenue and the only other authorized stop is across from the Toll Gate School on South Main Street. Mr. Meytrott stated that the Borough could send a letter to NJ Transit and request additional stops.

Public Comment

Mayor Persichilli read the following statement for anyone interested in speaking before Council:
Please come forward and state your name and address for the record. Please limit comments to the Governing Body to a maximum of three (3) minutes.

There were no comments from the public.

Closed Session

AT, 8:09 PM, BE IT RESOLVED, that Mayor and Council shall hereby convene in closed session for the purposes of discussing a subject or subjects permitted to be discussed in closed session by the Open Public Meetings Act, to wit:

- Potential Litigation – Water Line – Main Street
- Contract Negotiations – Comcast
- Potential Litigation - COAH

Open Session

AT, 8:39 PM, Mayor and Council returned to open session.

**BOROUGH OF PENNINGTON
COUNTY OF MERCER
STATE OF NEW JERSEY**

RESOLUTION 2015-7.10

RESOLUTION OF THE BOROUGH OF PENNINGTON, COUNTY OF MERCER, STATE OF NEW JERSEY AUTHORIZING (1) FILING OF A DECLARATORY JUDGMENT ACTION CONCERNING ITS AFFORDABLE HOUSING PROGRAM, (2) THE FILING OF A MOTION FOR TEMPORARY IMMUNITY AND (3) JOINING WITH OTHER MUNICIPALITIES TO HIRE AN EXPERT TO PROPOSE A REALISTIC APPROACH TO THE BOROUGH'S THIRD ROUND AFFORDABLE HOUSING OBLIGATION AND AUTHORIZING THE EXECUTION OF A SHARED SERVICES AGREEMENT FOR SAID EXPERT

WHEREAS, the Borough of Pennington (hereinafter referred to as the "Borough") was a participating municipality in the New Jersey Council of Affordable Housing (hereinafter referred to as "COAH") for the First and Second Round having received substantive certification for the affordable housing plans associated with said rounds; and

WHEREAS, on March 10, 2015, the New Jersey Supreme Court issued a decision entitled In the Matter of the Adoption of N.J.A.C. 5:96 and 97 by the New Jersey Council on Affordable Housing, 221 NJ 1 (2015) in which the Court (1) found that COAH had violated its March 14, 2014 Order by failing to adopt new Third Round Regulations, (2) held that, without Third Round Regulations, COAH could not process petition for substantive certification, (3) directed trial courts to resume COAH's functions, (4) authorized municipalities to file Declaratory Judgment actions along with a motion for temporary immunity by July 8, 2015 or risk exposure to exclusionary zoning lawsuits and (5) ruled that municipalities would have five months to prepare and file a Fair Share Plan and Housing Element to address its Third Round obligation; and

WHEREAS, the Borough wishes to participate in the process outlined by the New Jersey Supreme Court in the above-referenced March 10, 2015 decision and to have the court review and approve the Borough's Third Round Compliance Plan and further, wishes to authorize a Shared Services Agreement for expert services to determine its realistic Third Round obligation.

NOW THEREFORE BE IT RESOLVED as follows:

9. The Borough hereby reaffirms its commitment to satisfy its realistic affordable housing obligation, however said obligation may be ultimately defined by the Court in a voluntary

fashion and in the absence of any additional costly Mount Laurel lawsuits.

10. The Borough hereby authorizes the Borough Special Counsel for Affordable Housing to file a Declaratory Judgment action on or before July 8, 2015 and to simultaneously file a motion seeking temporary immunity while the Court reviews the Borough's Affordable Housing Program as same will be amended and resubmitted to the Court within a five month period authorized by the New Jersey Supreme Court's decision on March 10, 2015 once the Borough's realistic Third Round Affordable Housing obligation is determined.
11. The Borough further authorizes the Special Borough Counsel for Affordable Housing and the Borough's planning professionals to seek a judicial determination of the Borough's realistic Third Round Affordable Housing obligation and take all reasonable and necessary actions to address said obligation for the period 1999-2025 expeditiously.
12. The Borough is further authorized to join with other similarly situated municipalities and authorize its legal and planning professionals to join with a consortium of municipalities to seek out an expert to develop a realistic approach to the Borough's Third Round Affordable Housing obligation and to share the cost of retaining said expert with other municipalities, said cost estimated to be approximately \$2,000.00 and authorize the Borough to further enter into a Shared Services Agreement and a Municipal Joint Defense Agreement, both of which as reviewed and approved by the Borough Attorney and the Borough Special Counsel for Affordable Housing. The Borough hereby authorizes the execution of a shared services agreement with Rutgers University for said services substantially in the form attached to this Resolution.
13. Funds are available for the proposed expenditure from the Borough's Affordable Housing Trust Fund. The funding of the litigation and expert services authorized by this resolution shall be drawn exclusively from the Affordable Housing Trust Fund to the maximum extent permitted by law..
14. This resolution shall take effect immediately upon its adoption.

Record of Council Vote on Passage

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

Council Member Marciante made a motion to approve Resolution 2015-7.10, second by Council Member Davy with all members present voting in favor.

Approval of Closed Session Minutes for Content But Not Release

Council Member Chandler made a motion to approve the June 1, 2015 Closed Session Minutes for content but not for release, second by Council Member Davy with all members present voting in favor.

At 8:40 PM the meeting was adjourned.

Respectfully submitted,

Elizabeth Sterling
Borough Clerk