

**Pennington Borough Council
Regular Meeting – February 3, 2016**

Mayor Persichilli called the Regular Meeting of the Borough Council to order at 7:00 pm. Borough Clerk Betty Sterling called the roll; all members were present.

Also present were Borough Administrator Eileen Heinzl, Public Safety Director Bill Meytrott, Chief Financial Officer Sandra Webb 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.**

Mr. Edward DiFiglia, Municipal Policy Specialist for the Stonybrook Millstone Watershed Association at 31 Titus Mill Road, stated that he had a brief question regarding the closed session item listed as American Properties. Mr. DiFiglia asked what the discussion will be that requires Council to go into closed session. Mr. Bliss explained that there are issues that must be addressed with in the attorney-client privilege. Mr. DiFiglia asked if has to do with pending or threatened litigation? Mr. Bliss responded not necessarily. Mr. DiFiglia stated that he is curious under the Sunshine Law whether Council can go into closed session for that discussion. Mr. Bliss explained that it is covered under the same subsection of the law where contract negotiations and litigation are addressed. Mr. DiFiglia asked at what point the discussion will be made public. Mr. Bliss responded when the need for the confidentiality is no longer pertinent.

Mayor's Business

Mayor Persichilli read the following Proclamation by title and announced Pennington Borough will be getting involved in the Mayor's Wellness Campaign and with that in mind he is appointing Cindy Persichilli as the Coordinator for this program.

**PROCLAMATION BY THE MAYOR AND BOROUGH COUNCIL
OF PENNINGTON, NEW JERSEY SUPPORTING THE
MAYOR'S WELLNESS CAMPAIGN**

WHEREAS; the percentage of New Jersey residents who are obese or overweight has increased over the last several years, and

WHEREAS; medical expenses for treating problems related to obesity are significant in the state of New Jersey, and

WHEREAS; today's generation of children in America are expected to have shorter longevity than their parents, and

WHEREAS; the Mayors Wellness Campaign supports Mayors as champions of community health, and

WHEREAS; the goal of the campaign is to improve health, reduce health care costs related to obesity, and make New Jersey a national leader in community-based health interventions, and

WHEREAS; the Mayors Wellness Campaign will work to implement a comprehensive program of outreach, education and technical assistance activities to improve community health for Pennington Borough,

NOW, THEREFORE, BE IT PROCLAIMED THAT, Pennington Borough cares deeply about all of its citizens and the future health of its children and that I Mayor Anthony Persichilli ask that all residents of this community join me in supporting the Mayors Wellness Campaign, and

BE IT FURTHER PROCLAIMED that I encourage the residents of Pennington Borough to participate in Mayors' Wellness Campaign activities to promote exercise, eating properly and living healthier and better lives.

Mayor Persichilli stated that he would like to address Code Red Notifications. Mayor Persichilli stated that

he wanted this on the agenda because at the time of the last storm he happened to be Florida and he got initial phone calls that Code Red was in effect for the storm, but then he did not receive any further notifications. Mayor Persichilli stated that it might be worthwhile to consider using Code Red for situations regarding parking in the Borough lot or on certain streets for snow removal purposes. Mayor Persichilli stated that the system is in place and it seems to work effectively, residents have signed up and he would like to see it used more often in cases like the recent snowstorm and beyond that. Mr. Marciante stated that areas can be isolated and notifications made just to certain areas without putting the notice out to all residents. Mayor Persichilli stated that he has spoken to the Borough Administrator about this but he wanted to hear input from Council Members. Mayor Persichilli stated that in the future if there is information that needs to get out to residents, the Borough Administrator should be notified and a decision will be made as to whether it should be sent out.

Mrs. Chandler stated that her only comment is that the Code Red system is supposed to be used for serious situations, to get residents attention. Mrs. Chandler stated that if we start to use it for more mundane things like parking than we run the risk of losing the initial value of alerting residents to serious situations. Mrs. Chandler stated that even though she thinks it is a good idea we need be cognizant that we want people to understand that if they are getting a Code Red message it is important and requires attention.

Mayor Persichilli stated that he knows that the school district uses their alert system very well to get messages out to parents. Mayor Persichilli stated that we will be prudent as to when we use the system, but he thinks that we owed our residents a little more information during this last storm.

Mayor Persichilli announced that based on the recommendation of Public Safety Director, William Meytrott and after completion of an extensive internal assessment process he would like to introduce Resolution 2016-2.8 entitled "Resolution Appointing Acting Sergeant Douglas Pinelli to Permanent Status as Sergeant in the Pennington Borough Police Department". Council Member Marciante made a motion to approve Resolution 2016-2.8, second by Council Member Chandler with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2016 - 2.8**

**RESOLUTION APPOINTING ACTING SERGEANT DOUGLAS PINELLI
TO PERMANENT STATUS AS SERGEANT IN THE PENNINGTON
BOROUGH POLICE DEPARTMENT**

WHEREAS, pursuant to Chapter 46 of the Code of the Borough of Pennington regular members of the Pennington Borough Police Department are appointed to their respective ranks by Borough Council;

WHEREAS, Douglas Pinelli is now serving as Acting Sergeant of the Pennington Borough Police Department;

WHEREAS, upon the recommendation of the Director of Public Safety, it is determined by Borough Council that Douglas Pinelli has qualified for permanent appointment as Sergeant;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that Acting Sergeant Douglas Pinelli is hereby appointed to permanent status as Sergeant in the Pennington Borough Police Department effective February 27, 2015, nunc pro tunc with compensation as Sergeant retroactive to that date.

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	X			
Gnatt	X				Marciante	M			

Oath of Office

Mayor Persichilli invited Mr. Pinelli to come forward to be sworn in as Sergeant. Mr. Bliss administered the Oath of Office to Mr. Pinelli. Mr. Pinelli's many family members and friends were in attendance to offer their congratulations. Mr. Pinelli's wife and two daughters held the Bible as he was sworn in and Mr. Pinelli's brother was asked to present Mr. Pinelli with his new Sergeant's badge.

Mayor Persichilli stated that he would also be formally sworn in as he was not in attendance at the January Reorganization Meeting. Mr. Bliss noted that this is the official swearing in ceremony. Mr. Bliss stated that Mayor Persichilli was originally sworn in on December 24th. Mr. Bliss administered the Oath of Office to Mayor Persichilli.

Presentations

Mayor Persichilli invited Mr. Eric Holterman to come forward to report on the Historic Preservation Commission. Mr. Holterman, Chairman of the Historic Preservation Commission came forward. Mr. Holterman stated that he submitted a report that was distributed to Council Members and the main point

that he would like to make is that this is now the fourth year since the Ordinance was adopted and in that time there are five houses on either Delaware or Main Streets that were subject to demolition had there not been an ordinance in place. Mr. Holterman stated that in the last year, three of the five houses went up for sale. Mr. Holterman stated that in all three cases there was interest from developers in demolishing the houses in order to build new houses and each case when the ordinance was discovered they did not pursue purchase of the house. Mr. Holterman stated that each one of the houses was then purchased by people who are now working on restoring at least the front block of the houses. Mr. Holterman stated that while there is nothing wrong with new buildings and in fact new houses will occur in other places in town, every time one of the historic, early 1800's buildings that face Main Street is lost and replaced with a new building, Pennington loses a little bit of its special character. In the past year, there were only five applications apart from the three houses and they were all quite minor regarding a front porch or a front door or things of that nature. Mr. Holterman stated that some cases were so minor that he was able to sign off on the applications without the applicant having to come to a formal meeting.

Mr. Holterman stated that in his report he mentions three applications for Certificates of Appropriateness and in each case there was a meeting and some discussion with the applicant regarding historic character of the town and in each case the owner's willingly made a few minor changes and are moving forward with the applications.

Mr. Holterman stated that this year was the second year that Historic Preservation awards were given and that is a program that has been very successful and will continue.

Mr. Holterman stated that the commission is down one member and is looking for someone to fill the position. Mr. Holterman stated that Mrs. Chandler provided him with a name of someone who might be interested and so hopefully the position will be filled very soon.

Mr. Holterman stated that the last thing he would like to mention is that the commission is proceeding with a survey of all of the buildings in the district which is something that has been on the agenda since the ordinance was written however because the commission members are all volunteers this has not gotten a lot of attention until this year. Mr. Holterman explained that this year they have someone on board and some funding and so they will be working on completing the survey. Mr. Holterman stated that the survey will be used towards a Certified Local Government (CLG) Listing which means that Pennington will be able to procure state grants. Mr. Holterman stated that in his regular day job he deals with the State Historic Preservation Office pretty regularly and he has been told that each year grant money for Historic Preservation goes unused and unspent. Mr. Holterman stated that the CLG status will allow us to apply for some of that grant funding. Mr. Holterman stated that grant funds can be used for Historic Preservation in the town and it can be used for some street front improvements and it can also be used for historic research.

Mr. Holterman stated that he would be happy to answer any questions. Mrs. Chandler stated that her understanding of the CLG status was that certain entities within the Historic District would also be allowed to apply for funding for their specific buildings. Mr. Holterman stated that is true however not for private owners, but churches for instance would be permitted to apply. Mr. Holterman stated that the town would be able to make application for private owners. Mr. Lawver asked if the Historic Preservation Commission was doing anything to try and resolve the road block associated with 126 South Main Street. Mrs. Chandler stated that they do not really know why that construction has stopped. Mrs. Chandler stated that there are some issues with the neighbors, but they do not know if that is the cause for the stoppage.

Approval of Minutes

Council Member Chandler made a motion to approve the minutes of the December 14, 2015 Regular Meeting, second by Council Member Lawver with all members present voting in favor.

Council Member Chandler made a motion to approve the minutes of the December 28, 2015 Regular Meeting, second by Council Member Lawver with all members present voting in favor.

Council Member Lawver made a motion to approve the minutes of the January 4, 2016 Reorganization Meeting, second by Council Member Chandler with all members present voting in favor.

Council Member Lawver made a motion to approve the minutes of the January 4, 2016 Regular Meeting, second by Council Member Chandler with all members present voting in favor.

Committee Reports

Planning & Zoning / Open Space – Mrs. Gnatt stated that she was unable to attend the last Planning Board meeting so she had no report. Mrs. Gnatt stated that with regard to Open Space, the Borough closed on the Brown Property acquisition on January 29th and the deed has been transferred to the Friends of Hopewell Valley Open Space. Mrs. Gnatt stated that she has received a couple of e-mails from members of the Open Space Committee regarding pending legislation regarding Green Acres funding. Mrs. Gnatt stated that she also received an e-mail regarding Mercer At Play County Grants which will be coming back this year although the regulations have not yet been formulated.

Public Works / Personnel – Mr. Davy stated that with regard to Public Works he would like to draw attention to the fact that the plans for Upper King George Road and Park Avenue are available in the

office for anyone who would like to review them. Mr. Davy stated that a residents meeting will be held later this month. Mr. Davy stated that he would also like to point out that the design calls for narrowing of both Upper King George Road and Park Avenue from thirty feet to twenty-eight feet for traffic calming purposes. Mr. Davy stated that there will a speed hump and a speed table installed on King George Road. Mr. Davy stated that a date for the meeting will be announced later. Mr. Davy stated that he would like to commend the public works department for a fine job during the recent snow storm.

Parks & Recreation / Library / Shade Tree / Senior Advisory – Mr. Lawver reported that in December a representative from TRADE attended the Senior Advisory Board to discuss transportation options for seniors and the disabled. Mr. Lawver stated that in January the Senior Advisory Board reorganized with Larry Mansier as the President. Mr. Lawver stated that more conversation took place about abandoning the Hut and abandoning the Hopewell Valley Golf Club option and instead focusing on the Pennington Senior Center as the ultimate home for the Senior Center. Mr. Lawver stated that last year, we told the Board that we were three to five years away from no longer supporting the building. Mr. Lawver stated that he has advised the Board that we are now two to five years away and this time next year we may be looking at a formal notice to Hopewell Township and Hopewell Borough that we promise no more than one year of continued maintenance on the building without a commitment on its future.

Mr. Lawver stated that Shade Tree reorganized in January with Gabe Rosko as the Chairman. Mr. Lawver stated that priority one is the five year master plan.

Mr. Lawver stated that Parks and Recreation technically reorganized but they may reorganize again as new members come on board.

Mr. Lawver stated that the Library Board reorganized with Pam Switlik as the President.

Mr. Lawver stated that Pennington Day has requested that May 21st be set aside for the event. Mr. Lawver stated that the day will follow the normal course and the committee has asked for the usual support from the Police and Public Works Departments.

Mayor Persichilli stated that he had a discussion with Mayor Anzano and former Mayor Sandom and there does seem to be some interest in the Senior Center and the question now becomes what is the cost and what the plan is for the building is so the we can go back to Hopewell Township and Hopewell Borough and make a presentation. Mr. Lawver stated that rough sketches were done by Clark, Caton, Hintz for two different options about six or seven years ago and at that time it was felt that an expansion could be done within the \$1.5 million budget that has been discussed. Mr. Lawver stated that if we are going to pursue that, we will have to review those plans and estimates but as long as no one goes overboard it seems within reason that a good sized center could be built on the present site for the money that is available. Mr. Lawver stated that the Senior Advisory Board is circulating the plans and frankly there is very little push for this coming out of Pennington. Mr. Lawver stated that the push for the new center is almost entirely generated by Hopewell Township residents so it would be premature for Pennington to try to put forward a solution. Mr. Lawver stated that the Senior Advisory Board and then through them Hopewell Township needs to come to the understanding that the solutions that they have been pursuing are not viable and then at that point we can let them know that Pennington is a receptive partner and we are willing to work with them if they ultimately decide that the current center is where they want to end up. Mr. Lawver stated that he will continue to voice the Borough's position and he will also circulate the plans to Council Members so that everyone will be on the same page.

Public Safety – Mr. Marciante stated that the Police Department is down one officer due to a Worker's Compensation claim.

Finance – Mr. Griffiths stated that no meeting was held, but as soon as we have the Financial Statement and the valuation numbers we will begin putting the budget together with a plan to introduce at the March meeting and adoption at the April meeting.

Historic Preservation / Board of Health / Environmental / Economic Development – Mrs. Chandler stated that the Environmental Commission met last month with Pennington Point residents to discuss the American Properties project. Mrs. Chandler stated that the resident's main concern was essentially the vegetation and some of the effects of the construction.

Mrs. Chandler stated that Economic Development and Historic Preservation had a very successful outing last week. Mrs. Chandler stated that Annual Business Award ceremony was very well attended and the awards were very well received.

Ordinances for Introduction

Mayor Persichilli read Ordinance 2016-3 by title.

BOROUGH OF PENNINGTON ORDINANCE 2016-3

BOND ORDINANCE PROVIDING FOR THE ACQUISITION OF A GENERATOR IN AND BY THE BOROUGH OF PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY,

APPROPRIATING \$85,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$80,750 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF.

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section 1. The improvement described in Section 3(a) of this bond ordinance is hereby authorized to be undertaken by the Borough of Pennington, in the County of Mercer, New Jersey (the "Borough") as a general improvement. For the improvement or purpose described in Section 3(a), there is hereby appropriated the sum of \$85,000, including a \$75,000 grant expected to be received from the Federal Emergency Management Agency Hazard Mitigation Grant Program (the "Grant") and further including the sum of \$4,250 as the down payment required by the Local Bond Law. The down payment is now available by virtue of provision for down payment or for capital improvement purposes in one or more previously adopted budgets.

Section 2. In order to finance the cost of the improvement or purpose not covered by application of the down payment and in anticipation of receipt of the Grant referred to in Section 1 hereof, negotiable bonds are hereby authorized to be issued in the principal amount of \$80,750 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued is the acquisition of a generator, including all related costs and expenditures necessary therefor and incidental thereto.

(b) The estimated maximum amount of bonds or bond anticipation notes to be issued for the improvement or purpose is as stated in Section 2 hereof.

(c) The estimated cost of the improvement or purpose is equal to the amount of the appropriation herein made therefor.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no bond anticipation note shall mature later than one year from its date. The bond anticipation notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with bond anticipation notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the bond anticipation notes shall be conclusive evidence as to all such determinations. All bond anticipation notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law. The chief financial officer is hereby authorized to sell part or all of the bond anticipation notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the bond anticipation notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained and the name of the purchaser.

Section 5. The Borough hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Borough is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

- (a) The improvement or purpose described in Section 3(a) of this bond ordinance is not a current expense. It is an improvement or purpose that the Borough may lawfully undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.
- (b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is 15 years.
- (c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$80,750, and the obligations authorized herein will be within all debt limitations prescribed by the

Local Bond Law.

- (d) An aggregate amount not exceeding \$2,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement.

Section 7. The Borough hereby declares the intent of the Borough to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3(a) of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of Treasury Regulations.

Section 8. Any grant moneys received for the purpose described in Section 3(a) hereof shall be applied either to direct payment of the cost of the improvement or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 9. The chief financial officer of the Borough is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the ARule@) for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 10. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

Council Member Griffiths made a motion to introduce Ordinance 2016-3, second by Council Member Gnatt. Mr. Griffiths asked a couple questions regarding the financing. Mr. Marciante asked if the generator is on wheels. Mr. Lawver stated that years ago Mr. Wittkop was going to purchase a very long, very expensive cord to run Well 9 in the event of a power outage. Mr. Lawver stated that he does not know if that was ever purchased. Mr. Lawver stated that this generator is supposed to be a stand-alone dedicated generator unit. Mr. Marciante asked if the generator is needed since once the solar panels are installed there will be a battery backup for power. Mr. Lawver stated that this generator project came along well before the solar panel project. Mr. Marciante stated that we should ask if the generator can be changed to a portable generator so that it can be moved from place to place. Mrs. Heinzl stated that she recalls asking Carmela Roberts last year about making a change and she felt that to try and change what has already been applied for would jeopardize the FEMA grant. Mrs. Heinzl stated that she does not think that the PSE&G backup generator would be as good of a generator as this one. Mr. Lawver stated that two years ago when we were notified that our FEMA award changed and we would only be receiving funds for one generator the decision at the time was to eliminate that generator for Borough Hall and proceed with the generator for the Public Works Building. Some discussion took place with regard to whether the PSE&G battery backup would be enough to replace the generator. Mayor Persichilli stated that it might be worth having the Public Works Committee look into this to get all the facts together. Upon a roll call vote, all members present voted in favor of introduction of the ordinance.

Mayor Persichilli read Ordinance 2016-4 by title.

**BOROUGH OF PENNINGTON
ORDINANCE 2016-4**

BOND ORDINANCE PROVIDING FOR KING GEORGE ROAD/PARK AVENUE WATER MAIN REPLACEMENT FOR THE WATER UTILITY IN AND BY THE BOROUGH OF PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY, APPROPRIATING \$1,125,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,125,000 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF.

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) **AS FOLLOWS:**

- Section 1. The improvement described in Section 3(a) of this bond ordinance is hereby

authorized to be undertaken by the Borough of Pennington, in the County of Mercer, New Jersey (the "Borough"). For the improvement or purpose described in Section 3(a), there is hereby appropriated the sum of \$1,125,000. No down payment is required as the purpose authorized herein is deemed self-liquidating and the bonds and bond anticipation notes authorized herein are deductible from the gross debt of the Borough, as more fully explained in Section 6(e) of this bond ordinance.

Section 2. In order to finance the cost of the improvement or purpose, negotiable bonds are hereby authorized to be issued in the principal amount of \$1,125,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued is King George Road/Park Avenue water main replacement for the water utility, including all work and materials necessary therefor and incidental thereto and further including all related costs and expenditures incidental thereto.

(b) The estimated maximum amount of bonds or bond anticipation notes to be issued for the improvement or purpose is as stated in Section 2 hereof.

(c) The estimated cost of the improvement or purpose is equal to the amount of the appropriation herein made therefor.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no bond anticipation note shall mature later than one year from its date. The bond anticipation notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with bond anticipation notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the bond anticipation notes shall be conclusive evidence as to all such determinations. All bond anticipation notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law. The chief financial officer is hereby authorized to sell part or all of the bond anticipation notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the bond anticipation notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained and the name of the purchaser.

Section 5. The Borough hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Borough is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

- (a) The improvement or purpose described in Section 3(a) of this bond ordinance is not a current expense. It is an improvement or purpose that the Borough may lawfully undertake as a self-liquidating purpose of a municipal public utility. No part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.
- (b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is 40 years.
- (c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$1,125,000, but that the net debt of the Borough determined as provided in the Local Bond Law is not increased by this bond ordinance. The obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.
- (d) An aggregate amount not exceeding \$345,385 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement.
- (e) This bond ordinance authorizes obligations of the Borough solely for purposes described in N.J.S.A. 40A:2-7(h). The obligations authorized herein are to be issued for purposes that are deemed to be self-liquidating pursuant to N.J.S.A. 40A:2-47(a) and are deductible from the gross debt of the Borough pursuant to N.J.S.A. 40A:2-44(c).

Section 7. The Borough hereby declares the intent of the Borough to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3(a) of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of Treasury Regulations.

Section 8. Any grant moneys received for the purpose described in Section 3(a) hereof shall be applied either to direct payment of the cost of the improvement or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 9. The chief financial officer of the Borough is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 10. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

Council Member Davy made a motion to approve Ordinance 2016-4, second by Council Member Griffiths. Mr. Griffiths stated that there has been a lot of discussion over the last couple days regarding these projects. Mr. Griffiths stated that this ordinance is a passive exercise to prepare for the process of acquiring funding from the NJEIT program. Mr. Griffiths stated that the amount of the bond is much higher than we will actually need. Mr. Griffiths stated that the design specifications are done and we are waiting for authorization to bid the project at which point we can answer several decision points. Mr. Griffiths stated that we are not sure how much of the project will be covered under the fifty percent principal forgiveness program and how much will be covered under the seventy-five/twenty-five payment schedule. Mr. Griffiths stated that when we know the hard costs we can sit down and review the purpose, urgency, the timing with regard to the road reconstruction project and until we have a hard number we really can't wrap our heads around the impact of these projects. Mr. Griffiths stated that once we have the final numbers we need to evaluate whether this is the right time to proceed with the project. Mr. Griffiths stated that this ordinance needs to be in place so that if we reach the point that we are going to go forward we have the funding source in place. Mr. Lawver agreed that this is a passive exercise but we have already incurred expenses on this project and once we make the decision to go to bid we will incur further costs. Mr. Lawver stated that there is a timing issue because we have already deferred the NJDOT grant for the road work and another grant that we anticipate will come through for this year for Park Avenue. Mr. Lawver stated that we are already facing a tight time line on this project because we cannot ask for an extension beyond one year. Mr. Lawver stated that he hears what Mr. Griffiths is saying but he is fairly confident that these projects need to be done and they need to be done in the time frame that has been proposed so far. Mr. Lawver stated that the question that he would like the Public Works Committee to consider is what comes next with regard to water main projects that would require use of the NJEIT program. Mr. Lawver stated that we know what the next five road projects are but we need to figure out what the next water main projects are, whether the Borough will be looking to use the NJEIT program for the work and what the long term costs will be in terms of running the utility going forward. Mr. Lawver stated that we need to make sure that we don't dig ourselves into a hole that we can't accommodate operationally. Mr. Griffiths stated that he agrees and he is reserving final decision until we get hard numbers. Mr. Lawver stated that he was surprised by the amount of this ordinance, particularly the section 20 costs. Mr. Lawver stated that in the past council has tried to expense in the operating budget as much of the design and inspection costs as possible in order to keep the section 20 costs way down. Mr. Lawver stated that as we go through this process we will get a better handle on the actual costs and whether the payments on the debt service will be manageable over a twenty or thirty year period. Mr. Griffiths stated that it is important to look at the next five years of projects. Mr. Griffiths asked Mayor Persichilli about discussions with Mercer County regarding resurfacing roads as opposed to reconstructing roads. Mayor Persichilli stated that he needs a list of roads and then he will be able to reach out to the County. Mayor Persichilli stated that in preliminary discussions, the County agreed to provide the labor as long as the Borough provides the asphalt. Upon a roll call vote, all members present voting in favor of introduction.

Mayor Persichilli read Ordinance 2016-5 by title.

**BOROUGH OF PENNINGTON
ORDINANCE 2016-5**

BOND ORDINANCE PROVIDING FOR EAST CURLIS AVENUE/WEIDEL DRIVE WATER MAIN REPLACEMENT FOR THE WATER UTILITY IN AND BY THE BOROUGH OF PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY, APPROPRIATING \$920,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$920,000 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF.

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section 1. The improvement described in Section 3(a) of this bond ordinance is hereby authorized to be undertaken by the Borough of Pennington, in the County of Mercer, New Jersey (the "Borough"). For the improvement or purpose described in Section 3(a), there is hereby appropriated the sum of \$920,000. No down payment is required as the purpose authorized herein is deemed self-liquidating and the bonds and bond anticipation notes authorized herein are deductible from the gross debt of the Borough as more fully explained in Section 6(e) of this bond ordinance.

Section 2. In order to finance the cost of the improvement or purpose, negotiable bonds are hereby authorized to be issued in the principal amount of \$920,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued is East Curlis Avenue/Weidel Drive water main replacement for the water utility, including all work and materials necessary therefor and incidental thereto and further including all related costs and expenditures incidental thereto.

(b) The estimated maximum amount of bonds or bond anticipation notes to be issued for the improvement or purpose is as stated in Section 2 hereof.

(c) The estimated cost of the improvement or purpose is equal to the amount of the appropriation herein made therefor.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no bond anticipation note shall mature later than one year from its date. The bond anticipation notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with bond anticipation notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the bond anticipation notes shall be conclusive evidence as to all such determinations. All bond anticipation notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law. The chief financial officer is hereby authorized to sell part or all of the bond anticipation notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the bond anticipation notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained and the name of the purchaser.

Section 5. The Borough hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Borough is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

- (a) The improvement or purpose described in Section 3(a) of this bond ordinance is not a current expense. It is an improvement or purpose that the Borough may lawfully undertake as a self-liquidating purpose of a municipal public utility. No part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.
- (b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is 40 years.
- (c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof

has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$920,000, but that the net debt of the Borough determined as provided in the Local Bond Law is not increased by this bond ordinance. The obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

- (d) An aggregate amount not exceeding \$254,050 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement.
- (e) This bond ordinance authorizes obligations of the Borough solely for purposes described in N.J.S.A. 40A:2-7(h). The obligations authorized herein are to be issued for purposes that are deemed to be self-liquidating pursuant to N.J.S.A. 40A:2-47(a) and are deductible from the gross debt of the Borough pursuant to N.J.S.A. 40A:2-44(c).

Section 7. The Borough hereby declares the intent of the Borough to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3(a) of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of Treasury Regulations.

Section 8. Any grant moneys received for the purpose described in Section 3(a) hereof shall be applied either to direct payment of the cost of the improvement or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 9. The chief financial officer of the Borough is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 10. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

Council Member Davy made a motion to introduce Ordinance 2016-5, second by Council Member Griffiths. Mr. Marciante asked why the mains need to be replaced. Mr. Davy stated that the mains are undersized and there is a problem with circulation due to the looping of the system. Upon a roll call vote all members present voted in favor.

Mayor Persichilli read Ordinance 2016-6 by title.

**BOROUGH OF PENNINGTON
ORDINANCE 2016-6**

**AN ORDINANCE CONCERNING LAND USE AND LAND USE APPLICATIONS AND AMENDING
THE CODE OF THE BOROUGH OF PENNINGTON**

WHEREAS, the Planning Board of the Borough of Pennington has recommended various changes to the Borough Code which would amend, supplement or clarify provisions of Chapter 215 concerning Zoning, Chapter 163 concerning site plan approval, and Chapter 185 concerning Swimming Pools;

WHEREAS, Borough Council of the Borough of Pennington accepts the recommendations of the Planning Board and seeks to amend the Code accordingly, with [brackets] indicating language to be deleted and underlining indicating language to be added;

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

1. Section 163-54 of Chapter 163 of the Borough Code, concerning exceptions to required site plan approval, is amended as follows

163-4. Site plan approval required; exceptions.

Prior to the issuance of a building permit or certificate of occupancy for any [new structure other than a single-family dwelling, addition to an existing nonresidential structure, conversion of a one- or two-family dwelling to three or more units or for any new multifamily structure or use] development on a lot wholly or partly in the Borough, a site plan shall be reviewed by the Planning Board [or, where appropriate, by the Board of Adjustment]. No site plan review shall be required for:

A. A change in occupancy or use of any nonresidential structure where the Borough Zoning Officer has determined that the new use is permitted either by reason of Chapter 215, Zoning, or because of prior Planning Board or Zoning Board approval, and will not intensify site traffic circulation, required parking or endanger the general health, safety and public welfare; or

B. A rear addition of less than 150 square feet for a one-story addition or 300 square feet for a two-story addition to a commercial structure in a commercial zone, provided that no variances are required and there is no impact on site circulation.

C. Detached one- or two-dwelling unit buildings.

2. Section 185-6.A of Chapter 185 of the Borough Code, concerning the location of swimming pools, is amended as follows:

(1) Private swimming pools, wading pools and hot tubs [No private swimming pool or wading pool] shall be erected in the rear yard only [to extend out beyond the front line of the main building].

(2) No private swimming pool or wading pool shall be larger in area than 50% of the rear yard and in no case shall a pool be constructed less than 15 [six] feet from any [rear] property line [or less than six feet from any side property line].

3. Section 215-31 of Chapter 215 of the Borough Code, concerning sign regulations, is amended as follows

215-31. Definitions and word usage.

B. Words and phrases used in this article shall have the meanings set forth in this article:

BANNERS, FLAGS, PENNANTS – [A rectangular-shaped fabric sign] Flexible material not permanently attached to a structure which is typically supported by a pole or bracket; [a temporary bracket or device may support the banner].

NEON/TUBULAR Sign – Any sign made of illuminated tubing.

4. Section 215-38 of Chapter 215 of the Borough Code, concerning prohibited signs, is amended as follows

215-38. Prohibited signs.

Unless specifically permitted by the approving authority or this article, the following signs are prohibited:

B. Mechanically moving signs, neon signs, light emitting diode (LED) signs, unshielded bulb signs, flashing signs and animated signs of any kind and signs containing reflective elements except that neon or LED signs are permitted as interior signs in the Highway-Business zone.

5. Section 215-43 of Chapter 215 of the Borough Code, concerning signs permitted in the Highway Business Zone, is amended as follows:

215-43. Signs permitted in Highway Business Zone.

In the Highway Business (B-H) zone, the following signs shall be permitted.

F. Interior signs. All signs located on the interior side of a window and intended to be visible from the exterior of the building and located within a distance of 24 inches from the inside face of the glass shall total not more than [40] 20 percent of the glass area of the window behind which they are placed and together with a facade wall sign shall not exceed 10% of the “ground floor entry facade area” as required by Section 215-43 D. No interior sign lighting shall exceed one foot candle, measured at a distance of two feet from the light source.

J. In addition to the above applicable signs, each permitted non-residential use may be permitted one neon or LED sign located on the inside of display windows only. Such sign shall be considered an interior sign, subject to the limitations in Subsection F. above.

L. Banners, flags and pennants and other moving signs used for advertising purposes, whether containing a message or not, may be permitted to advertise special events including but not limited to grand openings, special sales, and promotion of seasonal events or products, provided that the following conditions and procedures are followed:

1. Banners, flags and pennants shall not exceed 20 square feet and no more than two banners, flags, or pennants shall be erected.
2. An application form describing the type and size of the banners, flags or pennants shall be submitted to the zoning officer who shall review such form within 7 days.
3. Banners, flags or pennants shall be removed within the time period stated on the application but no later than 30 days.
4. No approved banners, flags or pennants shall be allowed on more than three occasions during a calendar year.

6. Section 215-55 of Chapter 215 of the Borough Code, concerning restoration of structures, is amended as follows:

215-55. Restoration.

Any nonconforming structure or use existing at the time of the passage of this chapter may be restored or repaired in the event of partial destruction thereof, provided that said structure or use thereof is not abandoned or removed. Partial destruction shall occur when the cost of such restoration or repair is less than 50% of the assessed value of the building. In the case of more than partial destruction of any structure or use, any subsequent structure or use shall conform with all provisions of this chapter.

Nothing in this chapter shall prevent any such existing nonconforming structure from being restored to a safe condition or from being repaired, reconstructed or structurally altered, provided that such restoration, repair, reconstruction or alteration would comply with all other municipal regulations and ordinances; and would not [provided, further, that no restoration, repair, reconstruction or alteration shall] in any way enlarge or extend any nonconforming structure or nonconforming use.

7. Section 215-57 of Chapter 215 of the Borough Code, concerning alteration of buildings, is amended to delete the section as follows:

[215-57. Alterations.

A nonconforming building may be reconstructed but not enlarged or extended, unless said building is changed to a building conforming or more nearly conforming to the requirements of this chapter; provided, however, that alterations or enlargements that do not increase the degree of nonconformity are permitted.]

8. This ordinance shall take effect upon passage and publication as required by law.

Council Member Chandler made a motion to introduce Ordinance 2016-6, second by Council Member Gnatt. Mr. Lawver had questions regarding section 163-4. Mrs. Heinzel stated that the exceptions are explained in Mr. Bolan's memo. Mr. Lawver stated that he thought that there were issues with infill developments that were causing water drainage issues for existing neighbors. Mrs. Heinzel stated that was not an issue that was discussed in the context of this ordinance amendment. Mr. Lawver stated that section 215-38 refers to windsocks and he would like to know if that includes the tall wavy arm balloons as seen at car dealerships. Mrs. Heinzel stated that inflatables were not specifically discussed and if the term windsocks is ambiguous, then she would suggest including language to identify inflatables. Mrs. Chandler stated that she does not believe that the Economic Development Commission has had a chance to look at this proposed input. Mrs. Chandler asked if it went to the Pennington Business Association for review. Mrs. Heinzel thought that it had. Mrs. Chandler stated that she would like the EDC to have a chance to review this amendment. After a brief discussion, Council agreed to hold the ordinance until the next meeting.

Mayor Persichilli read Ordinance 2016-7 by title.

**PENNINGTON BOROUGH
ORDINANCE 2016-7**

**AN ORDINANCE CONCERNING SHADE TREES AND
AMENDING ARTICLE I, CHAPTER 13 OF THE CODE OF
THE BOROUGH OF PENNINGTON**

WHEREAS, Borough Council seeks to amend Chapter 13 of the Code of the Borough of Pennington to clarify the advisory responsibilities of the Borough Shade Tree Committee pursuant to Article 1, Chapter 13 of the Code of the Borough of Pennington:

WHEREAS, the proposed amendments are based in substantial part on the recommendations of the Shade Tree Committee with additional clarification concerning financial responsibility for tree removal

in varying circumstances;

WHEREAS, this ordinance makes the recommended changes with [brackets] to identify deleted language and underlining to indicate new language;

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

1. Section 13-1 of Chapter 13 of the Borough Code, concerning the purpose of the Borough Shade Tree Committee, is amended as follows:

13-1. Establishment; purpose; membership.

A. The regulation, planting, care and control of shade and ornamental trees and shrubbery upon and in the streets, highways and public [places] property of the Borough of Pennington, except state highways, unless the State Highway Department shall assent thereto, and except county highways, parks and parkways if a County Shade Tree Commission is operative and gives assent thereto, shall be exercised by and under the authority of the Borough Council. In order to aid the Borough Council in regulating the planting, care and control of shade and ornamental trees and shrubbery upon and in the streets, highways and public [places] property, there is hereby established a Shade Tree Committee.

B. The purpose of [said] the Shade Tree Committee shall be to recommend legislation and other appropriate action to the Borough Council [and to make recommendations] regarding the regulation, planting, care and removal of shade and ornamental trees and shrubbery in the Borough generally.

C. The Shade Tree Committee hereby established shall consist of seven members, who shall be residents of this municipality and, where feasible, have experience or expertise in the area of arboriculture or related fields.

2. Section 13-2 of Chapter 13 of the Borough Code, concerning terms of members of the Shade Tree Committee, is amended as follows:

13-2. Initial appointment; terms.

The first Shade Tree Committee members shall be appointed by the Borough Council within 60 days after the effective date of this article, and their terms of office shall commence upon the day of their appointment and be for the respective periods of one, two and three years. The term of each appointee shall be designated in his or her appointment. All [subsequent] appointments, except to fill vacancies, made on or after January 1, 2017 shall be for the full term of [five] three years [, to take effect on January 1 of the calendar year next succeeding such appointment].

3. Section 13-3 of Chapter 13 of the Borough Code, concerning organization and expenses of the Shade Tree Committee, is amended as follows:

13-3. Organization; expenses.

A. The Shade Tree Committee shall organize within 30 days after the appointment of its total membership for the remainder of the then calendar year and thereafter annually, by the election of one of its members as Chair and the appointment of a Secretary, who need not be a member.

B. Expenses of Shade Tree Committee members in discharging official duties, including expenses incident to attendance at professional meetings, will be [reimbursed] paid by the Borough up to an amount appropriated by the governing body for that purpose in the annual budget provided the expenses are approved in advance by the Borough Administrator

4. Section 13-5 of Chapter 13 of the Borough Code, concerning the powers and duties of the Shade Tree Committee, is amended as follows:

13-5. Powers and duties.

The Shade Tree Committee organized under this article shall have power to:

A. Recommend to the Borough Council legislation and other appropriate action governing the regulation, planting, [and] care and removal of shade and ornamental trees and shrubbery now located or which may hereafter be planted in any public highway, [and] park or parkway or [and] public right-of-way, except such as are excluded pursuant to § 13-1A of this article[, including the planting, trimming, spraying, care and protection thereof]. “Care” as used herein shall include trimming, spraying and other measures calculated to protect the health and wellbeing of the tree or shrubbery.

B. Recommend legislation and other appropriate action to the Borough Council regulating [and

controlling] the use of the ground in the proximity of [surrounding the same] affected trees and shrubbery, so far as may be necessary for the public safety and for the health, proper growth, care and protection of the trees and shrubbery [thereof].

C. Recommend to Borough Council, with notice to the Borough's Superintendent of Public Works, the need for [the moving or the requiring of the] removal of any tree or part thereof dangerous to public safety. Trees presenting a risk to public safety may include but need not be limited to trees in the public right of way, on public property, or on private property encroaching on the public right of way.

D. Recommend to the Borough Council the making, altering, amending and repeal[, in the manner prescribed for the passage, alteration, amendment and repeal] of ordinances by the governing body [of this Borough, any and all ordinances] necessary or proper for carrying out the provisions hereof.

E. Recommend to Borough Council with notice to the Borough's Superintendent of Public Works the care, treatment or removal of any tree situated upon private property which is believed to harbor a disease or insect harmful to trees or other vegetation, readily communicable to neighboring healthy trees or other vegetation, and [to] recommend to Borough Council the entry upon the [enter upon] private property for that purpose, with the consent of the owner thereof, provided that the suspected condition is first confirmed by a certificate issued by or on behalf of the New Jersey Department of [Agriculture] Environmental Protection. (WHO PAYS ???)

F. Review requests by property owners for the removal of shade and ornamental trees and shrubbery in the public right-of-way, and with respect to each such request, determine whether the requested removal is in the interest of public safety or otherwise in the best interests of the Borough and its residents and make a recommendation to the Borough Council based upon this review and determination.

G. Develop and maintain a list of trees that are recommended for shade tree plantings in the Borough. The list shall provide a variety of options, taking into consideration the regional climate, the size of the tree and its root systems, and the available space for a planting.

H. Encourage arboriculture.

5. Section 13-6 of Chapter 13 of the Borough Code, concerning payment of costs, is hereby deleted:

[13-6. Payment of costs.]

[The planting of trees on public property, as provided for in the annual budget for the Shade Tree Committee approved by the Borough Council, shall be paid for by the Borough. Where the Shade Tree Committee recommends to the Council the planting of trees on private property but within the public right-of-way, trees shall be planted, provided that the landowner agrees to pay for said trees.]

6. Section 13-[7]6 of Chapter 13 of the Borough Code, concerning procedure for planting or removal of trees, is re-designated Section 13-6 and amended as follows:

Section 13-6. Procedure and payment for planting or removal of trees.

- A. Except as otherwise provided herein, the planting, care and removal of trees or parts of trees on public property, in the public right of way or on private property encroaching upon the public right of way shall be paid for by the Borough to the extent provided for in the annual budget for the Shade Tree Committee approved by the Borough Council.
- B. The planting, care and removal of trees or parts of trees shall be subject to oversight by the Shade Tree Committee, including but not limited to the cutting of the roots of trees which encroach upon the public right-of-way. The actual work shall be conducted in consultation with and subject to the direction of the Department of Public Works or its designee. It shall be a violation of this ordinance for any property owner to remove a tree or part of a tree in the public right of way.

- [A]C. Where a private property owner has requested that a tree or trees be planted [among] within the public right-of-way [in front] along any portion of his or her property, the Shade Tree Committee shall review this request and visit the premises if necessary. The Shade Tree Committee shall consult the list of recommended shade trees for the Borough when considering the type or types of trees that [which] should be planted and their location and size. These considerations shall be made in conjunction with the affected property owner. Upon completion of these considerations, the Shade Tree Committee shall forward to the Borough's Superintendent of Public Works its recommendations [, accompanied by an executed agreement of the property owner who will be benefited by the trees to pay for said tree or trees]. If trees are to be planted, the cost to purchase and plant the trees shall come from the Shade Tree Committee Annual Budget. (THIS IS NEW.)

[B]D. Where a tree or part of a tree located upon private property but not within the public right of way is dangerous to public safety, unless public safety requires immediate removal, the Shade Tree Committee shall give the property owner 10 days' notice that it intends to recommend removal of such tree to [the] Borough[']s Superintendent of Public Works] Council. Within that ten-day period, the property owner may request a hearing before the Shade Tree Committee, and the Shade Tree Committee shall report the property owner's objections to the Borough Council. If the Borough Council decides to have the tree or part thereof removed, the costs incurred shall be a lien against the property, unless paid by the property owner.

[C]E. When a property owner requests the removal of a Borough-owned shade or ornamental tree or shrubbery on private property but within the public right of way and a member of the Shade Tree Committee or its qualified agent have visited the property and the Shade Tree Committee and Borough Council have determined that based on inspection the shade or ornamental tree or shrubbery should be removed, taking into account the health, size, location and variety of the tree or shrubbery and its overall benefit or detriment to the interests of the Borough and its residents, Borough Council may arrange for that shade or ornamental tree or shrubbery to be removed. The cost incurred for the removal of the tree(s) or for the replacement of the tree(s) in the same or an alternate location within the Borough shall be a lien against the property, unless paid by the property owner.

7. Section 13-8 of Chapter 13 of the Borough Code, concerning procedure for planting or removal of trees, is re-designated Section 13-7 and amended as follows:

Section 13-[8]7. Public improvements affecting trees.

No statute giving any person or state, county or municipal board, body or official the power or authority to lay any sidewalk along or to open, construct, curb or pave any street, or to do any similar act, shall be construed to permit or authorize any interference with or injury to a highway shade tree without the consent of the Borough Council. In all cases, the Borough Council shall reasonably cooperate with such person, board, body or official for the general public good. If such action causes injury to or demise of the tree, the person or state county or municipal board, body or official responsible shall pay for a replacement tree meeting the specifications of the Shade Tree Committee pursuant to Section 177-6 of the Borough Code.

8. Section 13-9 of Chapter 13 of the Borough Code, concerning procedure for planting or removal of trees, is re-designated Section 13-8 and amended as follows:

Section 13-[9]8. Procedure and payment for planting or removal of trees.

- A. During the month of October in each year the Shade Tree Committee shall certify to the Borough Council the estimated sum necessary for the proper conduct of work during the ensuing fiscal year, which shall include the sums estimated to be expended for such of the following terms as it is anticipated expenditure will be made for:

(1) Expenses of Shade Tree Committee members in discharging official duties, including expenses incident to attendance at professional meetings.

(2) Purchase and installation of trees and shrubbery.

(3) Purchase of necessary equipment and materials and the cost of services for the prudent promotion of the work.

(4) Expense of tree maintenance and removal.

- B. The Borough Council shall annually appropriate such sum as it may deem necessary for said purposes.

9. Section 13-10 of Chapter 13 of the Code, concerning rules of procedure for the Shade Tree Committee, and Section 13-11 of Chapter 13 of the Code, concerning development of a master plan for the planting of trees, shall be re-designated as Sections 13-9 and 13-10, respectively, as follows:

13.[10]9 Rules of procedure; meetings.

The Shade Tree Committee shall adopt rules or procedures, which shall provide for a regular public meeting each month.

13.[11]10 Development of Master Plan for planting of trees.

The Shade Tree Committee shall develop and recommend to the Borough Council a Borough Master Plan, setting forth those areas of the Borough in need of shade trees along the public right-of-way, the types of tree which should be planted and the approximate locations. The Master Plan should consider the type of zoning, the climate, soil conditions and other factors necessary to evaluate and develop such a plan. Upon completion of the Master Plan, any recommendations for

the planting of trees made pursuant to this section should make reference to this plan, and any variance from the plan should be explained.

10. This ordinance shall be effective upon passage and final publication as provided by law.

Mr. Lawver asked that this ordinance be held as there are some changes that need to be made. Mrs. Chandler asked what the difference between a committee and a commission was. Mr. Bliss stated that a commission has autonomous powers under the state statutes and the founding fathers of Pennington Borough decided that they did not want an autonomous commission but rather the Borough Council would exercise all of the statutory powers of a shade tree commission with the advice of a shade tree committee. Mrs. Chandler stated that she is glad to see that the term for members is being lowered from five years to three and she would suggest that for all committees and commissions. Mrs. Chandler commented on a couple of sections but she was looking at the draft from the Shade Tree Committee and Mr. Bliss stated that the items that Mrs. Chandler was questioning had been cleaned up in the draft ordinance. Mr. Lawver stated that the draft ordinance provided in the packages still does not address the issue of a resident requesting that a healthy shade tree be taken down. Mr. Lawver stated that the ordinance needs to address how that is handled and who is responsible for doing the work and for payment for the work.

Ordinances for Public Hearing and Adoption

Mr. Lawver read Ordinance 2016-1 by title.

**BOROUGH OF PENNINGTON
ORDINANCE 2016-1**

**ORDINANCE CONCERNING WATER AND SEWER CONNECTIONS
AND AMENDING THE BOROUGH CODE TO DELETE TAPPING FEES.**

WHEREAS, the Borough seeks to amend relevant sections of the Borough Code to eliminate Borough responsibility for the construction work required to tap into water and sewer mains for service and lateral connections;

WHEREAS, the intent is to make clear that both the work and expense of installing these connections, including the tapping of the main, is the responsibility of the property owner, subject to prior approval, inspection and final approval of the Borough’s Water and Sewer Utility as otherwise provided by law;

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

1. Section 206-4 of the Borough Code, providing for Tapping Fees for water and sewer, is hereby amended as follows (with new language underlined and deleted language in brackets[]):

206-4. [Tapping fees.] Tapping Into Water and Sewer Systems

Taps into the water and sewer system shall be performed by the property owner’s plumber in accordance with a plan approved in advance by the Borough Engineer. All related expenses shall be the sole responsibility of the property owner.

[A. There are hereby established tapping fees to cover the efforts required by the Borough for new connections to the water and sewer system.

B. Water tapping fees. The amounts of fees for new connections to the water system are set forth in Chapter 98 of this Code, as may be amended from time to time. The categories of fees are the following:

- (1) Water Type 1 (full service – full width)(30 feet or more): Full service includes all inspection, excavation, bedding, backfill, pavement restoration, parts, equipment and labor to install a complete service connection to the curb stop located just beyond the curblines. Service Connections exceeding 60 feet or located within county roads will be assessed additional fees on a case-specific basis.
- (2) Water Type 2 (full service – half width): Full service includes all inspection, excavation, bedding, backfill, pavement restoration, parts, equipment and labor to install a complete service connection to the curb stop located just beyond the curblines. Service connections located within county roads will be assessed additional fees on a case-specific basis.
- (3) Water Type 3 (cut-in-service): Cut-in service includes only the physical tapping of the water main, including the corporation stop, equipment and labor.

The applicant's plumber provides for the remainder of the service connection. Road opening and inspection fees apply. Note: Taps one inch and smaller must be performed by the Borough. Taps greater than one inch must be performed by the applicant's plumber.

- A. Sewer tapping fees. The amounts of fees for new connections to the sewer system are set forth in Chapter 98 of this Code, which may be amended from time to time. The categories of fees are the following:
- (1) Water Type 1 (full service – full width)(30 feet or more): Full service includes all inspection, excavation, bedding, backfill, pavement restoration, parts, equipment and labor to install a complete lateral connection to the cleanout located just beyond the curblineline. Lateral connections exceeding 60 feet or located within county roads will be assessed additional fees on a case-specific basis.
 - (2) Water Type 2 (full service – half width): Full service includes all inspection, excavation, bedding, backfill, pavement restoration, parts, equipment and labor to install a complete lateral connection to the cleanout located just beyond the curblineline. Lateral connections located within county roads will be assessed additional fees on a case-specific basis.
 - (3) Water Type 3 (cut-in-service): Cut-in service includes only the physical tapping of the sewer main, including the tee saddle, equipment and labor. The applicant's plumber provides for the remainder of the lateral connection. Road opening and inspection fees apply. Note: Lateral taps greater than four inches must be performed by the applicant's plumber.
- B. Tapping fees shall be due prior to the physical connection.”]

2. Section 98-44 of the Borough Code, providing the amounts of water and sewer tapping fees, is hereby **deleted** as follows (with deleted language in brackets[]):

[98-44. Tapping fees.

A. Water tapping fees.

- (1) Water Type 1 (full service – full width)(30 feet or more): \$3,000. Full service includes all inspection, excavation, bedding, backfill, pavement restoration, parts, equipment and labor to install a complete service connection to the curb stop located just beyond the curblineline. Service connections exceeding 60 feet or located within county roads will be assessed additional fees on a case-specific basis.
- (2) Water Type 2 (full service – half width): \$2,500. Full service includes all inspection, excavation, bedding, backfill, pavement restoration, parts, equipment and labor to install a complete service connection to the curb stop located just beyond the curblineline. Service connections located within county roads will be assessed additional fees on a case-specific basis.
- (3) Water Type 3 (cut-in-service): \$1,000. Cut-in service includes only the physical tapping of the water main, including the corporation stop, equipment and labor. The applicant's plumber provides for the remainder of the service connection. Road opening and inspection fees apply. Note: Taps one inch and smaller must be performed by the Borough. Taps greater than one inch must be performed by the applicant's plumber.

B. Sewer tapping fees.

- (1) Water Type 1 (full service – full width)(30 feet or more): \$3,000. Full service includes all inspection, excavation, bedding, backfill, pavement restoration, parts, equipment and labor to install a complete lateral connection to the cleanout located just beyond the curblineline. Lateral connections exceeding 60 feet or located within county roads will be assessed additional fees on a case-specific basis.
- (2) Water Type 2 (full service – half width): \$2,500. Full service includes all inspection, excavation, bedding, backfill, pavement restoration, parts, equipment and labor to install a complete lateral connection to the cleanout located just beyond the curblineline. Lateral connections located within county roads will be assessed additional fees on a case-specific basis.

- (3) Water Type 3 (cut-in-service): \$1,000. Cut-in service includes only the physical tapping of the sewer main, including the tee saddle, equipment and labor. The applicant’s plumber provides for the remainder of the lateral connection. Road opening and inspection fees apply. Note: Lateral taps greater than four inches must be performed by the applicant’s plumber.]
- (4) Tapping fees shall be due prior to the physical connection.”]

- 3. Section 206-6, Subsection A, is amended as follows:
 - A. “Plan approval and i [I]nspection fees for service connections, lateral connections and determination of construction cost for off-site improvements shall be established as set forth in Chapter 98 of this Code as may be amended from time to time.”

- 4. Section 98-46, Subsection A of Code section is amended as follows:

98-46. “Plan approval, inspection and field service fees pursuant to Section 206-6 of the Code are as follows:

- (1) Plan approval (actual engineering charges up to): \$ 250.00
- [1] (2) Service connections: \$ 160.00.
- [2] (3) Lateral connections: \$ 160.00.
- [3] (4) Certified construction cost, off site improvements (escrow): 7.8%

- 5. This ordinance shall be effective upon passage and publication as provided by law.

Council Member Chandler made a motion to open the Public Hearing on Ordinance 2016-1, second by Council Member Davy. There were no comments from the public. Council Member Chandler made a motion to close the Public Hearing on Ordinance 2016-1, second by Council Member Lawver with all members present voting in favor. Council Member Chandler made a motion to adopt Ordinance 2016-1, second by Council Member Lawver with all members present voting in favor.

Mr. Lawver read Ordinance 2016-2 by title.

**BOROUGH OF PENNINGTON
ORDINANCE #2016 -2**

AN ORDINANCE AMENDING “AN ORDINANCE AMENDING ‘AN ORDINANCE TO PROVIDE FOR AND DETERMINE THE RATE OF COMPENSATION OF OFFICERS AND EMPLOYEES OF THE BOROUGH OF PENNINGTON, COUNTY OF MERCER, STATE OF NEW JERSEY FOR THE YEAR 2015.’”

WHEREAS, by Ordinance 2015-16, Borough Council increased the authorized annual salary for the Superintendent of Public Works from \$75,000.00 to \$82,500.00, effective July 6, 2015;

WHEREAS, Borough Council now seeks to further amend the maximum authorized salary for the position of Superintendent of Public Works to permit the annual two percent (2%) increase awarded other Borough employees, subject to further action by Council;

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

- 1. Section I.a of Borough of Pennington Ordinance No. 2015-16, “AN ORDINANCE AMENDING AN ORDINANCE TO PROVIDE FOR AND DETERMINE THE RATE OF COMPENSATION OF OFFICERS AND EMPLOYEES OF THE BOROUGH OF PENNINGTON, COUNTY OF MERCER, STATE OF NEW JERSEY FOR THE YEAR 2015,” is hereby amended to read as follows (with deleted language bracketed and new language underlined):

Borough Administrator	\$ 50,000.00
Borough Clerk	\$ 40,116.40
Treasurer	\$ 63,638.48
Tax Collector	\$ 28,821.78
Utility Collector	\$ 28,821.78

Technical Assistant to Construction	\$ 11,206.43
Tax Assessor	\$ 12,240.00
Zoning Officer	\$ 8,283.12
Land Use Admin/Admin Asst.	\$ 48,277.06
Deputy Registrar	\$ 2,086.05
Supt. Of Public Works – <u>Effective January 1, 2015</u> Effective July 6, 2015	\$76,500.00 \$[82,500.00] <u>84,000.00</u>
Judge of Municipal Court	\$ 11,637.28
Court Administrator	\$ 16,263.97
Prosecutor - (Flat Fee per Court Session)	\$ 300. 00
Public Defender – (Flat Fee per Court Session)	\$ 200.00
Public Safety Director	\$ 55,831.85
Construction Official	\$ 25,698.75
Plumbing Sub-Code	\$ 38.02 / hour
Fire Sub-Code	\$ 38.59 / hour
Electric Sub-Code	\$ 10,286.25
Sidewalk Inspector – (Flat Fee per Inspection)	\$ 150.00

- a. One person may serve in more than one office or position of employment as listed in Section a hereof.
- b. The amounts shown in Section a. hereof are the maximum amounts to be paid, however, at the discretion of Borough Council, lesser amounts can be paid.
- c. The rate of compensation of each employee, paid on an hourly basis is as follows:

	Minimum	Maximum
Finance		
Municipal CFO(p/t)	\$ 25.00	\$ 77.47
Police Department:		
Crossing Guards	\$ 15.00	\$ 24.74
Special Police	\$ 16.92 per hour	
Part Time Employees – All Departments:		
Part Time or Temporary	\$ 8.00	\$ 21.00
Part Time/Temporary/Licensed	up to a maximum of	\$ 35.00

SECTION II: Employee/Personnel Manual.

The terms and conditions of employment as set forth in the Borough Employee or Personnel Manual, as the same may exist and change from time to time, are hereby incorporated herein by reference. The Personnel Manual does not create a contract of employment and except for employees who are tenured; no contract of employment other than “at will” has been expressed or implied. The policies, rules and benefits described in the Manual are subject to change at the sole discretion of the Borough Council at any time.

SECTION III:

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed.

SECTION IV:

Terms and Conditions of employment for Police and Public Works employees are specified in the respective labor agreements.

SECTION V:

This amended ordinance shall take effect upon final adoption and publication according to law.

Council Member Chandler made a motion to open the Public Hearing on Ordinance 2016-2, second by Council Member Lawver. There were no comments from the public. Council Member Chandler made a motion to close the Public Hearing on Ordinance 2016-2, second by Council Member Lawver with all members present voting in favor. Council Member Davy made a motion to approve Resolution 2016-2,

second by Council Member Chandler with all members present voting in favor.

New Business

**Borough of Pennington
Resolution #2016 – 2.1**

RESOLUTION AUTHORIZING REFUNDS

BE IT RESOLVED, that a refund be issued to Pennington Dental Associates, LLC, for the Planning Board escrow balance for account number P06-011 for property on 31 N. Main Street, Block, 301, Lot 8 in the amount of \$681.47.

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	X			
Gnatt	X				Marciante	M			

Council Member Marciante made a motion to approve Resolution 2016-2.1, second by Council Member Chandler. Mr. Lawver asked if the variance for Pennington Dental has lapsed. Mr. Heinzl stated that she was not in the office today, but she thinks that is why this refund is being done. Mrs. Sterling agreed and stated that the letter attached to the Resolution indicates that they are withdrawing their application. Upon a roll call vote all members present voted in favor.

**Borough of Pennington
Resolution #2016 – 2.2**

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 \$ 1,298,970.46 from the following accounts:

Current	\$ 314,041.59
W/S Operating	\$ 161,013.67
Grant Fund	\$ 1,029.68
Water/Sewer Capital	\$ 22.46
COAH Trust Fund	\$ 4,377.36
Trust Fund	\$ 1,874.53
Recreation Trust	\$ 9.44
General Capital	\$ 797,643.01
Animal Control Fund	\$ 61.87
Developer’s Escrow	\$ 18,896.85
TOTAL	\$ 1,298,970.46

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 2016-2.2, second by Council Member Chandler. Mr. Lawver had questions on several of the bills on the bill list particularly membership dues and publications for the construction office. Mr. Lawver stated that out inspectors are part-time and should have access to the code books at their other locations or on-line. Mr. Lawver stated that he would like the questions asked whether they can get access through other means. Mr. Lawver raised a question about a bill from McManimon and Scotland that is being paid out of escrow for American Properties. Mr. Lawver asked what their role with American Properties was. Mr. Lawver stated that in his opinion McManimon and Scotland does not have a formal role with the planning board process. Mayor Persichilli stated that

American Properties approached McManimon and Scotland to look into something for them relating to infrastructure. Mr. Lawver stated that he is curious why this is running through the Borough and why American Properties is not being billed directly by McManimon & Scotland. Mr. Davy stated that the Borough Bond Counsel should not be meeting with the lawyers for the developer unless authorized by the Borough. Mr. Davy stated that if American Properties pays McManimon and Scotland then that creates a conflict situation. Mr. Davy stated that the Borough needs to know why the meeting occurred and what is was about. Mayor Persichilli asked Mr. Bliss to call Mr. McManimon and inquire as to conflict of interest and whether this bill can be sent directly to American Properties. Upon a roll call vote all members present voted in favor of the bill list as corrected.

**BOROUGH OF PENNINGTON
RESOLUTION #2016-2.3**

**RESOLUTION AUTHORIZING AMENDMENTS TO THE
2016 TEMPORARY BUDGET**

WHEREAS, the 2016 Budget for the Borough of Pennington has not been adopted; and

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

NOW, THEREFORE, BE IT RESOLVED, that the following additional appropriations be made in the 2016 Temporary Budget for the Current Account.

Administration	Other Expense	\$5,000.00
Finance	Other Expense	\$5,000.00
Tax Collection	Other Expense	\$1,000.00
Tax Assessment	Other Expense	\$3,000.00
Legal	Other Expense	\$28,000.00
Construction	Salaries	\$5,000.00
Police	Salaries	\$20,000.00
Prosecutor	Other Expense	\$1,600.00
Streets	Salaries	\$20,000.00
Streets	Other Expense	\$20,000.00
Borough Property	Other Expense	\$10,000.00
Library	Salaries	\$12,000.00
Library	Other Expense	\$20,000.00
Electricity	Other Expense	\$10,000.00
Telephone	Other Expense	\$5,000.00
Gas, Fuel, Lubricants	Other Expense	\$5,000.00
Social Security	Other Expense	\$20,000.00
PERS	Other Expense	\$59,590.00
PFRS	Other Expense	\$64,084.00
Shared Services – Recycling	Other Expense	\$17,000.00
Shared Services - Dispatch	Other Expense	\$51,000.00
Municipal Court	Salaries	\$6,000.00
Municipal Court	Other Expense	\$2,000.00
Public Defender	Other Expense	\$1,000.00
Total		\$391,274.00

BE IT FURTHER RESOLVED, that the following additional funds be appropriated for the 2016 Temporary Budget for the Water and Sewer Fund:

Water/Sewer	Other Expense	\$35,000.00
PERS	Other Expense	\$25,539.00
Insurance – Group Insurance	Other Expense	\$20,000.00
Stony Brook Treatment Costs	Other Expense	\$76,000.00
TOTAL		\$156,539.00

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 2016-2.3, second by Council Member Chandler with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION # 2016 - 2.4**

RESOLUTION AUTHORIZING BUDGET TRANSFERS

WHEREAS, N.J.S.A. 40A:4-58 provides that during the last two months of the fiscal year, should it become necessary to expend funds for any purposes specified in the budget an amount in excess of the respective sums appropriated therefore and there shall be an excess in any appropriations over and above the amount deemed to be necessary to fulfill the purpose of such appropriations transfers may be made; and

WHEREAS, transfers may not be permitted to appropriations for contingent expenses or deferred charges; and

WHEREAS, transfers may not be permitted from appropriations for contingent expenses, deferred charges, cash deficit of the preceding year, reserve for uncollected taxes, down payments, capital improvement fund or interest and redemption charges;

NOW THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Pennington that transfers be made between the following year 2015 budget appropriations:

<u>Current Fund Appropriations:</u>	<u>To:</u>	<u>From:</u>
Legal Services	\$1,500.00	
Engineering Services		\$1,500.00
Total Current Fund	\$ 1,500.00	\$ 1,500.00

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington that transfers be made between the following year 2015 budget appropriations effective December 31, 2015, Nunc Pro Tunc.

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 2016-2.4, second by Council Member Chandler with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2016 -2.5**

RESOLUTION AUTHORIZING PROFESSIONAL SERVICES AGREEMENT WITH NEW JERSEY ANALYTICAL LABORATORIES FOR CALENDAR YEAR 2016

WHEREAS, the Borough of Pennington requires professional services for routine sampling, analysis and consulting services related to operation of the Borough's potable water system;

WHEREAS, New Jersey Analytical Laboratories, having its office at 380 Scotch Road, Bldg. 2, Suite B, Ewing, NJ 08628, is a laboratory licensed by the New Jersey Department of Environmental Protection and is able to provide the professional services required;

WHEREAS, New Jersey Analytical Laboratories has submitted a proposal for the work dated November 16, 2015, for a contract price of \$ 18,600 to be invoiced at \$1,550 per month each month of the calendar year 2016;

WHEREAS, the work shall include all routine laboratory sampling and analysis as set forth in the proposal, a copy of which is attached;

WHEREAS, the aforesaid proposal also provides that if additional sampling and analysis services are required by the New Jersey Department of Environmental Protection (NJDEP) they shall be invoiced separately;

WHEREAS, approval of this contract complies with the Code of the Borough of Pennington as well as, N.J.S.A. 19:44A-20.5, effective January 1, 2006, which prohibit the award of certain professional services contracts to any person or business entity which makes reportable contributions to local political or candidate committees representing members of the governing body;

WHEREAS, such political contributions are permitted by the statute only if the municipality has elected to award the contract through a competitive process involving a publicly advertised request for proposals and a review process based on written procedures and criteria prescribed in advance by the governing body or as otherwise provided by law;

WHEREAS, Borough Council awards this contract without resort to such a process because the appointee has made no such political contribution and shall be prohibited from making any such contribution during the term of the contract;

WHEREAS, this contract is being awarded as a professional services contract in compliance with the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq., without advertising for proposals or competitive bidding;

WHEREAS, New Jersey Analytical Laboratories has completed and submitted a sworn Business Entity Disclosure Certification which certifies that the firm has not made and shall not make any political contribution prohibited by the relevant provisions of either statute or the Borough Code concerning pay-to-play;

WHEREAS, New Jersey Analytical Laboratories shall comply with requirements for Anti-Discrimination and Affirmative Action as set forth in the annexed Exhibit A;

WHEREAS, the Chief Financial Officer of the Borough has certified that funds are available for the purpose of this contract;

WHEREAS, the Local Public Contracts Law requires that a resolution authorizing an award of contract for professional services without competitive bid be publicly advertised following adoption;

NOW, THEREFORE, BE IT RESOLVED, by Borough Council of the Borough of Pennington, that the Borough Administrator is hereby authorized to issue an appropriate purchase order and accept as a binding contract the attached proposal by New Jersey Analytical Laboratories dated November 16, 2015 for a contract price not to exceed \$18,600 for the calendar year 2016, subject to such amendments for supplemental services required by NJDEP as may hereafter be agreed upon;

BE IT FURTHER RESOLVED, that a copy of this resolution shall be published in the Pennington Post as required by law within ten (10) days of 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	X			
Gnatt	X				Marciante	M			

Council Member Marciante made a motion to approve Resolution 2016-2.5, second by Council Member Chandler with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2016 – 2.6**

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

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

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

WHEREAS, the three municipalities intend to enter into a shared services agreement for 2016, superceding prior agreements, by which Hopewell Township will continue to provide weekly cleaning services at the Center and pay to Pennington Borough the sum of \$4,591.08; Hopewell Borough will pay Pennington \$1,147.80 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.

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	S			
Gnatt	X				Marciante	M			

Council Member Marciante made a motion to approve Resolution 2016-2.6, second by Council Member Lawver with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION NO. 2016 – 2.7**

RESOLUTION AUTHORIZING SECOND AMENDMENT OF PROFESSIONAL SERVICES AGREEMENT WITH APPRAISER JOSEPH L. MAZOTAS IN CONNECTION WITH BOROUGH INTERVENTION IN HOPEWELL TOWNSHIP VS.DIRECTOR, DIVISION OF TAXATION, STATE TAX COURT

WHEREAS, on or about November 12, 2015, the Township of Hopewell filed a complaint with the Tax Court of New Jersey captioned Township of Hopewell v. Director, Division of Taxation, seeking to appeal the table of equalized valuations certified by the Director as of October 1, 2015 (“Table”);

WHEREAS, Pennington Borough is a member of the Hopewell Valley Regional School District, together with Hopewell Township and Hopewell Borough, and the Table is used to apportion the appropriations of the regional school district among the municipalities based upon equalized valuation of their ratable wealth;

WHEREAS, the purpose of the litigation was to have the Court rule out the use of a certain real estate transaction used by the Director in computing the Table, thereby adjusting the Table to increase the ratio of assessed valuation to true value of real property in the Township;

WHEREAS, if Hopewell Township was successful in its appeal, its share of the appropriations of the Hopewell Valley Regional School District would be substantially reduced and the share of Pennington Borough would be substantially increased;

WHEREAS, the Court in Township of Hopewell v. Director, Division of Taxation permitted Pennington Borough and Hopewell Borough to intervene in the litigation as defendant-intervenors, and both Boroughs were represented jointly by the same attorney with a 50/50 sharing of fees and reimbursements;

WHEREAS, expert appraisal services were required to prepare and prosecute the position of the Boroughs in the litigation and for this purpose the Boroughs jointly retained Joseph L. Mazotas, MAI, 344 Nassau Street, Princeton, New Jersey 08540 (“Appraiser”);

WHEREAS, pursuant to the initial Professional Services Agreement with Mr. Mazotas, he was to be compensated at the rate of \$175 per hour plus reimbursement of reasonable out-of-pocket costs, with total fees and reimbursements not to exceed \$3,000.in the aggregate;

WHEREAS, the pace of the litigation has been accelerated and Mr. Mazotas’ participation has been substantial, causing his maximum compensation to be exceeded;

WHEREAS, as the result of his participation in depositions and the preparation of a report based on the documentary and testimonial discovery, Borough Council, by Resolution 2016-1.25, authorized amendment of the Professional Services Agreement between Pennington Borough/Hopewell Borough and Mr. Mazotas to increase the total cap on his compensation to \$8,000;

WHEREAS, Mr. Mazotas efforts to review voluminous documents and finalize his report as well as review the report of plaintiff’s expert in time for trial proved to require more than the \$8,000 authorized by Resolution 2016-1.25, and Mr. Mazotas’ final invoice, following settlement of the matter without trial, amounts to \$10,033.10, to be shared 50/50 by the Boroughs;

WHEREAS, the necessary funds are available for the Borough’s share of these increased costs;

NOW, THEREFORE, BE IT RESOLVED, by Borough Council of the Borough of Pennington, that amendment of the Professional Services Agreement between Pennington Borough/ Hopewell Borough and Joseph L. Mazotas, MAI, to increase the total cap on Mr. Mazotas’ compensation to \$10,033.10. is hereby authorized, with the understanding that it shall be shared 50/50 with Hopewell Borough pursuant to the Boroughs’ joint agreement with Mr. Mazotas.

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 2016-2.7, second by Council Member Lawver. Mrs. Chandler asked if this would be it for expenses. Mr. Bliss stated that it is the end, the case is settled. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2016 - 2.8**

**RESOLUTION APPOINTING ACTING SERGEANT DOUGLAS PINELLI
TO PERMANENT STATUS AS SERGEANT IN THE PENNINGTON
BOROUGH POLICE DEPARTMENT**

Resolution 2016-2.8 was approved earlier in the meeting.

**BOROUGH OF PENNINGTON
RESOLUTION 2016-2.9**

**RESOLUTION APPOINTING ENGINEER UNDER NJEIT PROGRAM FOR WATER MAIN
REPLACEMENT ON EAST CURLIS AND WEIDEL AVENUES**

WHEREAS, the Borough has applied for funding through the NJEIT grant program for water main replacement on East Curlis and Weidel Avenues in the Borough;

WHEREAS, Borough Council seeks to contract with Roberts Engineering Group, LLC to provide professional engineering services pursuant to the attached proposal for services;

WHEREAS, expenditures for these engineering services, including disbursements, shall not exceed \$40,000.00 without prior written approval by Borough Council;

WHEREAS, award of formal contract shall be contingent upon approval of funding under the NJEIT Program;

WHEREAS, the Chief Financial Officer has certified the funds are available for this contract;

WHEREAS, this a contract for Professional Services which may be awarded without public bidding;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that Roberts Engineering Group, LLC is hereby awarded contract for engineering services under the NJEIT Program pursuant to the annexed proposal, contingent upon award of funding under the NJEIT Program, and subject to approval as to form 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	S			
Davy	M				Lawver	X			
Gnatt	X				Marciante	X			

Council Member Davy made a motion to approve Resolution 2016-2.9, second by Council Member Griffiths with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2016-2.10**

**RESOLUTION AUTHORIZING AWARD OF COMP TIME
TO SUPERINTENDENT OF PUBLIC WORKS RICKY SMITH IN
RECOGNITION OF EXTRAORDINARY CIRCUMSTANCES**

WHEREAS, over the weekend of January 22 through 24 the Borough was hit with a heavy snowstorm requiring extensive plowing, salting and storm-related services by the Department of Public Works;

WHEREAS, the heavy snow required Ricky Smith, the Superintendent of Public Works, to work 50 hours in excess of his regular work schedule;

WHEREAS, under applicable personnel policies of the Borough, a management employee hired after May 1, 2008 is not eligible for comp time except in extraordinary circumstances upon the approval of both Mayor and Council;

WHEREAS, Mayor and Council believe that extraordinary circumstances exist in the present case because Mr. Smith worked many hours in excess of his regular schedule to meet emergent needs of the Borough created by a unique weather event on a weekend and over several days thereafter;

WHEREAS, in the judgment of Mayor and Council authorization of comp time for Mr. Smith in the present case serves the best interests of the Borough;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of

Pennington, that the award of 50 hours of comp time to Ricky Smith is hereby authorized subject to the provisions of the Borough Personnel Manual governing use of comp time as set forth in Resolution 2004-7.12 amending the Personnel Manual concerning comp time.

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	M			
Gnatt	S				Marciante	X			

Council Member Lawver made a motion to approve Resolution 2016-2.10, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2016- 2.11**

**RESOLUTION AUTHORIZING AMENDED TERMS OF EMPLOYMENT FOR
SUPERINTENDENT OF PUBLIC WORKS**

WHEREAS, Richard Smith, Superintendent of Public Works, began his employment with the Borough in the title Assistant Superintendent of Public Works effective February 3, 2014, with the agreement that subject to satisfactory performance he would be promoted to the position of Superintendent of Public Works upon the retirement of the former Superintendent;

WHEREAS, Richard Smith was appointed Superintendent of Public Works effective August 1, 2014, and he has been annually reappointed and has served in that capacity without interruption to date;

WHEREAS, the initial hiring of Richard Smith in February 2014 was subject to terms of conditional hire, set forth in a letter from former Borough Administrator Timothy L. Matheny to Mr. Smith dated January 8, 2014 (“Terms of Hiring”) which is attached hereto and incorporated herein by reference;

WHEREAS, Borough Council now seeks to amend, supplement and clarify the Terms of Hiring and to formally memorialize its employment agreement with Mr. Smith, as set forth in the attached form of Agreement;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the attached form of Agreement between Richard Smith and the Borough of Pennington is hereby approved, and the Mayor, with the attestation of the Clerk, is hereby authorized to enter into that Agreement on behalf of the Borough.

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 2016-2.11, second by Council Member Lawver. Mr. Griffiths stated that the acquisition of licenses will drive the increases. Mr. Griffiths asked what the timing is for acquiring the licenses. Mr. Davy stated that this is a multi-year process and it is contingent on Mr. Smith actually passing all of the tests. Mr. Davy stated that he has one license and he has five to go. Mrs. Heinzl stated that Mr. Smith is about to sit for two more of the tests in March. Mrs. Heinzl stated that Mr. Smith has indicated that if he fails one of the tests then in the next round he will only sit for one. Mrs. Heinzl stated that it is hard to say for sure what the timing of the increases will be. Mrs. Heinzl stated that she had a conversation with Mr. Smith and he understands that if he were to aggressively pursue all five licenses this year it would be a big impact on the budget and he is willing to work with that in mind. Mr. Lawver asked if Mr. Smith could complete the course work for the remaining three licenses and sit for them in the balance of 2016. Mrs. Heinzl stated that he could. Mr. Davy stated that as Mr. Smith passes these exams, the cost for the Licensed Operator goes down. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2016- 2.12**

**RESOLUTION AUTHORIZATION SUBMISSION OF A STRATEGIC PLAN FOR THE
HOPEWELL VALLEY MUNICIPAL ALLIANCE GRANT FOR THE FISCAL YEAR 2017**

WHEREAS, the Governor’s Council on Alcoholism and Drug Abuse established the Municipal Alliances for the Prevention of Alcoholism and Drug Abuse in 1989 to educate and engage residents, local government and law enforcement officials, schools, nonprofit organizations, the faith community, parents, youth and other allies in efforts to prevent alcoholism and drug abuse in communities throughout New Jersey; and

WHEREAS, the Borough Council of the Borough of Pennington, County of Mercer, State of New Jersey recognizes that the abuse of alcohol and drugs is a serious problem in our society amongst persons of all ages; and therefore has an established Municipal Alliance; and

WHEREAS, the Borough of Pennington further recognizes that it is incumbent upon not only public officials but upon the entire community to take action to prevent such abuses in our community; and

WHEREAS, the Borough Council has applied for funding to the Governor’s Council on Alcoholism and Drug Abuse as a consortium with Hopewell Township and Hopewell Borough through the County of Mercer; and

WHEREAS, the requested funding will be applied among the three municipalities in Hopewell Valley based on population;

NOW, THEREFORE, BE IT RESOLVED, that the Borough Council of the Borough of Pennington, County of Mercer, State of New Jersey hereby recognizes the following:

1. The Pennington Borough Council does hereby authorize the submission of a strategic plan for the Hopewell Valley Municipal Alliance grant for the fiscal year 2017 in the amount of:

DEDR	\$18,536.00
Cash Match	\$10,150.00*
In-Kind	\$14,000.00

*Hopewell Township \$7,480.00, Pennington Borough \$1,500.00, Hopewell Borough \$1,170.00

2. The Pennington Borough Council acknowledges the terms and conditions for administering the Municipal Alliance grant, including the administrative compliance and audit requirements.
3. This resolution rescinds Resolution 2016-1.21.

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	M			
Gnatt	X				Marciante	S			

Council Member Lawver made a motion to approve Resolution 2016-2.12, second by Council Member Marciante. Some discussion took place with regard to the date and the wording of the ordinance. Mr. Bliss stated that he believes that the term “Strategic Plan” is in the state regulations. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION NO. 2016 – 2.13**

RESOLUTION ACCEPTING SETTLEMENT IN CONNECTION WITH BOROUGH INTERVENTION IN HOPEWELL TOWNSHIP VS. DIRECTOR, DIVISION OF TAXATION, NEW JERSEY TAX COURT

WHEREAS, on or about November 12, 2015, the Township of Hopewell filed a complaint with the Tax Court of New Jersey encaptioned Township of Hopewell v. Director, Division of Taxation (Docket No. 014533-2015), seeking to appeal the table of equalized valuations certified by the Director as of October 1, 2015 (“Table”);

WHEREAS, the purpose of the litigation was to have the Court rule out the use of a certain real estate transaction used by the Director in computing the Table, thereby adjusting the Table to increase the ratio of assessed valuation to true value of real property in the Township;

WHEREAS, if Hopewell Township had been successful in its appeal, its share of the appropriations for the Hopewell Valley Regional School District would have been substantially reduced and the share of Pennington Borough would have been substantially increased;

WHEREAS, the Court in Township of Hopewell v. Director, Division of Taxation permitted Pennington Borough and Hopewell Borough to intervene jointly in the litigation;

WHEREAS, after the conduct of discovery and the exchange of expert reports the parties agreed to settle the matter amicably to avoid the risk of an uncertain outcome in litigation;

WHEREAS, the settlement results in four sales used by the Director in computing the Table to be excluded from use, effectively preserving the status quo with respect to the respective shares of Hopewell

Borough and Pennington Borough in the expenses of the Regional School District;

WHEREAS, the Stipulation of Settlement dated January 27, 2016, which memorializes the settlement agreed upon, is attached to this Resolution:

NOW, THEREFORE, BE IT RESOLVED, by Borough Council of the Borough of Pennington, that the attached Stipulation of Settlement is hereby accepted and the settlement described therein formally approved and ratified.

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 2016-2.13, second by Council Member Griffiths with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2016 – 2.14**

**RESOLUTION RE-APPOINTING HARRY COMPTON AS REPRESENTATIVE TO THE
STONYBROOK SEWERAGE AUTHORITY
EFFECTIVE JANUARY 1, 2016, NUNC PRO TUNC**

WHEREAS, it is the desire of Mayor Anthony Persichilli to re-appoint Harry Compton to serve as representative to the Stonybrook Sewerage Authority;

NOW, THEREFORE BE IT RESOLVED, by Borough Council of the Borough of Pennington that the Mayor’s appointment of Harry Compton to serve as representative to the Stonybrook Sewerage Authority effective January 1, 2016, nunc pro tunc through December 31, 2020 is hereby approved.

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 2016-2.14, second by Council Member Griffiths with all members present voting in favor.

Council Discussion

Vacant Property Ordinance – Mr. Marciante stated that the copy of the ordinance from Netcong that was provided in the package looks good but it needs some cleaning up. Mr. Marciante stated that he believes that the only way to solve the problem with the house on Burd Street is to have an ordinance that addresses the problem of abandoned properties. Mr. Marciante stated that something needs to be done as this property has been vacant for two years. Mrs. Chandler asked what action the Borough would take. Mayor Persichilli stated that the company that is currently paying the bills has responded to each notice sent by the Borough. Mrs. Heinzl stated that she selected the ordinance from Netcong as an example because Council does not like the idea of a maintenance ordinance and this ordinance requires maintenance for an abandoned property. Mrs. Heinzl stated that the company that is managing the property has responded favorably to notices of violation. Mrs. Heinzl stated that the sidewalk has been repaired and they have done some structural repairs all in response to a notice of violation. Mrs. Heinzl stated that the questions is can they receive a notice of violation for the tarp on the roof which is basically a nuisance. Mrs. Chandler stated that this ordinance refers to the owners and the issue with abandoned houses is that there is no identifiable owner and that is what takes so long. Mrs. Heinzl stated that the owner is defined very broadly as someone who has authority to act in respect to the property. Mr. Lawver stated that the Borough was going to send a violation under the public nuisance ordinance. Mr. Lawver asked if that was done. Mr. Meytrott stated that the notice was sent, but there has been no response yet. Mr. Meytrott thought that Mr. Blauth had received a phone call asking if there were any outstanding violations, but he does not know what the substance of the call was and whether it was in response to the notice of violation. Mr. Marciante stated that maybe we don’t need something as involved as the Netcong ordinance, but we do need something that has enforcement teeth. Mrs. Chandler stated that is the question she is asking is what we want to accomplish through an ordinance. Mr. Marciante responded either repair the building or have it knocked down or fine owners to the point where they give up. Mrs. Chandler stated that she did not think that an ordinance could be written to make that happen. Mr. Davy asked why an ordinance can’t be written to demolish an abandoned structure and place a lien on the property for the cost. Mrs. Griffiths stated that big cities do it but it takes a long time for the process. Mrs. Chandler stated that it would fall under the Board of Health. Mr. Lawver stated that the property in question is probably five years away from getting to the point of disrepair that would require demolishing the structure. Council further discussed the property on Burd Street. Mayor Persichilli asked Mr. Bliss for his opinion. Mr. Bliss stated that he felt that

the principle remedy is through the nuisance ordinance and the actual code violations under the Health Code. Mr. Bliss stated that Council could augment that by adding a provision that he sees in this ordinance which would permit the Borough to abate the violations at the owner's expense, charge the owner and post a lien against the property. Mrs. Chandler asked in this case if that meant that the Borough could fix the roof and charge the property owner which would solve the main complaint of the blue tarp on the roof. Mr. Bliss stated that the Netcong ordinance triggers Borough action if there is a need to abate a nuisance or correct a violation. Mr. Griffiths stated that putting a roof on the house would cost \$12,000 and we would have to put out the money and then wait for the lien to be paid. Mr. Lawver stated that even if we put a new roof on, after that there will be further complaints. Mr. Bliss stated that if the bank is paying the taxes then the lien would be collectable as part of the tax bill. Mr. Bliss stated that he believes that is the process when the Borough cuts the grass and a lien is posted against the property. Mr. Marciante stated that Council owes it to residents who have to live next to abandoned properties to try to do something. Mayor Persichilli stated that no one disagrees however we have to come up with a way to handle these situations. Mr. Griffiths stated that due process is the other side of the coin and issuing fines would be part of due process. Some discussion took place with regard to whether or not this ordinance addresses "blue tarps". Mrs. Heinzl read an excerpt that stated that properties must be maintained in keeping with the standards of the neighborhood. Mrs. Chandler stated that this is a slippery slope and some things can be taken care of under the current health ordinance. Mrs. Heinzl stated that Evan from the Health Office has gone out to the property and he did not find anything significant. Mr. Griffiths stated that the real issue is the tarp and that would fall under the caption that Mrs. Heinzl just read. After further discussion, Mr. Bliss stated that there are elements in the Netcong ordinance that could be used if Council would like to go that route. Council Members were in agreement to go forward with an ordinance. Mr. Bliss was directed to draft an ordinance for the next meeting.

Sump Pump Violations – Mrs. Heinzl stated that this comes out of a meeting of the public works committee. Mr. Davy stated that a list was prepared of residences with sump pump violations. Mr. Davy stated that particularly on East Delaware Avenue there is a location where there is quite a bit of water that comes from a drainage system on the property into the roadway. Mr. Davy stated that this is causing a traffic hazard especially if it freezes. Mr. Davy stated that as the committee started to look at this one residence it was brought up that there are other locations around the Borough where this happens as well. Mr. Davy stated that the question is about enforcing these discharges that go right into the roadway surface. Mr. Lawver stated that there are also sump pump discharges that go right into catch basins which is also a violation of the ordinance. Mr. Davy stated that we have the ability now to enforce this ordinance but the committee wanted to bring this problem to Council and advise that unless there are concerns by Council, the committee is prepared to go forward with enforcement of the ordinance. Mrs. Chandler asked what options a homeowner has for resolving this issue. Mr. Davy stated that the recommendation will be to disconnect whatever drainage system they have that is pumping water where it does not belong and rerouting it to somewhere on their property. Mr. Lawver stated that this originally came about years ago when the DEP told the Borough that they were cracking down on this problem. Mr. Griffiths stated that some of these properties might have been like this for a long time and might be grandfathered. Mr. Davy stated that they will be dealt with on a case by case basis. Mrs. Heinzl asked if Council would like notices of violation issued or something similar to the sidewalk letters where residents have a certain amount of time to fix the problem before a notice of violation is issued. Council further discussed the timing and language that should be included in the letter to residents.

Traffic Lights on Route 31 – Mrs. Heinzl stated that a copy of an e-mail was included in the packages. Mrs. Heinzl stated that she thought it would be nice for Council to see the e-mail because it is a very positive review of the new traffic signaling devices on Route 31.

Professional Reports

Mrs. Heinzl stated she submitted a report to Council. Mrs. Heinzl stated that a question came up regarding the website and whether it might be a good idea to have a policy that the Borough website will not host other entities information on the website, but instead have a link to a non-profits organizations website on the Borough Website which we are currently doing with some entities and will do when the Library website is up and running. Mayor and Council agreed that should be the policy. Mrs. Chandler stated that the Borough will be receiving funds from Comcast to update the website and though that might not be this year, at some point we need to organize a group in order to redesign the Borough website. Mr. Griffiths stated that he prepared design specs for the website several years ago. Mrs. Chandler stated that she feels that a committee is needed to research other municipal websites, to look at the functionality and to determine what we want to use the website for going forward. Council further discussed some ideas for the website. Mrs. Chandler stated that this is a big project and it will take a while.

Mrs. Heinzl stated that another issue that she would like to bring up is the clothing donation bins that are popping up throughout town. Mrs. Heinzl stated that there are two kinds of donation bins, those that are for non-profit purposes like the ones on Main Street and then there are the ones that are some that are collection bins that are for items that will be collected and then resold for a profit. Mrs. Heinzl stated that she has looked at other towns and some towns regulate this in terms of location of bins and some towns ban the bins unless they are specifically for non-profit organizations. Mr. Griffiths stated that he does not like them at all because they get filled up quickly and they are unsightly. Mr. Griffiths stated that the Borough should regulate them. Mrs. Heinzl stated that Council needs to decide what the parameters should be. Mr.

Lawver stated that they should not be allowed in front yards. Mr. Griffiths suggested searching for regulatory municipal precedents and then go from there.

Mr. Marciante stated that he has been working with the Township regarding the clock that was taken down at Pennytown and is now sitting in their garage. Mr. Marciante stated that the Township has agreed to give the clock to Pennington and now we need to figure out where to put it and how to energize it. Mr. Marciante asked that the Public Works department make arrangements to pick up the clock. Mayor Persichilli stated that he would like to see it installed in the center of town if that can be arranged. Mr. Lawver stated that once a location is established the Borough could apply for a Pennington Day grant to cover the installation costs.

Public Comment Period

Mayor Persichilli asked that anyone wishing to speak please come forward and state their name and address for the record and limit comments to the Governing Body to a maximum of 3 minutes.

Mr. Dan Pace of 9 Railroad Place came forward and thanked Council for changing the meeting date to Wednesday which is much more convenient for him. Mr. Pace stated that he would have like to have seen Ordinance 2016-6 prior to the meeting and how could it be seen that before the meeting. Mrs. Sterling stated that once an ordinance is introduced it is then posted on the website, but prior to that Mr. Pace could request a copy and she would be happy to e-mail it to him.

Closed Session

AT, 8:47 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:

- Attorney/Client Consultation – American Properties

AT, 9:25 PM, Mayor and Council returned to open session.

Approval of Closed Session Minutes (for content but not for release)

Council Member Davy made a motion to approve the minutes of the December 14, 2015, December 28, 2015 and January 4, 2016 closed session minutes for content but not for release, second by Council Member Gnatt with all members present voting in favor.

At 9:27PM, Council Member Lawver made a motion to adjourn the meeting, second by Council Member Marciante.

Respectfully submitted,

Elizabeth Sterling
Borough Clerk