

**Pennington Borough Council
Regular Meeting – July 11, 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 Chandler, Gnatt, Griffiths, and Marciante were present. Council Member Davy and Council Member Lawver were absent.

Also present were Borough Administrator Eileen Heinzl, Public Safety Director Bill Meytrott, Public Works Superintendent Ricky Smith, Borough Attorney Walter Bliss, Borough Engineer Carmela Roberts, Borough Auditor Bob Morrison and Chief Financial Officer Sandra Webb.

Mayor Persichilli announced that notice of this meeting has been given to the Hopewell Valley News, Trenton Times and was posted on the bulletin board in Borough Hall and on the Borough web-site according to the regulations of the Open Public Meetings Act.

Mayor Persichilli asked everyone to stand for the Flag Salute.

Open to the Public – Agenda Items Only

Mayor Persichilli read the following statement:

Meeting open to the public for comments on items on the agenda for which no public discussion is provided. In an effort to provide everyone interested an opportunity to address his or her comments to the Governing Body, a public comment time limit has been instituted for each speaker. **Please come forward and state your name and address for the record. Please limit comments to the Governing Body to a maximum of 3 minutes.**

Mr. Mark Godfrey of 6 Park Avenue came forward. Mr. Godfrey distributed his comments to Mayor and Council and indicated that he would be speaking for more than three minutes as he read his comments verbatim into the record.

TESTIMONY FOR JULY 11, 2016 BOROUGH OF PENNINGTON COUNCIL MEETING

From: Mark A. Godfrey
6 Park Ave., Pennington, NJ 08534, 737-1067. [markpodfrey2014\(3\)@verizon.net](mailto:markpodfrey2014(3)@verizon.net)

To: Mayor Anthony Persichilli and All Borough Council Members
30 North Main St., Pennington, NJ 08534

RE: Park Ave. and Upper King George Rd. improvements Project

Mayor Persichilli and All Council Members:

Good evening. Thank you for allowing me to provide information, comments, and suggestions about the Park Avenue and Upper King George Road Roadway Improvements Project (Project) for the public record at tonight's Borough of Pennington (Borough) Council (Council) meeting.

I expect you all have had the opportunity to read my February 25, June 7, June 12, and June 27, 2016 letters on the Project. During my testimony, please feel free to stop me at any time should you have any questions regarding the information I include in these letters or, what I am saying tonight.

Please note as of this morning, the draft version of the June 1, 2016 Council Meeting minutes are not posted on the Borough's website. This, in addition to my not receiving a response from the Borough to my June letters, has caused me great confusion and concern regarding the Project. Especially, because at the Borough's February 24 outreach meeting, I was told the Project had been "finalized". I don't believe relying on reports in the Hopewell Valley News to be the best way to become aware of Project changes. Instead, I suggest that when the Borough receives articulate, concerned public comment letters, the Borough reach out to the letter writer to at least acknowledge receipt of the comments.

Based on a July 5, 2016 letter, and subsequent e-mails I've received from Ms. Eileen Heinzl, Borough Administrator, the following is what I now understand may be what is to be recommended to Council this evening by the Borough's Public Safety Committee (Committee) for revisions to the Project, as last approved by Council on June 1, 2016. My comments tonight are not intended to "second guess" the Committee's work. Please know I am grateful that the Committee has considered my June letters' comments and suggestions as related to me via Ms. Heinzl's recent e-mails.

Park Avenue Portion:

- Roadway width to be 31-feet, with total impervious width to measure 32-feet (with inclusion of two (2) 6-inch wide curbs located on the north and south sides of the street)
- Curb to be installed on both the south (sidewalk side) and north sides of the roadway
- New sidewalk to be installed on the south side of the roadway (with inclusion of a grass strip located between the sidewalk and curb)

- Two (2) speed tables to be positioned along the roadway for traffic calming
- Rehabilitation/upgrade of existing roadside stormwater catchbasins
- Addition of roadway stormwater management under-drains
- New macadam asphalt to replace the milled, existing/remaining roadway surface

As indicated in my June 12 and June 27, 2016 letters, the project I've listed will result in approximately 1507 square feet in new impervious surface for Park Avenue and, the loss of approximately 3014 linear feet of roadside, stormwater runoff infiltration that currently takes place on Park Avenue.

Upper King George Road Portion:

- Roadway width to be 34-feet -No curbs to be installed
- Reconstruction of existing sidewalk where it is currently located
- Two (2) speed tables to be positioned along the roadway for traffic calming (one table to serve the additional purpose of allowing pedestrians to cross from the existing, incomplete south side sidewalk to the full length, reconstructed north side sidewalk)
- Rehabilitation/upgrade of existing roadside stormwater catchbasins
- Addition of roadway stormwater management under-drains
- New macadam asphalt to replace the milled, existing/remaining roadway surface

Concerns about the Project:

Water Quality Issues;

I want to emphasize to the Mayor, Council, and Borough Engineer, Roberts Engineering LLC, that in my personal opinion the project I identify above may have significant impacts to the Borough's environment. I've detailed these impacts in my June 2016 letters regarding the addition of new, impervious surface and the loss of roadside stormwater infiltration for Park Avenue and, the potentially lost opportunity to now enhance stormwater pollution mitigation via incorporation of additional water quality improvements for both roadways.

I direct your attention to the Borough's "2016 Annual Drinking Water Quality Report. For the Year 2015" provided recently to Borough residents. Please note how many of the Borough's wells show "high" susceptibility ratings for "nutrients", "volatile organic compounds", and "radon". It should be expected that roadway-derived stormwater runoff may be a contributor to the high rating for nutrients and volatile organic compounds (VOC).

During my telephone conversation this morning with Mr. Norman F. Nelson, P.E. of Van Note Harvey Associates, the Borough's Water and Sewer Department Engineer, I have learned that Borough Well #5, located at the "bend in Stony Brook", and adjacent to Lower King George Road, may be one of the Borough wells that may have this high nutrient and VOC rating. However, Well #5 may not currently be in use primarily because of yield and arsenic level issues.

Please note the concerns I raise in my June letters specifically call-out how Park Avenue-derived pollution will be channeled directly to receiving waters (both Lewis and Stony brooks) when curbing is installed. Both of these waterbodies are immediately adjacent to Well #5. Whether this specific well has a high susceptibility rating for VOCs and nutrients or not, I have the personal opinion that without adequate water quality stormwater management enhancements for Park Avenue, the Project will significantly exacerbate undesirable potable water well conditions for this specific Borough well. In addition, the overall water quality for both Lewis and Stony brooks may be harmed for the intrinsic values afforded fish and the other essential biota of these waterbodies.

In this regard, tonight I am asking the Borough Engineer to explain how the proposed under drains in both Park Avenue and Upper King George Road (UKGR) will mitigate for expected roadway-derived pollution. I believe that because of the location of the Borough well and the important waterbodies adjacent to it, detailed quantification regarding proposed stormwater management water quality techniques should be provided before the Borough and its residents have the confidence that the Project will not harm Pennington's environment.

It has been my experience that the use of underdrains may not be beneficial to road-sourced pollutants regarding water quality for roads that have curbs. Instead, roads where no curbs exist, have roadside ditches/banks, and/or have spring or seep discharges are most benefited by the intervention of unwanted subsurface water that under-drains are able to address. I understand how the Project I describe for Upper King George Road may benefit via the use of under-drains. I remain unclear about what benefit under-drains may provide Park Avenue.

In addition, I now respectfully ask the Borough Engineer whether drywells constructed as "sumps" in the to-be-reconstructed/upgraded roadside catch basins for both Park Avenue and Upper King George Road have been considered for the project specifically, and whether water quality for stormwater will be improved. Also, has the concept of not cementing proposed stormwater management piping joints been considered for the Project? Both of these water quality techniques may provide mitigation of expected roadway-source pollution.

Street Tree Loss Issues:

I am now asking the Borough Engineer to provide a reasonable expectation “estimate” of which existing street trees for both sides of both, Park Avenue and Upper King George roadways, will be destroyed because of the Project. Based on what the Committee may be recommending to Council this evening and, comments contained in the Roberts Engineering letter dated June 6, 2016, and, on my understanding of the project I’ve described earlier in my comments, I am concerned that the residents of Pennington be made aware in advance of the expected street tree loss.

Please provide the specific street trees that will be removed.

In addition, I believe some street trees may be saved by “arching” the proposed sidewalk on Park Avenue and, the reconstructed sidewalks for Upper King George Road, around at least some of the existing, smaller, healthy street trees. During my February 2016 site meeting with Mr. Gabe Rosko, representing the Borough’s Shade Tree Commission, Mr. Rosko was unable to identify whether some of the street trees could/would be saved. Mr. Rosko indicated that saving particular street trees would be the Borough’s decision

I make these comments, concerns, suggestions, and questions with sincere respect for the challenges the Borough, Borough government, and Borough Engineer have regarding the design of the Project. I understand the significant effort all of you have contributed regarding meeting the Borough’s infrastructure needs, the protection of the Borough’s environment and lastly, the specific desires of Borough residents. I remain available to assist the Borough in designing a project that accomplishes these goals in a manner logistically, financially, and practically as is appropriate for the town of Pennington.

Thank you for your time and consideration. I now await answers to my questions and for any questions you may have of me.

Mayor Persichilli stated that he is aware the Mr. Godfrey has written several letters to the Borough and he thought that the Borough Administrator had responded on a couple of occasions to specific questions that were raised. Mayor Persichilli asked Mr. Godfrey what his biggest concern is so that Council can provide an idea of what is planned for the project. Mayor Persichilli stated for example Mr. Godfrey raised questions with regard to tree removal and he knows that there is a list of trees that may be considered for removal so that would answer that question. Mr. Godfrey stated that the Public Works Committee may be making a recommendation tonight and his fundamental concern is whether what he has described in his comments as the project is accurate based on a response he received from Mrs. Heinzl. Mr. Godfrey stated that his summary of the project includes what differs between what the committee may be recommending and what was approved at the June 1st meeting. Mrs. Heinzl stated that the Mayor and Council have a copy of a memo from the Public Works Committee which is a result of a meeting held after the last Council meeting. Mrs. Heinzl stated that at the June meeting Council recommended a change to the road design plan so the Public Works Committee met with the Borough Engineer to talk about the issue of curbing on Park Avenue. Mrs. Heinzl stated that the plan for Park Avenue is to install new sidewalks and the Public Works Committee is asking Council to perhaps reconsider the decision to remove curbing from Park Avenue because if a new sidewalk is to be installed on Park Avenue it is the recommendation of the Borough Engineer that curbing has to be part of the project. Mrs. Heinzl stated that the recommendation is for Council to reconsider the decision to remove curbing from Park Avenue.

Mrs. Chandler asked if the curbing decision affects the decision regarding trees or the width of the road or other decisions that were reached at the June meeting. Mrs. Chandler stated that trees were discussed at great length and there was a list that indicated which trees were going to be removed. Mrs. Chandler stated that there was a consensus that in order to maintain the width of the road several trees needed to be removed. Mr. Godfrey stated that he would like to see an accounting of the trees that will be affected. Mr. Godfrey stated that while we are talking about trees he is asking Borough Council and the Borough Engineer tonight whether or not some of the smaller healthy trees could be saved by arching around the tree base. Mayor Persichilli asked Borough Engineer, Carmela Roberts to comment. Ms. Roberts stated that the trees that we expected to be removed on Park Avenue several months ago when the 28 foot road was considered would remain the same trees that we expect to remove with a 31 foot road. Mr. Godfrey responded that was helpful information. Mr. Marciante stated that if curbs are installed there may be roots involved. Ms. Roberts stated that what is proposed with a 28 foot road is a four foot grass strip and then the sidewalk and even trying to work within the four foot strip plus the sidewalk it is very difficult to work anywhere around the trees that are nearby whether small or large. Ms. Roberts stated that they are finding that the trees that were expected to come out are remaining the trees that we expected that have to come out. Ms. Roberts stated that she has not sat down and done a detailed design for a 31 foot road so it is possible that there could be additional trees that will be affected.

Mr. Griffiths stated that the tree discussion hinges on the assumption that the recommendation is going to include curbing and sidewalks, but the alternative is no curbing and no sidewalks. Mr. Griffiths asked if that would change the tree discussion and Ms. Roberts responded that it would. Mr. Griffiths asked Mr. Godfrey how he would feel about the alternative of no curbs and no sidewalks. Mr. Godfrey stated that he has stated in his letters that he has been waiting 62 years for a sidewalk and for curbs because he agrees with Mayor Persichilli who stated at the last meeting that the elderly and children deserve a sidewalk to walk on. Mr. Godfrey stated that he also agrees with the Borough Engineers who indicated in a letter dated June 6th that says when a sidewalk is built there needs to be a curb for both safety and road preservation. Mr. Godfrey

stated that he would like sidewalks and curbs because they go together and when it comes to the North side of Park Avenue the Borough needs to take a look at the eight to ten flowering trees because they may be affected by the installation of curbs. Mr. Godfrey stated that if these flowering trees are going to be lost he thinks that the residents need to know.

Mr. Godfrey stated that he is not looking for a fight, but he has found this project to be very difficult to pay attention to and he has been paying attention and waiting for 62 years. Mr. Godfrey stated that this project has become very confusing to him.

Mr. Griffiths stated that a lot of Mr. Godfrey's presentation explained the deleterious effects of curbing regarding washing pollutants down into bodies of water. Mr. Griffiths asked Mr. Godfrey to reconcile the environmental risk with his desire to have curbs. Mr. Godfrey explained that you can have both and he has made suggestions in his letters. Mr. Godfrey asked if the Borough Engineer has considered his suggestions which include non-cemented joints and sumps in the catch basins at the current location. Mr. Godfrey stated that he understands how the underdrains would work for the benefit of the environment for King George Road because the proposal that was approved on June 1st does not include curbs on King George Road. Mr. Godfrey stated that when you have curbs on Park Avenue which he is strongly in support of, road pollutants will be flushed right down to Stony Brook and that is why he brought up the impact to Borough Wells. Mr. Godfrey further explained how to have curbs while still mitigating the impact on the environment.

Mr. Griffiths asked Ms. Roberts to comment on Mr. Godfrey's suggestions. Ms. Roberts stated that with regard to King George Road, when they were designing the road, they put in curbs and because the road is so flat in elevation at the side edge, one of the techniques they applied was to create a lower area between the curb and the sidewalk where an underdrain would be installed as a method to handle the stormwater. Ms. Roberts stated that if there are not going to be curbs on King George Road she would recommend not installing underdrains because the water will naturally run off the road as it is doing today. Ms. Roberts stated that on the Park Avenue project she would prefer to install a perforated pipe underdrain wrapped in fabric that will sit in a casing of clean stone. Ms. Roberts stated that as a cost effective measure the existing inlets would be used. Ms. Roberts stated that all of the water that is running down the road now gets to the inlets and they make their way down to Stony Brook pretty quickly. Ms. Roberts stated that what they are thinking about doing is using the inlets and installing an underdrain at the bottom of the inlets. Ms. Roberts explained how the underdrains would work. Mr. Godfrey stated that he was familiar with the technique. Ms. Roberts stated that she could not talk numbers at this point because they need to balance the cost of the project with the environmental concerns. Ms. Roberts stated that they will be figuring out the best places to put the underdrains to catch the most contaminants and get the best use from them. Mr. Godfrey thanked Ms. Roberts for her explanation and stated that though he asked in his testimony this evening for quantification he is not asking for exact numbers. Mr. Godfrey stated that he and maybe other members of the public have experienced some confusion since the February outreach meeting. Mr. Godfrey stated that it does sound like the underdrains would help to mitigate for the water quality issues.

Mr. Marciante stated that personally he thinks the road should go back the way it is now with no sidewalks because the costs are escalating and there may not be funds coming in from the State. Mr. Marciante stated that he is in favor of restoring both roads back the way they are now. Mr. Marciante stated that he lives on a street with no curbs and the sides of the roads are fine. Mayor Persichilli stated that Mr. Marciante would have an opportunity to vote when the time comes.

Mr. Godfrey stated that he has lived on Park Avenue for 62 years and he has been waiting that long for a sidewalk. Mr. Godfrey stated that it just makes sense to have curbs when there are sidewalks in terms of safety and structural integrity of the road.

Mr. Griffiths stated that curbs are not required and the RSI regulations do not apply retroactively. Mr. Griffiths stated that he has read the regulations and he cannot find any justification for curbs or comments about structural integrity. Mr. Griffiths stated that curbs are most often stipulated when there is on street parking but there is nothing about structural integrity or safety. Mr. Griffiths stated that there are many streets in the Borough with sidewalks and no curbs and no significant erosion.

Mr. Godfrey stated that for 62 years, Park Avenue has had parking on the street and he has seen cars and trucks parked in front of his house and those vehicles cut in and park on the grass portion of his lawn. Mr. Godfrey stated that if that can weaken the crushed stone and the soil held by the stone. Mr. Griffiths replied that is a hypothetical situation and the facts are that all of the streets in town without curbs do not demonstrate significant structural erosion. Mr. Griffiths asked Carmela Roberts if there is an issue with installing the street in the absence of curbs, providing that there is an absence of sidewalks.

Ms. Roberts stated that if there are no curbs and no sidewalks she has no objection. Ms. Roberts stated that she does have an objection if there are sidewalks with no curbs. Mr. Godfrey stated that he thought that Park Avenue was going to have sidewalks and that is what he is talking about.

Mr. Griffiths stated that Mr. Godfrey cited structural integrity issues and that is what he is challenging. Mr. Griffiths stated that he agrees with Mr. Godfrey's desire to have sidewalks because he believes that this should be a pedestrian environment. Mr. Griffiths stated that curbing is the sticking point because the Borough Engineer is recommending curbing with sidewalks, RSI Standards do not require curbing with sidewalks retroactively and so we are stuck between a professional engineer's recommendation and the increasingly expensive design of the project. Mr. Griffiths stated that curbs would cost \$60,000 and that is \$60.00 out every taxpayers pocket and then there is the incremental cost of the underdrains. Mr. Griffiths

stated that Council is looking at taking this project into a bond situation, doubling the long term cost of the project by the interest and that is at current interest rates. Mr. Griffiths stated that these are the things that Council has to consider and these are the fiduciary responsibilities that he feels very strongly about.

Mr. Godfrey asked Mr. Griffiths to explain his use of the word “retroactively” with regard to his comments about the RSI Standards. Mr. Godfrey stated that he could see that applying to roads where there are already sidewalks without curbs, but Park Avenue does not have sidewalks at this time. Mr. Griffiths stated that there is no clear argument that says that where there are sidewalks there has to be curbs. Mr. Griffiths stated that he is hearing that Mr. Godfrey would like sidewalks and he would also like to see sidewalks. Mr. Griffiths stated that the engineer is saying that if there are sidewalks there has to be curbs and that increases the cost of the project by \$60,000. Mr. Griffiths stated that now he is starting to rethink the project and he is getting concerned about the cost which is now spread across 1,000 taxpayers. Mr. Griffiths stated that he understands and sympathizes with Mr. Godfrey’s point of view, but another \$80,000 to \$100,000 is a lot to consider.

Mr. Godfrey pointed out that Mr. Lawver was quoted in the paper as saying that the difference between the widths amounted to \$25,000 and Council voted three to two in favor of spending an additional \$25,000 to widen the road. Mr. Griffiths stated that there were at least ten residents at the meeting who testified that they wanted the width to remain as it is today. Mr. Griffiths stated that is the argument that persuaded Council Members to vote in favor of keeping the width as it is with both he and Mr. Lawver objecting. Mr. Griffiths stated that he would rather see the width of the road reduced to the original design to save \$25,000.

Mayor Persichilli thanked Mr. Godfrey for his comments and letters. Mayor Persichilli stated that Council is not voting on anything tonight. Mayor Persichilli stated that the Public Works Committee submitted a memo for consideration. Mayor Persichilli stated that the Borough Engineer has not completed the design of the project. Mrs. Heinzl stated that Ms. Roberts is waiting for guidance in order to finalize the plans. Mr. Griffiths stated that we should not overlook the fact that the State has suspended funding on all transportation trust projects. Mr. Griffiths stated that it will be at least two weeks and maybe longer before the State Legislature gives this matter any attention. Mr. Griffiths stated the Borough cannot build this project out of our own pocket. Mr. Godfrey stated that it is frustrating that he can’t get an answer as to whether the projects as he read from his testimony tonight are the projects that will be built. Mr. Godfrey stated that he has waited 62 years and he can wait a little longer. Mr. Griffiths stated that this is not the first time that Council has been frustrated by conflicting points of views and State Regulations. Mr. Godfrey stated that he would like to end his comments by saying that he has been working to protect New Jersey’s environment for many years and without mitigating for stormwater runoff on Park Avenue in some way, he believes that Stony Brook will be harmed and possibly Well 5.

Presentations

Mayor Persichilli invited Mr. Bob Morrison of Hodulik and Morrison to come forward to present the Audit Report for 2015. Mr. Morrison thanked Mayor and Council. Mr. Morrison stated that everyone should have received a copy of the audit report and the good news is that the governing body is only required to read the Comments and Recommendations section of the report. Mr. Morrison stated that he is here to explain the rest of the report. Mr. Morrison stated that their opinion on the financial statements appears on pages 2 through 4 of the document and it takes three pages for them to say that they believe the financial statements are a fair representation of the financial condition of the Borough. Mr. Morrison stated that the Borough is following all the rules and regulations relating to budgets and accounting that we are required to follow in the development of the financial report and that the report is consistent with reports from the previous years. Mr. Morrison stated that the report is based on New Jersey Standards which are different than the National Accounting Standards for Municipal Governments but over time, the NJ Standards are not inclusive of some data that is not getting into Federal Based Reports. Mr. Morrison stated that one thing that changed this year that had we been following GAAP standards we would have reported our share of liability for the net pension obligations of the Public Employees Retirement System and the Police and Firemen’s Retirement System. Mr. Morrison stated that there is a Note to the Financial Statements which sets forth those amounts and they are somewhat staggering. Mr. Morrison reviewed the numbers on page 8 and page 9 of the report and explained how the liability came about and what could happen in the future. Mr. Morrison stated that this is the first time that these numbers have been quantified for Municipal Governments. Mr. Morrison explained that prior to 2015 there was just one big number and municipalities did not know what their share was. Mr. Morrison stated that a new accounting standard forced the State to get a breakdown by individual government. Mr. Morrison stated that these numbers are not part of the financial statements which is why they are included under the notes. Mr. Morrison stated that the State is the first recourse in the event that the system should fail. Mr. Morrison explained that each year municipalities are paying down the liability through the annual payment. Mr. Morrison stated that the unfunded liability was amortized over 30 years and we are in year 8 and if the actuarial data matches up with reality it should be paid off in 30 years.

Mr. Morrison stated that the second report he would like to go over is the Internal Controls. Mr. Morrison stated that this report is done to determine whether or not they can place reliability in the numbers being generated internally. Mr. Morrison stated that they evaluate these controls by testing them to make sure that the checks and balances that are in place are working. Mr. Morrison stated that they also evaluate compliance with laws and regulations. Mr. Morrison stated that there are many Federal, State and Local regulations that are reviewed through 30 to 40 different compliance tests to ensure that the Borough is adhering to those requirements. Mr. Morrison stated that the results appear on pages 5 and 6 of the report. Mr. Morrison stated that what the report shows is that the controls are designed appropriately for a government of our size recognizing the limited number of people employed. Mr. Morrison stated that

segregation of duties is problematic in a municipality of this size, but the Borough compensates for instance by having the Borough Council review bills prior to payment. Mr. Morrison stated that the report finds no instances of non-compliance that are material to the Borough operations. Mr. Morrison stated that it is as good a report as they can write. Mr. Morrison congratulated the staff on having a very clean audit.

Mr. Morrison stated that there are two recommendations in the audit report at the back of the document. Mr. Morrison stated that the first one is a housekeeping item and it deals with grants. Mr. Morrison stated that in the "A" section of the audit there is a Schedule of State and Federal Grants Receivable and an offsetting Schedule of State and Federal Grant Appropriation Balances. Mr. Morrison stated that some of these grants are getting old and they are suggesting that someone go through those schedules and find out whether these programs can be closed out and if so an action of the Governing Body to cancel the balances is required. Mr. Morrison stated that in some places when this recommendation is made there is a financial impact if money has been spent but has not been collected. Mr. Morrison stated that is not the case in Pennington because basically every dollar that is cancelled in receivables will be offset by an unspent grant balance so cleaning up the grants should not have a financial impact on the Borough.

Mr. Morrison stated that the second recommendation comes about from one of the compliance tests. Mr. Morrison stated that they do tests to make sure that every employee is covered by health insurance if they are supposed to be, that employees that are no longer employed are no longer covered by health insurance and that everyone that is supposed to be enrolled in a pension system is enrolled. Mr. Morrison stated that what they found was one employee who should be enrolled in the Defined Contribution Retirement Program (DCRP). Mr. Morrison stated that under the new laws the DCRP requires the employee to contribute 5.5% and the employer to contribute 3%. Mr. Morrison stated that the DCRP is for people who are appointed and by legislative act were taken out of the PERS. Mr. Morrison stated that the Borough benefited from this employee not being enrolled but the law says that the employee has to be enrolled and to avoid any liability with the State the employee needs to be enrolled.

Mr. Morrison stated that as far as the finances of the Borough go, the fund balance on page 8 shows that fund balance is up slightly at the end of 2015 as compared to 2014 which is a positive sign. Mr. Morrison stated that the one caution that they have is that the appropriation reserve balances for 2015 is down from what was the case in 2014 which means less money will be dropping into fund balance at the end of 2016. Mr. Morrison stated that there is a potential fund balance issue on the horizon however a lot of things can mitigate the problem in the meantime. Mr. Griffiths stated that the Finance Committee was aware of that and based on the assumption that this year's Engineer's budgets are quite a bit higher than normal because we have these very big projects going and we don't anticipate projects of this magnitude going forward we expect that line item to be reduced. Mr. Griffiths stated that it was a calculated risk and if it backfires we will be much more prudent going forward. Mr. Morrison stated that the Borough is not a point where as an auditor he is concerned about the financial condition of the Borough. Mr. Morrison stated that we just need to be careful going forward and there might be more pressure to raise taxes in the coming year.

Mr. Morrison stated that all in all it was a nice clean audit and he would like to thank the staff for all of their assistance during the course of the audit. Mr. Griffiths thanked Betty Sterling, Eileen Heinzl, Sandra Webb and all the other professionals who work hard and are very careful about spending taxpayer money. Mr. Griffiths stated that this is the type of sobering data that makes Council think twice about the kind of money that is spent and where money is spent. Mr. Griffiths stated that so many items in the budget are beyond our control and these expenses consistently go up each year. Mr. Griffiths stated that there does not seem to be any potential for declining expenses especially in the insurance and pension areas and that puts the budget under enormous pressure on an annual basis. Mr. Griffiths thanked Mr. Morrison for presenting the facts and stated that all facts are friendly and if we know about them, we can deal with them.

Mayor Persichilli reminded Council Member to sign the affidavit once the Resolution is acted on later in the meeting.

Mayor Persichilli invited Mr. Kevin Ryan to come forward to make a presentation on behalf of the Pennington Business and Professional Association. Mr. Ryan thanked Mayor and Council for the opportunity to speak to them. Mr. Ryan stated that he has a business on South Main Street and he is also the Co-President of the Pennington Business and Professional Association. Mr. Ryan stated that over the past several years, the PBPA has been meeting on the first Wednesday of the month which now seems to be a conflict with Borough Council meetings so they are thinking of changing the meeting day. Mr. Ryan stated that the next meeting will be Wednesday at the Hopewell Valley Golf Club at 5:45pm. Mr. Ryan invited Mayor and Council to attend the meeting. Mr. Ryan stated that their mission is to bring the community together and although they are called the "Pennington" Business Association, they reach out to the entire Hopewell Valley. Mr. Ryan stated that they are looking to bring all businesses, both retail and professionals together. Mr. Ryan stated that in order to help both retail and professional businesses get exposure they came up with a directory. Mr. Ryan distributed a copy for Mayor and Council to look at. Mr. Ryan stated that they now have over 130 members and over the last three years there has been a lot of enthusiasm brought to the group. Mr. Ryan stated that they are in the process of working with the Future Business Leaders of America (FBLA) at the High School to develop a website and they are in the process of uploading information. Mr. Ryan stated that they are in the process of becoming a formal organization and they are working with an attorney in town to become a 501c6 association which will help give them more credibility and enable them to do some other things. Mr. Ryan stated they are working with the Pennington Day Committee and he will also be talking with the Pennington Library to have a calendar of community events for everyone to view. Mr. Ryan stated that they are also working on expanding the Holiday Walk to include businesses on Route 31 with possibly have shuttles to bring people from the Pennington Market parking lot

into town. Mr. Ryan stated that they have a committee that will be looking into planning events and the possibility of expanding out to Route 31. Mayor Persichilli congratulated Mr. Ryan on the growth and expansion of the PBPA and he offered his support of the upcoming events. Mrs. Chandler agreed with Mayor Persichilli and stated that the Economic Development Commission has also been working with the PBPA to try and coordinate events. Mrs. Chandler stated that she agrees that there are a lot of different organizations working on the same things and she would like to see some unity to try to get coordination of events. Mr. Ryan stated that another thing that he would like to see done is ribbon cuttings and he has spoken to all three Mayors to try to get that started. Mr. Ryan stated that ribbon cuttings would provide publicity and hopefully generate some enthusiasm for local businesses. Mrs. Chandler stated that a town is a composite of businesses and residences and you can't have one without the other.

At 8:05 pm Mr. Marciante excused himself from the remainder of the meeting.

Approval of Minutes

Council Member Chandler made a motion to approve the minutes of the June 1, 2016 Regular Meeting, second by Council Member Griffiths. Council Members Chandler and Griffiths voted in favor, Council Member Gnatt abstained. Mr. Bliss clarified that as long as a majority of members present voted in favor the minutes are approved.

Ordinances for Introduction

Mayor Persichilli read Ordinance 2016-15 by title.

**BOROUGH OF PENNINGTON
ORDINANCE 2016-15**

**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 a change to the Borough Code which would amend provisions of Chapter 215 concerning permitted front-yard area modifications in residential zones;

WHEREAS, the amendment would apply the criteria for permitted front-yard area modifications in a residential zone to all lots, not only vacant lots;

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 215-50 of Chapter 215 of the Borough Code, concerning permitted yard area modifications, is amended as follows:

215-50. Permitted yard area modifications.

- A. Front yards. In any residential zone where 50% or more of the lots within a distance of 500 feet on the same side of the street are developed, the front yard requirements for any [vacant] lot within such area shall be the average of the existing front yards on the developed lots.
 - B. Side yards. In the case of lots upon which an existing structure is located, the combined total side yard requirements shall be reduced by six inches for each foot by which a lot is less than the minimum requirement for the zone in which located. In any case, the side yard width for either side yard shall not be reduced to less than 50% of the requirement of said zone.
2. This ordinance shall take effect upon passage and publication as required by law.

Council Member Chandler made a motion to introduce Ordinance 2016-15, second by Council Member Griffiths. Mrs. Chandler asked if this is the ordinance that would allow a swimming pool on a corner lot. Mrs. Heinzl stated that this is simply removing the word "vacant" because there are no vacant lots in the Borough, but there are some areas where it makes more sense to average what the existing setbacks are. Upon a roll call vote all members present voted in favor.

Ordinances for Public Hearing and Adoption

Mayor Persichilli read Ordinance 2016-14 by title.

**BOROUGH OF PENNINGTON
ORDINANCE 2016-14**

**AN ORDINANCE CONCERNING FLOOD DAMAGE PREVENTION AND AMENDING
CHAPTER 108 OF THE BOROUGH CODE**

WHEREAS, the New Jersey Department of Environmental Protection (NJ DEP) has notified all Mercer County municipalities that they are required to update their Flood Damage Prevention Ordinances in order to continue participation in and comply with the National Flood Insurance Program;

WHEREAS, NJ DEP has reviewed Pennington Borough's existing Flood Damage Prevention Ordinance enacted in 1988 and codified in Chapter 108 of the Borough Code and recommended replacing it with an updated ordinance in the form set forth below;

WHEREAS, this ordinance is a prerequisite for any resident to obtain flood insurance and for the Borough to obtain FEMA funding;

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Pennington, that Sections 108-1 through 108-5 of Chapter 108 of the Code of the Borough of Pennington are hereby superseded by the following:

**SECTION 1.0
STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES**

1.1 STATUTORY AUTHORIZATION

The Legislature of the State of New Jersey has in N.J.S.A. 40:48-1 et seq., delegated to local governmental units responsibility for adopting regulations designed to promote the public health, safety, and general welfare of its citizenry.

1.2 FINDINGS OF FACT

- a) The flood hazard areas of the Borough of Pennington are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- b) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, causes damage in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

1.3 STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- a) Protect human life and health;
- b) Minimize expenditure of public money for costly flood control projects;
- c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- d) Minimize prolonged business interruptions;
- e) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, bridges located in areas of special flood hazard;
- f) Help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
- g) Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- h) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

1.4 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- b) Requiring that uses vulnerable to floods including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- c) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- d) Controlling filling, grading, dredging, and other development which may increase flood damage; and,
- e) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

**SECTION 2.0
DEFINITIONS**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

Appeal — A request for a review of the Construction Official's interpretation of any provision of this ordinance or a request for a variance.

Area of Special Flood Hazard — Land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone V, VE, V1-30, A, AO, A1-A30, AE, A99, or AH.

Base Flood — A flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) — The flood elevation shown on a published Flood Insurance Study (FIS) including the Flood Insurance Rate Map (FIRM). For zones AE, AH, AO, and A1-30 the elevation represents the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

Basement — Any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway Wall — A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

Development — Any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

Digital Flood Insurance Rate Map (DFIRM) — The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Elevated Building — A non-basement building (i) built, in the case of a building in an Area of Special Flood Hazard, to have the top of the elevated floor, elevated above the base flood elevation plus freeboard by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water, and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In an Area of Special Flood Hazard "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

Existing Manufactured Home Park or Subdivision — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Flood or Flooding — A general and temporary condition of partial or complete inundation of normally dry land areas from:

- a) The overflow of inland or tidal waters and/or
- b) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM) — The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) — The official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Insurance Rate Map(s) and the water surface elevation of the base flood.

Floodplain Management Regulations — Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing — Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without accumulatively increasing the water surface elevation more

than 0.2 foot.

Freeboard — A factor of safety usually expressed in feet above a flood level for purposes of flood plain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

Highest Adjacent Grade — The highest natural elevation of the ground surface prior to construction next to the proposed or existing walls of a structure.

Historic Structure — Any structure that is:

- a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c) Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior; or
- d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved State program as determined by the Secretary of the Interior; or
 - (2) Directly by the Secretary of the Interior in States without approved programs.

Lowest Floor — The lowest floor of the lowest enclosed area [including basement]. An unfinished or flood resistant enclosure, useable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor provided that such enclosure is not built so to render the structure in violation of other applicable non-elevation design requirements of 44 CFR Section 60.3.

Manufactured Home — A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured Home Park or Manufactured Home Subdivision — A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

New Construction — Structures for which the start of construction commenced on or after the effective date of a floodplain regulation adopted by a community and includes any subsequent improvements to such structures.

New Manufactured Home Park or Subdivision — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by the municipality.

Recreational Vehicle — A vehicle which is [i] built on a single chassis; [ii] 400 square feet or less when measured at the longest horizontal projections; [iii] designed to be self-propelled or permanently towable by a light duty truck; and [iv] designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Start of Construction — For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. No. 97-348) includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings or piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure — A walled and roofed building, a manufactured home, or a gas or liquid storage tank that is principally above ground.

Substantial Damage — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its condition before damage would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not include, however, either:

- a) Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or
- b) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

Variance — A grant of relief from the requirements of this ordinance that permits construction in a manner that would otherwise be prohibited by this ordinance.

Violation — The failure of a structure or other development to be fully compliant with this ordinance. A new or substantially improved structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR §60.3(b)(5), (c)(4), (c)(10), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

SECTION 3.0 GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the Borough of Pennington, Mercer County, New Jersey.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard for the Borough of Pennington, Community No. 340251, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- a) A scientific and engineering report "Flood Insurance Study, Mercer County, New Jersey (All Jurisdictions)" dated July 20, 2016.
- b) "Flood Insurance Rate Map for Mercer County, New Jersey (All Jurisdictions)" as shown on Index, and DFIRM panel(s) 34021C0108F, 34021C0109F, whose effective date is July 20, 2016.

The above documents are hereby adopted and declared to be a part of this ordinance. The Flood Insurance Study, maps and advisory documents are on file at 30 North Main Street, Pennington, New Jersey.

3.3 PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, re-located to, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$1,000.00 or imprisoned for not more than 90 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Borough of Pennington, from taking such other lawful action as is necessary to prevent or remedy any violation.

3.4 ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

3.5 INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

- a) Considered as minimum requirements;
- b) Liberally construed in favor of the governing body; and,
- c) Deemed neither to limit nor repeal any other powers granted under State statutes.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

This ordinance shall not create liability on the part of the Borough of Pennington, any officer or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

SECTION 4.0 ADMINISTRATION

4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before construction or development begins, including placement of manufactured homes, within any area of special flood hazard established in section 3.2. Application for a Development Permit shall be made on forms furnished by the Construction Official and may include, but not be limited to; plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- a) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- b) Elevation in relation to mean sea level to which any structure has been floodproofed.
- c) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in section 5.2-2; and,
- d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

4.2 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Construction Official is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

4.3 DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR

Duties of the Construction Official shall include, but not be limited to:

4.3-1 PERMIT REVIEW

- a) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- b) Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- c) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of 5.3 a) are met.

4.3-2 USE OF OTHER BASE FLOOD AND FLOODWAY DATA

When base flood elevation and floodway data has not been provided in accordance with section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Construction Official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer sections 5.2-1, SPECIFIC STANDARDS, RESIDENTIAL CONSTRUCTION, and 5.2-2, SPECIFIC STANDARDS, NONRESIDENTIAL CONSTRUCTION.

4.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED

- a) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- b) For all new or substantially improved floodproofed structures:
 - i. verify and record the actual elevation (in relation to mean sea level); and
 - ii. maintain the floodproofing certifications required in section 4.1 c).
- c) Maintain for public inspection all records pertaining to the provisions of this ordinance.

4.3-4 ALTERATION OF WATERCOURSES

- a) Notify adjacent communities and the New Jersey Department of Environmental Protection, Dam Safety and Flood Control Section and the Land Use Regulation Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- b) Require that maintenance is provided within the altered or relocated portion of said watercourse so the flood carrying capacity is not diminished.

4.3-5 SUBSTANTIAL DAMAGE REVIEW

- a) After an event resulting in building damages, assess the damage to structures due to flood and non-flood causes.
- b) Record and maintain the flood and non-flood damage of substantial damage structures and provide a letter of Substantial Damage Determination to the owner and the New Jersey Department of Environmental Protection, Dam Safety and Flood Control Section.
- c) Ensure substantial improvements meet the requirements of sections 5.2-1, SPECIFIC STANDARDS, RESIDENTIAL CONSTRUCTION, and 5.2-2, SPECIFIC STANDARDS, NONRESIDENTIAL CONSTRUCTION.

4.3-6 INTERPRETATION OF FIRM BOUNDARIES

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in section 4.4.

4.4 VARIANCE PROCEDURE

4.4-1 APPEAL BOARD

- a) The Planning Board shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- b) The Planning Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Construction Official in the enforcement or administration of this ordinance.
- c) Those aggrieved by the decision of the Planning Board, or any taxpayer, may appeal such decision to the Superior Court of New Jersey, as provided in N.J.S.A. 40:55D-17h & 18..
- d) In passing upon such applications, the Planning Board, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
 - i. the danger that materials may be swept onto other lands to the injury of others;
 - ii. the danger to life and property due to flooding or erosion damage;
 - iii. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - iv. the importance of the services provided by the proposed facility to the community;
 - v. the necessity to the facility of a waterfront location, where applicable;
 - vi. the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - vii. the compatibility of the proposed use with existing and anticipated development;
 - viii. the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - ix. the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - x. the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
 - xi. the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- e) Upon consideration of the factors of section 4.4-1 d) and the purposes of this ordinance, the Planning Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- f) The Construction Official shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

4.4-2 CONDITIONS FOR VARIANCES

- a) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items i.-xi. in section 4.4-1 d) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- b) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- c) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- d) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- e) Variances shall only be issued upon:
 - i. A showing of good and sufficient cause;
 - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
 - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in section 4.4- 1 d), or conflict with existing local laws or ordinances.
- f) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

SECTION 5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 GENERAL STANDARDS

In all areas of special flood hazards, compliance with the applicable requirements of the Uniform Construction Code (N.J.A.C. 5:23) and the following standards, whichever is more restrictive, is required:

5.1-1 ANCHORING

- a) All new construction to be placed or substantially improved and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- b) All manufactured homes to be placed or substantially improved shall be anchored to resist

flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

5.1-2 CONSTRUCTION MATERIALS AND METHODS

- a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

5.1-3 UTILITIES

- a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;
- c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and
- d) For all new construction and substantial improvements the electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5.1-4 SUBDIVISION PROPOSALS

- a) All subdivision proposals and other proposed new development shall be consistent with the need to minimize flood damage;
- b) All subdivision proposals and other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- c) All subdivision proposals and other proposed new development shall have adequate drainage provided to reduce exposure to flood damage; and,
- d) Base flood elevation data shall be provided for subdivision proposals and other proposed new development which contain at least fifty (50) lots or five (5) acres (whichever is less).

5.1-5 ENCLOSURE OPENINGS

All new construction and substantial improvements having fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings in at least two exterior walls of each enclosed area, having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, or other covering or devices provided that they permit the automatic entry and exit of floodwaters.

5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data have been provided as set forth in section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or in section 4.3-2, USE OF OTHER BASE FLOOD DATA, the following standards are required:

5.2-1 RESIDENTIAL CONSTRUCTION

- a) New construction and substantial improvement of any residential structure located in an A or AE zone shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities, elevated at or above the base flood elevation plus one (1) foot or as required by ASCE/SEI 24-14, Table 2-1, whichever is more restrictive;

5.2-2 NONRESIDENTIAL CONSTRUCTION

In an Area of Special Flood Hazard, all new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities:

either

- a) Elevated to or above the base flood elevation plus one (1) foot or as required by ASCE/SEI 24-14, Table 2-1, whichever is more restrictive; and/or
- b) Be floodproofed so that below the base flood level plus one (1) foot or as required by ASCE/SEI 24-14, Table 6-1, whichever is more restrictive, the structure is watertight with walls substantially impermeable to the passage of water;
- c) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
- d) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in section 4.3-3 b) ii.

5.2-3 MANUFACTURED HOMES

- a) Manufactured homes shall be anchored in accordance with section 5.1-1 b).
- b) All manufactured homes to be placed or substantially improved within an area of special flood hazard shall:
 - i. Be consistent with the need to minimize flood damage,
 - ii. Be constructed to minimize flood damage,
 - iii. Have adequate drainage provided to reduce exposure to flood damage; and,
 - iv. Be elevated on a permanent foundation such that the top of the lowest floor is at or above the base flood elevation plus one (1) foot or as required by ASCE/SEI 24-14, Table 2-1, whichever is more restrictive.

5.3 FLOODWAYS

Located within areas of special flood hazard established in section 3.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- a) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless a technical evaluation demonstrates that encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- b) If section 5.3 a) is satisfied, all new construction and substantial improvements must comply with section 5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION.
- c) In all areas of special flood hazard in which base flood elevation data has been provided and no floodway has been designated, the accumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than two-tenths (0.2) of a foot at any point.

SECTION 6.0 SEVERABILITY

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such a decision shall not affect the remaining portions of the Ordinance, which shall remain in full force and effect, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

SECTION 7.0 ENACTMENT

7.01 ADOPTION

This Ordinance shall be effective on *July 20, 2016* and shall remain in force until modified, amended or rescinded by *Borough of Pennington, Mercer County, New Jersey*.

Council Member Chandler made a motion to open the Public Hearing on Ordinance 2016-14, second by Council Member Griffiths. There were no comments from the public. Mr. Bliss pointed out that there is a typo in Section 5.2-2, the word and should be an. Council Member Chandler made a motion to close the Public Hearing, second by Council Member Griffiths with all members present voting in favor. Council Member Chandler made a motion to adopt Ordinance 2016-14, second by Council Member Gnat with all members present voting in favor.

Committee Reports

Planning & Zoning / Open Space – Mrs. Gnat reported that the Planning Board will be taking action on the Resolution of Approval for American Properties at the July 13th meeting.

Mrs. Gnat stated that with regard to Open Space, Mr. Ogren has indicated that he is available to come back to speak with Council in Closed Session regarding acquisition of specific properties.

Public Works / Personnel – No report due to Mr. Davy's absence.

Parks & Recreation / Library / Shade Tree / Senior Advisory – No report due to Mr. Lawver's absence.

Public Safety – No report due to Mr. Marciante's absence.

Finance – Mr. Griffiths reported that the discussion of the audit covers his report.

Historic Preservation / Board of Health / Environmental / Economic Development – Mrs. Chandler reported that the Economic Development Commission had a very nice meeting with the Pennington Farmer's Market about the possibility of bringing the Farmer's Market back into town.

Mrs. Chandler reported that the Environmental Commission is working on an Environmental Resource Inventory and hopefully that will be available soon.

New Business

**Borough of Pennington
 Resolution #2016 – 7.2**

AUTHORIZING PAYMENT OF BILLS

WHEREAS, certain bills are due and payable as per itemized claims listed on the following schedules, which are made a part of the minutes of this meeting as a supplemental record;

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Pennington that the bills be paid on audit and approval of the Mayor, the Appropriate Council Member and the Treasurer in the amount of \$ 2,093,150.15 from the following accounts:

Current	\$ 1,822,409.54
W/S Operating	\$ 245,946.81
Developer’s Escrow	\$ 24,593.80
Trust – Other	\$ 200.00
TOTAL	\$ 2,093,150.15

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2016-7.2, second by Council Member Griffiths with all members present voting in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION #2016 – 7.3**

**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 505, Lot 16, also known as 124 South Main Street, Pennington, NJ, for 2014 delinquent taxes; and,

WHEREAS, this lien, known as Tax Sale Certificate #14-00003, was sold to MTAG Cust for EmpireVII NJ, for 0%, redemption fee and a \$27,000.00 premium: and,

WHEREAS, SMS Financial XXIX, LLC, 6829 North 12th Street, Phoenix, Arizona 85014, has effected redemption of Certificate #14-00003 in the amount of \$26,048.86.

NOW, THEREFORE, BE IT RESOLVED, that the Treasurer be authorized to issue a check in the amount of \$26,048.86, payable to MTAG Cust for EmpireVII NJ, PO Box 2096, Hicksville NY 11802 for the redemption of Tax Sale Certificate #14-00003.

BE IT FURTHER RESOLVED, that the Treasurer be authorized to issue a check in the amount of \$27,000(Premium) to the aforementioned lienholder.

Record of Council Vote on Passage

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

Council Member Griffiths made a motion to approve Resolution 2016-7.3, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2016 – 7.4**

**RESOLUTION CERTIFYING THAT ALL MEMBERS OF THE BOROUGH COUNCIL OF THE
BOROUGH OF PENNINGTON HAVE REVIEWED THE SECTIONS OF THE 2015 ANNUAL
AUDIT ENTITLED GENERAL COMMENTS AND RECOMMENDATIONS**

WHEREAS, N.J.S.A. 40A:5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions, and

WHEREAS, the Annual Report of Audit for the year 2015 has been filed by a Registered Municipal Accountant with the Borough Clerk as per the requirements of N.J.S.A. 40A:5-6, and a copy has been received by each member of the governing body, and

WHEREAS, the Local Finance Board of the State of New Jersey is authorized to prescribe regulations pertaining to local fiscal affairs as per R.S. 52:27BB-34, and

WHEREAS, the Local Finance Board has promulgated a regulation requiring that the governing body of each municipality shall by resolution certify to the Local Finance Board that all members of the governing body have reviewed, at a minimum, the sections of the annual audit entitled **General Comments and Recommendations**; and

WHEREAS, the members of the governing body have personally reviewed at a minimum the sections of the Annual Audit entitled **General Comments and Recommendations**, as evidenced by the group affidavit form of the governing body, and

WHEREAS, such resolution of certification shall be adopted by the governing body no later than forty-five days after the receipt of the annual audit as per the regulations of the Local Finance Board, and

WHEREAS, all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board, and

WHEREAS, failure to comply with the promulgations of the Local Finance board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52 – to wit:

R.S. 52:27BB-52 – “A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the Director (Director Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, and in addition shall forfeit his office.”

NOW THEREFORE BE IT RESOLVED, that the Borough Council of the Borough of Pennington, hereby states that it has complied with the promulgation of the Local Finance Board of the State of New Jersey, does hereby certify to the Local Finance Board that all members of the governing body have reviewed, at a minimum, the sections of the annual audit entitled **General Comments and Recommendations**, and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2016-7.4, second by Council Member Gnatt with all member present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2016 – 7.5**

**RESOLUTION AUTHORIZING A PROFESSIONAL
SERVICES AGREEMENT WITH PARS ENVIRONMENTAL INCORPORATED FOR THE
COMPLETION OF THE 2015 RIGHT TO KNOW SURVEY**

WHEREAS, the Borough Council of the Borough of Pennington seeks to retain the services of PARS Environmental, Inc., licensed engineers, to assist the Borough in completion of the 2015 Right To Know Survey;

WHEREAS, a copy of the PARS proposal, dated July 6, 2016, is annexed to this resolution;

WHEREAS, the contemplated services include inventory of areas that contain hazardous chemicals, completion of the 2015 Right to Know Survey for each area, together with update of the Written Hazard Communications Plan (Tasks 1 and 2 in attached proposal);

WHEREAS, the areas inventoried for hazardous chemicals will include:

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

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

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

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

WHEREAS, the Chief Financial Officer has certified that funds for Tasks 1 through 5 are available in Account #: 6-01-26-310-000-260;

WHEREAS, Borough Council wishes to authorize the Borough Administrator and the Borough Clerk, as appropriate, to obtain the performance of such of the additional Tasks numbered 3 through 5 as may be legally required;

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

Record of Council Vote on Passage

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

Council Member Griffiths made a motion to approve Resolution 2016-7.5, second by Council Member Chandler with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2016 – 7.6**

**RESOLUTION APPROVING RAFFLE LICENSE RA: 2.16 FOR
F & AM TRENTON CYRUS LODGE NO. 5**

WHEREAS, F & AM Trenton Cyrus Lodge No. 5 submitted raffle application RA: 1.16 on June 27, 2016 for a raffle to take place on December 7, 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 July 4, 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: 2.16 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: 2.16 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	M				Griffiths	X			
Davy				absent	Lawver				absent
Gnatt	S				Marciante				absent

Council Member Chandler made a motion to approve Resolution 2016-7.6, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2016 – 7.7**

**RESOLUTION AUTHORIZING PAYMENT REQUEST NO. 1 TO
BLACK ROCK ENTERPRISES, LLC. FOR WORK COMPLETED ON THE KING GEORGE
ROAD AND PARK AVENUE WATER SYSTEM UPGRADES PROJECT**

WHEREAS, Black Rock Enterprises, LLC has completed work pursuant to the contract for the King George Road and Park Avenue Water System Upgrades Project (Roberts Engineering Group File No: PEN3662); and

WHEREAS, Roberts Engineering Group has reviewed Black Rock Enterprises, LLCs’ attached application for payment and recommends payment of same pursuant to the Contractor’s Request for Payment No. 1 in the amount of \$176,793.06 less 2% retainage in the amount of \$ 3,535.86; and

WHEREAS, this is a partial payment under the contract; and

WHEREAS, funds are available under Ordinance 2016-4 subject to compliance with NJEIT disbursement requirements;

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that payment to Black Rock Enterprises, LLC in the net amount of \$ 173,257.20 pursuant to payment request No.1 is hereby authorized.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2016-7.7, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2016-7.8**

**RESOLUTION APPROVING A CORRECTIVE ACTION PLAN
FOR THE 2015 AUDIT**

WHEREAS, N.J.S.A. 40A:5-4 requires the Governing Body of every local unit to have made an annual audit of its books, accounts and financial transactions; and

WHEREAS, the 2015 annual audit of the Borough of Pennington contained two recommendations requiring action; and

WHEREAS, the Chief Financial Officer in accordance with the requirements promulgated by the New Jersey Division of Local Government Services, Local Finance Notice 1992-15 and Single Audit Act, U.S. Office of Management and Budget Circular A-128, and New Jersey Office of Management and Budget Circular Letter 87-11, has developed the attached plan to address the recommendations listed by the Auditor.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Pennington that the Corrective Action Plan for the 2015 Annual Municipal Audit, is hereby approved and accepted.

Record of Council Vote on Passage

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

Council Member Griffiths made a motion to approve Resolution 2016-7.8, second by Council Member Chandler with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION NO. 2016-7.9**

RESOLUTION AUTHORIZING BOROUGH WATER AND SEWER ENGINEER TO PROVIDE PERMIT INFORMATION TO DEVELOPER OF HERITAGE AT PENNINGTON (BLOCK 102, LOT 1) FOR DEVELOPER’S APPLICATIONS FOR WATER MAIN CERTIFICATION AND TREATMENT WORKS APPROVAL

WHEREAS, American Properties is the proposed developer of Heritage at Pennington on the land known as Block 102, Lot 1 on the Borough Tax Map;

WHEREAS, in connection with this development, the developer’s engineer, Menlo Engineering Associates (MEA #2014.024) has requested of Norman Nelson of Van Note-Harvey Associates, the Borough’s Water and Sewer Engineer, that Van Note-Harvey review and endorse on behalf of the Borough of Pennington Water and Sewer Department certain application documents needed by the developer for Water Main Certification and Treatment Works Approval;

WHEREAS, the documents Van Note-Harvey is asked to review and endorse for the developer’s application to NJDEP Bureau of Safe Drinking Water for Water Main Certification are itemized in the attached letter from MEA’s William A. Lane, PE to Van Note-Harvey (Attention: Norman F. Nelson, PE) dated June 28, 2016 (Re: Water Main Construction/NJDEP Bureau of Safe Drinking Water Approval);

WHEREAS, the documents Van Note-Harvey is asked to review and endorse for the developer’s application to Stony Brook Regional Sewerage Authority and the NJDEP for a Treatment Works Approval are itemized in the attached letter from William A. Lane, PE to Van Note-Harvey (Attention: Norman F. Nelson, PE) also dated June 28, 2016 (Re: Sanitary Sewer Extension/NJDEP Treatment Works Approval);

WHEREAS, execution of the described documents by Van Note-Harvey on behalf of the Borough Water and Sewer Department requires an authorizing resolution by the governing body of the Borough;

WHEREAS, there is good cause for authorizing the review and endorsement requested subject to the professional judgment of the Borough’s Water and Sewer Engineer that such endorsement is appropriate;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that Van Note-Harvey Associates, through the Borough’s Water and Sewer Engineer Norman F. Nelson, is hereby authorized to review and endorse the described documents on behalf of the Borough Water and Sewer Department for the purposes indicated, provided he determines in his professional judgment that such endorsements are appropriate.

Record of Council Vote on Passage

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

Council Member Griffiths made a motion to approve Resolution 2016-7.9, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2016-7.10**

RESOLUTION OF THE BOROUGH OF PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY, DETERMINING THE FORM AND OTHER DETAILS OF ITS NOTE RELATING TO THE INTERIM FINANCING TRUST LOAN PROGRAM OF THE NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE TRUST, TO BE ISSUED IN THE PRINCIPAL AMOUNT OF UP TO \$2,045,000, AND PROVIDING FOR THE ISSUANCE

**AND SALE OF SUCH NOTE TO THE NEW JERSEY ENVIRONMENTAL
INFRASTRUCTURE TRUST, AND AUTHORIZING THE EXECUTION AND DELIVERY
OF SUCH NOTE BY THE BOROUGH IN FAVOR OF THE NEW JERSEY
ENVIRONMENTAL INFRASTRUCTURE TRUST, ALL PURSUANT TO THE NEW
JERSEY ENVIRONMENTAL INFRASTRUCTURE TRUST INTERIM FINANCING
TRUST LOAN PROGRAM.**

WHEREAS, the Borough of Pennington (the “Local Unit”), in the County of Mercer, New Jersey, has determined that there exists a need within the Local Unit to: acquire, construct, renovate or install a project consisting of water main replacement on East Curlis Avenue/Weidel Drive and King George Road/Park Avenue and the acquisition and installation of all equipment and materials and all work necessary therefore or incidental thereto (collectively, the “Project”), and it is the desire of the Local Unit to obtain financing for such Project through participation in the financing program (the “Environmental Infrastructure Financing Program”) of the New Jersey Environmental Infrastructure Trust (the “Trust”);

WHEREAS, the Local Unit has determined to temporarily finance the acquisition, construction, renovation or installation of the Project prior to the closing with respect to the Environmental Infrastructure Financing Program, and to undertake such temporary financing with the proceeds of an interim loan to be made by the Trust (the “Interim Loan”) to the Local Unit, pursuant to the Interim Financing Trust Loan Program of the Trust (the “Interim Financing Program”);

WHEREAS, in order to (i) evidence and secure the repayment obligation of the Local Unit to the Trust with respect to the Interim Loan and (ii) satisfy the requirements of the Interim Financing Program, it is the desire of the Local Unit to issue and sell to the Trust the “Note Relating to the Interim Financing Trust Loan Program of the New Jersey Environmental Infrastructure Trust” in an aggregate principal amount of up to \$2,045,000 (the “Note”);

WHEREAS, it is the desire of the Local Unit to authorize, execute, attest and deliver the Note to the Trust pursuant to the terms of the Local Bond Law of the State of New Jersey, constituting Chapter 2 of Title 40A of the Revised Statutes of the State of New Jersey (the “Local Bond Law”), and other applicable law; and

WHEREAS, Section 28 of the Local Bond Law allows for the sale of the Note to the Trust, without any public offering, and N.J.S.A. 58:11B-9 allows for the sale of the Note to the Trust without any public offering, all under the terms and conditions set forth herein.

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Local Unit as follows:

Section 1. In accordance with Section 28 of the Local Bond Law and N.J.S.A. 58:11B-9, the Local Unit hereby authorizes the issuance, sale and award the Note in accordance with the provisions hereof. The obligation represented by the Note has been appropriated and authorized by bond ordinances #2016-4 and #2016-5 of the Local Unit, finally adopted by the Local Unit at a meeting duly called and held on March 2, 2016 and April 6, 2016, respectively, at such times a quorum was present and acted throughout, all pursuant to the terms of the Local Bond Law and other applicable law.

Section 2. The Chief Financial Officer of the Local Unit (the “Chief Financial Officer”) is hereby authorized to determine, in accordance with the Local Bond Law and pursuant to the terms and conditions hereof, (i) the final principal amount of the Note (subject to the maximum limitation set forth in Section 4(a) hereof), and (ii) the dated date of the Note.

Section 3. Any determination made by the Chief Financial Officer pursuant to the terms hereof shall be conclusively evidenced by the execution and attestation of the Note by the parties authorized pursuant to Section 4(h) hereof.

Section 4. The Local Unit hereby determines that certain terms of the Note shall be as follows:

- (a) the principal amount of the Note to be issued shall not exceed \$2,045,000;
- (b) the maturity of the Note shall be upon the issuance of permanent financing;
- (c) the interest rate of the Note shall be set by the Trust;
- (d) the purchase price for the Note shall be par;
- (e) the Note shall be subject to prepayment prior to its stated maturity in accordance with the terms and conditions of the Note;
- (f) the Note shall be issued in a single denomination and shall be numbered “CFP-201_ _” or such other denomination as may be requested by the Trust;
- (g) the Note shall be issued in fully registered form and shall be payable to the registered owner thereof as to both principal and interest in lawful money of the United States of America; and
- (h) the Note shall be executed by the manual or facsimile signatures of the Mayor and the Chief Financial Officer under official seal or facsimile thereof affixed, printed, engraved or reproduced thereon and attested by the manual signature of the Local Unit Clerk.

Section 5. The Note shall be substantially in the form attached hereto as Exhibit A.

Section 6. The law firm of McManimon, Scotland & Baumann, LLC is hereby authorized to arrange for the printing of the Note, which law firm may authorize McCarter & English, LLP, bond counsel to the Trust for the Interim Financing Program, to arrange for same.

Section 7. The Authorized Officers of the Local Unit are hereby further severally authorized to (i) execute and deliver, and the Local Unit Clerk is hereby further authorized to attest to such execution and to affix the corporate seal of the Local Unit to, any document, instrument or closing certificate deemed necessary, desirable or convenient by the Authorized Officers or the Secretary of the Local Unit, as applicable, in their respective sole discretion, after consultation with counsel and any advisors to the Local Unit and after further consultation with the Trust and its representatives, agents, counsel and advisors, to be executed in connection the issuance and sale of the Note and the participation of the Local Unit in the Interim Financing Program, which determination shall be conclusively evidenced by the execution of each such certificate or other document by the party authorized hereunder to execute such certificate or other document, and (ii) perform such other actions as the Authorized Officers deem necessary, desirable or convenient in relation to the execution and delivery of the Note and the participation of the Local Unit in the Interim Financing Program.

Section 8. This resolution shall take effect immediately.

Section 9. Upon the adoption hereof, the Local Unit Clerk shall forward certified copies of this resolution to McManimon, Scotland & Baumann, LLC, bond counsel to the Local Unit, David Zimmer, Executive Director of the Trust, and Richard T. Nolan, Esq., McCarter & English, LLP, bond counsel to the Trust.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2016-7.10, second by Council Member Griffiths with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION NO. 2016 – 7.11**

RESOLUTION PERTAINING TO BLOCK 906, LOT 17, AUTHORIZING TAX COLLECTOR TO WAIVE INTEREST FOR 90 DAYS ON TAXES STILL OWED IN 2015 AS RESULT OF AN ASSESSMENT AND BILLING ERROR

WHEREAS, the Borough Tax Collector has determined that as the result of an assessment and billing error by the Borough in 2015, the owners of the property known as Block 906, Lot 17, also known as 422 South Main Street, underpaid the 2015 taxes actually due on the property and there is now an unpaid balance of \$3,657.11 still due for 2015;

WHEREAS, it is recommended by the Tax Collector that because the amount due results from the Borough’s error, the Borough should waive interest on the unpaid sum for up to 90 days from the date of enactment of this authorizing resolution;

WHEREAS, the interest-free due date will be October 10, 2016, with the understanding that payment received after this date would have interest calculated back to the 2015 fourth quarter due date of November 1, 2015;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that, with respect to Block 906, Lot 17, 422 South Main Street, the Borough Tax Collector is hereby authorized to waive interest on the 2015 taxes owed pursuant to the terms set forth above.

Record of Council Vote on Passage

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

Council Member Griffiths made a motion to approve Resolution 2016-7.11, second by Council Member Chandler with all members present voting in favor.

Professional Reports

Mr. Meytrott stated that he received a notice for the NJ Department of Transportation that they plan to begin work on the CSX Railroad Bridge on Route 31 sometime in the next two weeks. Mr. Meytrott stated that the

roadway will remain open with one lane open at all times. Mr. Meytrott stated that they estimate the work to take about two years. Mr. Meytrott stated that the NJDOT will be scheduling a public meeting in the near future.

Mrs. Chandler asked if there would be any discussion on a press release that was distributed regarding recycling. Mr. Griffiths stated that Mr. Smith had some comments that he will be submitting via e-mail. Mrs. Chandler stated that she would also e-mail her comments. Mrs. Chandler had a couple of questions that were discussed and clarified.

Public Comment Period

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

There were no comments from the public.

Approval of Closed Session Minutes (For Content But Not Release)

Mayor Persichilli asked if there was any discussion on the Closed Session Minutes and if so discussion would have to take place in Closed Session. There was no discussion and therefore no need for a Closed Session.

Council Member Gnatt made a motion to approve the April 6, 2016 Closed Session Minutes for content but not for release, second by Council Member Chandler. Upon a roll call vote Council Members Gnatt and Chandler voted in favor and Council Member Gnatt abstained.

Council Member Chandler made a motion to approve the May 4, 2016 Closed Session Minutes for content but not for release, second by Council Member Griffiths with all members present voting in favor.

Council Member Griffiths made a motion to approve the June 1, 2016 Closed Session Minutes for content but not for release, second by Council Member Chandler. Upon a roll call vote, Council Members Griffiths and Chandler voted in favor and Council Member Gnatt abstained.

At 8:25pm Council Member Griffiths made a motion to adjourn the meeting, second by Council Member Chandler.

Respectfully submitted,

Elizabeth Sterling
Borough Clerk