

**Pennington Borough Council
Regular Meeting – April 6, 2016**

Mayor Persichilli called the Regular Meeting of the Borough Council to order at 7:00 pm. Borough Clerk Betty Sterling called the roll, Council Members Davy, Lawver and Marciante were present. Council Members Chandler and Gnatt arrived at 7:15pm.

Also present were Borough Administrator Eileen Heinzl, Public Safety Director Bill Meytrott, Public Works Superintendent Ricky Smith, 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.

Mayor Persichilli thanked everyone for keeping the town “ship shape” in his absence.

Open to the Public – Agenda Items Only

Mr. Lawver 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. Mark Blackwell of 74 North Main Street stated that he would like to know if Council is planning to adopt the ordinance concerning zoning changes tonight. Mrs. Sterling stated that the ordinance is on the agenda for public hearing and adoption. Mrs. Sterling stated that Mr. Blackwell can speak on the ordinance under the public hearing.

Mayor’s Business

Mayor Persichilli read the following two Proclamations by title. Mayor Persichilli stated that Bike to School Day is one of the first events to be scheduled under the Mayor’s Wellness Program. Mayor Persichilli stated that Cindy Persichilli has agreed to manage the Wellness Program and she has several things lined up with this being the first.

Official National Bike to School Day Proclamation

Whereas, a lack of physical activity plays a leading role in rising rates of obesity, diabetes and other health problems among children and being able to bicycle or walk to school offers an opportunity to build activity into daily routine.

Whereas, driving students to school by private vehicle contributes to traffic congestion and air pollution.

Whereas, an important role for parents and caregivers is to encourage children to be aware of the challenges and dangers that they face on their trip to school each day and the health and environmental risks related to physical inactivity and air pollution.

Whereas, community leaders and parents can determine the "bikeability" of their community and identify any potential challenges to safe bicycling using a bikeability checklist.

Whereas, community members and leaders should make a plan to make immediate changes to enable children to safely bicycle and walk in our communities and develop a list of suggestions for improvements that can be executed over time.

Whereas, children, parents and community leaders around the country are joining together to evaluate bicycling and walking conditions in their communities.

Now Therefore, Be It Resolved that I, Anthony Persichilli, Mayor of Pennington Borough declare May 4, 2016 as "National Bike to School Day" in the Borough of Pennington, Mercer County, New Jersey, and encourage everyone to consider the safety and health of children today and every day.

PROCLAMATION

WHEREAS, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and

WHEREAS, this holiday, called Arbor Day, was the first observed with the planting of more than a million

trees in Nebraska, and

WHEREAS, Arbor Day is now observed throughout the nation and the world, and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife, and

WHEREAS, trees are renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and

WHEREAS, trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community, and

WHEREAS, trees, wherever they are planted, are a source of joy and spiritual renewal, and

WHEREAS, Pennington, N.J. has been recognized as Tree City USA by The National Arbor Day Foundation and desires to continue its tree-planting ways,

NOW, THEREFORE, I Anthony J. Persichilli, Mayor of the Borough of Pennington do hereby proclaim Friday, April 29th , 2016 as ARBOR DAY in Pennington, New Jersey, and I urge all citizens to support efforts to protect our trees and woodlands and to support our urban forestry program, and

FURTHER, I urge all citizens to plant trees to gladden the hearts and promote the well-being of present and future generations.

Mayor's Appointments

Mayor Persichilli announced the following appointment:

Karl Muessig – Environmental Commission – Unexpired Term ending December 31, 2016.

Appointments to Boards and Commission (with Council Approval)

Mayor Persichilli announced the following appointments:

Brett Margulis – Parks and Recreation – Unexpired Term ending December 31, 2017

Karin Eckerson – Historic Preservation Commission (Class C-Alternate 2) – Unexpired Term ending December 31, 2017.

Council Member Lawver made a motion to approve the appointments, second by Council Member Marciante with all members present voting in favor.

Approval of Minutes

Council Member Marciante made a motion to approve the minutes of the February 3, 2016 Regular Meeting, second by Council Member Lawver with all members present voting in favor.

Council Member Marciante made a motion to approve the minutes of the March 2, 2016 Regular Meeting, second by Council Member Davy with all members present voting in favor.

Committee Reports

Public Works / Personnel –Mr. Davy stated that the Borough has received notification from the NJ DOT regarding our application for East Curlis Avenue and Weidel Drive. Mr. Davy stated that unfortunately the award of funds is significantly less than the engineers estimate. Mr. Davy stated that the next step is to meet with the finance committee to see how or even if we should proceed with the project. Mr. Davy stated that in the past, the Borough has been very successful in securing grant funds close to the full amount of the project but times have changed and so we need to reconsider how these road projects are done.

Mr. Davy stated that with regard to the Upper King George Road/Park Avenue project, we did receive approval from the NJEIT Program to proceed with advertisement for bids for the water main project. Mr. Davy stated that bids will be received on Friday, April 8, 2016. Mr. Davy stated that frankly he does not think the project can be scaled back enough to make up the difference between the award and the estimate.

Mr. Davy stated that the biggest problem is that in the past road projects were funded primarily through the NJ DOT Trust Fund and those funds have not been renewed. Mr. Davy stated that municipalities are getting some funding but it is very limited and we are fortunate to have received \$245,000, but now we need to figure out how to handle the road program under different circumstances.

Parks & Recreation / Library / Shade Tree / Senior Advisory – Mr. Lawver stated that he was not able to attend the Senior Advisory Board meeting but the Board voted six to one to pursue renovation and expansion of the current senior center. Mr. Lawver stated that movement on the HUT is slow if not frozen

completely. Mr. Lawver stated that the Senior Advisory Board is recognizing that it might now be time to take the available option. Mr. Lawver stated that before we go any further the three municipalities need to sit down together and have a conversation about what happens going forward, how do we apply for the grants and how do we allocate operating and future capital costs. Mr. Lawver stated that Pennington Borough was willing to let Hopewell Township drive this project when it was clear that the center would be owned by Hopewell Township, but this changes the situation.

Mr. Lawver reported that the Library is adjusting to their new staffing and are currently not planning to hire a replacement for Mrs. Persichilli and instead they are shifting responsibilities among the remaining staff and adding hours to those staff people.

Mr. Lawver stated that the Shade Tree Commission has a CSIP grant application ready for submission once the Resolution on the agenda tonight is approved.

Mr. Lawver stated that Parks and Recreation held a very successful Easter Egg Hunt with almost 200 people present. Mr. Lawver thanked the Public Works Department for preparing the park, the Parks and Recreation Committee for putting it all together and the "Easter Bunny" for coming all the way from Syracuse University to delight the children.

Public Safety – Mr. Marciante stated that the Police Department is still down one officer due to a worker's compensation claim. Mr. Marciante stated that this absence is creating overtime and down the road when American Properties gets underway, the Borough may need to look at hiring a sixth officer.

Planning & Zoning / Open Space – No report due to Mrs. Gnatt's absence.

Finance – No report due to Mr. Griffith's absence.

Historic Preservation / Board of Health / Environmental / Economic Development – No report due to Mrs. Chandler's absence.

Ordinances for Introduction

Mayor Persichilli read Ordinance 2016-10 by title.

**BOROUGH OF PENNINGTON
ORDINANCE # 2016-10**

AN ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK IN ACCORDANCE WITH N.J.S.A. 40A: 4-45.14 IN THE BOROUGH OF PENNINGTON, NEW JERSEY

WHEREAS, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 1.5% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the Mayor and Council of the Borough of Pennington, Mercer County hereby determines that it is advisable and necessary to increase its CY 2016 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

NOW THEREFORE BE IT ORDAINED, by the Mayor and Council of the Borough of Pennington, in the County of Mercer, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2016 budget year, the final appropriations of the Borough of Pennington shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5 %, amounting to \$83,277.46 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, and that the CY 2016 municipal budget for the Borough of Pennington be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that the Mayor and Council of the Borough of Pennington hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

BE IT FURTHER ORDAINED, that any that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon be filed with said Director within 5 days after such adoption.

Council Member Davy made a motion to introduce Ordinance 2016-10, second by Council Member Lawver with all members present voting in favor.

Mayor Persichilli read Ordinance 2016-11 by title.

**BOROUGH OF PENNINGTON
 ORDINANCE #2016 – 11**

**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 2016**

**BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF
 PENNINGTON AS FOLLOWS:**

SECTION I: EMPLOYMENT POSITIONS/ANNUAL COMPENSATION

- a. The following official and employment designations are hereby confirmed and the rate of compensation of each officer and employee of the Borough of Pennington, whose compensation shall be on an annual basis, is:

Borough Administrator	\$ 50,222.43
Borough Clerk	\$ 40,918.73
Treasurer	\$ 64,911.25
Assistant Chief Financial Officer	\$69,911.25
Tax Collector	\$ 29,398.22
Utility Collector	\$ 29,398.22
Technical Assistant to Construction	\$ 11,430.56
Tax Assessor	\$ 12,484.80
Zoning Officer	\$ 8,448.78
Land Use Admin/Admin Asst.	\$ 49,242.60
Deputy Registrar	\$ 2,127.77
Supt. Of Public Works – Effective August 1, 2014	\$ 85,680.00
Judge of Municipal Court	\$ 11,870.03
Court Administrator	\$ 16,589.25
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	\$ 26,212.73
Plumbing Sub-Code	\$ 38.78 / hour
Fire Sub-Code	\$ 39.36 / hour
Electric Sub-Code	\$38.00 / hour

- b. One person may serve in more than one office or position of employment as listed in Section a hereof.
- c. 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.
- d. The rate of compensation of each employee, paid on an hourly basis is as follows:

	Minimum	Maximum
Finance		
Municipal CFO(p/t)	\$ 25.00	\$ 79.02
Police Department:		
Crossing Guards	\$ 15.00	\$ 25.23
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 ordinance shall take effect upon final adoption and publication according to law, but the salaries herein provided for shall be retroactive to January 1, 2016.

Council Member Davy made a motion to introduce Ordinance 2016-11, second by Council Member Lawver. Mr. Lawver asked what percentage increase this provides for. Mrs. Heinzl responded that this reflects a two percent increase over 2015 salaries. Upon a roll call vote all members present voted in favor.

Mayor Persichilli read Ordinance 2016-12 by title.

**BOROUGH OF PENNINGTON
ORDINANCE NO. 2016- 12**

**AN ORDINANCE REQUIRING DIRECT DEPOSIT OF NET PAY FOR BOROUGH EMPLOYEES
AND AMENDING THE CODE OF THE BOROUGH OF PENNINGTON**

WHEREAS, N.J.S.A. 52:14-15f.b authorizes local governments to mandate direct deposit of net pay for all employees of the municipality;

WHEREAS, the Borough of Pennington seeks to implement such a requirement for all employees, unless exempted;

WHEREAS, Borough Council is authorized to grant an exemption from the requirement on such terms and conditions as it may deem necessary;

WHEREAS, Borough Council is further authorized to grant an exemption for seasonal and temporary employees as it may deem necessary;

WHEREAS, the purpose of the requirement is to create a “paperless payroll” for all employees not exempted;

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

- Chapter 50 of Article I of the Code of the Borough of Pennington, concerning Salaries and Compensation, is hereby supplemented to read as follows:

Section 50-1. Salary Ordinance.

The salaries and compensation of all officers and employees of the Borough of Pennington are set forth from time to time by ordinance of the Borough Council. A copy of the currently effective Salary Ordinance is on file in the office of the Borough Clerk and is available for examination during office hours.

Section 50-2. Direct Deposit of Employee Net Pay Required.

Effective June 1, 2016, all officers and employees of the Borough who receive compensation are required to authorize direct deposit of their net pay in accordance with N.J.S.A. 52:14-15f.b.

Section 50-3. Exemptions.

Borough employees may request, in writing and for good cause, an exemption from mandatory direct deposit. Any such request shall be directed to the Borough Administrator who, following review of the request, shall decide either to grant or deny the exemption request.

2. This Ordinance shall take effect on June 1, 2016, following final passage and publication as required by law.

Council Member Lawver made a motion to introduce Ordinance 2016-12 second by Council Member Davy with all members present voting in favor.

Ordinances for Public Hearing and Adoption

Mr. Lawver 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 Lawver made a motion to open the Public Hearing on Ordinance 2016-4, second by Council Member Davy. There were no comments from the public. Council Member Lawver made a motion to close the Public Hearing, second by Council Member Davy with all members present voting in favor. Council Member Lawver made a motion to adopt Ordinance 2016-4, second by Council Member Davy with all members present voting in favor.

Council Members Chandler and Gantt arrived at 7:15pm.

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 to include the following definitions:

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.

INFLATABLE SIGN – Any inflated display used on a permanent or temporary basis to advertise or draw attention to a business, product or event. Inflatable signs include balloons.

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, inflatable 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 façade wall sign shall not exceed 10% of the “ground floor entry façade 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 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 Lawver made a motion to open the Public Hearing on Ordinance 2016-6, second by Council Member Gnatt. Mr. Mark Blackwell of 74 North Main Street came forward and stated that he would like to comment on the restoration portion of the ordinance. Mr. Blackwell asked what the purpose

of this change is, where did it come from and why is Council doing this now. Mr. Blackwell stated that this portion of the ordinance affects him and many other residents. Mr. Blackwell stated that according to the Zoning Officer, this affects ninety percent of the property owners in the Borough because of non-conforming uses. Mrs. Heinzl stated that this came from an application for a detached garage that the homeowners wanted to demolish and move which required appearing before the Planning Board to obtain a variance. Mrs. Heinzl stated that this ordinance amendment comes about as a way to clarify the requirements. Mr. Blackwell stated that it looks like a tear down ordinance to him. Mrs. Heinzl stated that it applies when someone wants to tear down something and move it, but in this case, the homeowner wanted to tear down the garage and rebuild it in the same place however that would still have been a non-conforming location. Mrs. Heinzl stated that this ordinance would allow a homeowner to put something in a conforming location and if they don't want to do that they would have to come to the board for a variance. Mrs. Heinzl stated that the alternative would be that if someone wanted to tear down a garage that is in a non-conforming location or has a non-conforming use they should be able to do that so this ordinance is intended to clarify the existing language.

Mr. Blackwell was concerned that if something were to happen that destroyed fifty percent or more of his structure that he would not be able to repair the building or he would be required to go before the Planning Board. Mr. Blackwell stated that this ordinance affects ninety percent of the homes or businesses in the Borough and that is a lot of money out of a lot of pockets. Mr. Blackwell stated that this affects him one-hundred percent because he is totally non-conforming. Mr. Blackwell stated that it affects Mr. Tony DiCocco, also present, because his property is non-conforming.

Mrs. Heinzl stated to Mr. Blackwell that if his house were completely removed and then rebuilt that would be permitted. Mr. Blackwell stated that he is concerned about partial damage because he would lose everything. Mr. Lawver agreed that with regard to his house if a hurricane came through and destroyed two-thirds of his house, he is non-conforming and he does not meet the forty foot setback of his property so he would have to appear before the Planning Board to rebuild his house as is. Mr. Blackwell stated that he knows where the ordinance is headed, but as written it affects people much greater than what the board thought.

Mrs. Heinzl stated that there are some towns that make exceptions specifically if there is destruction caused by a hurricane or some kind of emergency such as a fire. Mrs. Heinzl stated that perhaps Council would like to revisit the ordinance. Mr. Bliss stated that this is basic land use law regarding a partially destroyed non-conforming structure and if the destruction exceeds a certain percentage it requires a variance in order to redevelop. Mr. Bliss stated that there is a solution to this; however he did not think that Council would like it. Mr. Bliss stated that the solution is to amend the zoning ordinances to adopt the setback and bulk requirements of the most non-conforming properties in the Borough because bulk requirements have to be uniform by zone. Mr. Bliss stated that if the bulk requirements are changed to make them conform to the least conforming property, then no one would ever be out of conformance. Mr. Bliss stated that under traditional land use law, it did not matter whether it was a hurricane or anything else, because the purpose of this kind of rule is to work towards the day that all properties conform. Mr. Bliss stated that when there is an opportunity whether presented by chance or by the will of the owner if the property is not brought into conformance, the owner has to obtain a variance to preserve the old structure. Mr. Davy asked if the Land Use Law would control even if the Borough has this language. Mr. Bliss stated that he would have to check, but he believes so. Mr. Bliss stated that the ordinance was drafted by the Borough Planner so he assumes that it is in compliance with the Land Use Law. Some discussion took place with regard to how this requirement would cost homeowners money in terms of having to seek a variance to repair or replace an existing non-conforming structure. Mr. Bliss stated that this is not atypical for Pennington Borough. Mr. Bliss stated that in Pennington, governing bodies have enacted zoning ordinances so that in order to redevelop or develop a non-conforming property, they would have to get a variance. Mr. Bliss stated that this prevents redevelopment that the Borough does not want.

Mr. Blackwell stated that he does not have a problem with this requirement if it is because of a natural cause, but if it is a willful teardown then he has no problem with the need for a variance in those cases. Mr. Blackwell stated that this requirement could put him out of business if he has a disaster. Mr. Blackwell stated that he is on the planning board and he sees what would then be required to make repairs in terms of landscaping and other requirements. Mr. Blackwell stated that his property may not be the best looking property in the community, but he has volunteered and given back to the community for many years and this ordinance could become a burden for him.

Mrs. Heinzl suggested that Council move forward on the hearing of the remainder of the ordinance so that those can move forward and then revisiting the section of the ordinance that is being discussed. Mrs. Heinzl stated that there are several pieces of the ordinance for instance the site plan approval requirement that are ready to move forward and she would not want to hold up the remainder of the ordinance. Mr. Bliss stated that removing a section of the ordinance would be a material change. Mr. Bliss asked if there was some urgency to approving the ordinance tonight. Mrs. Heinzl stated that the main part of the ordinance which requires site plan approval which would apply to pending applications that concern the Borough. Mrs. Heinzl stated that the ordinance would require any development on a lot holding or partly within the Borough to come before the planning board for a site plan approval. Mr. Bliss stated that if that piece is very important then he would not jeopardize the enforceability of that section by deleting this section. Mr. Bliss stated that he would suggest adopting the ordinance as is and then revisiting the section in question. Mr. Bliss stated that deleting the section is enough of a material change that if Council risks it on the theory that no one will potentially object it would potentially undermine the section that needs to be adopted. Mr. Lawver stated that he would not agree with adopting the ordinance as is and then revisiting it

with regard to the section under discussion because it would just drag it out. Mr. Bliss stated that the ordinance could be revised and introduced at the May meeting, then sent to the Planning Board for a consistency determination at their meeting in May and then scheduled for public hearing and adoption at the June Council meeting. Some discussion took place with regard to amending the ordinance and introducing an amended ordinance tonight so that it could be sent to the Planning Board for their April meeting and possibly be adopted at the May Council meeting. Mr. Davy stated that he is not real comfortable with amending an ordinance on the fly. Mr. Bliss stated that would be risky because there is still the need to comply with Municipal Land Use Laws. Mrs. Heinzl read the current language of the ordinance and stated that it seems to address Mr. Blackwell's concern regarding repairs resulting from some sort of emergent situation. Mr. Blackwell stated that he read it differently. Mr. Bliss stated that arguably the interpretation is correct but the important thing is that it would provide further comfort because it permits repair while prohibiting enlargement or extension of any non-conformity. After further discussion, Mr. Bliss stated that the ordinance comes from the Borough Planner and he thinks that we would be taking chances making changes and if portions of the current ordinance are important he would advise that Council adopt the ordinance and revisit it after. Mr. Marciante inquired as to the urgency in moving forward with the ordinance. Mrs. Heinzl stated that there is a property that is partly in the Borough and there is an application in the Township now for site plan approval so this would make clear that when there is a piece of property that is partly within the Borough we are expecting a site plan application. Mr. Bliss stated that he would recommend the safer course as he does not see a significant exposure to deferring whatever needs to be done on the restoration piece to June with the benefit of the Borough Planner's advice. Mayor Persichilli asked if the Planning Board members in attendance would like to comment.

Mr. Meytrott stated that he did not agree with a Borough ordinance that disputed the State Law. Mrs. Heinzl stated that this question came up in the context of an application where the homeowner wanted to take down a detached garage and rebuild it and in the end the Planning Board Attorney stated that if the homeowner was taking down the garage completely, it no longer exists in which case the homeowner would have to come in for a variance. Mrs. Heinzl stated that prompted a discussion of trying to be clear on what the intention of the ordinance was. Mrs. Heinzl stated that this ordinance is what came about after researching how other towns handle these types of situations. Mrs. Heinzl stated that Mr. Blackwell, as a member of the Planning Board, had some concerns when the ordinance came before the board. Mr. Blackwell stated that he voiced his concerns to the board and ultimately he voted no on the ordinance. Mr. Blackwell stated that what he can't understand is that if ninety percent of the properties in the Borough are affected by the ordinance why no one else had any issues with the ordinance. Mr. Davy stated that he is concerned with sending this ordinance back to the Planning Board when the Board has already approved the ordinance. Mrs. Heinzl stated that partial destruction is defined as less than fifty percent of the cost in order to be clear that someone who tears their garage down to the last wall can't get around coming to the Planning Board for a variance to comply with the zoning. Mr. Blackwell stated that if the storm that came through the other day blew his roof down and there was a hundred thousand dollars in damage and the assessed value of the building is fifty thousand he would like it on record that he could rebuild the building without a variance. Mr. Blackwell stated that he has no problem complying with other municipal requirements such as building permits and so forth. Mr. Marciante stated that the minutes would reflect the intent of the ordinance. Mr. Bliss stated that would not get Mr. Blackwell very far. Mr. Bliss stated that the language speaks for itself, but the interpretation of the ordinance makes sense so therefore it makes sense not to jeopardize the ordinance by amending it on the fly or taking out a word and shipping it back to the planning board. Mr. Bliss stated that it makes much more sense to be concerned about the potential vagueness but adopt the ordinance with the understanding that the potential vagueness will be addressed immediately in consultation with the professional planner who originated the ordinance and the planning board. Mr. Blackwell stated that he is concerned that down the road if this situation occurs he would be directed to go to the planning board for an interpretation of the ordinance and his brother had to do that and it ended up costing \$4,500. Mr. Blackwell stated that he does not think that the people in town who have non-conforming situations even know that they are non-conforming and this ordinance directly affects those people. Mr. Bliss stated that he agrees that there is language in the ordinance that gives more than enough comfort for Council to go forward with adoption of the ordinance and if something comes up after consulting with the planner and the planning board and this interpretation is wrong then we can fix it.

Mr. Tony DiCocco of 20 Franklin Avenue agreed with Mr. Blackwell's comments and asked who determines the fifty percent figure because if one of his buildings goes, he would have an estimate that is less than fifty percent because he can build it cheaper than someone else. Mrs. Chandler stated that her understanding of this is that if someone is knowingly doing something then these rules apply and if an act of God occurs the homeowner is protected.

Mr. Bliss stated that the second paragraph states that "nothing in this chapter shall prevent any existing non-conforming structure from being ...repaired, reconstructed or structurally altered...", which by omission includes willful repair and reconstruction. Mr. Lawver stated that he is not sure why we are concerned about someone repairing a structure. Mrs. Heinzl stated that the point is to bring non-conforming uses into compliance. Mr. Bliss suggested focusing on the word reconstructed. Mr. Bliss stated that a homeowner can raise the building and reconstruct it and paragraph two seems to say that is ok as long as it is not enlarged or extended but paragraph one says no which raises the question. Mrs. Heinzl stated that this amendment was designed to add clarity to what partial destruction means.

Mr. Marciante stated that on another note, this ordinance would not allow the clock that the Borough recently acquired from Hopewell Township to be lit because it is a neon light. Mr. Marciante stated that he thinks the whole ordinance should be looked at. Mr. Davy stated that he would adopt the ordinance

tonight and then make sure that these concerns are discussed with the planner. Mrs. Chandler stated that she is comfortable with the ordinance, but in order to make others more comfortable maybe the ordinance needs to be tweaked. Mr. Bliss stated that as long as it is not tweaked tonight he is good. Mr. Bliss stated that the thing about material changes is that people have theoretically read the ordinance and made a decision whether or not to come to the public hearing and if Council changes the ordinance in a way that might have changed someone's mind about attending the public hearing, then it is a material change.

Council Member Chandler made a motion to close the Public Hearing on Ordinance 2016-6, second by Council Member Gnatt with all members present voting in favor. Council Member Chandler made a motion to adopt Ordinance 2016-6, second by Council Member Gnatt. Mr. Lawver stated that ambiguity of the ordinance reinforces his no vote. Upon a roll call vote Council Members Chandler, Davy and Gnatt all voted in favor, Council Members Lawver and Marciante voted no.

Mrs. Sterling asked Borough Attorney Walter Bliss if this ordinance requires a majority of the full membership or a majority of the members present. Mrs. Sterling stated that she also has a concern about Ordinance 2016-10 which was introduced earlier without Council Members Chandler and Gnatt being present and Ordinance 2016-4 which both require a 2/3 vote of the full membership. Mr. Bliss stated that we have held the public hearing on Ordinance 2016-4, no one participated, but it was a valid public hearing, so it would be appropriate to revote on the ordinance.

Mrs. Sterling asked if the Mayor would go back to Ordinance 2016-10 which already has a motion and a second to introduce. Upon a roll call vote all members present voted in favor of introduction of the ordinance. Mrs. Sterling asked if Council would also revote on introduction of Ordinances 2016-11 and 2016-12 and also revote on adoption of Ordinance 2016-4 just to make sure that we have the appropriate number of votes to introduce. Mr. Bliss stated that the immediate question is Ordinance 2016-6, the zoning ordinance because the whole reason for moving ahead tonight was so that we would have a challenge free adoption. Mrs. Sterling stated that she would need a brief recess to check on the voting requirement for the zoning ordinance.

Mayor Persichilli stated that we have a motion and a second for introduction of Ordinance 2016-11 and upon a roll call vote all members present voted in favor.

Mayor Persichilli stated that we have a motion and a second for Introduction of Ordinance 2016-12 and upon a roll call vote all members present voting in favor.

Mayor Persichilli stated that we have held the public hearing on Ordinance 2016-4, there was no public participation, we have a motion and second to adopt Ordinance 2016-4 and upon a roll call vote all members present voted in favor.

Mrs. Sterling asked Mayor Persichilli if Council could move ahead with Ordinances 2016-7, 2016-8 and 2016-9 and then recess briefly to check on the zoning ordinance requirement.

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, whe[re]n 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 in the care of the municipality, 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.

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 and on private property but within or 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 Borough Council and 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.

[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 or requires removal by reason of disease as provided herein, unless public safety or the disease 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 may be removed without detriment to the interests of the Borough and its residents,, taking into account the health, size, location and variety of the tree or shrubbery, 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) and 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.

F. The planting of trees under the Pennington Memorial Tree Planting Program shall be at the expense of the applicant.

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.

Council Member Lawver made a motion to open the Public Hearing on Ordinance 2016-7, second by Council Member Chandler. There were no comments from the public. Council Member Lawver made a motion to close the Public Hearing on Ordinance 2016-7, second by Council Member Chandler with all members present voting in favor. Council Member Lawver made a motion to adopt Ordinance 2016-7, second by Council Member Davy with all members present voting in favor.

Mayor Persichilli read Ordinance 2016-8 by title.

BOROUGH OF PENNINGTON
County of Mercer

Ordinance No. 2016-8

**AN ORDINANCE INCREASING RATES CHARGED BY THE PENNINGTON
 BOROUGH WATER AND SEWER UTILITY, AND AMENDING THE CODE OF
 THE BOROUGH OF PENNINGTON**

WHEREAS, the Pennington Borough Water and Sewer Utility continues to incur increased costs;

WHEREAS, Borough Council of the Borough of Pennington has determined that as a result of these increased costs the rates charged by the Utility for water and sewer services must be increased and the rates must be further differentiated for customers based on amount of usage;

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

1. Section 206-1 of the Code of the Borough of Pennington, pertaining to base and usage charges, is hereby amended as follows (with deletions bracketed and new language underlined):

§ 206-1. Base and usage charges.

Base and usage charges for water and sewer customers and related provisions are set forth in Section 98-41 of the Code.

[A. There are hereby established the following quarterly charges for water customers:

Meter Size (inches)	Base Charge 4,000 Gallons or Less [From] To (Percent Change)	First Excess Usage Block Charge 4,001-20,000 Gallons (per 1,000 Gallons) [From] To (Percent Change)	Second Excess Usage Block Charge 20,00-60,000 Gallons (per 1,000 Gallons) [From] To (Percent Change)	Third Excess Usage Block Charge 60,001-200,000 Gallons (per 1,000 Gallons) [From] To (Percent Change)	Fourth Excess Usage Block Charge More than 200,000 Gallons (per 1,000 Gallons) [From] To (Percent Change)
Less than 1	\$29.08 (+4.0%)	\$6.85 (+4.0%)	\$7.26 (+4.0%)	\$7.98 (+4.0%)	\$9.33 (+4.0%)
1	\$44.39 (+4.0%)	\$6.85 (+4.0%)	\$7.26 (+4.0%)	\$7.98 (+4.0%)	\$9.33 (+4.0%)
2	\$126.82 (+4.0%)	\$6.85 (+4.0%)	\$7.26 (+4.0%)	\$7.98 (+4.0%)	\$9.33 (+4.0%)
3	\$282.91 (+4.0%)	\$6.85 (+4.0%)	\$7.26 (+4.0%)	\$7.98 (+4.0%)	\$9.33 (+4.0%)
4	\$415.77 (+4.0%)	\$6.85 (+4.0%)	\$7.26 (+4.0%)	\$7.98 (+4.0%)	\$9.33 (+4.0%)
6	\$776.89 (+4.0%)	\$6.85 (+4.0%)	\$7.26 (+4.0%)	\$7.98 (+4.0%)	\$9.33 (+4.0%)

NOTE: Usage charges are per one-thousand-gallon increments, or portion thereof.

B. There are hereby established the following quarterly charges for sewer customers:

Base Charge 4,000 Gallons or Less [From] To (Percent Change)	First Excess Usage Block Charge 4,001-20,000 Gallons (per 1,000 Gallons) [From] To (Percent Change)	Second Excess Usage Block Charge 20,00-60,000 Gallons (per 1,000 Gallons) [From] To (Percent Change)	Third Excess Usage Block Charge 60,001-200,000 Gallons (per 1,000 Gallons) [From] To (Percent Change)	Fourth Excess Usage Block Charge More than 200,000 Gallons (per 1,000 Gallons) [From] To (Percent Change)
\$32.22 (+4.0%)	\$7.31 (+4.0%)	\$7.82 (+4.0%)	\$8.40 (+4.0%)	\$9.05 (+4.0%)

NOTE: Usage charges are per one-thousand-gallon increment, or portion thereof.

C. The minimum quarterly base charge for multiunit residential or multiunit commercial or a combination thereof serviced through a single water meter shall be determined by the product of the number

of units by the minimum quarterly base charge of a one-inch meter, regardless of the size of the meter(s) that feeds the units.

D. Sewage or other wastes containing unduly high concentrations of other substances which add to the operating costs of the sewage treatment works will be subject to a surcharge to be determined by the Borough on the basis of the character and volume for such sewage and wastes. Where, in the opinion of the Borough, sewage and other wastes of a deleterious character adversely affect the treatment processes, the Borough reserves the right to require that such sewage and wastes be treated by the contributor to remove or neutralize the objectionable substances before discharge into the sewers.

E. Base and usage charges shall be due on March 1, June 1, September 1 and December 1.

F. Premises introducing water into a permanent private pool may be allowed a reduction in the charge of sewer usage in an amount equal to the volume of water introduced into the pool. This will require the installation and rental of a temporary meter in conformance with the Borough Code.]

2. **Section 98-41 of the Code, concerning water and sewer charges, is hereby amended as follows:**

A. There are hereby established the following quarterly charges for water customers:

Meter Size (inches)	Base Charge 4,000 Gallons or Less [From] To (Percent Change)	First Excess Usage Block Charge 4,001-20,000 Gallons (per 1,000 Gallons) [From] To (Percent Change)	Second Excess Usage Block Charge 20,00-60,000 Gallons (per 1,000 Gallons) [From] To (Percent Change)	Third Excess Usage Block Charge 60,001-200,000 Gallons (per 1,000 Gallons) [From] To (Percent Change)	Fourth Excess Usage Block Charge More than 200,000 Gallons (per 1,000 Gallons) [From] To (Percent Change)
Less than 1	[\$29.08] <u>\$29.66</u> (+[4]2.0%)	[\$6.85] <u>\$6.99</u> (+[4]2.0%)	[\$7.26] <u>\$7.41</u> (+[4]2.0%)	[\$7.98] <u>\$8.14</u> (+[4]2.0%)	[\$9.33] <u>\$9.52</u> (+[4]2.0%)
1	[\$44.39] <u>\$45.28</u> (+[4]2.0%)	[\$6.85] <u>\$6.99</u> (+[4]2.0%)	[\$7.26] <u>\$7.41</u> (+[4]2.0%)	[\$7.98] <u>\$8.14</u> (+[4]2.0%)	[\$9.33] <u>\$9.52</u> (+[4]2.0%)
2	[\$126.82] <u>\$129.36</u> (+[4]2.0%)	[\$6.85] <u>\$6.99</u> (+[4]2.0%)	[\$7.26] <u>\$7.41</u> (+[4]2.0%)	[\$7.98] <u>\$8.14</u> (+[4]2.0%)	[\$9.33] <u>\$9.52</u> (+[4]2.0%)
3	[\$282.91] <u>\$288.57</u> (+[4]2.0%)	[\$6.85] <u>\$6.99</u> (+[4]2.0%)	[\$7.26] <u>\$7.41</u> (+[4]2.0%)	[\$7.98] <u>\$8.14</u> (+[4]2.0%)	[\$9.33] <u>\$9.52</u> (+[4]2.0%)
4	[\$415.77] <u>\$424.09</u> (+[4]2.0%)	[\$6.85] <u>\$6.99</u> (+[4]2.0%)	[\$7.26] <u>\$7.41</u> (+[4]2.0%)	[\$7.98] <u>\$8.14</u> (+[4]2.0%)	[\$9.33] <u>\$9.52</u> (+[4]2.0%)
6	[\$776.89] <u>\$792.43</u> (+[4]2.0%)	[\$6.85] <u>\$6.99</u> (+[4]2.0%)	[\$7.26] <u>\$7.41</u> (+[4]2.0%)	[\$7.98] <u>\$8.14</u> (+[4]2.0%)	[\$9.33] <u>\$9.52</u> (+[4]2.0%)

NOTE: Usage charges are per one-thousand-gallon increments, or portion thereof.

B. There are hereby established the following quarterly charges for sewer customers:

Base Charge 4,000 Gallons or Less [From] To (Percent Change)	First Excess Usage Block Charge 4,001-20,000 Gallons (per 1,000 Gallons) [From] To (Percent Change)	Second Excess Usage Block Charge 20,00-60,000 Gallons (per 1,000 Gallons) [From] To (Percent Change)	Third Excess Usage Block Charge 60,001-200,000 Gallons (per 1,000 Gallons) [From] To (Percent Change)	Fourth Excess Usage Block Charge More than 200,000 Gallons (per 1,000 Gallons) [From] To (Percent Change)
[\$32.22] <u>\$32.86</u> (+[4]2.0%)	[\$7.31] <u>\$7.46</u> (+[4]2.0%)	[\$7.82] <u>\$7.98</u> (+[4]2.0%)	[\$8.40] <u>\$8.57</u> (+[4]2.0%)	[\$9.05] <u>\$9.23</u> (+[4]2.0%)

NOTE: Usage charges are per one-thousand-gallon increment, or portion thereof.

C. The minimum quarterly base charge for multiunit residential or multiunit commercial or a combination thereof serviced through a single water meter shall be determined by the product of the number of units by the minimum quarterly base charge of a one-inch meter, regardless of the size of the meter(s) that feeds the units.

D. Sewage or other wastes containing unduly high concentrations of other substances which add to the operating costs of the sewage treatment works will be subject to a surcharge to be determined by the Borough on the basis of the character and volume for such sewage and wastes. Where, in the opinion of the Borough, sewage and other wastes of a deleterious character adversely affect the treatment processes, the Borough reserves the right to require that such sewage and wastes be treated by the contributor to remove or neutralize the objectionable substances before discharge into the sewers.

E. Base and usage charges shall be due on March 1, June 1, September 1 and December 1.

F. Premises introducing water into a permanent private pool may be allowed a reduction in the charge of sewer usage in an amount equal to the volume of water introduced into the pool. This will require the installation and rental of a temporary meter in conformance with the Borough Code.

3. This ordinance shall take effect upon its passage and publication as provided by law.

Council Member Chandler made a motion to open the Public Hearing on Ordinance 2016-8, 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 2016-8, second by Council Member Lawver with all members present voting in favor. Council Member Chandler made a motion to adopt Ordinance 2016-8, second by Council Member Davy with all members present voting in favor.

Mayor Persichilli read Ordinance 2016-9 by title.

**BOROUGH OF PENNINGTON
 ORDINANCE #2016 - 9**

AN ORDINANCE FURTHER 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 established a salary for the Electric Sub Code Official at \$10,286.25;

WHEREAS, Borough Council now seeks to change compensation of the Electric Sub Code Official to \$38.00 per hour, effective March 1, 2016;

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 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 – Effective January 1, 2015	\$76,500.00
Effective July 6, 2015	\$84,000.00
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 - <u>Effective March 1, 2016</u>	\$38.00/hour [10,286.25]
Sidewalk Inspector – (Flat Fee per Inspection)	\$ 150.00

- e. One person may serve in more than one office or position of employment as listed in Section a hereof.
- f. 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.
- g. 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 2016-9, 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 2016-9, second by Council Member Lawver with all members present voting in favor. Council Member Chandler made a motion to adopt Ordinance 2016-9, second by Council Member Lawver with all members present voting in favor.

At 8:07, Mayor Persichilli called a brief recess to allow the Borough Clerk obtain clarification on the voting requirements for Ordinance 2016-6 pertaining to Zoning Ordinance amendments.

At 8:14, Council returned from recess.

Mr. Bliss stated that a majority vote of the full membership is required for Ordinance 2016-6 which would be four votes. Mr. Bliss stated that the vote was three in favor and two opposed so the ordinance did not pass and the options are to reintroduce the ordinance with amendments or Council could move to reconsider the ordinance at the May meeting which is what he would recommend. Mr. Bliss stated that if the ordinance is amended than the ordinance would just be on the agenda for introduction on first reading at the May meeting with the second reading at the June meeting. Mr. Bliss stated that he would recommend adopting a motion for reconsideration at the May meeting to at least have that foot in the door. Council Member Lawver made a motion to reconsider Ordinance 2016-6 at the May meeting, second by Council Member Chandler. Mrs. Chandler asked for a clean ordinance to look at without underlining and brackets. Mr. Bliss stated that if you read the Ordinance deleting anything in brackets and inserting anything underlined that would be the text of the ordinance as adopted. Mr. Bliss stated that one of the reasons why you would want the full text of the ordinance reproduced is so that you know what is existing and what is new. Upon a roll call vote all members present voted in favor of reconsideration of Ordinance 2016-6 at the May meeting.

Mrs. Heinzl asked for clarification on what we are doing. Mrs. Heinzl stated that the direction is to tweak the wording to be clear that the intention of the ordinance is what? Mr. Lawver stated that he has other issues with the ordinance other than the restoration issue so he is probably going to vote no anyway. Mr. Lawver stated that there needs to be a firm understanding that the language is not ambiguous and that the interpretation is not ambiguous and that would allow adoption of the ordinance at the May meeting without any changes. Mrs. Chandler stated that we want to make sure that the language of the ordinance is clear so that residents do not have to pay to come in for an interpretation. Mr. Lawver stated that if we cannot get a clear understanding without changing the language than we need to have new language to consider in May and the ordinance would have to be reintroduced.

New Business

**BOROUGH OF PENNINGTON
RESOLUTION #2016 – 4.1**

RESOLUTION AUTHORIZING REFUNDS

BE IT RESOLVED, that a payment be issued to Curlis Center, LLC, c/o James Morrison, 118 W. Welling Avenue, Pennington, NJ 08534 for balance of Planning Board escrow account P15-004 for property on 250 S. Main Street, Bock 703, Lot 30, in the amount of \$185.26.

Record of Council Vote on Passage

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

Council Member Marciante made a motion to approve Resolution 2016-4.1, second by Council Member Lawver with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2016 – 4.2**

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 \$ 1,636,838.44 from the following accounts:

Current	\$ 1,551,645.04
W/S Operating	\$ 76,350.91
Developer’s Escrow	\$ 8,842.49
TOTAL	\$ 1,636,838.44

Record of Council Vote on Passage

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

Council Member Lawver made a motion to approver Resolution 2016-4.2, second by Council Member Marciante with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2016-4.3**

**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.

Historic Preservation	Other Expense	\$500.00
Engineering	Other Expense	\$67,100.00
Group Insurance	Other Expense	\$30,000.00
Police	Salaries	\$40,000.00
Streets	Salaries	\$10,000.00
Trash	Other Expense	\$20,000.00
Borough Property	Salaries	\$2,000.00
Recreation	Other Expense	\$2,000.00
Electricity	Other Expense	\$4,000.00
Street Lighting	Other Expense	\$4,000.00
Social Security	Other Expense	\$10,000.00
Total		\$189,600.00

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

Water	Other Expense	\$20,000.00
Sewer	Other Expense	\$5,000.00
TOTAL		\$25,000.00

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2016-4.3, second by Council Member Lawver with all members present voting in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION #2016 – 4.4**

**RESOLUTION AUTHORIZING REFUND OF REDEMPTION
 MONIES TO OUTSIDE LIENHOLDER**

WHEREAS, at the Borough Tax Sale held on October 29, 2015, a lien was sold on Block 403, Lot 14.01, also known as 212 King George Road, Pennington, NJ, for 2014 delinquent sewer charges; and,

WHEREAS, this lien, known as Tax Sale Certificate #14-00001, was sold to US Bank Cust for Pro Cap 4, for 18.00%; and,

WHEREAS, Wells Fargo Home Mortgage c/o Jean Rockwell Scudder, Est, owner, has effected redemption of Certificate #14-00001 in the amount of \$23,026.73.

NOW, THEREFORE, BE IT RESOLVED, that the Treasurer be authorized to issue a check in the amount of \$23,026.73, payable to US Bank Cust for Pro Cap 4, U.S. Bank Global Corp Trust, 50 South 16th Street – Suite 2050, Philadelphia, PA 19102 for the redemption of Tax Sale Certificate #14-00001.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2016-4.4, second by Council Member Lawver with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2016 – 4.5**

**RESOLUTION AUTHORIZING A SELF-EXAMINATION OF THE
2016 MUNICIPAL BUDGET OF THE MAYOR AND COUNCIL OF
THE BOROUGH OF PENNINGTON**

WHEREAS, N.J.S.A. 40A:4-78b has authorized the Local Finance Board to adopt rules that permit municipalities in sound fiscal condition to assume the responsibility, normally granted to the Director of the Division of Local Government Services, of conducting the annual budget examination; and

WHEREAS, N.J.A.C. 5:30-7 was adopted by the Local Finance Board on February 11, 1997; and

WHEREAS, pursuant to N.J.A.C. 5:30-7-2 through 7-5, the Borough of Pennington has been declared eligible to participate in the program by the Division of Local Government Services, and the Chief Financial Officer has determined that the local government meets the necessary conditions to participate in the program for the 2016 budget year.

NOW THEREFORE BE IT RESOLVED, by the governing body of the Borough of Pennington that in accordance with N.J.A.C. 5:30-7.6a & 7.6b and based upon the Chief Financial Officer’s certification, the governing body has found the budget has met the following requirements:

1. That with reference to the following items, the amounts have been calculated pursuant to law and appropriated as such in the budget:
 - a. Payment of interest and debt redemption charges
 - b. Deferred charges and statutory expenditures
 - c. Cash deficit of preceding year
 - d. Reserve for uncollected taxes
 - e. Other reserves and non-disbursement items
 - f. Any inclusions of amounts required for school purposes
2. That the provisions relating to limitation on increases of appropriations pursuant to N.J.S.A. 40A:4-45.2 and appropriations for exceptions to limits on appropriations found at N.J.S.A. 40A:4-45.3 et seq., are fully met (complies with CAP law).
3. That the budget is in such form, arrangement and content as required by the Local Budget Law and N.J.A.C. 5:30-4 and 5:30-5.
4. That pursuant to the Local Budget Law:
 - a. All estimates of revenue are reasonable, accurate and correctly stated.
 - b. Items of appropriation are properly set forth
 - c. In itemization, form arrangement and content, the budget will permit the exercise of the comptroller function within the municipality.
5. The budget and associated amendments have been introduced and publicly advertised in accordance with the relevant provisions of the Local Budget Law, except that failure to meet the deadlines of N.J.S.A. 40A:4-5 shall not prevent such certification.
6. That all other applicable statutory requirements have been fulfilled.

BE IT FURTHER RESOLVED that a copy of this resolution will be forwarded to the Director of the Division of Local Government Services upon adoption.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2016-4.5, second by Council Member Lawver with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2016-4.6**

**RESOLUTION AUTHORIZING CANCELLATION OF
OUTSTANDING CHECKS**

WHEREAS the Chief Financial Officer has requested permission to cancel certain outstanding checks from the Current Fund account; and

WHEREAS, said outstanding checks should be cancelled and transferred to the proper statutory account – Current Fund Miscellaneous Revenue Not Anticipated; and

WHEREAS, it is the desire of the Borough Council to cancel said outstanding checks in the Current Fund totaling \$1,720.17;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Pennington that the Chief Financial Officer is hereby authorized to cancel outstanding checks of the Borough as set forth on the attached listing.

Record of Council Vote on Passage

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

Council Member Lawver made a motion to approve Resolution 2016-4.6, second by Council Member Davy with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2016 – 4.7**

**RESOLUTION APPROVING RAFFLE LICENSE RA: 1.16 FOR
F & AM TRENTON CYRUS LODGE NO. 5**

WHEREAS, F & AM Trenton Cyrus Lodge No. 5 submitted raffle application RA: 1.16 on March 22, 2016 for a raffle to take place on May 30, 2016 and a copy of that application is attached to this resolution; and

WHEREAS, N.J.A.C. 13:47-4.1 et seq., requires seven (7) days to elapse before the Governing Body makes its findings and determinations; and

WHEREAS, the required waiting period was satisfied on March 29, 2016; and

WHEREAS, F & AM Trenton Cyrus Lodge No. 5 meets the qualifications for issuance of a license for said raffle based on the findings and determination set forth in the annexed form 5-A, as required by law;

WHEREAS, F & AM Trenton Cyrus Lodge No. 5, in accordance with law, has submitted the required fees forthwith;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington that raffle license RA: 1.16 for F & AM Trenton Cyrus Lodge No. 5 be approved; and

BE IT FURTHER RESOLVED that the Municipal Clerk will forward the annexed Application and Findings and Determinations for RA: 1.16 to the Legalized Games of Chance Control Commission in accordance with N.J.A.C. 13:47-4.1, et seq.

Record of Council Vote on Passage

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

Council Member Marcianti made a motion to approve Resolution 2016-4.7, second by Council Member Lawver with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2016 – 4.8**

**RESOLUTION GRANTING CONDITIONAL AUTHORIZATION FOR EMILY’S CAFE TO
MAINTAIN A TEMPORARY OUTDOOR DINING AREA IN THE PUBLIC RIGHT- OF- WAY IN
2016**

WHEREAS, Emily Matticoli is the principal owner of Emily’s Café and Catering, LLC, a restaurant known as Emily’s Café located at 9 N. Main Street in the Borough of Pennington;

WHEREAS, Ms. Matticoli and Emily’s Café and Catering, LLC, have applied to Borough Council for permission to place movable tables and chairs on the sidewalk immediately adjacent to the restaurant, in particular, 3 tables and up to 6 chairs on the Main Street side of the restaurant, as shown in the attached

sketch;

WHEREAS, Borough Council finds that the availability of outdoor dining contributes to the vitality of the Town Center and is consistent with the pedestrian-friendly environment envisioned for this area;

WHEREAS, Borough Council determines that approval of the proposed outdoor dining area for Emily's Cafe, on a temporary and conditional basis as set forth further below, is in the public interest;

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

1. Emily Matticoli and Emily's Café and Catering, LLC, are hereby granted permission to locate 3 tables and up to 6 chairs on the sidewalk immediately adjacent to the restaurant provided the following conditions are met;

A. The tables and chairs shall be arranged as shown on the attached sketch.

B. The outdoor dining area and affected sidewalk shall at all times be kept clean and free of litter and in compliance with all applicable health regulations.

C. The outdoor dining area shall not obstruct pedestrian circulation on the sidewalk.

D. Operation of the outdoor dining area shall comply with the Borough Noise Ordinance, as set forth in Chapter 133 of the Borough Code.

E. The outdoor dining area may be used only during the operating hours of the restaurant. When the restaurant is not open, all tables and chairs shall be removed from the sidewalk.

F. The outdoor dining area shall not obstruct access to upstairs apartments or Kriegner Travel Services.

G. Emily Matticoli and Emily's Café and Catering, LLC, shall indemnify and hold harmless the Borough of Pennington and its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorney fees, arising out of the operation of the outdoor dining area approved by this resolution.

H. Emily Matticoli and Emily's Café and Catering, LLC, shall at all times have on file with the Borough Clerk a current Certificate of Insurance which certifies that:

(1) the obligation to indemnify and hold harmless the Borough as provided above is insured by an insurance carrier authorized to do business in the State of New Jersey;

(2) the Borough of Pennington and its agents and employees are named as additional insureds under this insurance with respect to claims, damages, losses and expenses arising out of operation of the outdoor dining area; and

(3) the insurance in effect provides (a) at least \$1,000,000. of incurred liability coverage under each of the following types of coverage: general liability; premises liability; products and completed operations liability; personal and advertising injury liability; (b) property liability coverage in the amount of \$50,000.; (c) medical expense coverage in the amount of \$5,000.; (d) workers compensation coverage with the limits required by statute; and (e) employer's liability coverage in the amount of \$500,000. per person/per occurrence.

(4) the Borough will be given 10 days' written notice of any cancellation of this insurance.

I. The outdoor dining area complies with all applicable requirements of Section 215-94 of the Borough Code which regulates out door dining areas otherwise permitted by the Code.

2. The conditional authorization for outdoor dining granted by this resolution may be revoked by the Borough at any time, with or without notice to Emily Matticoli or Emily's Café and Catering, LLC. This conditional authorization also shall be subject to such additional or amended conditions as Borough Council may deem appropriate at any time.

3. This conditional authorization shall in any event expire on December 31, 2016.

Record of Council Vote on Passage

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

Council Member Marciante made a motion to approve Resolution 2016-4.8, second by Council Member Lawver. Mrs. Chandler asked why this needs to be done each year. Mayor Persichilli stated that we want to know how many tables and chairs are going to be used because it is the public right-of-way and more importantly we need to be sure that they have the required insurance limitations. Mr. Marciante asked if we could just blanket approve these and require that they provide insurance each year. Mr. Bliss stated that we could however we would need to have a permit process in place. Mr. Bliss stated that to the extent that we only have two establishments and the fact that each year we get to refresh on the issue it is desirable to have this process. Mr. Lawver asked if The Place has been notified about this option. Mrs. Sterling stated that they are aware of the process because we sent a letter last year and he did not submit anything. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2016 – 4.9**

**RESOLUTION GRANTING CONDITIONAL AUTHORIZATION FOR VITO'S PIZZA TO
MAINTAIN A TEMPORARY OUTDOOR
DINING AREA IN THE PUBLIC RIGHT- OF- WAY IN 2016**

WHEREAS, Egnazio (Nat) Casano is the owner of Vito's Pizza, a restaurant located at 2 N. Main Street on the corner of North Main Street and West Delaware Avenue in the Borough of Pennington;

WHEREAS, Mr. Casano has applied to Borough Council for permission to place movable tables and chairs on the sidewalk immediately adjacent to the restaurant, in particular, 4 tables and 16 chairs on the Main Street side of the restaurant and 2 tables and 8 chairs on the Delaware Avenue side of the restaurant, as shown in the attached sketch;

WHEREAS, Borough Council finds that the availability of outdoor dining contributes to the vitality of the Town Center and is consistent with the pedestrian-friendly environment envisioned for this area;

WHEREAS, Borough Council determines that approval of the proposed outdoor dining area for Vito's Pizza, on a temporary and conditional basis as set forth further below, is in the public interest;

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

1. Vito's Pizza is hereby granted permission to locate up to 6 tables and 24 chairs on the sidewalk immediately adjacent to the restaurant provided the following conditions are met;

A. The tables and chairs shall be arranged as shown on the attached sketch with no more than 4 tables and 16 chairs on the Main Street side of the restaurant and no more than 2 tables and 8 chairs on the Delaware side of the restaurant.

B. The outdoor dining area and affected sidewalk shall at all times be kept clean and free of litter and in compliance with all applicable health regulations.

C. The outdoor dining area shall not obstruct pedestrian circulation on the sidewalk.

D. Operation of the outdoor dining area shall comply with the Borough Noise Ordinance, as set forth in Chapter 133 of the Borough Code.

E. The outdoor dining area may be used only during the operating hours of the restaurant. When the restaurant is not open, all tables and chairs shall be removed from the sidewalk.

F. Egnazio Casano and Vito's Pizza shall indemnify and hold harmless the Borough of Pennington and its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorney fees, arising out of the operation of the outdoor dining area approved by this resolution.

G. The outdoor dining area approved by this resolution shall not operate until Mr. Casano and Vito's Pizza has filed with the Borough Clerk a current Certificate of Insurance which certifies that:

(1) the obligation to indemnify and hold harmless the Borough as provided above is insured by an insurance carrier authorized to do business in the State of New Jersey;

(2) the Borough of Pennington and its agents and employees are named as additional insureds under this insurance with respect to claims, damages, losses and expenses arising out of operation of the outdoor dining area; and

(3) the insurance in effect provides (a) at least \$1,000,000. of incurred liability coverage under each of the following types of coverage: general liability; premises liability; products and completed operations liability; personal and advertising injury liability; (b) property liability coverage in the amount of \$50,000.; (c) medical expense coverage in the amount of \$5,000.; (d) workers compensation coverage with the limits required by statute; and (e) employer's liability coverage in the amount of \$500,000. per person/per occurrence.

(4) the Borough will be given 10 days' written notice of any cancellation of this insurance.

H. The outdoor dining area complies with all applicable requirements of Section 215-94 of the Borough Code which regulates out door dining areas otherwise permitted by the Code.

2. The conditional authorization for outdoor dining granted by this resolution may be revoked by the Borough at any time, with or without notice to Mr. Casano or Vito's Pizza. This conditional authorization also shall be subject to such additional or amended conditions as Borough Council may deem appropriate at any time.

3. This conditional authorization shall in any event expire on December 31, 2016.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2016-4.9, second by Council Member Lawver with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2016-4.10**

**RESOLUTION AUTHORIZING GRANT AGREEMENT BETWEEN
THE BOROUGH OF PENNINGTON AND THE STATE OF NEW JERSEY BY AND FOR THE
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

WHEREAS, the governing body of the Borough of Pennington desires to further the public interest by obtaining a grant from the State of New Jersey in the amount of approximately \$25,000.00 to fund the following project: Pin Oak Removal/Bacterial Leaf Scorch Hazard Mitigation Project;

NOW, THEREFORE, BE IT RESOLVED, that Anthony J. Persichilli or the successor to the office of Mayor is authorized as follows:

1. To make application for such a grant.
2. If awarded, to execute a grant agreement with the State for a grant in an amount not less than \$2,000,00 and not more than \$25,000.00.
3. To execute any amendments thereto which do not increase the Grantee's obligations.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2016-4.10, second by Council Member Lawver with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION # 2016 – 4.11**

**RESOLUTION AUTHORIZING APPLICATION FOR
RECYCLING TONNAGE GRANT BASED ON 2015 RECYCLING**

WHEREAS, the Mandatory Source Separation and Recycling Act, P.L. 1987, c.102, has established a recycling fund from which tonnage grants may be made to municipalities in order to encourage local source separation and recycling programs; and

WHEREAS, it is the intent and the spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue and to expand existing programs; and

WHEREAS, the New Jersey Department of Environmental Protection has promulgated recycling regulations to implement the Mandatory Source Separation and Recycling Act; and

WHEREAS, the recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including, but not limited to, making and keeping accurate, verifiable records of materials collected and claimed by the municipality; and

WHEREAS, this resolution, authorizing this municipality to apply for a tonnage grant based on calendar year 2015 recycling, will memorialize the commitment of this municipality to recycling and to meeting the requirements contained in the Recycling Act and recycling regulations; and

WHEREAS, this resolution must designate the individual authorized to ensure that the application is properly completed and timely filed;

NOW, THEREFORE, BE IT RESOLVED by the Council of Pennington Borough that Pennington Borough hereby endorses the submission of the recycling tonnage grant application to the New Jersey Department of Environmental Protection;

BE IT FURTHER RESOLVED, that Richard Smith, a Certified Recycling Coordinator, is hereby designated to ensure that the application is properly completed and timely filed;

BE IT FURTHER RESOLVED that the monies received from the recycling tonnage grant be deposited in a dedicated recycling trust fund to be used solely for the purposes of recycling.

Record of Council Vote on Passage

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

Council Member Marciante made a motion to approve Resolution 2016-4.11, second by Council Member Lawver. Mr. Mark Blackwell stated that he used to get a form to fill out regarding items that he recycles privately and that the Borough could get credit for. Mr. Smith stated that he would stop by and get the information on who is picking up the recyclables because they could already be reporting it to him. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2016 - 4.12**

RESOLUTION TO INTRODUCE BUDGET FOR 2016

Section 1.

Municipal Budget of the Borough of Pennington, County of Mercer for the Fiscal Year 2016.

BE IT RESOLVED, that the following statement of revenues and appropriations shall constitute the Municipal Budget for the year 2006;

BE IT FURTHER RESOLVED, that said Budget be published in The Hopewell Valley News in the issue of April 15, 2016.

The Governing Body of the Borough of Pennington does hereby approve the following as the Budget for the year 2016.

Notice is hereby given that the Budget and Tax Resolution was approved by the Borough Council of the Borough of Pennington, County of Mercer, on April 6, 2016. A hearing on the Budget and Tax Resolution will be held at the Borough Hall, on May 4th, 2016 at 7:00 pm at which time and place objections to said Budget and Tax Resolution for the year 2016 may be presented by taxpayers or other interested persons.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2016-4.12, second by Council Member Davy with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2016 – 4.13**

RESOLUTION AUTHORIZING SHARED SERVICES AGREEMENT AMONG COUNTY OF MERCER, TRENTON HEALTH TEAM AND BOROUGH OF PENNINGTON FOR TUBERCULOSIS CONTROL AND CASE MANAGEMENT SERVICES

WHEREAS, the Borough of Pennington seeks to enter into a shared services agreement with the County of Mercer (Mercer County Department of Human Services, Division of Public Health) and the

Trenton Health Team (“THT”) to ensure countywide collaboration for the effective control of Tuberculosis Disease, including Case Management and Clinical Services;

WHEREAS, the THT is licensed and certified by the New Jersey Department of Health, Division of HIV, STD and TB Services, Tuberculosis (TB) Program;

WHEREAS, the funding to sustain this county-wide effort to prevent and control the spread of TB within Mercer County is provided principally by the County and the State of New Jersey but as State subsidies are cut local governments are asked to provide a local share as determined by formula;

WHEREAS, THT agrees to provide clinical services to the Health Department of the Borough of Pennington in the form of clinical space, contracted x-ray services, medical supplies, nurse practitioner coverage with consulting physician as an “in-kind” service, with a quarterly report to be provided to the Borough Health Department concerning services provided;

WHEREAS, the financial share of the Borough of Pennington in accordance with the proposed agreement, which is for a term of one year, shall not exceed \$35.55;

WHEREAS, these funds are available in the budget of the Borough Department of Health;

WHEREAS, a copy of the proposed agreement is attached;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Mayor, with the attestation of the Borough Clerk, is hereby authorized to enter into the proposed shared services agreement on behalf of the Borough with such amendments as to form as may be recommended 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	S				Griffiths				absent
Davy	X				Lawver	M			
Gnatt	X				Marciante	X			

Council Member Lawver made a motion to approve Resolution 2016-4.13, second by Council Member Chandler. Some discussion took place with regard to funding for this agreement. Council agreed that for this year the \$35.55 will be paid out of the Board of Health budget and going forward \$200.00 will need to be added to the Board of Health budget. Mrs. Chandler stated that Stephanie Carey, Health Officer for the Borough will be coming to make a presentation at the May meeting and she will address this at that time. Upon a roll call vote all members present voted in favor.

Council Discussion

Mrs. Chandler asked for an update on American Properties. Mrs. Heinzl stated that she has addressed that in her report to Council.

Professional Reports

Mrs. Heinzl stated that most of the items on her report have been covered already. Mrs. Heinzl stated that the NJEIT Application for East Curlis and Weidel has been filed. Mrs. Heinzl stated that we have received confirmation from the NJEIT that the loan application for King George Road and Park Avenue is going to be covered under the NANO program which provides the best kind of financial terms. Mrs. Heinzl stated that American Properties is on the agenda for the Planning Board meeting next week and the expectation is that this will be the final hearing. Mrs. Heinzl stated that she received a letter on Monday from Greg Kanter regarding their plan for fire suppression and there will be a meeting tomorrow to discuss whether their proposal will satisfy the ordinance which on its face she thinks it does not. Mrs. Heinzl stated that they also need to satisfy the Fire Departments concerns. Mrs. Heinzl stated that they have to provide on-site storage for fire suppression. Mrs. Heinzl stated that their proposal is to sprinkler all of the buildings but that does not address the water storage issue. Mrs. Heinzl stated that those issues will be discussed at the meeting tomorrow.

Mrs. Heinzl stated that she participated in a conference call with Mayor Persichilli and the DEP regarding the Penn East Pipeline. Mrs. Heinzl stated that they are going around to the different towns that are affected and they encouraged the Borough to write another letter in addition to our resolution if the Borough has concerns about well head protection and any other concerns that the Borough might have. Mrs. Heinzl stated that she would do the letter.

Mr. Bliss reminded Mayor and Council of the need for a Closed Session.

Public Comment Period

Mr. Lawver 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.

There were no comments from the public.

Closed Session

AT, 8:37PM, BE IT RESOLVED, that Mayor and Council shall hereby convene in closed session for the purposes of discussing a subject or subjects permitted to be discussed in closed session by the Open Public Meetings Act, to wit:

- Potential Litigation – Pennington School – Water/Sewer Charges
- Personnel – Borough Clerk/Treasurer

AT, 9:05PM, Mayor and Council returned to open session.

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

Council Member Chandler made a motion to approve the minutes of the January 13, 2016 and February 3, 2016 Closed Session meetings for content but not for release, second by Council Member Lawver with all members present voting in favor.

At 9:06PM, Council Member Chandler made a motion to adjourn the meeting, second by Council Member Marciante.

Respectfully submitted,

Elizabeth Sterling
Borough Clerk