

**Pennington Borough Council  
Special Meeting – September 23, 2015**

Council President Joseph Lawver called the Special Meeting of the Borough Council to order at 5:00 pm. Borough Clerk Betty Sterling called the roll. Council Member Chandler, Griffiths, Lawver and Marciante were present. Mayor Persichilli and Council Members Davy and Gnatt were absent.

Also present were Borough Administrator Eileen Heinzl and Borough Attorney Walter Bliss.

Council President Lawver 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.

**Closed Session**

**AT, 5:01 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 – COAH

**Open Session**

AT, 5:13 PM, Council returned to open session.

**New Business**

**BOROUGH OF PENNINGTON  
RESOLUTION 2015-9.14**

**RESOLUTION AUTHORIZING AMENDMENT TO MUNICIPAL SHARED SERVICES DEFENSE AGREEMENT**

**WHEREAS**, the Borough Council of the Borough of Pennington entered into the Municipal Shared Services Defense Agreement (“MSSDA”) for the purpose as set forth therein, which included retaining a common expert in the Declaratory Judgment action (“Litigation”) that was filed in accordance with 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 N.J. 1 (2015) (“Decision”); and

**WHEREAS**, the MSSDA identified Dr. Robert Burchell, a distinguished professor at Rutgers University, as the expert to be retained; and

**WHEREAS**, Dr. Burchell became ill and has been unable to complete the obligations under the Research Agreement as set forth in the MSSDA; and

**WHEREAS**, as a result, Rutgers University has exercised its right to terminate the Research Agreement as permitted under its terms; and

**WHEREAS**, the MSSDA requires modification to allow the members to retain one or more alternative experts, consultants and/or other professionals for the Litigation; and

**WHEREAS**, an Amendment to the MSSDA (“Amendment”) has been prepared to effectuate the modification; and

**WHEREAS**, the Borough Council of the Borough of Pennington recognizes that the Litigation requires immediate action and may require further expedited actions by its counsel determined to be necessary and appropriate; and

**WHEREAS**, the Borough Council of the Borough of Pennington has determined that it is in the best interests of the citizens of the Borough of Pennington to approve the Amendment, and/or to affirm and ratify the Amendment, and to authorize their designated counsel to take actions on behalf of the municipality with regard to the multiplicity of issues raised and associated with the continued implementation of the MSSDA;

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

1. The terms and conditions of the Amendment to MSSDA attached hereto are hereby approved, and/or ratified and confirmed.
2. The Mayor and Borough Clerk, be and are hereby authorized to execute the aforesaid Amendment.

3. The Borough Council of the Borough of Pennington hereby authorizes Jeffrey R. Surenian, Esq., to execute an agreement on behalf of the Borough of Pennington with Econsult Solutions, Inc. The Borough Council of the Borough of Pennington hereby authorizes Jeffrey R. Surenian, Esq., to execute on behalf of the Borough of Pennington with the approval of the Borough's designated counsel such other agreement(s) as are advisable to effectuate the purposes of the MSSDA as amended.

4. The Borough Council of the Borough of Pennington further authorizes its designated counsel to approve such other changes to the MSSDA as may be necessary to effectuate its purposes, and to take action on behalf of the municipality with regard to the multiplicity of issues raised and associated with the implementation of the MSSDA provided that the action will not require the municipality to appropriate and commit any additional funding for the MSSDA. In the event such changes and actions require the municipality to appropriate and commit any additional funding for the MSSDA, Borough of Pennington shall only be responsible for such funding if it authorizes same.

5. If additional monies are needed to effectuate the intent and purpose of the MSSDA, no such services shall be authorized by designated counsel without further action from the Borough.

6. This Resolution shall take effect immediately.

**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				Absent	Lawver	X			
Gnatt				Absent	Marciante	M			

Council Member Marciante made a motion to approve Resolution 2015-9.14, second by Council Member Chandler with all members present voting in favor.

At 5:14 PM the meeting was adjourned.

Respectfully submitted,

Elizabeth Sterling  
Borough Clerk