

**Pennington Borough Council  
Regular Meeting – June 1, 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 Chandler, Davy, Gnatt, Griffiths, Lawver and Marciante were present.

Also present were Borough Administrator Eileen Heinzl, Public Safety Director Bill Meytrott, Superintendent of Public Works Rick Smith, Borough Attorney Walter Bliss, Borough Planner Michael Bolan and Planning Board Attorney Ed Schmierer.

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 Chandler made a motion to approve the minutes of the May 4, 2015 Regular Meeting, second by Council Member Lawver with all members present voting in favor.

Council Member Marciante made a motion to approve the minutes of the May 21, 2015 Special Meeting, second by Council Member Chandler with all members present voting in favor with the exception of Mr. Griffith and Mr. Lawver who abstained.

**Oath of Office**

Mr. Bliss administered the Oath of Office to Officer Michael Joseph Francis.

**Committee Reports**

**Planning & Zoning / Open Space** – Mrs. Gnatt reported that the Planning Board met on May 13, 2015. Mrs. Gnatt stated that the resolution for Mr. Fucello's minor sub-division on Vannoy Avenue was approved. Mrs. Gnatt reviewed some of the conditions indicated in the resolution. Mrs. Gnatt reported that an application for an interpretation of an existing use variance was considered for the building at 250 South Main Street which is Curlis Center. Mrs. Gnatt stated that the proposed tenant is a specialty coffee shop. Mrs. Gnatt stated that the owner presented that this use would be in keeping with prior uses as there will not be any cooking, roasting or coffee beans on the premises. Mrs. Gnatt stated that the owner presented what the uses of the building were back to the 1960's. Mrs. Gnatt stated that the application was denied and the applicant will need to come back before the Board with a use variance application so that the project can be assessed in more detail.

Mrs. Chandler asked the reason for denying the request. Mrs. Gnatt stated that the Board felt that the new use would result in too much of a change as the site was never an eating establishment it was always a retail business. Mrs. Heinzl stated that to clarify, the presentation was for an interpretation and the decision of the Planning Board was that the applicant needs to come in and present the variance in more detail. Mrs. Gnatt stated that to grant the request without hearing all of the details would set a precedent for other locations in the Borough.

Mr. Marciante asked if it was true that the Board requested a traffic study. Mrs. Gnatt stated that the Board did not. Mr. Marciante stated that the owner informed him that he would be spending \$2,500 to do a traffic study. Mrs. Gnatt stated that the Planning Board did not request a traffic study. Mr. Meytrott stated that he has been asked to do a traffic study, but he does not know anything about hiring someone to do a traffic study. Mrs. Gnatt stated that if the owner has a question regarding his application then he needs to come to the Planning Board and ask. Mrs. Gnatt stated that she was at the meeting and she did not hear a request for a traffic study.

Mrs. Gnatt stated that the Board also heard an appeal of a zoning decision by Mr. Flemming where he denied an application for 10 East Welling Avenue to construct a new garage. Mrs. Gnatt stated that the application was to demolish an existing dilapidated 75 year old detached two car garage and to construct a

new one car garage with the same footprint, but with increased height. Mrs. Gnatt stated that this involves a shared driveway that leads to the garage and the neighbor's garage is in an adjacent location. Mrs. Gnatt stated that it was discussed that if the garage were to be moved to a conforming location, large trees would have to be removed and the driveway would actually have to be re-routed and repaved. Mrs. Gnatt stated that Mr. Flemming testified that if this appeal was granted for a non-conforming use any future rebuilds would also have to come before the board. Mrs. Gnatt stated that the zoning ordinance states that existing non-conforming structures may be reconstructed, but not enlarged. Mrs. Gnatt stated that while the board was sympathetic to the request, it was determined that the proper procedure would be to make application to the board for a bulk variance with all factors being presented to the board.

Mrs. Gnatt stated that Mr. Flemming stated that some of the ordinances are vague and need to be reviewed. Mrs. Gnatt stated that Michael Bolan, Borough Planner will be working on language to clarify some of the ordinances.

Mrs. Gnatt reported that the old Za Restaurant has a new tenant, Cugino's will be moving from the Pennington circle location and opening a specialty grocery store and restaurant which will most likely be a conforming use. Mrs. Gnatt stated that the frame shop on Main Street has a prospective tenant with office use downstairs and an apartment upstairs. Mrs. Gnatt stated that this property is in the Town Center and so a change of use variance would be required under the ordinance. Mrs. Gnatt stated that the clothing deposit boxes near the Road Runner Cleaners have not been approved to be there so Mr. Flemming will be taking care of making notifications.

Mrs. Gnatt reported under Open Space that the Preliminary Assessment on the Brown Property is completed and the survey work has been authorized. Mrs. Gnatt stated that the closing on Carter Road Property took place on April 17<sup>th</sup> and the Lawrence Hopewell Trail is researching positioning of the trail through that site. Mrs. Gnatt stated that the committee also discussed some other sites along the Pennington boundaries.

Mrs. Chandler stated that Mrs. Gnatt mentioned a couple of ordinances that need to be reviewed. Mrs. Chandler asked if the Planning Board initiates that review or does the Governing Body. Mrs. Gnatt stated that Mr. Bolan has been asked to draft a memo regarding several ordinances. Mrs. Heinzl stated that the process is that the Planning Board will make a recommendation to Council and then Council would introduce and adopt any changes to the ordinances. Mrs. Chandler stated that it is annoying for homeowners to bump up against ordinances that might have been identified years ago as needing review. Mrs. Chandler stated that if there are ordinances that need review who initiates the process. Mr. Bliss stated that Borough Council can initiate review and essentially Borough Council can pass ordinances that are consistent with the Master Plan. Mr. Bliss explained that Council introduces the ordinance for first reading and then sends them to the Planning Board to ensure that they are consistent with the Master Plan. Mrs. Chandler stated that these are current ordinances that need to be reviewed. Mr. Bliss stated that as a practical matter, the Borough would want the Borough Planner to review and make recommendations. After some discussion as to process, Mrs. Chandler stated that she would like to make this review happen. Mr. Bliss asked what type of review is being requested. Mrs. Chandler stated that she just heard in this report that there are at least two ordinances that need review. Mayor Persichilli stated that the question is do we have the money in the Planning Board budget to initiate this review or should we prioritize which ordinances need to be reviewed. Mrs. Heinzl stated that the Planning Board has a committee that is working on ordinance review and by the end of summer Council should have some revisions. Mrs. Chandler stated that she will ask again in September as to the status of the ordinance review.

Mrs. Chandler stated that her next question is when the Master Plan comes up for review. Mrs. Heinzl stated that the Planning Board reviews the Master Plan and a re-examination report was done not that long ago. Mrs. Heinzl stated that we are currently not due for a review but when the times come it is a big undertaking. Mr. Bolan stated that the review is done every ten years and our last one was done two years ago.

Mrs. Gnatt stated that the Open Space Committee also discussed re-routing of the Lawrence Hopewell Trail to avoid Mine Road.

**Public Works / Personnel** – Mr. Davy stated that letters regarding sidewalk repairs and also letters regarding shrub overgrowth on sidewalks will be going out tomorrow.

**Parks & Recreation / Library / Shade Tree / Senior Advisory** – Mr. Lawver reported that the Shade Tree Commission is looking for an appropriate spot to plant the 125<sup>th</sup> Anniversary tree. Mr. Lawver stated that they are working with Bill Voorhees at Mercer County to try and get more trees on South Main Street and to address trees that are in bad shape. Mr. Lawver stated that the Shade Tree Commission has no interest in involving themselves in the Planning Board process and does not want to get into the business of reviewing takedowns of private trees. Mr. Lawver stated that with regard to the plantings on the island in front of the Tollgate School, the Shade Tree Commission is of the same mind that the shrubs need to be replaced with Cherry Trees. Mr. Lawver stated that the Shade Tree Commission is working on the Borough's five year management plan.

Mr. Lawver reported that the Parks and Recreation Commission hosted another successful Memorial Day Parade. Mr. Lawver stated that the "Third Thursday" concert series will begin in July at Howe Commons. Mr. Lawver stated that they are working with Emily's Café and The Pennington Market to have food available for the concerts.

Mr. Lawver stated that the Library website design template is under review and will be finalized soon. Mr. Lawver stated that the Library is in the process of transitioning to a new version of the library catalog which will require training for library volunteers. Mr. Lawver stated that there is a remarkable slate of programs for the summer for both adults and children.

Mr. Lawver stated that the Senior Advisory Board is getting restless with regard to inactivity on the building on Reed Road. Mr. Lawver stated that the Senior Advisory Board is discussing a time frame for deciding on whether or not to ditch this option and go back to discussions of expansion and refurbishing of the current Senior Center. Mr. Lawver stated that he has indicated to the Board that we are at the end of the life cycle for this building and the next major repair that comes along will cause a shutdown of the building due to lack of funds.

Mr. Marciante stated that he thought it would be a good idea to start a Memorial Tree Program with a brick identifying who the tree in memory of. Mr. Lawver stated that a program already exists and forms are available on the website.

**Public Safety** – Mr. Marciante stated that the second vacancy in the Police Department should be filled by July, the candidate will have to go for training but after that the department should be back up to full staff.

**Finance** – Mr. Griffiths had no report.

**Historic Preservation / Board of Health / Environmental / Economic Development** – Mrs. Chandler reported that the Historic Preservation Commission had an application for 240 South Main Street for a porch with columns and railings and that application was approved. Mrs. Chandler stated that the commission is still working to become a CLG which would allow the town and properties within the historic district to apply for grants. Mrs. Chandler stated that the commission submitted the Borough ordinance to the State Historic Preservation Office for review. Mrs. Chandler stated that the State Historic Preservation Office found some issues and once they are addressed, the commission will resubmit for approval. Mrs. Chandler states that once approved, the Borough will become a Certified Local Government and will be eligible to apply for grants. .

**New Business**

**BOROUGH OF PENNINGTON  
RESOLUTION #2015 – 6.1**

**RESOLUTION AUTHORIZING REFUNDS**

**BE IT RESOLVED**, that a refund be issued to PHH Mortgage c/o CoreLogic Real Estate Tax Services, PO Box 961250, Fort Worth, TX 76161-9858, for refund of 2015, 2<sup>nd</sup> quarter taxes, Block 505, Lot 11, 108 South Main Street, in the amount of \$631.44.

**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 2015-6.1, second by Council Member Chandler with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION #2015 – 6.2**

**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 \$ 338,442.29 from the following accounts:

Current	\$ 271,362.68
W/S Operating	\$ 32,433.90
General Capital	\$ 29,269.00
Developers Escrow	\$ 2,689.20

Grant Fund	\$ 2,152.90
Recreation Trust	\$ 329.50
Open Space Trust	\$ 205.11
TOTAL	\$ 338,442.29

**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 2015-6.2, second by Council Member Chandler with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2015 – 6.3**

**RESOLUTION TO AMEND THE 2015 ADOPTED BUDGET (CHAPTER 159)  
SPECIAL ITEMS OF REVENUE AND APPROPRIATION FOR  
2014 CLEAN COMMUNITIES GRANT AWARDS**

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

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

**WHEREAS**, the Borough of Pennington has received \$ 5,579.35 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 \$ 5,579.35, which is now available as revenue from:

DEP – Clean Community Grant Award Program

**BE IT FURTHER RESOLVED** that a like sum of \$ 5,579.35 be and the same is hereby appropriated under the caption of:

DEP – Clean Community Grant Award Program

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

**Record of Council Vote on Passage**

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

Council Member Chandler made a motion to approve Resolution 2015-6.3, second by Council Member Lawver with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2015 – 6.4**

**RESOLUTION AUTHORIZING AGREEMENT BETWEEN  
BOROUGH OF PENNINGTON AND TIMOTHY AND ROBERTA OLAH  
PERMITTING FENCE TO BE WITHIN WATERLINE EASEMENT AT 11 WEIDEL DRIVE**

**WHEREAS**, Timothy and Roberta Olah are the owners of the real property known as 11 Weidel Drive, also known as Block 403, Lot 1 on the Borough Tax Map (“Property”);

**WHEREAS**, a waterline easement owned by the Borough of Pennington (“Borough”) runs along the rear or easterly end of the Property as well as along part of the southerly side of the Property, the former being 25 feet in width and the latter 10 feet in width, as shown on the attached plan of survey (“Waterline Easement”);

**WHEREAS**, Mr. and Mrs. Olah wish to install a post and rail fence with wire along the northerly boundary of the Property necessitating the crossing of the Waterline Easement in the rear of the Property as sketched on the attached plan of survey;

**WHEREAS**, Mr. and Mrs. Olah therefore seek to enter into an agreement with the Borough permitting the fence to cross the Waterline Easement as proposed;

**WHEREAS**, Borough Council intends by this Resolution to approve the Olahs’ request subject to the terms and conditions set forth herein; and

**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 an agreement on behalf of the Borough of Pennington granting permission to Timothy and Roberta Olah to install and maintain the proposed post and rail fence with wire within the Waterline Easement as substantially described in the annexed plan, subject to the conditions which follow:

1. If for any reason in its judgment the Borough must remove the fence or the Borough otherwise damages the fence in connection with accessing or using the easement, the Borough shall not be responsible for replacing, repairing or rebuilding the fence.
2. The Borough shall be held harmless by Timothy and Roberta Olah from all costs and other liabilities (including reasonable attorney’s fees) arising from the presence of the fence in the Waterline Easement.
3. This Agreement permitting the fence in the Waterline Easement shall be personal to Timothy and Roberta Olah, shall not be transferable by them, shall be revocable at will by the Borough, shall not run with the land and shall not be recorded.

**Record of Council Vote on Passage**

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

Council Member Chandler made a motion to approve Resolution 2015-6.4, second by Council Member Griffiths with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION #2015 – 6.5**

**RESOLUTION AUTHORIZING THE SALE OF  
BOROUGH EQUIPMENT AND PERSONAL  
PROPERTY NO LONGER NEEDED FOR PUBLIC USE**

**WHEREAS**, the Borough is in possession of certain equipment and personal property no longer needed for public use; and

**WHEREAS**, it is the desire of the Mayor and Council to sell these items at public auction;

**NOW THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the Borough of Pennington that the Borough is hereby authorized to sell certain equipment and personal property no longer needed for public use at a public auction to be held on June 20, 2015 at the Public Works Facility located on North Main Street in Pennington and the Borough Clerk is hereby authorized and directed to advertise same in accordance with the requirements of N.J.S.A. 40A:11-36(3).

**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 2015-6.5, second by Council Member Davy with all members present voting in favor. Council briefly reviewed the list of items. Mr. Lawver stated that he thought the Borough was going to do an on-line auction. Mrs. Heinzl stated that we looked into it, but

given that we have so many items and a willing auctioneer, it was decided to follow tradition and do a live auction on June 20, 2015.

**BOROUGH OF PENNINGTON  
RESOLUTION 2015 – 6.6**

**RESOLUTION AUTHORIZING SHARED SERVICES AGREEMENT AFFECTING USE,  
MAINTENANCE AND CLEANING OF THE SENIOR CENTER AND  
RESCINDING RESOLUTION 2015-4.6**

**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 2015, superseding prior agreements but continuing without change the contribution by each municipality in 2014, meaning that 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 \$1,125.29 for the year; and Pennington will provide cleaning supplies for the building and be responsible for all maintenance to the outside of the building, as well as snow and ice removal from sidewalks and parking lots, 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; and

**BE IT FURTHER RESOLVED**, that Resolution 2015-4.6 adopted by Borough Council on April 13, 2015, amending the parties' obligations under the shared services agreement, is hereby rescinded.

**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 Lawver made a motion to approve Resolution 2015-6.6, second by Council Member Chandler with all members present voting in favor.

**Council Discussion**

**Block Party – Rockwell Green Association – June 7, 2015** – Council Member Chandler made a motion to approve the request, second by Council Member Griffiths with all members present voting in favor.

**Birthday Party – Baldwin Court – June 20, 2015** – Mrs. Sterling stated that this request is a little different than the usual requests for block parties because this is specifically for a children's birthday party. Mrs. Sterling stated that when the request came in she consulted with Mr. Meytrott and he suggested that the requester submit a letter with signatures of the eight neighbors on Baldwin Court. Mrs. Sterling stated that the requestor has submitted signatures for all of the neighbors. Council Member Griffiths made a motion to approve the request, second by Council Member Chandler with all members present voting in favor.

**Professional Reports**

Mrs. Heinzl stated that Mr. Davy already reported that the sidewalk letters will be going out. Mrs. Heinzl indicated that Mrs. Mistretta would be assisting her with getting them all out. Mrs. Heinzl stated that the bids documents are available for the ground lease for solar panels; bids are due June 16<sup>th</sup>, 2015.

Mrs. Heinzl stated that a public information meeting was held here at the Borough with NJ DOT representatives regarding plans for replacing the bridge on Route 31 that crosses over the CSX railroad tracks. Mrs. Heinzl stated that work on this project is scheduled to commence in the fall of 2016. Mrs. Heinzl stated that the NJ DOT is looking to hold a public information session here at borough hall, sometime in the next few months. Mrs. Heinzl stated that construction will take place on one side of the bridge at a time with traffic being diverted to one side or the other.

Mrs. Heinzl stated that John Kantorik and Harry Compton, Borough representative to the Stonybrook Sewer Authority will be coming to the July meeting.

Mrs. Heinzl stated that CodeRed forms were mailed out with the water bills recently and many residents have submitted their forms for registration.

Mrs. Chandler stated that she is happy to hear that Harry Compton will be coming to make a report and it might also be nice to have a representative from each of the boards or commissions come in annually to make a presentation to council on what they are doing and what their goals and needs are. Mrs. Chandler stated that she would suggest having one or two per meeting as opposed to all at one time.

There were no other comments from professionals.

**Public Comment**

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

There were no comments from the public.

**Closed Session**

**AT, 7:49 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, 8:29 PM, Mayor and Council returned to open session.

**Approval of Closed Session Minutes for Content But Not Release**

Council Member Chandler made a motion to approve the minutes of the May 4, 2015 closed session meeting for content but not for release, second by Council Member Lawver with all members present voting in favor.

Council Member Chandler made a motion to approve the minutes of the May 21, 2015 closed session meeting for content but not for release, second by Council Member Gnatt with all members present voting in favor with the exception of Mr. Griffiths and Mr. Lawver who abstained.

At 8:31 PM, Council Member Marciante made a motion to adjourn the meeting, second by Council Member Chandler.

Respectfully submitted,

Elizabeth Sterling  
Borough Clerk