Pennington Borough Council
Regular Meeting – September 7, 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, Griffiths, Lawver and Marciante in attendance. Council Member Davy resigned effective September 1, 2016 and Council Member Gnatt was absent.

Also present were Borough Administrator Eileen Heinzel, Public Safety Director Bill Meytrott, Public Works Superintendent Ricky Smith and Borough Attorney Walter Bliss.

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

Mayor Persichilli asked everyone to stand for the Flag Salute.

Open to the Public – Agenda Items Only

Mayor Persichilli read the following statement:

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

Mr. Dan Pace of 9 Railroad Place came forward and asked permission to speak about an item that is not on the agenda. Mr. Pace stated that he has submitted documents to the Borough Administrator. Mr. Pace stated that the reason he is asking to speak now is that the Hopewell Valley Historical Society is meeting this evening and he is on the Board of Directors. Mr. Pace stated that he took some photos that Mrs. Heinzel can pass around. Mr. Pace then read from a statement that he had prepared. Mr. Pace stated that he has been a resident of Pennington for 39 years and a resident of Railroad Place for 7 years. Mr. Pace stated that he knows the sight and sound of the rail line through Pennington very well. Mr. Pace stated that early in the summer, CSX replaced a portion of welded rail adjacent to the parking area on Railroad Place by bolting replacement track to the existing welded rail. Mr. Pace stated that is when his concerns began because a loud banging sound can be heard each time a rail car goes over that particular section of replacement track. Mr. Pace stated that he has looked at the track and taken photos of what appears to be a deteriorating track condition. Mr. Pace stated that he reached out to CSX and did not receive a satisfactory response. Mr. Pace stated that he then reached out to NJDOT who were responsive to the photos and they contacted CSX. Mr. Pace stated that significant track work was done that seemed to correct the problem. Mr. Pace stated that unfortunately the problem has returned and NJDOT is no longer responsive to his concerns. Mr. Pace stated that while the banging sound initially lessened, it gradually became louder and so he looked at the track again. Mr. Pace stated that the photos that Council is looking at show scraping where the replacement track joins the welded track as well as loosened spikes and settling ballasts. Mr. Pace stated that what the photos do not show is how passing railcars bump through the track causing vibrations that he can feel in his house. Mr. Pace stated that he believes that these vibrations result in the settling and loosening of spikes. Mr. Pace stated that he took a video of the track vibration which can be accessed on the internet, but he is unable to show this evening. Mr. Pace stated that he believes the condition of the track as described is a significant safety concern for Pennington Borough. Mr. Pace asked Borough Council to reach out to CSX and request a written response to these concerns. Mr. Pace stated that he would also request that CSX be asked if the replacement rail can be welded in place instead of bracketed as that might eliminate the vibrations. Mr. Pace stated that after he hit a wall with NJDOT and CSX, he reached out to Assemblywoman Liz Muoio and she through her Chief of Staff have been very responsive and have taken some steps that might help.

Mrs. Heinzel stated that Mr. Pace forwarded the e-mail and the photos to her and she has reached out to Rodney Oglesby from CSX and he indicated that they sent out a roadmaster to check on the track and inspect a one mile area around the track and they found nothing improper. Mrs. Heinzel stated that does not address the noise concern. Mr. Marciante stated that this is a major safety concern. Mayor Persichilli stated that he would speak to Assemblywoman Muoio and also send a letter to CSX. Mr. Marciante stated that the Bureau of Fire Safety should also be notified and maybe they could go to work on CSX.

Mayor Persichilli invited Mr. Andy Powers to come forward to talk about the solar panel project at the Public Works Facility. Mr. Powers stated that he is the Program Manager for the SolarForAll program and they are looking to build a project on the site of the Public Works building. Mr. Powers stated that the project is a solar facility integrated with a battery backup system that would provide backup power for the DPW building. Mr. Powers stated that they just built a similar project at the Hopewell Valley Central High School where there are parking lot canopies integrated with a battery backup system and it will also act as a warming station in the event of another superstorm like Sandy. Mr. Powers stated that PSE &G considers DPW a critical function and the program supports that functionality. Mr. Powers stated that in the event of a superstorm the public works department would be able to function. Mr. Powers stated that by housing the solar facility PSE& G through the program will lease the space for twenty years to house the system.

Mayor Persichilli stated that Council will consider the Memorandum of Understanding and Ordinance later in the meeting.

Mr. Marciante asked about the duration of the battery in the event of a storm. Mr. Powers stated that he was unable to answer at this time however the DPW building is not a large load so in the event of a storm, the gas pumps, garage doors and lighting would all work under the battery power. Mr. Powers stated that typically with a storm there is one day that is really bad and then it clears up in the next couple days.

Mayor's Business

Mayor Persichilli announced the resignation of James Davy as Council Member effective September 1, 2016. Mayor Persichilli stated that the resignation was sent early enough that the Democratic Committee was able to meet and submit three names. Mayor Persichilli stated that he will come back to that later in the meeting.

Mayor Persichilli announced the resignation of Tom Ogren, a former Council Member who did quite a bit in the community. Mayor Persichilli stated that Mr. Ogren submitted his resignation from the Planning Board, Open Space and Economic Development Committees effective September 1, 2016.

Mayor Persichilli read the following Proclamation for Bethel AME Church:

A Proclamation by Mayor and Council of Pennington Borough
Celebrating the 200th Anniversary of Bethel AME Church

Whereas, Bethel AME Church, founded in 1816, originally built in 1847 and rebuilt in 1876 is the third oldest church in Pennington and is the oldest church of African descent. For 31 years services were held in the homes of congregation members with the Rev. Elijah Hammitt serving as the first pastor; and,

Whereas, the church grounds were purchased by Jonathan Bunn with Rev. Hammett as pastor until the church was nearly debt free. He was succeeded in 1863 by the Rev. Archibald Campbell who became an AME Church bishop; and.

Whereas, in 1865 the church was used as a Day Care for children of color under the direction of Civil War veteran William Boyer with the church being enlarged in 1867 and in 1950 the church edifice was built within the old church; and;

Whereas, over the years nearly 30 pastors have served while contributing to the spiritual, social, and economic development of the Pennington community. Among them Oxford University graduate the Rev. I.W.A. Roundtree who served twice, the longest serving pastor of 17 years the Rev. Dr. Tom Hills (1992-2009) followed by the first female pastor the Rev. Bertha Williams; and,

Whereas, the Rev. Gregory Smith arrived to lead a resurgence of young people to spark the dwindled membership establishing youth Sunday, a Junior Church School, a youth choir, and a teen praise youth dance ministry. Rev. Smith established a connection with Pennington's ecumenical and civic community as co-chair with Beverly Mills of Pennington 125th Anniversary Celebration Ecumenical Service and first ever tour of all Pennington's churches; and,

Whereas, Bethel AME Church and the Pennington community welcome the Rev. Dr. Angela Battle as pastor to lead the congregation in an ecumenical celebration of the church's historic milestone 200th Anniversary celebration.

Now, Therefore, Be It Proclaimed that the Mayor and Council of the Borough of Pennington officially welcome the Rev. Dr. Angela Battle and recognize and honor the accomplishments and connection of Bethel AME Church and of its congregation to Pennington on the occasion of this 200th Anniversary Celebration.

Mayor Persichilli presented a copy of the proclamation to representatives from the church and stated that the original will be forwarded in the next couple of days.

Interviews/Nomination to Fill Vacancy on Council

Mayor Persichilli stated that the Democratic Committee has submitted three names to fill the vacancy created by the resignation of Mr. Davy. Mayor Persichilli stated that the three names submitted were Beverly Mills, Edwin Weed Tucker and Robert DiFalco. Mayor Persichilli stated that Council will speak to each person individually beginning with Mr. Tucker.

Mr. Tucker came forward and stated that as Council knows he has some experience on the Pennington Governing Body in a couple of capacities. Mr. Tucker stated that is why he tossed his hat into the ring and he is honored to be considered to serve on Council. Mr. Tucker stated that as much as he would love to serve on Council again, he cannot think of anyone more qualified or more deserving to serve with Mayor and Council than his good friend and colleague, Beverly Mills. Mr. Tucker stated that accordingly he withdraws his name from consideration and highly recommends and strongly urges Council to appoint Beverly Mills to the Pennington Borough Council. Mr. Tucker thanked Mayor and Council for their consideration.

Mayor Persichilli asked Mr. Robert DiFalco to come forward. Mr. DiFalco stated that he is a resident of 124 Voorhees Avenue and as many know he has served on Borough Council, the Planning Board and the Fire Commission over many years. Mr. DiFalco stated that he is also going to withdraw his name from consideration. Mr. DiFalco stated that he thinks it is time to get some new people involved. Mr. DiFalco stated that Council needs some diversity going forward and with that he would recommend that Beverly Mills be appointed to fill the vacancy on Council.

Mayor Persichilli asked Mrs. Beverly Mills to come forward. Mrs. Mills introduced herself and stated that she lives at 240 South Main Street in a home that has been in her family for 106 years. Mrs. Mills stated that it is quite an honor for her to sit here today and hear such kind words. Mrs. Mills thanked Mr. Tucker and Mr. DiFalco. Mrs. Mills stated that when she was walking in to the building today, her husband said that her Grandmother, Cora Smith, is smiling down right now. Mrs. Mills stated that a lot of times women are not thought about as much as men and she would like to think that Cora is indeed smiling down on her today. Mrs. Mills thanked Mayor and Council for considering her for this position and stated that she will do her best to serve the people of Pennington.

Council Member Griffiths made a motion to appoint Beverly Mills to fill the vacancy on Council, second by Council Member Chandler with all members present voting in favor.

Oath of Office

Borough Attorney Walter Bliss administered the Oath of Office to Mrs. Beverly Mills.

Mayor Persichilli welcomed Mrs. Mills to Council. Mayor Persichilli stated that Mrs. Mills received an agenda package and she should feel free to ask questions and if there is something that is unfamiliar there is the option to abstain from voting.

Approval of Minutes

Council Member Marciante made a motion to approve the minutes of the August 9, 2016 Council Meeting, second by Council Member Chandler with all members present voting in favor with the exception on Mrs. Mills who abstained.

Ordinances for Introduction

Mayor Persichilli read Ordinance 2016-18 by title.

BOROUGH OF PENNINGTON
ORDINANCE NO. 2016-18

AN ORDINANCE CLARIFYING THE OBLIGATION OF PROPERTY OWNERS TO TRIM GRASS AND PLANT GROWTH ON LAND ABUTTING PUBLIC STREETS AND AMENDING THE CODE OF THE BOROUGH OF PENNINGTON

WHEREAS, Borough Council seeks to clarify Section 177-21 of the Code of the Borough of Pennington, concerning the obligation of owners of land on public streets to maintain abutting sidewalks clear of waste, debris and plant and shrub overgrowth, to make clear that the obligation includes removing any obstruction within the air space over the sidewalk for its entire width and length to a height of seven feet;

WHEREAS, Borough Council further seeks to amend Section 177-22 to ensure that the obligation of property owners to trim trees to allow seven feet of clearance above the sidewalk extends to bushes and plants as well as trees;

WHEREAS, Council intends also to amend Section 177-22 of the Code, concerning cutting and removal of grass and weeds on land abutting the public streets, to impose a uniform standard requiring cutting and removal of all grass and weeds over 10 inches in height, consistent with Chapter 136 of the Code, concerning nuisances, which provides that all residential and commercial lawn areas must be maintained and mowed and may not exceed 10 inches in height;

WHEREAS, the amendment of 177-22 will also permit certain plantings and flowers within the area between the street and sidewalk and up to the sidewalk edge on the interior side, provided any such plantings do not cause obstructed views of the street which present a safety hazard or otherwise create a nuisance;

WHEREAS, the proposed changes are denoted by underlining for new language and cross-outs for language to be deleted;

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

1. Section 177-21 of the Code of the Borough of Pennington, concerning refuse, waste, debris, plants and trees on sidewalks, is hereby amended as follows:

"The owner of every lot of land abutting upon any public street in the Borough shall keep and maintain the abutting sidewalk(s) clear of all refuse, waste, debris and plant and shrub overgrowth and any other obstruction within the airspace over the sidewalk for its entire width and length to a height of seven feet.. Trees, bushes and plants on the land abutting any sidewalk shall be trimmed by the owner to allow seven feet of clearance above the sidewalk. Borough shade trees in the public right-of-way shall be trimmed by the Borough to allow seven feet of clearance."

2. Section 177-22 of the Code, concerning the cutting of grass and weeds, is hereby amended as follows:

   The owner of every lot of land abutting upon the public streets in the Borough, whether occupied or unoccupied, shall cut and remove all grass and weeds over ~~six~~ ten inches in height to the interior edge of the sidewalk and within ~~for a distance of three feet from any public sidewalk or highway. Such owner shall also cut and remove all grass and weeds over six inches in height from~~ the area between the sidewalk and the curb, provided "grass and weeds" for the purpose of this section shall not include flowers, decorative grasses, bushes and plants that do not invade the airspace of the sidewalk as proscribed by section 177-21 and do not cause obstructed views of the street which present a safety hazard or otherwise create a nuisance.

3. This ordinance shall be effective upon passage and publication as required by law.

Council Member Chandler made a motion to introduce Ordinance 2016-18, second by Council Member Lawver with all members present voting in favor.

Ordinances for Public Hearing and Adoption

Mayor Persichilli read Ordinance 2016-13 by title.

BOROUGH OF PENNINGTON
ORDINANCE NO. 2016- 13

AN ORDINANCE PROHIBITING SMOKING IN MUNICIPAL BUILDINGS AND PARKS AND RECREATIONAL FACILITIES AND ADJOINING PUBLIC AREAS AND AMENDING THE CODE OF THE BOROUGH OF PENNINGTON

WHEREAS, pursuant to N.J.S.A. 40:48.2, the governing body of a municipality may make, amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this state or of the United States, as it may deem necessary and proper for the good of government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by any law; and

WHEREAS, the previous State legislation which prohibited municipalities from passing strict local smoking laws that differed from the State standards was repealed and the State now expressly authorizes municipalities to enact strict ordinances regulating smoking under N.J.S.A. 26:3D-63; and

WHEREAS, N.J.S.A. 2C:33-13b also provides that the owner and/or operator of a public place, such as public parks and recreational areas, may prohibit smoking on such property; and

WHEREAS, Pennington Borough Council, recognize~~s~~ing the well-known health and safety risks posed by smoking and the consumption of smokeless tobacco products, finds that it is within the public interest to prohibit smoking and the consumption of smokeless tobacco products on public property, such as public parks and recreation areas; and

WHEREAS, Borough Council also finds that vaping, or the inhaling of vapor from electronic cigarettes, e-cigarettes or other electronic nicotine delivery systems also jeopardizes the public health and safety;

WHEREAS, the Borough Council has determined that the public interest is especially implicated in preventing the youth of the Borough of Pennington from being exposed and succumbing to the temptations of experimenting with tobacco products and electronic nicotine delivery systems; and

WHEREAS, the Borough Council also finds that the appearance of parks and recreation areas would be enhanced and the limited resources of the Borough's Department of Public Works conserved if smoking and other consumption of tobacco products, as well as use of electronic nicotine delivery systems, were controlled in such areas, thereby keeping such areas free of the litter and other waste products generated by the smoking of cigarettes and the use of smokeless tobacco and electronic nicotine delivery systems, including variously, cigarette butts, ashes, spit and packaging.

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Pennington that the Code of the Borough of Pennington, shall be amended as follows:

1. Chapter 192, concerning Tobacco, shall be amended by the addition of a new Article III entitled "Public Places," which shall include the following new sections.

Section 192-10. Definitions.

As used in this article, the following words shall have the meanings indicated.

CONSUMPTION OF SMOKELESS TOBACCO means chewing, sucking upon or sniffing chewing tobacco, snuff, Snus, dissolvable tobacco, pinch, dip or any other smokeless tobacco product by whatever name described.

MUNICIPAL BUILDING shall include all structures owned, leased, rented and/or operated by the Borough of Pennington, and/or occupied by Borough employees and used for official business of the Borough of Pennington.

PARKS AND RECREATIONAL FACILITIES shall include all public parks, playgrounds, ball fields, swimming pools, gardens, plazas publicly owned or leased by the Borough of Pennington and all property owned or leased by the Borough
upon which the public is invited or upon which the public is permitted and where individuals gather for recreational activities, including all areas adjacent to such
facilities, including, but not limited to, any sidewalk, parking area, driveway or drive aisle.

SMOKING means and includes inhaling or exhaling the smoke from, or the ~~burning or~~ possession of, a lighted or burning cigar, cigarette, pipe or ~~any~~ other matter or substance which contains tobacco or any other matter which is lighted or burning for the purpose of inhaling the smoke ~~or the inhaling or exhaling of smoke~~.

USE OF ELECTRONIC NICOTINE DELIVERY SYSTEM means inhaling the vapor from an electronic cigarette, e-cigarette or any other electronic device which vaporizes liquid for the purpose of inhaling.

Section 192-11. Prohibition of smoking and the use of smokeless tobacco and electronic nicotine delivery systems in public places; signs.

A. Municipal Buildings. Smoking, the consumption of smokeless tobacco and the use of electronic nicotine delivery systems shall be prohibited in all Municipal Buildings and within a thirty-five-foot radius of the front entrance of all Municipal Buildings. ~~No-smoking signs or the international no-smoking symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a diagonal red line through it)~~ Signs shall be ~~clearly, sufficiently and~~ conspicuously posted at the front entrances of all buildings where these prohibitions apply ~~smoking is prohibited by this article~~. The signs shall be clearly visible to the public and shall contain letters or ~~a~~ symbols which contrast in color with the sign, indicating that smoking, the consumption of smokeless tobacco and the use of electronic nicotine delivery systems are ~~is~~ prohibited in the building and within the proscribed 35-foot radius. The sign shall also indicate that violators are subject to a fine.

B. Parks and Recreational Facilities. Smoking, the consumption of smokeless tobacco and the use of electronic nicotine delivery systems shall be prohibited in all public parks and recreation facilities owned or leased by the Borough of Pennington and all property owned or leased by the Borough upon which the public is invited or upon which the public is permitted and where individuals gather for recreational activities, including all public areas adjacent to such facilities, including, but not limited to any sidewalk, parking area, driveway or drive aisle. ~~, which have been designated with no-smoking signs. Smoking will be allowed by individuals who are outside of a thirty-five-foot radius of non-smoking individuals and recreation structures located on park and recreational land owned or leased by the Borough of Pennington. No-smoking signs or the international no-smoking symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a diagonal red line through it)~~ Signs shall be ~~clearly, sufficiently and~~ conspicuously posted in areas regulated by this article. The signs shall be clearly visible to the public and shall contain letters or ~~a~~ symbols which contrast in color with the sign, indicating that smoking, the consumption of smokeless tobacco and the use of electronic nicotine delivery systems are ~~is~~ prohibited in the regulated area. ~~shall be clearly posted in areas regulated by this article.~~ The sign shall also indicate that violators are subject to a fine. ~~However, the posing of said signs shall not congest the overall appearance of the areas regulated by this chapter nor impose an inordinate expense upon the Borough of Pennington~~.

C. Municipal Vehicles. Smoking, the consumption of smokeless tobacco and the use of electronic nicotine delivery systems shall be prohibited in any vehicle registered to the Borough of Pennington.

Section 192-12. Enforcement.

The enforcement authority for ~~of~~ this chapter shall be the Business Administrator, Public Safety Director, Health Officer or their designees.

Section 192-13. Violations and penalties.

Any person who violates any provision of this article shall be subject to a fine of not less than $100 for the first offense, $250 for the second offense and $500 for each subsequent offense.

2. Chapter 143, concerning Parks and Recreation Areas, in particular Section 143-3 concerning Prohibited Uses of Park Facilities, shall be amended by adding a new subsection I of section 143-3 as follows:

I. No person shall (a) smoke or be in possession of a lighted cigar, cigarette, pipe or other matter or substance which contains tobacco or any other matter which is lighted or burning for the purpose of inhaling the smoke; (b) consume smokeless tobacco; or (c) use an electronic nicotine delivery system.

3. In the event any part of this Ordinance is found to be invalid for any reason by any court of competent jurisdiction, such judgment shall be limited in its effect to the part or parts of the Ordinance actually adjudged to be invalid, and the remaining parts of this Ordinance shall be deemed severable therefrom and shall not be affected.

4. This ordinance shall take effect upon final passage and publication in accordance with law.

Council Member Griffiths made a motion to open the Public Hearing on Ordinance 2016-13, second by Council Member Lawver. There were no comments from the public. Council Member Lawver made a motion to close the Public Hearing, second by Council Member Griffiths with all members present voting in favor with the exception of Mr. Marciante who voted no. Council Member Chandler made a motion to adopt Ordinance 2016-13, second by Council Member Lawver with all members present voting in favor with the exception of Mr. Marciante who voted no.

Mayor Persichilli read Ordinance 2016-16 by title.

BOROUGH OF PENNINGTON
ORDINANCE 2016-16

AN ORDINANCE EDITING FEE PROVISIONS IN THE CODE OF THE BOROUGH OF PENNINGTON

WHEREAS, Borough Council of the Borough of Pennington seeks to make changes to certain fee-related sections of the Borough Code to facilitate accurate determinations of fees and eliminate inconsistencies, in conformance with the recommendations of the Chief Financial Officer of the Borough;

WHEREAS, deleted language is denoted by brackets and new language by underlining;

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

1. Section 98-49 of the Code of the Borough of Pennington, concerning fees for inspections upon sale of property pursuant to Section 206-15 of the Code, is hereby deleted in its entirety because the proper fees for such inspections are set forth in Section 98-47.F, concerning house inspections upon sale of property.

2. Section 98-47 of the Code is amended by deleting sub-sections C and D, because these sub-sections are covered by sub-section H and the latter states the proper fee, and further by amending sub-section F to make the notice requirement consistent with Section 206-15, the amended Section 98-47 to read as follows:

"98-47. Administrative fees.
Administrative fees pursuant to Section 206-7 of the Code shall be charged as follows:

A. Interest will be charged at the same rate as the interest on tax bills.
B. Returned checks: $20.

C. **[**Account closeout (shutoff): $64.**]**

D. **[**Account setup (turn-on): $30**]**

E. Non-quarterly or additional meter readings: $50. (On non-quarterly billings, if the reading is requested due to an actual error by the Borough, the fee will be waived.)

F. House inspections on sale of property: regular fee, $100; fee if less than ~~two weeks'~~ ten days' notice, $200.
G. Tanker of water: $200 plus per-gallon charge for water in accordance with water rates.

H. Shutting off and turning on water at curb: $100.

3. Section 98-43 of the Code is hereby amended by deleting entirely sub-sections B, C and D, because these sub-sections concern terms for payment of fees rather than the amounts of the fees, and they are covered by identical language in Section 206-3, sub-sections B, C and D.

4. Section 206-3 of the Code is hereby amended by deleting the fee amounts in sub-section A because same are set forth in sub-section A of Section 98-43, the amended Section 206-3 to read as follows:

"206-3. Connection fees.

A. There are hereby established standard connection fees as set forth in Chapter 98 of this Code as may be amended from time to time.
[(1) Standard water connection is $2,100**.]**
[(2) Standard sewer connection is $3,000.**]**

B. Connection fees shall be paid by all persons connecting to the water and/or sewer system, based upon the product of the connection fee multiplied by the number of equivalent dwelling units, as determined and/or approved by the Superintendent of Public Works, or designated representative.

C. Any change in use or increase in the same use of any existing property or facility shall be subject to review and reevaluation of the water and sewer connection service and the number of equivalent dwelling units assigned to the project. Any increase in the number of equivalent dwelling units shall subject the applicant to additional connection fees.

D. Connection fees shall be due prior to the installation of the physical connection.

5. This Ordinance shall be effective upon passage and publication as required by law.

Council Member Griffiths made a motion to open the Public Hearing on Ordinance 2016-16, second by Council Member Chandler. There were no comments from the public. Council Member Lawver made a motion to close the Public Hearing on Ordinance 2016-16, second by Council Member Marciante with all members present voting in favor. Council Member Griffiths made a motion to adopt Ordinance 2016-16, second by Council Member Lawver with all members present voting in favor.

Mayor Persichilli read Ordinance 2016-17 by title.

BOROUGH OF PENNINGTON
ORDINANCE 2016-17

ORDINANCE AUTHORIZING BOROUGH OF PENNINGTON TO ENTER INTO LONG-TERM LEASE AND RELATED MEMORANDUM OF UNDERSTANDING FOR CONSTRUCTION AND OPERATION OF SOLAR ENERGY ELECTRIC GENERATING FACILITY ON PUBLIC WORKS LANDS

WHEREAS, Pennington Borough seeks to lease a portion of its lands in Hopewell Township used by the Borough Department of Public Works (Block 46, Lot 13 on the Hopewell Township Tax Map) ("Public Works Lands") for construction of solar voltaic arrays to generate solar energy for conversion to electricity, including but not limited to generation of electricity to provide emergency back-up power to critical loads at the Pennington Department of Public Works and the Borough's Water and Sewer Utility;

WHEREAS, the Borough advertised for bids to lease roof and/or ground space to bidders having the experience and capacity to build, operate and maintain a quality, certified solar electric generating system at no cost to the Borough;

WHEREAS, in accordance with the advertisement for bids, the successful bidder committed to enter into negotiations with the Borough with the ultimate goal of arriving at and entering into a 20-year lease agreement, contingent upon all required approvals by State and local agencies, providing for construction of a solar system and lease payments to the Borough based on kilowatt-hours of energy produced by the system;

WHEREAS, the sole and successful bidder on the project was Public Service Electric and Gas Company ("PSE&G"), proposing to enter into a lease of land for the construction of approximately 350 kW-DC ground-mounted solar panels and related equipment and installations, which would be owned, operated and maintained by PSE&G and be expected to generate approximately 444,000 kWh-AC in the first year of operation;

WHEREAS, the annual lease rate proposed by PSE&G was $0.045 per kWh-AC with an annual payment multiplier of 2.5 percent;

WHEREAS, following award of bid to PSE&G it entered into negotiations with the Borough leading to agreement upon the form of Lease attached to this Ordinance as Exhibit A;

WHEREAS, the Lease covers that portion of the Public Works Lands described in the conceptual layout attached as Exhibit B (also at Exhibit A of the Lease), with the agreement that same may hereafter be modified in accordance with the results of any engineering and environmental review obtained by PSE&G;

WHEREAS, if the proposed solar facility is approved by applicable authorities at the capacity proposed, it will yield annual lease payments of approximately $19,980 in year 1 increasing to $31,941 in year 20, subject to a guaranteed minimum annual rent of $15,000 if the approved capacity is less;

WHEREAS, the Lease is for an initial term of 20 years with two potential 5-year extensions;

WHEREAS, the Borough and PSE&G have further agreed that before executing the Lease they will enter into a Memorandum of Understanding (MOU), in the form annexed as Exhibit C, providing for execution of the Lease to be deferred until the land use approval process in Hopewell Township has resulted in approval of the project;

WHEREAS, as provided in the attached MOU, upon receipt of such approval, if the project as approved is acceptable to PSE&G in its sole opinion, the Borough shall immediately enter into the attached Lease;

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

1. The Mayor, with the attestation of the Clerk, is hereby authorized to enter into the proposed Memorandum of Understanding (MOU) on behalf of the Borough, in substantially the same form as in the attached Exhibit C;

2. Upon receipt of land-use approval of the project in accordance with the terms of the MOU, the Mayor, with the attestation of the Borough Clerk, is hereby further authorized to enter into the Lease on behalf of the Borough, in substantially the same form as in the attached Exhibit A;

3. Upon execution of the Lease, the Mayor, Borough Administrator and Borough Clerk are hereby further authorized to take such additional steps as appropriate to assist PSE&G in finalizing its approvals and implementing the Lease.

4. This Ordinance shall be effective upon its passage and publication as required by law.

Council Member Marciante made a motion to open the Public Hearing on Ordinance 2016-17, second by Council Member Chandler. There were no comments from the public. Council Member Chandler made a motion to close the Public Hearing on Ordinance 2016-17, second by Council Member Lawver with all members present voting in favor. Council Member Chandler made a motion to adopt Ordinance 2016-17, second by Council Member Griffiths. Mr. Lawver stated that his only comment is that once we get to the point where it is the last chance for either party to back out he would like Council to consider closing of the landfill site. Mr. Lawver stated that would begin with informal conversations with the DEP to determine what steps need to be taken. Upon a roll call vote all members present voted in favor of adoption.

Committee Reports

Planning & Zoning / Open Space – No report due to Mrs. Gnatts absence.

Public Works / Personnel – Mr. Marciante stated that a meeting was held to discuss the sidewalk ordinance and the Transportation Alternative Grant Application. Mr. Griffiths asked what the engineering fee would be for submitting the application. Mrs. Heinzel stated that she spoke with Carmela Roberts today to let her know that the Public Works Committee is interested in applying for this grant. Mrs. Heinzel stated that this grant would be for additional downtown streetscape improvements on Delaware Avenue. Mrs. Heinzel stated that the Borough submitted an application last year and it was not approved. Mrs. Heinzel explained that the Economic Development Commission looked at the application and they recommended that the same application be resubmitted for this year. Mrs. Heinzel stated that she explained to Carmela Roberts that Council is very sensitive to costs incurred and she indicated that she would look at the application and see what would need to be done and what the costs associated would be. Mrs. Heinzel stated that the deadline for submission is November 16th.

Mr. Marciante stated that there is one problem involving grease discharge. Mr. Smith stated that the problem has improved, but he is still working on trying to figure out what caused the problem.

Parks & Recreation / Library / Shade Tree / Senior Advisory – Mr. Lawver stated that Parks and Recreation held their last Third Thursday concert of the summer and it was a big success. Mr. Lawver stated that they saw much better results over last summer when two of the three concerts were rained out. Mr. Lawver stated that the Senior Advisory Board has recently met and they are no longer interested in

redeveloping the Pennington Senior Center as their first priority, they are back to saying that the HUT is their first priority. Mr. Lawver stated that he will ask the Senior Advisory Board to formalize that with a resolution. Mr. Lawver stated that several months ago the Senior Advisory Board did a resolution indicating that the Pennington Senior Center was their first priority. Mr. Lawver stated that he confirmed with Mrs. Heinzel that we are verbally notifying everyone that on January 1st of 2017 a letter will go out indicating that we no longer guarantee the availability of the Pennington Senior Center after December 31, 2017. Mr. Lawver stated that the Mercer County Nutrition Program is aware as are Hopewell Township and Hopewell Borough.

Public Safety – Mr. Marciante reported that CodeRed is no longer going to be serviced through Mercer County. Mr. Marciante stated that the Borough is looking into other options. Mr. Marciante stated that Officer Sturchio has resigned from the Police Department after the Borough trained and sent him to school. Mrs. Heinzel stated that a list will be put together of all of the costs associated with the hiring and training of Mr. Sturchio. Mrs. Heinzel stated that a letter will be going out to his current employee as per the Statute. Mr. Marciante stated that with that said the Police Department has a couple of really good applicants and they will be reaching out to them to set up interviews.

Mr. Marciante stated that this Saturday is the 911 Memorial Service at 11:00 am at Woolsey Park and he would like to encourage everyone to attend.

Mr. Marciante stated that the Pennington Fire Company 125th Parade will be held on October 1st. Mr. Marciante stated that there will be a lot of fire trucks participated and it will be a big parade.

Finance – Mr. Griffiths stated that the finance committee did not meet.

Historic Preservation / Board of Health / Environmental / Economic Development – Mrs. Chandler stated that no meetings were held. Mrs. Chandler stated that Harry Compton who is the Borough representative to the Stonybrook Sewerage Authority approached her about American Properties. Mrs. Chandler stated that American Properties has applied for full sewer capacity and she has asked Mr. Compton to write something up for Council but he has not done that yet.

New Business

BOROUGH OF PENNINGTON
RESOLUTION #2016 – 9.2

AUTHORIZING PAYMENT OF BILLS

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

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Pennington that the bills be paid on audit and approval of the Mayor, the Appropriate Council Member and the Treasurer in the amount of $ 1,305,692.08 from the following accounts:

Current	$ 1,018,860.24
W/S Operating	$ 145,163.09
Developer's Escrow	$ 10,034.15
Trust – Other	$ 27,000.00
Water/Sewer Capital	$ 104,634.60
TOTAL	$ 1,305,692.08

Record of Council Vote on Passage

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

Council Member Griffiths made a motion to approve Resolution 2016-9.2, second by Council Member Chandler with all members present voting in favor.

BOROUGH OF PENNINGTON
RESOLUTION #2016 – 9.3

RESOLUTION AUTHORIZING PAYMENT REQUEST NO. 3 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 the attached application for payment by Black Rock Enterprises, LLC and recommends payment of same pursuant to the Contractor's Request for Payment No. 3 in the amount of $164,336.00 less 2% retainage in the amount of $3,286.72; 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 $ 161,049.28, pursuant to payment request No.3, is hereby authorized.

Record of Council Vote on Passage

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

Council Member Griffiths made a motion to approve Resolution 2016-9.3, second by Council Member Marciante with all member present voting in favor.

BOROUGH OF PENNINGTON
RESOLUTION 2016-9.4

RESOLUTION AUTHORIZING RELEASE OF PERFORMANCE GUARANTEE PERTAINING TO RELOCATION OF STORM SEWER LINE, SIDEWALK AND CURB REPLACEMENT BY PENNINGTON FIRE COMPANY

Council Member Lawver made a motion to approve Resolution 2016-9.4, second by Council Member Chandler. Mrs. Heinzel stated that the Public Works Committee discussed this request in terms of not requiring the maintenance guarantee or the $200 escrow fee. Mr. Bliss stated that he drafted the resolution based on the jurisdiction of the Engineer coming from the Planning Board which required her to impose such conditions as necessary. Mr. Bliss stated that any waiver or change would have to come from the Engineer. Mr. Marciante asked why the Engineer has to go out and look at the ground, say it is ok and charge $200.00. Mr. Marciante stated that the Fire Company is responsible from the curb into the property so why does the Engineer have to say it is ok. Mr. Bliss stated that this is not a gross deviation from standard practice but it is ultimately her call because the Planning Board has designated the discretion to make the call to her. Mr. Lawver asked if Council can ask the Engineer to waive the fees. Mr. Bliss answered yes and Mr. Lawver stated that in that case he would like to hold off on the resolution until the next meeting. No action was taken on the Resolution.

BOROUGH OF PENNINGTON
RESOLUTION 2016 – 9.5

RESOLUTION AUTHORIZING BOROUGH OF PENNINGTON TO ENTER INTO AGREEMENTS WITH PSE&G FOR INSTALLATION OF ENERGY EFFICIENCY UPGRADES IN MUNICIPAL BUILDINGS

WHEREAS, the Borough seeks to improve the efficiency of Borough facilities through PSE&G under the Direct Install initiative of the New Jersey Board of Public Utilities' Clean Energy Program;

WHEREAS, under the Direct Install program initiative, PSE&G makes the investment in energy efficiency upgrades easier for governmental entities by performing a free on-site energy audit of relevant facilities, providing a detailed report explaining the audit results and recommended energy efficient equipment upgrades, creating a proposal based on the audit with costs to install the new energy efficient equipment, hiring a PSE&G authorized contractor to perform the work, and covering 100 percent of the upfront costs for the energy efficiency work, of which only 30 percent must be repaid by the municipalities, interest free, through additional charges on their PSE&G bills, either in 36 monthly installments or in one lump sum if they prefer;

WHEREAS, the Borough has submitted applications for participation in the Direct Install program, has received the benefit of PSE&G's free energy audit and now has separate Energy Efficiency Upgrade proposals from PSE&G for energy efficiency upgrades of interest at Pennington Borough Hall (PSE&G No. TSPSM3302) and the Pennington Public Works Building (PSE&G No. TSPSM3301), respectively;

WHEREAS, PSE&G has further proposed the attached Installation and Repayment Agreements, one for each of these Borough facilities, each agreement incorporating by reference the Program Energy Efficiency Upgrade Proposal for that facility;

WHEREAS, the Agreement and Energy Efficiency Upgrade Proposal for Borough Hall contemplates lighting upgrades that would result in estimated electric energy cost savings of $1,931 per year and estimated project cost reimbursable by the Borough (at 30% of total project cost) equal to $6,090.68, the savings net of project costs over five years to equal an estimated $3,565;

WHEREAS, the Agreement and Energy Efficiency Upgrade Proposal for the Public Works Building contemplates lighting upgrades that would result in estimated electric energy cost savings of $1,614 per year and non-lighting upgrades that would result in gas savings of $155 per year, with estimated project cost reimbursable by the Borough (at 30% of total project cost) equal to $5,207.28 and Borough savings net of project costs over five years to equal an estimated $3,638;

WHEREAS, under the terms of the Agreements, which are essentially identical except for the specific upgrades and related cost figures contemplated, the Borough agrees to have PSE&G or its designee install the energy conservation measures (ECM's) and to pay the indicated Borough share of project costs via charges to the applicable PSE&G bill, either in one lump sum payment or in 36 monthly payments, at the Borough's election, it being further provided that in the event project costs are more or less than the estimated costs or PSE&G elects in its sole discretion not to make the installations, say for safety or budgetary considerations or reasons pertaining to discovery of unforeseen conditions, as permitted under the Agreement, adjustments will be made to the Borough's contribution;

WHEREAS, the Agreement further provides that while the Borough will own all ECM's and the related energy savings, PSE&G shall own the rights to all demand reductions, for the purpose of participating in the PJM Capacity market, and PSE&G reserves the right to perform measurement and verification at all participating facilities, including but not limited to meter installation, calibration and maintenance of measurement and verification equipment;

WHEREAS, PSE&G will use commercially reasonable efforts to install the ECM's within 30 days of the signing of the Agreement and will provide a one-time replacement free of charge for any equipment that fails to operate according to manufacturer's specifications for one year after the date of installation, but PSE&G provides no other warranty and further recourse by the Borough is limited to any applicable manufacturer's warranties;

WHEREAS, the Agreements further provide that PSE&G does not guarantee that the ECM's will in fact save any level of energy or result in a lowering of customer energy bills and the Proposal Notes included in the Energy Efficiency Upgrade Proposals attached to the Agreements specify assumptions used in estimating energy savings and stipulate that actual energy savings may vary based on numerous determining factors including but not limited to weather, changes in utility rates, facility use and facility operating hours, and the Agreements otherwise limit liability on the part of PSE&G;

WHEREAS, Borough Council finds and determines, following consultation with its Public Works Committee as well as legal counsel, that entering into the attached Installation and Repayment Agreements is in the public interest;

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

1. The Mayor, with the attestation of the Borough Clerk as required, is hereby authorized to enter into each of the attached Installation and Repayment Agreements, for Pennington Borough Hall and the Pennington Public Works Building, respectively.

2. In that part of each Agreement calling for the Borough to elect payment in one lump sum or in 36 monthly payments, the election shall be 36 monthly payments.

Record of Council Vote on Passage

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

Council Member Marciante made a motion to approve Resolution 2016-9.5, second by Council Member Lawver. Mr. Griffiths asked for more information on this resolution. Mr. Lawver stated that PSE &G has a program where they come in and audit buildings to identify any energy savings available. Mr. Lawver stated that there is a financing portion and he is not sure on the specifics. Mrs. Heinzel stated that PSE &G pays

seventy percent of the cost and the Borough can either elected to pay the remaining thirty percent in a lump sum or over the period of three years. Mrs. Heinzel stated that the way the audit was done it demonstrates that at the end of the three year period the Borough should come out ahead because the savings on energy costs will offset the thirty percent. Mr. Lawver stated that audits of Borough Hall, the Public Works Garage and the Senior Center were done and we have asked if there is a similar program that would be available for the Well Houses. Mr. Bliss stated that there is a choice regarding payment of the thirty percent that needs to be inserted into the Resolution. Mr. Griffiths stated that he would prefer the monthly installments as opposed to the lump sum payment. Upon a roll call vote all members present voted in favor of the Resolution.

BOROUGH OF PENNINGTON
RESOLUTION 2016-9.6

A RESOLUTION RATIFYING AND APPROVING EXECUTION OF DEED CONVEYING BOROUGH INTEREST IN CARTER ROAD OPEN SPACE TO THE NEW JERSEY CONSERVATION FOUNDATION PURSUANT TO ORDINANCE 2015-5

WHEREAS, Borough of Pennington Ordinance No. 2015-5 authorizes the Borough of Pennington, using Green Acres funds, to acquire a 3.5% interest in certain open space land on the east side of Carter Road in Hopewell Township, known as Block 40, Lots 14.01 (103.098 acres) and 14.05 (7.110 acres) on the Hopewell Township Tax Map (hereafter "the Property");

WHEREAS, further pursuant to Ordinance 2015-5, the Borough's interest in the Property was then to be transferred to the New Jersey Conservation Foundation, subject to Green Acres and other restrictions against disposal or diversion for any use other than recreation and conservation;

WHEREAS, Ordinance 2015-5 authorizes the Mayor to take such actions and execute such documents as may be necessary to acquire an interest in the Property on behalf of the Borough and to convey that interest to the New Jersey Conservation Foundation;

WHEREAS, a copy of Ordinance 2015-5, describing the history of the project and the multiple public and non-profit entities participating, as well as the specific grant of authority to the Mayor, is attached to this Resolution;

WHEREAS, on August 22, 2016, pursuant to Ordinance 2015-5, the Mayor executed a Deed and related documents conveying the Borough's interest in the Property, with restrictions, to the New Jersey Conservation Foundation;

WHEREAS, copies of the executed Deed and related acknowledgment, Seller's Residency Certification/Exemption, and Affidavit of Consideration ("the Conveyance Documents") are also annexed to this Resolution;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the actions of the Mayor in executing the Conveyance Documents and causing same to be delivered to the New Jersey Conservation Foundation, pursuant to Ordinance 2015-5, are hereby expressly adopted, ratified and approved.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2016-9.6, second by Council Member Griffiths with all members present voting in favor.

BOROUGH OF PENNINGTON
RESOLUTION 2016-9.7

RESOLUTION DETERMINING THE FORM AND OTHER DETAILS OF NOT EXCEEDING $1,125,000 WATER UTILITY BONDS, SERIES 2016, OF THE BOROUGH OF PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY, AND PROVIDING FOR THEIR SALE TO THE NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE TRUST AND THE STATE OF NEW JERSEY AND AUTHORIZING THE EXECUTION AND DELIVERY OF LOAN AGREEMENTS TO BE EXECUTED BY THE BOROUGH AND EACH OF THE NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE TRUST AND THE STATE OF NEW JERSEY, ACTING BY AND THROUGH THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND FURTHER AUTHORIZING THE EXECUTION AND DELIVERY OF AN ESCROW AGREEMENT PURSUANT TO THE 2015 NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE TRUST FINANCING PROGRAM.

WHEREAS, the Borough of Pennington, in the County of Mercer, New Jersey (the "Borough"), has determined that there exists a need within the Borough to provide for water main replacement for King George Road/Park Avenue the acquisition and installation of all equipment and materials and all work necessary therefor or incidental thereto (the "Project") as defined in each of that certain Loan Agreement (the "Trust Loan Agreement") to be entered into by and between the Borough and the New Jersey Environmental Infrastructure Trust (the "Trust") and that certain Loan Agreement (the "Fund Loan Agreement", and together with the Trust Loan Agreement, the "Loan Agreements") to be entered into by and between the Borough and the State of New Jersey, acting by and through the New Jersey Department of Environmental Protection (the "State"), all pursuant to the New Jersey Environmental Infrastructure Trust Financing Program (the "Program");

WHEREAS, the Borough has determined to finance the Project with the proceeds of a loan to be made by each of the Trust (the "Trust Loan") and the State (the "Fund Loan", and together with the Trust Loan, the "Loans") pursuant to the Trust Loan Agreement and the Fund Loan Agreement, respectively;

WHEREAS, to evidence the Loans, each of the Trust and the State require the Borough to authorize, execute, attest and deliver the Borough's Water Utility Bonds, Series 2016, in an aggregate principal amount not to exceed $1,125,000, a portion of which will be to the Trust (the "Trust Loan Bond") and a portion of which will be to the State (the "Fund Loan Bond" and, together with the Trust Loan Bond, the "Borough Bonds") 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"), other applicable law and the Loan Agreements;

WHEREAS, N.J.S.A. 40A:2-27(a)(2) of the Local Bond Law allows for the sale of the Trust Loan Bond and the Fund Loan Bond to the Trust and the State, respectively, without any public offering, and N.J.S.A. 58:11B-9(a) allows for the sale of the Trust Loan Bond to the Trust without any public offering, all under the terms and conditions set forth herein; and

WHEREAS, the Trust and the State have expressed their desire to close in escrow the making of one or more of the Loans, the issuance of one or more of the Borough Bonds and the execution and delivery of one or more of the Loan Agreements and the Continuing Disclosure Agreement, all pursuant to the terms of an Escrow Agreement (the "Escrow Agreement") to be entered into by and among the Trust, the State, the Borough and the escrow agent named therein; and

WHEREAS, in connection with the issuance of the Borough Bonds to the Program, the governing body of the Borough wishes to authorize the execution of certain certificates and opinions as may be required by the Program or Bond Counsel to the Borough (collectively, the "Escrowed Documents") by the Mayor, Chief Financial Officer, Borough Clerk, Counsel to the Borough, Project Engineer or Appraiser and/or Bond Counsel to the Borough (collectively, the "Borough Representatives") on or before the date when the Borough is scheduled to close the loans in escrow with the Program (the "Escrow Closing Date"), such documents to be delivered to Bond Counsel and held by Bond Counsel until such time as the Borough authorizes release of the same.

NOW, THEREFORE, BE IT RESOLVED by a 2/3 vote of the full membership of the governing body of the Borough as follows:

Section 1. In accordance with N.J.S.A. 40A:2-27(a)(2) of the Local Bond Law and N.J.S.A. 58:11B-9(a), the Borough hereby sells and awards its Borough Bonds in an aggregate principal amount not to exceed $1,125,000 in accordance with the provisions hereof. The Borough Bonds have been referred to and are described in a bond ordinance of the Borough, which bond ordinance is entitled, "BOND ORDINANCE PROVIDING FOR KING GEORGE ROAD/PARK AVENUE WATER MAIN REPLACEMENT FOR THE WATER UTILITY IN AND BY THE BOROUGH OF PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY, APPROPRIATING $1,125,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF $1,125,000 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF" and was finally adopted by the Borough at a meeting duly called and held on April 6, 2016, at which time 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 Borough (the "Chief Financial Officer") is hereby authorized to determine, in accordance with the Local Bond Law and pursuant to the terms and conditions established by the Trust and the State under the Loan Agreements and the terms and conditions hereof, the following items with respect to the Trust Loan Bond and the Fund Loan Bond:

(a) The aggregate principal amounts of the Trust Loan Bond and the Fund Loan Bond to be issued, which aggregate principal amount shall not exceed $1,125,000;

(b) The maturity and annual principal installments of the Borough Bonds, which maturity shall not exceed 40 years;

(c) The date of the Borough Bonds;

(d) The interest rates of the Borough Bonds;

(e) The purchase price for the Borough Bonds; and

(f) The terms and conditions under which the Borough Bonds shall be subject to redemption prior to their stated maturities.

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 Borough Bonds by the parties authorized under Section 4(c) hereof.

Section 4. The Borough hereby determines that certain terms of the Borough Bonds shall be as follows:

(a) The Trust Loan Bond shall be issued in a single denomination and shall be numbered R-1. The Fund Loan Bond shall be issued in a single denomination and shall be numbered R-2;

(b) The Borough Bonds shall be issued in fully registered form and shall be payable to the registered owners thereof as to both principal and interest in lawful money of the United States of America; and

(c) The Borough Bonds 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 Borough Clerk.

Section 5. The Trust Loan Bond and the Fund Loan Bond shall be substantially in the form set forth in the Trust Loan Agreement and the Fund Loan Agreement, respectively.

Section 6. The law firm of McManimon, Scotland & Baumann, LLC is hereby authorized to arrange for the printing of the Borough Bonds, which law firm may authorize McCarter & English, LLP, bond counsel to the Trust and the State for the Program, to arrange for same. The Borough auditor is hereby authorized to prepare the financial information necessary in connection with the issuance of the Borough Bonds. The Mayor, the Chief Financial Officer and the Borough Clerk are hereby authorized to execute any certificates necessary or desirable in connection with the financial and other information. Bond Counsel to the Borough is hereby authorized to accept and hold the Escrowed Documents on or before the Escrow Closing Date and to release same upon the direction of the Borough.

Section 7. The Borough hereby designates the Chief Financial Officer to award the Bonds in accordance with Section 2 hereof and such financial officer shall report in writing the results of the sale to this Council as required by law.

Section 8. The Mayor and the Chief Financial Officer are hereby severally authorized to execute any certificates or documents necessary or desirable in connection with the sale of the Borough Bonds, and are further authorized to deliver same to the Trust and the State upon delivery of the Borough Bonds and the receipt of payment therefor in accordance with the Loan Agreements.

Section 9. The Trust Loan Agreement, the Fund Loan Agreement and the Escrow Agreement (collectively, the "Financing Documents") are hereby authorized to be executed and delivered on behalf of the Borough by either the Mayor or the Chief Financial Officer in substantially the forms attached hereto as Exhibits A, B and C, respectively, with such changes as the Mayor or the Chief Financial Officer (each an "Authorized Officer"), in their respective sole discretion, after consultation with counsel and any advisors to the Borough (collectively, the "Borough Consultants") and after further consultation with the Trust, the State and their representatives, agents, counsel and advisors (collectively, the "Program Consultants", and together

with the Borough Consultants, the "Consultants"), shall determine, such determination to be conclusively evidenced by the execution of such Financing Documents by an Authorized Officer as determined hereunder. The Borough Clerk is hereby authorized to attest to the execution of the Financing Documents by an Authorized Officer of the Borough as determined hereunder and to affix the corporate seal of the Borough to such Financing Documents.

Section 10. The Authorized Officers of the Borough are hereby further severally authorized to (i) execute and deliver, and the Borough Clerk is hereby further authorized to attest to such execution and to affix the corporate seal of the Borough to, any document, instrument or closing certificate deemed necessary, desirable or convenient by the Authorized Officers or the Borough Clerk, as applicable, in their respective sole discretion, after consultation with the Consultants, to be executed in connection with the execution and delivery of the Financing Documents and the consummation of the transactions contemplated thereby, 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 thereof.

Section 11. This resolution shall take effect immediately.

Section 12. Upon the adoption hereof, the Borough Clerk shall forward certified copies of this resolution to McManimon, Scotland & Baumann, LLC, bond counsel to the Borough**,** 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	S				Lawver	X			
Gnatt				Absent	Marciante	X			
Griffiths	M				Mills	X			

Council Member Griffiths made a motion to approve Resolution 2016-9.7, second by Council Member Chandler with all members present voting in favor.

BOROUGH OF PENNINGTON
RESOLUTION # 2016 – 9.8

RESOLUTION AUTHORIZING THE SALE OF A NEW PLENARY RETAIL CONSUMPTION LICENSE

WHEREAS, the Borough of Pennington has the authority to issue a Plenary Retail Consumption License for the sale of alcoholic beverages; and

WHEREAS, the Borough Council hereby determines that it is in the public interest at this time to permit the issuance of a Plenary Retail Consumption License; and

WHEREAS, N.J.S.A. 33:1-19.3 et.seq. permits the issuance of such licenses to the highest qualified bidder, subject to such terms and conditions as the Borough may set.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Pennington, in the County of Mercer, State of New Jersey, as follows:

1. The Borough of Pennington hereby determines that it will sell at public sale one (1) plenary retail consumption license for the sale of alcoholic beverages, subject to the terms and conditions stated herein, in accordance with the procedures set forth in N.J.S.A. 33:1-19.3 et. seq.

2. The license shall be issued only for use in a restaurant as defined in N.J.S.A. 33:1-1 which meets the following additional criteria:

   (a). has a seating capacity of at least 60 people;

   (b). offers table service by waiter/waitress from a menu to this minimum seating capacity;

   (c). is an existing restaurant, or is a restaurant proposed for a site or a structure and is expected to receive preliminary and final site plan approval from the Borough Planning Board in time to permit commencement of licensed operations as set forth below;

   (d). will begin operation under the license within twenty-four (24) months of the resolution granting the license, unless such period is extended by resolution of the

Governing Body, by the Director of the Division of Alcoholic Beverage Control or otherwise as permitted or required by law;

(e). complies with all applicable ordinances and other laws.

3. The Municipal Clerk shall publish a notice to prospective bidders in accordance with N.J.S.A. 33:1-19.4 in the Times of Trenton and in the Hopewell Valley News on **September 23, 2016** and **September 30, 2016.**

4. An applicant/bidder must meet the conditions and requirements of this resolution as well as all requirements of the State of New Jersey for an alcoholic beverage control license applicant or licensee. Those requirements include but are not limited to the following:

a. All potential bidders must prequalify under the terms of this resolution and under applicable federal, state and local laws, regulations and standards.

b. All potential bidders must submit completed State of New Jersey Alcoholic Beverage Control license application forms and all supporting documentation to the Municipal Clerk **no later than 4:00 pm on Tuesday, November 15, 2016**. Copies of forms and lists of supporting documentation are available in the office of the Municipal Clerk. All applicants will be subject to full investigation under this phase, as though making actual application for an alcoholic beverage control license.

c. All potential bidders, as part of the prequalification procedure, must submit with their applications, in the form of certified check or money order, a filing fee of $200.00 payable to the Division of Alcoholic Beverage Control and a plenary consumption fee of $2,500.00 payable to the Borough of Pennington. The fees of the unsuccessful applicants for qualification will be returned after announcement of the qualified bidders less a charge of $350.00 to defray the administrative costs of the qualification process.

5. Applications for the prequalification of bidders will be accepted by the Municipal Clerk **no later than 4:00 pm on Tuesday, November 15, 2016**, after which date no further applications shall be accepted.

6. **On Monday, February 6, 2017** the names of qualified bidders will be determined by resolution of the Borough Council, said date being at least five (5) business days prior to the opening of bids. Further conditions and requirements for making a bid are set forth below.

7. Formal bidding for the license will take place only after the prequalified bidders have been determined by resolution of the Borough Council. Those deemed qualified by the Borough will receive invitations to bid. Bids from those who have not been qualified by the Borough will be rejected and returned.

8. All bids shall be accompanied by a deposit in the form of cashier's check, certified check or money order payable to the Borough of Pennington in the amount of twenty percent (20%) of the amount of the bid. This deposit shall be held in escrow by the Borough pending formal award of the license or rejection of all bids by Borough Council.

9. Bids must be submitted in writing with the required deposit and proof of qualification in a sealed envelope, with the name and address of the bidder clearly typed or written on the outside of the envelope.

10. All sealed bids from qualified bidders shall be submitted to the Borough Clerk at the Pennington Borough Municipal Building, 30 North Main Street, Pennington, NJ **no later than Wednesday, February 22, 2017, at 12:00 pm**. No bids will be accepted after that time. All bids shall be opened and read in public immediately thereafter.

11. The minimum required bid shall be $ 175,000.

12. The bidder who is determined by the Borough to have made the highest qualified bid shall pay the remainder of that bid in the form of cashier's check, certified check or money order payable to the Borough of Pennington and shall deliver the payment to the Borough Clerk no later than 4:00 PM of the second business day after the opening of bids. This amount together with the deposit provided with the bid shall be held in escrow by the Borough pending formal award of the license or rejection of all bids by Borough Council.

13. Failure of the highest bidder to make the payment required in the preceding paragraph shall lose the bid and immediately forfeit the full amount of all deposits made with the bid and in conjunction with the qualification process. In such event, the next highest-qualified bidder shall be given the opportunity to pay the balance of its bid no later than twenty-four hours after receiving written notice of this opportunity from the Borough Clerk, which may be delivered by facsimile.

14. The Borough Council reserves the right to reject all bids if the highest qualified bid is not accepted.

15. Award of a license to the highest qualified bidder or rejection of all bids where the highest bid is not accepted shall be by resolution of the Borough Council at their meeting **on March 6, 2017 at 7:00 pm**.

16. The license must be in use within two years after the award, absent a special exemption granted by the Director of the Division of Alcoholic Beverage Control.

17. The sale may be postponed or cancelled at any time prior to the opening of bids.

18. Any future transfer of the license awarded by this procedure shall be subject to all conditions and requirements provided by law and shall also guarantee continued compliance with the conditions and requirements set forth in paragraph 2 of this Resolution.

Record of Council Vote on Passage

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

Council Member Griffiths made a motion to approve Resolution 2016-9.8, second by Council Member Marciante. Mr. Bliss stated that Council received a revised resolution this evening which changes some of the dates. Mayor Persichilli stated that about three years ago the Borough offered a license for sale and no one bid, then a couple of years ago the license was offered again with a lower minimum bid and again no one bid on the license. Mayor Persichilli stated that the recommendation this time is for a minimum bid of $175,000. Mrs. Chandler asked what the background of the recommendation was. Mr. Lawver stated that he looked on New Jersey Liquor Licenses.com which lists all the licenses for sale in New Jersey. Mr. Lawver stated that he had a list from 2014 and when compared to the 2016 list, the list is half as long and of the ones that are for sale in 2016 about half are carryovers from 2014. Mr. Lawver stated that there are no specific points to draw to figure out where Pennington fits in the scenario to determine a minimum bid. Mr. Lawver stated that he tried to reach out a couple of times to a broker and he did not hear back. Mr. Lawver stated that the first time the license was offered at $300,000 then the second time $225,000 and now this time $175,000 which is in the ballpark of the licenses that are still listed for sale on the website. Mrs. Chandler stated that given that the Economic Development Commission has not had a chance to look at this resolution is there any flexibility with doing this later. Mr. Griffiths asked if the EDC was involved previously. Mrs. Chandler stated that the EDC is aware that there is a liquor license available but they did not get a chance to comment on the price or look at the requirements. Mr. Griffiths stated that the EDC was not involved the last two times the liquor license was offered. Mrs. Chandler stated that seems odd to her. Mr. Griffiths stated that this is a revenue based decision and does not involve the EDC. Mr. Griffiths stated that the establishment of a business that would take advantage of the license might involve the EDC, but this is more of an executive decision and there is nothing that would compel Council to consult the EDC. Mrs. Chandler stated that the EDC was aware of the license, but they were not aware of the minimum bid until she received her package so there was no opportunity for the EDC to weigh in on the resolution. Mrs. Chandler stated that the EDC might not have anything to say, but her point is that the Borough has an Economic Development Commission and her opinion is that this is part of the economic development of the town and it would have been nice to give them the opportunity to review it. Mr. Marciante stated that the Economic Development Commission would not be setting the minimum bid, which is a decision for Council. Mrs. Heinzel stated that the Economic Development Commission did put out a brochure with the idea that the Borough had a liquor license available. Mr. Lawver stated that the timing on that property is not going to coincide with the liquor license because there are things that have to be settled with the landfill before the property can be sub-divided. Mr. Lawver stated that in a perfect world having the liquor license coincide with the sale of the landfill site would be ideal, but the reality is that is not likely to happen. Mr. Lawver stated that he does not have a problem with the EDC looking at the resolution, we have been at this for a while and there is no rush to get it done this month. Mr. Lawver stated other than the minimum bid, the other elements of the resolution are unchanged and those items might be something that the EDC might have thoughts on. Mr. Lawver stated that as a courtesy, he has no problem with the EDC reviewing the resolution but he would not expect much to change. Mrs. Chandler stated that she also does not think the EDC would make any changes, but it would have been nice to consult with them. Mr. Griffiths stated that he ran some numbers and in order to make it worthwhile an establishment would have to sell $275.00 per day in liquor with a seventy percent margin for 300 days per year, over three years to recover the $175,000. Upon a roll call vote all members present voted in favor of the Resolution.

BOROUGH OF PENNINGTON
RESOLUTION NO. 2016-9.9

RESOLUTION TO AMEND THE BOROUGH POLICY AND PROCEDURES MANUAL

WHEREAS, the Municipal Excess Liability Joint Insurance Fund has directed member municipalities to amend their personnel manuals to incorporate policies recommended by its Personnel Policy Committee based on recognized best practices, changes in applicable laws, and policies recommended by the members of the Fund;

WHEREAS, it is the intent of the Pennington Borough Council to amend its Personnel Policies and Procedures Manual and Employee Handbook to incorporate these changes;

WHEREAS, the Borough of Pennington Personnel Policies and Procedures Manual and Employee Handbook was first effective May 1, 2008 and has since been amended by Borough Council Resolutions 2010-7.5, 2010-9.8, 2010-1.16, 2011-11.9, 2012-5.16, 2013-1.22, 2014-4.12 and 4.13, 2014-7.12, 2014-8.3 and 2015-3.5;

NOW, THEREFORE, BE IT RESOLVED, by Borough Council of the Borough of Pennington, that the Borough of Pennington Personnel Policies and Procedures Manual and Employee Handbook is amended as follows (new language underlined, deleted language crossed out):

1. Article II, Section A, Anti-Discrimination Policy, is amended as follows:

   Anti-Discrimination Policy:*
   The Borough is committed to the principle of equal employment opportunity and anti-discrimination pursuant to Title VII of the 1964 Civil Rights Act as amended by the Equal Opportunity Act of 1972 and the New Jersey Law Against Discrimination as amended by the New Jersey Pregnant Worker's Fairness Act (LAD). Under no circumstances will the Borough discriminate on the basis of sex, race, creed, color, religion, national origin, ancestry, age, marital or political status, affectional or sexual orientation, domestic partnership status, civil union status, atypical heredity, cellular or blood trait, genetic information, disability (including AIDS or HIV infection), pregnancy (including pregnancy related medical condition), childbirth, liability for service in the United States armed forces, gender identity or expression, and/or any other characteristic protected by law. Decisions regarding the hiring, promotion, transfer, demotion or termination are based solely on the qualifications and performance of the employee or prospective employee. If any employee or prospective employee feels ~~he or she has~~ they have been treated unfairly, ~~the employee has~~ they have the right to address their concern with their supervisor, or if ~~preferred, the~~ they prefer their Department Head, Borough Administrator, the Borough Clerk or the Borough Attorney.

2. Article IV, Section N, as amended by Council Resolution No. 2014-8.3, entitled Communication Media Policy, is amended as follows:

   Communication Media Policy:

   The Borough's Communication Media are the property of the Borough and, as such, are to be used for legitimate business purposes only. For purposes of this Communication Media Policy, "Communication Media" includes all electronic media forms provided by the Borough, such as cell phones, smart phones, computers, electronic tablets, access to the internet, voicemail, email, and fax.

   All data stored on and/or transmitted through Communication Media is the property of the Borough. For purposes of this policy, "Data" includes "electronically-stored files, programs, tables, data bases, audio and video objects, spreadsheets, reports and printed or microfiche materials which serve a Borough business purpose, regardless of who creates, processes or maintains the data, or whether the data is processed manually or though any of the Borough's mainframe, midrange or workstations; servers, routers, gateways, bridges, hubs, switches and other hardware components of the Borough's local or wide-area networks."

   The Borough respects the individual privacy of its employees. However, employee communications transmitted by the Borough's Communication Media are not private to the individual. All Communication Media and all communications and stored information transmitted, received, or contained in or through such media may be monitored by the Borough. The Borough reserves the absolute right to access, review, audit and disclose all matters entered into, sent over, placed in storage in the Borough's Communication Media. By using the Borough equipment and/or Communication Media, employees consent to have such use monitored at any time, with or without notice, by Borough personnel. The existence of passwords does not restrict or eliminate the Borough's ability or right to access electronic communications. However, the Borough cannot require the employee to provide its password to his/her personal account.

All email, voicemail and Internet messages (including any technology-based messaging) are official documents subject to the provisions of the Open Public Records Act (NJSA 47:1A-1). Employees of the Borough are required to use the assigned municipal email account for ALL Borough business and correspondence. The use of private email accounts for ANY Borough business or during business hours is strictly prohibited.

Employees can only use the Borough's Communication Media for legitimate business purposes. Employees may not use Borough Communication Media in any way that is defamatory, obscene, or harassing or in violation of any Borough rules or policy. Examples of forbidden transmissions or downloads include sexually-explicit messages; unwelcome propositions; ethnic or racial slurs; or any other message that can be construed to be harassment or disparaging to others based on their actual or perceived age, race, religion, sex, sexual orientation, gender identity or expression, genetic information, disability, national origin, ethnicity, citizenship, marital status or any other legally recognized protected basis under federal, state or local laws, regulations or ordinances.

All employees, who have been granted access to electronically-stored data, must use a logon ID assigned by the Borough. Certain data, or applications that process data, may require additional security measures as determined by the Borough. Employees must not share their passwords; and each employee is responsible for all activity that occurs in connection with their passwords.

All employees may access only data for which the Borough has given permission. All employees must take appropriate actions to ensure that Borough data are protected from unauthorized access, use or distribution consistent with these policies. Employees may not access or retrieve any information technology resource and store information other than where authorized.

Employees must not disable anti-virus and other implemented security software for any reason, in order to minimize the risk of introducing computer viruses into the Borough's computing environment.

Employees may not install ***or Modify*** ANY hardware device, software application, program code, either active or passive, or a portion thereof, without the express written permission from the Borough. Employees may not upload, download, or otherwise transmit commercial software or any copyrighted materials belonging to parties outside of the Borough, or licensed to the Borough. Employees shall observe the copyright and licensing restrictions of all software applications and shall not copy software from internal or external sources unless legally authorized.

~~The Borough encourages employees to share information with co-workers and with those outside the Borough for the purpose of gathering information, generating new ideas and learning from the work of others to the extent such sharing is permitted by the Borough. Social media provide inexpensive, informal and timely ways to participate in an exchange of ideas and information.~~ Social Media and its uses in government and daily life are expanding each year. However, information posted on a website is available to the public; therefore, employees must adhere to the following guidelines for their participation in social media. Only those ~~E~~employees directly authorized by the Business Administrator may engage in social media activity during work time through the use of the Borough's Communication Media, ~~provided that~~ as it is directly relate~~ds~~d to their work and it is in compliance with this policy.

Employees must not reveal or publicize confidential Borough information. Confidential proprietary or sensitive information may be disseminated only to individuals with a need and a right to know, and where there is sufficient assurance that appropriate security of such information will be maintained. Such information includes, but is not limited to the transmittal of personnel information such as medical records or related information. In law enforcement operations, confidential, proprietary or sensitive information also includes criminal history information, confidential informant identification, and intelligence and tactical operations files.

No Borough employee shall post internal working documents to social media sites. This includes, but is not limited to, screenshots of computer stations, pictures of monitors and/or actual documents themselves without the prior approval of the Business Administrator. In addition ~~E~~employees are prohibited from releasing or disclosing any photographs, pictures, digital images of any crime scenes, traffic crashes, arrestees, detainees, people or job related incident or occurrence taken with the Borough's Communication Media to any person, entity, business or media or Internet outlet whether on or off duty without the express written permission of the ~~Mayor or~~ Business Administrator. Except in "emergency situations, "Employees are prohibited from taking digital images or photographs with media equipment not owned by the Borough. For purposes of this section, an "emergency situation" involves a sudden and unforeseen combination of circumstances or the resulting state that calls for immediate action, assistance or relief, and may include accidents, crimes and flights from accidents or crimes and the employee does not have access to the Borough's Communication Media. If such situation occurs, employee agrees that any images belong to the Borough and agree to release the image to the Borough and ensure its permanent deletion from media device upon direction from the Borough.

No media advertisement, electronic bulletin board posting, or any other posting accessible via the Internet about the Borough or on behalf of the Borough, whether through the use of the Borough's Communication Media or otherwise, may be issued unless it has first been approved by the ~~Mayor or~~ Business Administrator. Under no circumstances may information of a confidential, sensitive or otherwise proprietary nature be placed or posted on the Internet or otherwise disclosed to anyone outside the Borough. Such unauthorized communications may result in disciplinary action.

Because (authorized) postings placed on the Internet through use of the Borough's Communication Media will display on the Borough's return address, any information posted on the Internet must reflect and adhere to all of the Borough's standards and policies.

All users are personally accountable for messages that they originate or forward using the Borough's Communication Media. Misrepresenting, obscuring, suppressing, or replacing a user's identity on any Communication Media is prohibited. "Spoofing" (constructing electronic communications so that it appears to be from someone else without a legitimate authorized purpose and authorized by the Business Administrator) is prohibited.

Employees must respect the laws regarding copyrights, trademarks, rights of public Borough and other third-party rights. Any use of the Borough's name, logos, service marks or trademarks outside the course of the employee's employment, without the express consent of the Borough, is strictly prohibited. To minimize the risk of a copyright violation, employees should provide references to the source(s) of information used and cite copyrighted works identified in online communications.

To the extent that employees use social media outside of their employment and in so doing employees identify themselves as Borough employees, or if they discuss matters related to the Borough on a social media site, employees must add a disclaimer on the front page, stating that it does not express the views of the Borough, and the employee is expressing only their personal views. For example: "The views expressed on this website/web log are mine alone and do not necessarily reflect the views of my employer." Place the disclaimer in a prominent position and repeat it for each posting that is expressing an opinion related to the Borough or the Borough's business. Employees must keep in mind that, if they post information on a social media site that is in violation of Borough policy and/or federal, state or local laws, the disclaimer will not shield them from disciplinary action.

Nothing in these policies is designed to interfere with, restrain or prevent employee communications regarding wages, hours or other terms and conditions of employment. Borough employees have the right to engage in or refrain from such activities.

3. Article IV, concerning Policies Relating to Management of the Workplace, is amended to add the following new Employee Dating Policy, to be designated Section R of Article IV:

Employee Dating Policy:
The Borough recognizes the right of employees to engage in social relationships with each other, including relationships of a romantic or intimate nature. However, the municipality also recognizes that such relationships can be a problem in the workplace. They may result in favoritism, discrimination, unfair treatment, friction among coworkers, or the perception that they generate such problems.
To try to achieve a balance between employee rights and workplace needs, the Borough has adopted the following policy on the subject of supervisor/subordinate dating.
If such a relationship exists or develops, both parties involved shall report the fact to A) their immediate supervisor or B) human resources.
For the purposes of this policy, a supervisor/subordinate status means a situation where one employee, irrespective of job title, makes or has the authority to make decisions or to take action concerning another employee's compensation, promotion, demotion, discipline, daily tasks, or any other terms, conditions or privileges of employment with the municipality.
If the employees involved in the relationship are also in a supervisor/subordinate status, management may take any action which it deems appropriate, up to and including transferring one of the parties so that there is no longer a supervisor/subordinate relationship between them. In Addition, management reserves the right to address any workplace issues that may result from that relationship in the manner it deems appropriate.
Any employee who violates this policy will be subject to disciplinary action, up to and including discharge. The municipality regards a violation of this policy as particularly serious because such workplace relationships can cause favoritism, discrimination, unfair treatment for other interference with municipal operations.
Nothing in this policy alters an employee's at will status.

4.Article VII, Section A, concerning Employment Procedure, is amended by the insertion of the following new unnumbered subsection following "Acceptances and Rejections":

Employability Proof: After acceptance, but before starting employment, all new employees shall be required to fill out an employment verification form (19) and to provide acceptable proof of

right to employment in the United States.

5. Article VII, Section B, concerning Open Public Meetings Act Procedure concerning Personnel Matters, is amended as follows:

Open Public Meetings Act Procedure concerning Personnel Matters:*
Discussions by the governing body or any body of the Borough concerning appointment, termination, terms and conditions of employment, performance evaluation, promotion or discipline of any current or prospective officer or employee shall be in closed session, with the right of the employee to be present, unless the individual requests in writing that the discussion be held in open session. Such request must be granted. Prior to the discussion by the governing body or any body of the Borough concerning such matters, the Clerk shall notify the affected person(s) of the meeting date, time and place, the matters to be discussed and the person's right to request that the discussion occur in open session. In the event more than one person is affected by the discussion and one of the affected persons does not request that the discussion be in open session, then the discussion shall be in closed session. ~~If the individual(s) does not request that the discussion be held in open session, the governing body or other body of the Borough may at its sole discretion invite the affected individual(s) to attend the application portion of the closed session.~~

6.A new Article VIII is added, entitled Model Forms, and the forms attached to this Resolution entitled Notice of Personnel Discussion, Employment Application and CEPA Notice are adopted and included in the new Article and listed by title.

BE IT FURTHER RESOLVED, that these amendments shall be effective immediately.

Record of Council Vote on Passage

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

Council Member Griffiths made a motion to approve Resolution 2016-9.9, second by Council Member Mills. Mr. Marciante asked what is being amended. Mrs. Heinzel stated that this comes from the Mid Jersey JIF. Mr. Bliss stated that the Mid Jersey JIF basically says that by October 1st they want municipalities to update their Policy and Procedures Manual to incorporate these changes in order to maintain the favorable EPL deduction on the annual renewal. Mr. Bliss stated that changes are underlined and deletions are crossed out. Mr. Bliss stated that there is nothing earth shattering, the NJ Pregnant Workers Fairness Act and its implications are incorporated, there is now a new Employee Dating Policy, there is a new insertion regarding proof of employability and the Open Public Meetings Act procedure concerning personnel matters is greatly clarified. Upon a roll call vote all members present voted in favor.

BOROUGH OF PENNINGTON
RESOLUTION 2016 – 9.10

A RESOLUTION TO AFFIRM THE BOROUGH OF PENNINGTON'S CIVIL RIGHTS POLICY WITH RESPECT TO ALL OFFICIALS, APPOINTEES, EMPLOYEES, PROSPECTIVE EMPLOYEES, VOLUNTERS, INDEPENDENT CONTRACTORS, AND MEMBERS OF THE PUBLIC THAT COME INTO CONTACT WITH BOROUGH EMPLOYEES, OFFICIALS AND VOLUNTEERS

WHEREAS, it is the policy of Borough of Pennington to treat the public, employees, prospective employees, appointees, volunteers and contractors in a manner consistent with all applicable civil rights laws and regulations including, but not limited to the Federal Civil Rights Act of 1964 as subsequently amended, the New Jersey Law against Discrimination, the Americans with Disabilities Act and the Conscientious Employee Protection Act, and

WHEREAS, the governing body of the Borough has determined that certain procedures need to be established to accomplish this policy

NOW, THEREFORE BE IT ADOPTED by the Borough Council of the Borough of Pennington that:

Section 1: No official, employee, appointee or volunteer of the Borough by whatever title known, or any entity that is in any way a part of the Borough shall engage, either directly or indirectly in any act including the failure to act that constitutes discrimination, harassment or a violation of any person's constitutional rights while such official, employee, appointee volunteer, or entity is engaged in or acting on behalf of the Borough's business or using the facilities or property of the Borough.

Section 2: The prohibitions and requirements of this resolution shall extend to any person or entity, including but not limited to any volunteer organization or inter-local organization, whether

structured as a governmental entity or a private entity, that receives authorization or support in any way from the Borough to provide services that otherwise could be performed by the Borough.

Section 3: Discrimination, harassment and civil rights shall be defined for purposes of this resolution using the latest definitions contained in the applicable Federal and State laws concerning discrimination, harassment and civil rights.

Section 4: The Borough Administrator shall establish written procedures for any person to report alleged discrimination, harassment and violations of civil rights prohibited by this resolution. Such procedures shall include alternate ways to report a complaint so that the person making the complaint need not communicate with the alleged violator in the event the alleged violator would be the normal contact for such complaints.

Section 5: No person shall retaliate against any person who reports any alleged discrimination, harassment or violation of civil rights, provided however, that any person who reports alleged violations in bad faith shall be subject to appropriate discipline.

Section 6: The Business Administrator shall establish written procedures that require all officials, employees, appointees and volunteers of the Borough as well as all other entities subject to this resolution to periodically complete training concerning their duties, responsibilities and rights pursuant to this resolution.

Section 7: The Business Administrator shall establish a system to monitor compliance and shall report at least annually to the governing body the results of the monitoring.

Section 8: At least annually, the Business Administrator shall cause a summary of this resolution and the procedures established pursuant to this resolution to be communicated within the Borough. This communication shall include a statement from the governing body expressing its unequivocal commitment to enforce this resolution. This summary shall also be posted on the Borough's web site.

Section 9: This resolution shall take effect immediately.

Section 10: A copy of this resolution shall be published in the official newspaper of the Borough in order for the public to be made aware of this policy and the Borough's commitment to the implementation and enforcement of this policy.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2016-9.10, second by Council Member Lawver. Mr. Bliss stated that this is also a Mid Jersey JIF requirement, we have adopted this resolution in the past and we do so periodically at their request. Mr. Bliss stated that the JIF is trying to minimize their exposure to insure that we have policies in place that tell our employees the difference between acceptable and non-acceptable behavior. Mr. Lawver stated that his only concern with this is that this affects not only employees but it extends to volunteers. Mrs. Heinzel stated that she recently came across a manual that Princeton gives out to volunteers and it is a good idea because many times volunteers step up and they really don't know what they should be doing. Mrs. Heinzel stated that these types of rules and procedures might be laid out in such a document. Mr. Lawver stated that it would be good to look into it, though it is difficult enough to get volunteers and it might discourage people from volunteering. Mr. Lawver stated that we have done this resolution before and never followed through with the training element. Mr. Bliss stated that it is an element of our defense or conversely our exposure if we do not train our people on our own policies. Mr. Bliss stated that he finds the training to be highly beneficial in terms of raising consciousness. Mr. Griffiths agreed that it has value. Mr. Lawver stated that he does not dispute that, but he just feels that it might deter people from volunteering. Mrs. Chandler stated that most of the training is done on line now. Mayor Persichilli stated that we should follow up with the JIF and find out what the requirements are and if there are training videos available on line. Mrs. Heinzel stated that she would reach out through the Municipal Managers Association to see how other towns are handling this. Upon a roll call vote all members present voted in favor.

Council Discussion

Mr. Lawver stated that in January the Borough will be appointing a Borough Engineer for a three year term. Mr. Lawver stated that the Public Works Committee discussed this and would like to put out a Request for Proposals with the intention being combining the Borough Engineer and the Water and Sewer Engineer. Mr. Lawver stated that it is important to go through this process and is not a negative reflection on Roberts Engineering. Mayor Persichilli stated that he has said for the last several years that it does not make sense for the Borough to have two separate engineers. Mayor Persichilli stated that this is the right time given that the three year term will be up at the end of the year to go request proposals to combine the two positions.

Mayor Persichilli stated that some of the problems that we have run into in the past couple years have been because there are too many people involved. Council Members were all in agreement. Mr. Lawver stated that he would like to start the process as soon as possible with the intention of making a decision by year end.

Mr. Marciante asked if the Borough has received reimbursement for the Brown Property expenses. Mrs. Sterling stated that the funds were received from Green Acres. Mr. Marciante stated that he would like to be informed in the future.

Mr. Marciante asked how things are going with the clock. Mrs. Heinzel stated that she called and spoke to Todd Kelly at Sun Bank and he loves the idea but the decision is up to Frank Patillia. Mrs. Heinzel stated that she has called and left messages and she also sent a letter. Mrs. Heinzel stated that she got a return phone call while she was in the Public Safety meeting just prior to this meeting so she will try to call back tomorrow. Mrs. Heinzel stated that she has also been in communication with George Ackerman who is really interested in having the clock at Howe Commons.

Mr. Marciante asked if anything is being done about the Pennington School regarding for profit activities on the school property. Mr. Bliss stated that there is precedent out there that would invite adventuresome litigation but there are all sorts of open questions. Some discussion took please regarding the need for more information. Mrs. Heinzel stated that when she and Mayor Persichilli met with Dr. Hawkey they were told that the school does not do any for profit activities and that all activities are school associated activities. Mr. Griffiths stated that it would be a difficult argument to have. Mr. Lawver stated that there are a lot of folks that are aligned with the schools and will most likely line up to fight the Borough if we decide to push forward. Mayor Persichilli stated that the last time that he and Mrs. Heinzel sat down with the school the intention was to talk about a billing error on the Water /Sewer account for the school. Mayor Persichilli stated that the subject of the school buying up more properties for housing came up and Dr. Hawkey was sympathetic to the Borough concerns regarding this. Mayor Persichilli stated that he will continue to talk with the Pennington School.

Professional Reports

Mrs. Heinzel reminded everyone that the Paper Shredding Event will be held this Saturday at the Department of Public Works from 12 to 3pm. Mrs. Heinzel stated that they will also be collecting Styrofoam.

Mrs. Heinzel stated that the Health Services and Animal Control agreements will be expiring at the end of the year. Mrs. Heinzel stated that she and Mayor Persichilli will be meeting with Health Officer Stephanie Carey on Monday and she has also reached out to Paul Pogorzelski of Hopewell Township.

Mrs. Heinzel reported that the Fire Safety Open House will be held October 15th for anyone interested in attending.

Mr. Marciante asked if there is a way to collect CFL lightbulbs instead of just throwing them into the trash. Mr. Marciante stated that Mercer County will take them but that is only twice a year. Mrs. Chandler stated that she will mention it to Joann Held and the Green Team. Mr. Smith stated that Public Works can pick them up and store them for the Hazardous Waste Collection event but it comes down to those who want to recycle will and those who don't won't.

Mrs. Chandler asked where we stand with the household food waste recycling. Mr. Smith stated that he has not heard anything more on that.

Mrs. Heinzel stated that as a prelude to next month's meeting, she and Betty Sterling have been talking about the website and the need to improve the e-mail communications. Mrs. Heinzel stated that the e-mail system needs a lot of improvement. Mrs. Heinzel stated that since we have a new Council Member we should also revisit the importance of keeping personal e-mails separate from Borough e-mails and also discuss the Open Public Records Act with regard to e-mails.

Mrs. Heinzel stated that the last item she has is paving on Burd Street. Mrs. Heinzel stated that Mr. Marciante has concerns about some repaving that was done after a utility company came in and did some work underground. Mrs. Heinzel stated that the paving that was done seems to be deteriorating. Mrs. Heinzel stated that she discussed this with Mr. Bliss and asked if he knew of anything that the Borough could do to resolve the problem. Mr. Bliss stated that he gave this a very superficial look this afternoon when he heard about it. Mr. Bliss stated that the extent of his research was to read the Squibbs on various legal cases and his sense is that most litigation against utilities has to do with location of telephone poles. Mr. Bliss stated that he did find one case that had to do with faulty repair of the road and the repair in that case was very fresh. Mr. Bliss stated that the Burd Street repair has a lot of age on it. Mr. Bliss stated that in the beginning the utility applied to open the road, opened it, did the necessary repairs to close it, the Borough inspected it and the utility went on its way. Mr. Bliss stated that a recent telephone pole case seems to suggest what the court would do if faced with a similar situation on road repairs. Mr. Bliss stated that in that case the Supreme Court said if the utility came in and put its pole where the town specified the pole to be placed then that is the end of the matter and it is up to the town to maintain its roads. Mr. Bliss stated that he can't help but think that this situation would come to a similar conclusion.

Mr. Marciante stated that what he is saying is that utility companies should be made to put up a bond so that when they open up a road the repair should be done so that it will last until the road is scheduled to be

repaved. Mr. Bliss stated that would be an ordinance change and could be made part of the permit process as long as it is a reasonable practice across the State. Mr. Bliss stated that he would suggest that we start by looking at what other towns throughout the State are doing. Mrs. Heinzel stated that one town has an agreement that if a utility company comes in and does work, the entire width of the road must be repaved. Mrs. Heinzel stated that Burd Street is the next street on the priority list for repaving and as per the Borough Ordinance nothing can be done within five years after repaving.

Mr. Meytrott stated that Borough Council Members were provided with information from the Mid Jersey JIF regarding Elected Officials On-line Training and he would encourage members to complete the training. Mr. Meytrott stated that the Borough receives a credit of $250.00 per elected official. Mr. Meytrott stated that there is a misprint indicating that this must be completed by May of 2016 and they are checking on that.

Mr. Smith stated that he got notice late this afternoon that 312 North Main is ready to move forward with their sewer installation on October 19th. Mr. Meytrott added that when that work is complete Mercer County has plans to move ahead with resurfacing Main Street.

Mr. Smith stated that leaf collection might start a little earlier this year because it has been so dry.

Approval of Closed Session Minutes for Content but not for Release

Council Member Marciante made a motion to approve the August 9, 2016 Closed Session Minutes, second by Council Member Chandler with all members present voting in favor.

Council Member Chandler made a motion to adjourn the meeting, second by Council Member Griffiths.

Respectfully submitted,

Elizabeth Sterling
Borough Clerk