

**Pennington Borough Council
Regular Meeting – February 6, 2017**

Council President Joseph Lawver called the Regular Meeting of the Borough Council to order at 7:00 pm. Borough Clerk Betty Sterling called the roll with Council Members Chandler, Gnatt, Griffiths, Lawver, Marciante and Mills in attendance. Mayor Persichilli was absent.

Also present were Borough Administrator Eileen Heinzl, Public Works Superintendent Rick Smith, Public Safety Director Bill Meytrott, Bond Counsel Ed McManimon, Borough Planner Michael Bolan and Borough Attorney Walter Bliss.

Mr. Lawver 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.

Mr. Lawver asked everyone to stand for the flag salute.

Open to the Public – Agenda Items Only

Mr. Lawver read the following statement:

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

There were no comments from the public.

Mayor's Business

Mr. Lawver invited Mr. Davy to come forward, Mr. Lawver read the following Proclamation and presented it to Mr. Davy along with a Borough jacket:

**PROCLAMATION OF MAYOR AND COUNCIL
RECOGNIZING AND HONORING
JAMES DAVY**

WHEREAS; James Davy has served as a Member of the Common Council, Borough of Pennington from July 2, 2013 through September 1, 2016; and

WHEREAS, Mr. Davy has given countless hours of valuable service as Council Liaison to the Public Works Committee, the Personnel Committee and as a member of the Finance Committee; and

WHEREAS, throughout his tenure on Council, Mr. Davy has been responsive to the citizens of Pennington, their concerns and their interests; and

WHEREAS, Mr. Davy has worked tirelessly for the betterment of the Pennington community at large; and

WHEREAS, the Borough of Pennington highly respects those who never cease in their efforts to make their community a better place to live.

NOW, THEREFORE, BE IT PROCLAIMED THAT, the Mayor and Council of the Borough of Pennington hereby express gratitude and appreciation to Mr. Davy on this 9th day of January 2017.

Mr. Davy thanked everyone for the recognition.

Presentations

COAH Update - Mr. Lawver invited Borough Planner Mike Bolan to come forward to discuss COAH updates and Zoning Amendments. Mr. Bolan stated that he did not realize that the zoning amendment was to be part of his presentation. Mrs. Heinzl asked that Mr. Bolan stay for that part of the meeting in case there were any questions. Mr. Bolan stated that the two main things to discuss right now are the Supreme Court decision that came out on January 18th, 2017 and the second is an update on the Mercer County trial that is going on right now and which began just before the Supreme Court decision came out. Mr. Bolan stated that this put the Mercer County Judge, Judge Jacobsen in the position of being the first judge having to deal with this issue. Mr. Bolan stated that the Supreme Court decision related to what is commonly referred to as the Gap Period. Mr. Bolan stated that by way of background the Fair Share Housing Center has defined the need or the prospective need for municipalities as covering the period from 1999 to 2025. Mr. Bolan stated that the Municipal group defined it as covering the period from 2015 to 2025 with their argument being how can prospective need relate to a period that is in the past. Mr. Bolan stated that the judge in Ocean County initially decided that the 1999 to 2015 period did generate a prospective need obligation, the Municipal group

appealed that decision to the appellate division and the appellate division agreed that the prospective need could not possibly go back in time. Mr. Bolan explained that the appellate decision left the door open to define it as something else. Mr. Bolan stated that the Fair Share Housing Center then appealed the appellate decision to the Supreme Court and the Supreme Court heard the oral argument in November and came out with their decision on January 18th of this year. Mr. Bolan stated that essentially they said that there is a need that is generated during the Gap Period, it is not prospective because prospective need is defined in the Fair Housing Act as “a looking forward to predicting what the need for low and moderate income households might be.” Mr. Bolan stated that they also said that it could be fit into another category of present need. Mr. Bolan stated that the Supreme Court gave some direction to the lower courts as to how to define the households that were generated between the period of 1999 to 2015 and would create some category of affordable housing need. Mr. Bolan stated that essentially that is where we are now. Mr. Bolan stated that Judge Jacobsen started her trial for the Mercer County municipalities and she consolidated the municipalities so that she was having one trial to determine the affordable housing obligation for all the municipalities. Mr. Bolan stated that Judge Jacobsen along with the Judge in Ocean and the Judge in Monmouth have been working somewhat in concert because the three counties constitute a COAH region. Mr. Bolan stated that there are six regions established by the past regulations that have been carried forward to the present. Mr. Bolan briefly discussed the process that will take place which he speculated would take at least until May. Mr. Lawver asked for confirmation that Pennington Borough opted out of the trial and Mr. Bolan stated that yes we did. Mr. Lawver asked if the ruling and methodology will apply to Pennington Borough and Mr. Bolan stated that it would. Mr. Bolan stated that at this point there is nothing for us to do until we know what our fair share obligation will be. Mr. Bolan stated that the Planning Board has done a background report and we are in a very good position to complete our Housing Plan. Mr. Bolan stated that all of the background information consisting of demographic and housing unit characteristics of the municipality has been prepared. Mr. Bolan stated that he gave the Planning Board a memo when the Borough was still part of the Municipal Consortium and still had the Motion for Declaratory Judgement pending which outlined a plan so we are in a good position to be able to adopt a plan when the time comes.

Mr. Lawver asked Mr. McManimon if he would hold his presentation until the discussion on the Bond Ordinance.

Stonybrook Regional Sewerage Authority - Mr. Lawver invited John Kantorek to come forward for a presentation on the Stonybrook Regional Sewerage Authority. Mr. Lawver recognized Mr. Harry Compton, Pennington Borough representative to the Authority who was also in attendance. Mr. Kantorek distributed two documents to Mayor and Council, a capital plan that is being provided for information only and another document which he will be discussing tonight. Mr. Kantorek stated that the budget for the authority is offset by their sludge business which helps to reduce the rates charged to participants. Mr. Kantorek stated that the rates have remained pretty stable over the years with a 1.3 percent increase over ten years and about 1 percent if you look at the last five years. Mr. Kantorek stated the handout includes a chart that shows the 2016 actual charges and the proposed 2017 charges which are estimated at the beginning of the year and then once the actual flow is calculated the chart is redone with the actual numbers. Mr. Kantorek stated that the budget is made up of operation and maintenance costs and the debt service for the year. Mr. Kantorek stated that everything is based on flow and participants pay based on percent of flow. Mr. Kantorek stated that some towns have reduced their flow by taking on infrastructure repairs. Mr. Kantorek explained the next chart in the packet that shows the Upstream 12 Month Average Flow and how it pertains to Pennington Borough. Mr. Kantorek stated that the chart shows both the flow and the rain flow during the period. Mr. Kantorek pointed out that whenever the rain flow peaks, so does the Pennington flow. Mr. Kantorek stated that over the last four years, three of the years were extremely dry and the chart shows how Pennington flow dropped off. Mr. Lawver stated that basically means that our pipes are leaking. Mr. Kantorek stated that flow numbers are down for Pennington Borough but if we get enough rain and groundwater builds back up that will affect the numbers. Some discussion took place with regard to how repairs in other towns have affected their flow. Mr. Kantorek stated that Princeton has done the most repairs and they have been consistently working on repairs over the past twenty-five years. Mr. Kantorek stated that they have done some testing using cameras and they were happy to find that the infrastructure that the Authority is responsible for looks pretty good for being thirty-five years old. Mr. Kantorek stated that they have additional testing budgeted in their capital plan. Mr. Kantorek briefly discussed other municipalities and how repairs in other towns affect all participants. Mr. Kantorek stated that they are required to file an Infiltration/Inflow report with the DEP for each of their municipalities as to what is being done. Mr. Kantorek stated that so far the DEP has not acted on the report and they realize how difficult it is to maintain these systems.

Mr. Kantorek reviewed a Capacity Status Report which they do every month and which shows available capacity by municipality. Mr. Kantorek stated that in Pennington's case the committed flow is 259 leaving available capacity of 40,000. Mr. Kantorek stated that they do not go by this report because the actual capacity would be lower when we return to a normal rainfall period. Mr. Kantorek briefly discussed the pending closure of Bristol Myers Squibb and how that would affect the sewer plant. Mr. Kantorek stated that they have consulted with their attorney as to whether or not they would be required to provide sewer service if the property changes hands.

Mr. Kantorek stated that three of the past four years have been abnormally dry and they are estimating that when normal conditions return there would be about 10 to 15, 000 in available capacity. Mr. Kantorek stated that in August 2016, American Properties came to Stonybrook with a TWA requesting 22,800 gallons per day for the Heritage at Pennington project. Mr. Kantorek stated that American Properties was unable to attend the August meeting so the request was tabled and they were asked to attend the September meeting. Mr. Kantorek stated that Stonybrook asked that the project be done in two phases so that we would have a

number that falls between the 10 to 15,000 gallons. Mr. Kantorek stated that initially American Properties chose not to do that and they came to the September meeting still requesting the 22,800. Mr. Kantorek stated that there was a lot of discussion and basically at the end American Properties agreed to resubmit for a phase project where Phase 1 would be for 12,600 gallons per day. Mr. Kantorek stated that Phase 1 is for a total of 44 units, 20 villa units, 16 townhouse units and 8 condominium/COAH units and that is the part of the project was approved. Mr. Kantorek stated this basically means that there is about 2,400 gallons per day of available capacity. Mr. Kantorek stated that a lot of research went into consideration of this project and they feel comfortable that they will be able to treat the approved gallons. Mr. Kantorek stated that Stonybrook is getting closer to having more capacity at the plant and that will come into play as the project goes on.

Mr. Kantorek briefly reviewed the path to additional capacity. Mr. Kantorek stated that they have completed the Wastewater Management Plan and it has been approved by DEP which allows for an expansion from 300,000 to 445,000 gallons per day for the Pennington plant. Mr. Kantorek stated that they have received a final DEP permit which initially had five items that needed to be addressed. Mr. Kantorek stated that copper and arsenic were taken out by DEP, one of the items they agreed to move forward on and the two left on the table were nitrate and total dissolved solids. Mr. Kantorek stated that there is a Drinking Water Intake Protection regulation that the DEP has prepared a draft of but it has not been published and they have not seen a copy of it. Mr. Kantorek stated that if DEP goes forward and that gets approved, that would deal with the nitrate and total dissolved solids. Mr. Kantorek stated that knowing that was there and knowing that Pennington has been waiting awhile to get extra capacity, the Board took it upon themselves to move forward and not wait until everything is resolved. Mr. Kantorek stated that a contract has been awarded to Kleinfelder who is the engineer for the authority, a process evaluation study has been prepared which will tell them what needs to be done to upgrade the treatment plant to provide both capacity as well as meet the permit limits. Mr. Kantorek stated that in May of 2016, the Board agreed to move forward with the design of the project. Mr. Kantorek stated that they have seen thirty percent complete drawings, more complete drawings should be done in March of 2017 and once that is done there is a treatment works application that has to be approved by DEP. Mr. Kantorek stated that they have to work with Hopewell Township because the plan involves a small addition to the existing building. Mr. Kantorek stated that if everything goes as planned they would go out to bid for the project in the summer of 2017 and award in the fall of 2017. Mr. Kantorek stated that they anticipate an eighteen month construction period which means that by the spring of 2019 there would be another 145,000 gallons per day of available capacity. Mr. Kantorek stated that they will be reevaluating as the project moves on and the weather changes to see if additional capacity is available prior to completion. Mr. Kantorek stated that the estimated cost of the project is \$8,275,000 but the good news is that there is no new debt service that will be required for this project. Mr. Kantorek stated that funds are available from a bond issue in 2004 and in retained earnings which are moneys set aside mostly from excess revenue from the sludge business.

Mr. Lawver thanked Mr. Kantorek for his presentation.

Appointments – (With Council Approval)

Mr. Lawver announced the following appointments:

Library Board – Rose Yacovone – 5 year term through December 31, 2021

Senior Advisory Board – Murray Peyton – 2 year term through December 31, 2018

Mr. Lawver stated that Mr. Peyton was in attendance this evening and he wanted to recognize him and thank him for stepping up to the role.

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

Ordinances for Introduction

Mr. Lawver read Ordinance 2017-3 by title:

**BOROUGH OF PENNINGTON
ORDINANCE 2017-3**

AN ORDINANCE AMENDING CHAPTER 215 OF THE CODE OF THE BOROUGH OF PENNINGTON, CONCERNING ZONING, TO CLARIFY PROVISIONS AND TO ELIMINATE REGULATION OF ROOFTOP SLOPES

WHEREAS, Borough Council, on the recommendation of the Application Review Committee of the Borough Planning Board, seeks to amend Chapter 215 of the Borough Code, concerning Zoning, to clarify various provisions and to eliminate regulation of rooftop slopes;

WHEREAS, the recommendations of the Application Review Committee reflect the advice of the Borough Planner and, with respect to rooftop slopes, the Historic Preservation Commission as well;

WHEREAS, the intent of the clarifying provisions is to: (1) eliminate surplus words from the definition of “floor area” and explicitly exclude from “floor area” the under-roof areas of sheds and gazebos; (2) eliminate from the definition of “story” the redundant and confusing explanation of “ceiling;” and (3)

merge the yard area requirements in Code Section 215-50 into a consolidated Section 215-15, so that the requirements concerning yards are in one place;

WHEREAS, eliminating the regulation of rooftop slopes is grounded on the premise that the standards imposed by the Code, Section 215-16 (“the Slopes Ordinance”), frustrate good design without substantially accomplishing their purpose;

WHEREAS, the purpose of the Slopes Ordinance is to preserve light and air in the side yards and minimize the impact of the height of a residential structure on neighbors, but the architectural adjustments required by the ordinance provide only a minimal effect and the purpose is better served by other provisions of the Code regulating the bulk of structures, including restrictions on floor area ratio, setbacks, height limitations, maximum house size, maximum size of detached garage, number of structures permitted on a lot and impervious coverage limitations, and the benefit of minimizing regulation of roof slopes is an evolving mix of architectural styles

WHEREAS, in the amendments which follow, brackets [] denote deleted language and underlining indicates new language;

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

1. Section 215-8 of the Code, concerning Definitions, is hereby amended with respect to the definitions of “Floor Area, Gross (G.F.A.) or Total” and “Story,” as follows:

“Floor Area[, Gross G.F.A. or Total]. The sum of the gross horizontal area of each full story of a building, as ‘story’ is defined herein [on a lot], measured from the exterior face of the exterior walls, provided that any under-roof parking area and any under-roof area of a shed or gazebo[,] shall not be included in the [G.F.A.] floor area calculation. For attached dwelling units/buildings, the [gross] floor area shall be measured from the center line of a wall separating the two dwelling units/buildings.”

“Story. The vertical distance between the finished surface of a floor and the finished surface of the floor above it. Or, if there is no floor above, then the vertical distance between the finished surface of a floor and the ceiling above it. For the purpose of this chapter:

[A. The underside of a roof shall not be considered a ceiling; rather, the underside of the highest horizontal surface separating the area above from the remainder of the structure below shall be considered the ceiling.]

A[B]. Cellars and basements ordinarily shall not be considered stories when considering the height of a building except, however, that:

(1) A finished basement and/or cellar in nonresidential buildings shall be considered a story for the purposes of the height, floor area and parking requirements of this chapter unless used and restricted solely for ancillary storage.

(2) A basement in a nonresidential or residential building, whether finished or not, shall be considered a story for the purposes of the height, floor area and parking requirements of this chapter when the distance from the undisturbed natural grade to the finished surface of the floor above the basement is more than three feet for more than 50% of the total perimeter of the building or is more than eight feet at any point.

B[C]. A half-story is the area under a pitched roof at the top of a building, the floor of which is at least three feet, but no more than six feet, below the line of intersection of the roof and wall face.

C[D]. The attic or area under a pitched roof at the top of a building shall be considered a full story for the purposes of this chapter when the head room or ceiling at a height of seven feet or more above the attic floor is more than 1/3 of the total area of the floor directly beneath and has access via code-compliant stairway for habitable space from the floor below.”

2. Section 215-15 of the Code, concerning Yard requirements, is amended by relocating paragraphs A and B of Section 215-50 to this section, designating them new paragraphs E and F, as follows:

“215-15. Yard requirements.

A. All yards facing on a public street shall be considered front yards and shall conform to the minimum front yard requirements for the zone in which located. Corner lots shall provide the minimum front yard requirements for the respective zone for both intersecting streets, for both principal and accessory buildings.

B. Where a building lot has frontage on a street which the Master Plan or the Official Map of the Borough indicates is proposed for right-of-way widening, the required front yard area shall be measured from such proposed right-of-way line.

C. No front yard shall be used for open storage of boats, vehicles or any other equipment. This subsection should not be construed to prohibit the parking of a motor vehicle on a driveway located in a front yard.

D. In the R-80 Zone, at least 50% of the front yard shall be lawn or landscaped and

shall not be used for the parking of cars or other vehicles. In the R-100 Zone, at least 70% of the front yard shall be lawn or landscaped and shall not be used for the parking of cars or other vehicles.

E. Front yards. In any residential zone where 50% or more of the lots within a distance of 500 feet on the same side of the street are developed, the front yard requirements for any lot within such area shall be the average of the existing front yards on the developed lots.

F. Side yards. In the case of lots upon which an existing structure is located, the combined total side yard requirements shall be reduced by six inches for each foot by which a lot is less than the minimum requirement for the zone in which located. In any case, the side yard width for either side yard shall not be reduced to less than 50% of the requirement of said zone.

3. Section 215-16 of the Code, concerning regulation of the Slopes of rooftops, is hereby deleted in its entirety, as follows:

[“Section 215-16. Slopes.

A. All points of any building on a lot shall lie below planes sloping inward and upward from the property lines and having horizontal to vertical slopes as specified below for the respective zones:

(1) R-80: 1.0 to 1.5.

(2) R-100, R-A and O-R: 1.0 to 1.0.

(3) TC: no requirement; see Schedule of Area, Yard and Building Regulations.

(4) B-H and O-B: 3.0 to 1.

B. The foregoing notwithstanding, the dimensions shown in the Schedule, Column Nos. 6 through No. 9, inclusive, shall be held to be the absolute minimum yard requirements regardless of building height.”]

4. Section 215-50 of the Code, concerning Permitted yard area modifications, its substance having been relocated to Section 215-15 as set forth above, is hereby deleted in its entirety, as follows:

[“215-50. Permitted yard area modifications.

A. Front yards. In any residential zone where 50% or more of the lots within a distance of 500 feet on the same side of the street are developed, the front yard requirements for any lot within such area shall be the average of the existing front yards on the developed lots.

B. Side yards. In the case of lots upon which an existing structure is located, the combined total side yard requirements shall be reduced by six inches for each foot by which a lot is less than the minimum requirement for the zone in which located. In any case, the side yard width for either side yard shall not be reduced to less than 50% of the requirement of said zone.”]

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

Council Member Chandler made a motion to introduce Ordinance 2017-3, second by Council Member Gnatt with all members present voting in favor.

Mr. Lawver read Ordinance 2017-4 by title.

**BOROUGH OF PENNINGTON
ORDINANCE 2017-4**

BOND ORDINANCE PROVIDING FOR PRELIMINARY PLANNING, ENVIRONMENTAL AND INVESTIGATIVE ANALYSIS AND ANY NECESSARY WORK OR IMPROVEMENTS IN CONNECTION WITH THE BOROUGH-OWNED LANDFILL AND ANY OTHER RELATED PROPERTIES FOR POTENTIAL REDEVELOPMENT PURPOSES IN AND BY THE BOROUGH OF PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY, APPROPRIATING \$125,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$125,000 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF.

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

Section 1. The improvement described in Section 3(a) of this bond ordinance is hereby authorized to be undertaken by the Borough of Pennington, in the County of Mercer, New Jersey (the "Borough") as a general improvement. For the improvement or purpose described in Section 3(a), there is hereby appropriated the sum of \$125,000. No down payment is required pursuant to N.J.S.A. 40A:12A-37(c) as this bond ordinance authorizes obligations for the purpose of aiding a redevelopment entity with respect to a redevelopment project within the Borough.

Section 2. In order to finance the cost of the improvement or purpose, negotiable bonds are

hereby authorized to be issued in the principal amount of \$125,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued is preliminary planning, environmental and investigative analysis and any necessary work or improvements in connection with the Borough-owned landfill and any other related properties for potential redevelopment purposes, including all work and materials necessary therefor and incidental thereto.

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

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

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

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

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

(a) The improvement or purpose described in Section 3(a) of this bond ordinance is not a current expense. It is an improvement or purpose that the Borough may lawfully undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is 40 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$125,000, and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

(d) An aggregate amount not exceeding \$125,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement.

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

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

Section 9. The chief financial officer of the Borough is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary

market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

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

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

Council Member Chandler made a motion to introduce Ordinance 2017-4, second by Council Member Griffiths. Mr. Lawver asked Mr. Ed McManimon, Bond Counsel for the Borough, if he would like to comment on the ordinance. Mr. McManimon came forward and stated that Mrs. Heinzl asked him to come tonight and address the background for this ordinance. Mr. McManimon stated that this ordinance is the product of a series of discussions and meetings that involve two different properties, one is the landfill and the other is the Blackwell property. Mr. McManimon stated that the landfill also involves the potential for the property that is adjacent to the landfill on Broemel as there may be some interest in that property. Mr. McManimon stated that the ordinance addresses the landfill and related properties and any improvement work that may need to be done in addition to the analysis. Mr. McManimon stated that the analysis is for environmental planning for redevelopment. Mr. McManimon stated that under the Land Use Statute that covers areas that are designated in need of redevelopment it provides significantly broader powers to the Borough to interact with potential developers of the site.

Mr. Lawver stated just to be clear, this does not address redevelopment, this is just the investigation stage and so the Bond Ordinance as set forth does not commit the Borough to anything else. Mr. McManimon stated that it does not unless the investigation suggests that the Borough do something in which case this ordinance could cover those costs. Mr. McManimon stated that if the area is declared in need of redevelopment this ordinance would enable the Borough to hire an environmental professional and a planning professional because both the determination of the condition of the property as well as what uses can be made of the property would determine whether or not it is worth taking advantage of the provisions of the redevelopment law which gives the broader power to identify people who might want to come in and develop the property. Mr. McManimon stated that typically property that is owned by the public has to be sold at public sale to the highest bidder and the ultimate use of the site may be determined by negotiation of the people who express an interest. Mr. McManimon stated that this is the first step to enable the Borough to have the broader power when negotiating what can happen with the property. Mr. McManimon stated that if in fact the Borough incurs these costs and we have a redevelopment area and a redevelopment plan is adopted, which is a master plan overlay above the current zoning for the site, any activity there would have to involve an agreement with the Borough under the redevelopment plan. Mr. McManimon stated that if that were to occur the Borough would require that whatever costs are incurred by the Borough would have to be paid by the developer as part of the value zoning that they would get from the redevelopment plan.

Mr. Lawver stated that just so everyone is clear, he along with Mrs. Chandler and Mayor Persichilli have been working with Mr. McManimon and the intent going forward and the reason that we need this bond ordinance in place is that we will initially start off with the environmental study which is a Preliminary Assessment which will open the door so that we can see what we are facing. Mr. Lawver stated that depending on what we learn from the Preliminary Assessment, there are a whole host of steps that can be undertaken with additional approval from Council. Mr. McManimon stated that this ordinance puts the funding in place to take those steps if Council determines that they want to go forward. Mr. McManimon stated that there has been a significant amount of environmental analysis of the landfill site. Mr. McManimon stated that information has been tracked down from DEP and others so that an evaluation of what has been done will eliminate duplication. Mr. McManimon stated that the Borough is at a step that is pretty far along so we will not be starting from scratch in terms of the landfill. Mr. McManimon speculated that he does not think that the Preliminary Assessment will take too long or be particularly obtrusive. Mr. Griffiths asked if the previous research surfaced any surprises. Mr. McManimon stated that it did not. Mr. McManimon further discussed the process and stated that part of the Preliminary Assessment will be to identify grant funds that are available.

Mr. Lawver stated that once we have the Preliminary Assessment which is the first step that will give the Borough Planner more information to be able to tell us what that potential of this site is, whether it is just the portion of the site that excludes the landfill or whether the concerns are so minimal that the landfill can be included for redevelopment.

Some discussion took place regarding spending against the ordinance and funding the expenditures whether that would be short term or long term financing. Mr. Lawver thanked Mr. McManimon for his comments and suggestions regarding this process.

Upon a roll call vote all members present voted in favor of introduction of the ordinance.

Mr. Lawver stated that Ordinance 2017-5, an ordinance increasing rates charged by the Pennington Borough Water and Sewer Utility, and amending the Code of the Borough of Pennington which was tentatively on the agenda for this evening will be addressed at a later date.

Ordinances for Public Hearing And Adoption

Mayor Persichilli read Ordinance 2017-1 by title.

**BOROUGH OF PENNINGTON
ORDINANCE 2017 - 1**

BOND ORDINANCE PROVIDING FOR THE FUNDING OF AN EMERGENCY APPROPRIATION FOR ADDITIONAL COSTS NOT COVERED BY TWO GRANTS EXPECTED TO BE RECEIVED FROM THE STATE OF JERSEY DEPARTMENT OF TRANSPORTATION FOR IMPROVEMENTS TO KING GEORGE ROAD AND PARK AVENUE IN AND BY THE BOROUGH OF PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY, APPROPRIATING \$40,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$40,000 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF.

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

Section 1. The improvement described in Section 3(a) of this bond ordinance is hereby authorized to be undertaken by the Borough of Pennington, in the County of Mercer, New Jersey (the "Borough") as a general improvement. For the improvement or purpose described in Section 3(a), there is hereby appropriated the sum of \$40,000 in addition to the two grants in the aggregate amount of \$572,932 expected to be received from the State of New Jersey Department of Transportation (together, the "State Grants"). Pursuant to N.J.S.A. 40A:2-11(c), no down payment is provided for the costs of the improvements since the project described in Section 3(a) hereof is being partially funded by the State Grants.

Section 2. In order to finance the cost of the improvement or purpose, negotiable bonds are hereby authorized to be issued in the principal amount of \$40,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued is the funding of an emergency appropriation authorized by Resolution #2016-12.6, duly adopted on December 12, 2016, for additional costs for improvements to King George Road and Park Avenue, including all work and materials necessary therefor and incidental thereto not covered by the State Grants.

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

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

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

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

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

(a) The improvement or purpose described in Section 3(a) of this bond ordinance is not a current expense. It is an improvement or purpose that the Borough may lawfully undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is 10 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$40,000, and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

(d) An aggregate amount not exceeding \$1,500 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement.

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

Section 8. Any grant moneys in addition to the State Grants referred to in Section 1 hereof, received for the purpose described in Section 3(a) hereof shall be applied either to direct payment of the cost of the improvement or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

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

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

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

Council Member Chandler made a motion to open the Public Hearing on Ordinance 2017-1, second by Council Member Griffiths. There were no comments from the public. Council Member Chandler made a motion to close the Public Hearing on Ordinance 2017-1, second by Council Member Griffiths with all members present voting in favor. Council Member Chandler made a motion to adopt Ordinance 2017-1, second by Council Member Griffiths with all members present voting in favor.

Mayor Persichilli read Ordinance 2017-2 by title.

BOROUGH OF PENNINGTON
ORDINANCE NO. 2017-2
ORDINANCE AMENDING CHAPTER 159 OF THE BOROUGH
CODE TO AUTHORIZE THE SUPERINTENDENT OF PUBLIC WORKS
TO HELP ENFORCE THE GREASE INTERCEPTOR ORDINANCE

WHEREAS, owners of properties in which any food establishment or facility is located in the Borough of Pennington must install and maintain one or more exterior grease interceptors to prevent the discharge of grease and oil into the sewer system in excess of a maximum permitted concentration;

WHEREAS, maintenance of exterior grease interceptors includes regular removal of intercepted grease and oil to limit accumulation in excess of a specified maximum, the removal and hauling of grease and oil by a licensed waste disposal or rendering firm, and the keeping of accurate records of the dates of cleaning and the means of disposal;

WHEREAS, enforcement of the ordinance includes inspection of properties having exterior grease interceptors to measure concentrations and make copies of pertinent documents;

WHEREAS, the grease interceptor ordinance currently authorizes the Department of Health as the Borough's authorized representative for enforcement of the ordinance;

WHEREAS, Borough Council seeks to augment the enforcement resources of the Department of Health by authorizing as well the Superintendent of Public Works to make inspections and enforce the ordinance;

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Pennington, that Section 159-13.6 of the Code of the Borough of Pennington, concerning interceptor operation, maintenance and inspection, is hereby amended (with new language underlined, deleted language crossed out) as follows:

- A. Except for food preparation byproducts and/or wash water waste fat, grease and oil shall be removed to the greatest extent possible upstream of grease interceptors and disposed of in accordance with all applicable regulations.
- B. None of the following agents shall be placed directly into a grease interceptor or into any drain that leads to an interceptor:
 - (1) Emulsifiers, de-emulsifiers, surface active agents, enzymes, degreasers or any type of product that will liquefy grease interceptor wastes;
 - (2) Any substance that may cause excessive foaming in Borough sanitary sewers; or
 - (3) Any substance capable of passing the solid or semisolid contents of the grease interceptor to the receiving sewer.
- C. The influent to interceptors shall not exceed 140° F. The temperature at the closest point of measurement upstream of the grease interceptor shall be considered equivalent to the temperature of the influent.
- D. Toilets, urinals and other similar fixtures shall not discharge through a grease interceptor.
- E. All exterior grease interceptors shall be maintained by the owner at the owner's expense to ensure at all times that discharge of grease or oil from the property, establishment or facility does not violate this chapter. Maintenance shall include all steps necessary to achieve the intended purpose and maximum recovery of all contents, including floating materials, wastewater, bottom sludge and solids on a periodic basis. Interceptors shall be serviced at a frequency required to limit grease accumulation to not more than 25% of the volume between the bottom of the interceptor and the outlet pipe invert or more frequently as required by the Department of Health to prevent discharge of grease or oil into the sewer system. The initial service interval shall not exceed six months. The removal and hauling of grease and oil shall be performed by a licensed waste disposal or rendering firm. The owner shall maintain accurate manifests and logs of the dates of cleaning and the means of disposal of grease and oil. These records shall be subject to inspection by the Department of Health and the Superintendent of Public Works.
- F. If the exterior grease interceptor discharge exceeds the maximum permissible concentration, the Borough may require the owner, upon notice pursuant to § 159-34, to increase the grease interceptor maintenance frequency and/or repair, replace or upgrade the interceptor at the owner's expense. The owner shall install a manhole immediately downstream of the grease interceptor to permit observation, sampling and measurement of the discharge of grease and oil.
- G. An authorized representative of the Department of Health or the Superintendent of Public Works bearing proper credentials and identification shall be permitted to enter and inspect all properties having exterior grease interceptors upon reasonable notice. This right of inspection shall include the right to measure, observe, monitor, sample, test, record, review and make copies of all pertinent documents.

BE IT FURTHER ORDAINED, that this ordinance shall be effective upon passage and publication as required by law.

Council Member Chandler made a motion to open the Public Hearing on Ordinance 2017-2, second by Council Member Griffiths. Mr. Winn Thompson of 412 South Main Street asked if this would address concerns from business owners with regard to grease interceptors. Mr. Lawver pledged that the Public Works Committee will look at grease interceptors in the near future. Mr. Lawver stated that the Borough has tried to be as accommodating as possible within the constraints that we have. Mr. Lawver stated that each case has been reviewed and assessed as needed. Council Member Chandler made a motion to close the Public Hearing on Ordinance 2017-2, second by Council Member Griffiths with all members present voting in favor. Council Member Chandler made a motion to adopt Ordinance 2017-2, second by Council Member

Griffiths with all members present voting in favor.

Committee Reports

Planning & Zoning / Open Space – Mrs. Gnatt reported that the Open Space Committee held their Reorganization Meeting and Mr. John Jackson was voted in as Vice Chairman and Dan Pace was appointed as Secretary. Mrs. Gnatt stated that Winn Thompson has been designated as the representative from the Planning Board.

Mrs. Gnatt stated that the Planning/Zoning Board will hold their Reorganization meeting this Wednesday.

Mr. Lawver stated that he heard something about applying for a grant for work behind the Tollgate School. Mrs. Gnatt stated that ANJEC is now accepting applications from Environmental Commissions for grants of up to \$1,500. Mrs. Gnatt stated that Mr. Hershey is interested in this grant and has suggested that the woods behind the Tollgate School would be a good location to be developed as an arboretum.

Mrs. Chandler stated that the Environmental Commission invited FOVHOS and the Pennington Open Space Commission to their last meeting to present the idea of this grant and to get ideas for what it could be used for. Mrs. Chandler stated that Mr. Hershey was looking for opportunities to use open space funds within the Borough limits. Mrs. Chandler stated that Mr. Hershey got a sense of direction from Council that the open space funds should be used within the Borough and so one of his thoughts was the woods behind Tollgate. Mrs. Chandler stated that there are a lot of invasive plants in this area and so the \$1,500 if awarded could go towards a study of whether or not the woods would make a good arboretum. Mrs. Gnatt stated that before proceeding they need to know if there would be any interest from Council in this idea. Mr. Griffiths asked what the nature of interest from Council is. Mrs. Chandler stated that at this point the idea still needs to be presented to the School Board to see if they would even allow the project. Mrs. Chandler stated that she does not think that Council would be involved until after the study is done because then there would be the possibility of using open space funds for the arboretum.

Mrs. Heinzl asked if the Borough would be applying for the ANJEC grant. Mrs. Chandler stated that the Environmental Commission would apply for the grant through the Borough. Mrs. Heinzl stated that the question is should the Borough apply for this grant assuming that the School Board is ok with the project and the intention then would be that the Borough would use open space funds to fund whatever is ultimately decided regarding the arboretum. Mrs. Heinzl offered to reach out to the school to see if this would be something that they would be interested in.

Public Safety / Personnel – Mr. Marciantie stated that the new police vehicle is here but the decals were wrong so they are waiting for the correct decals to arrive. Mr. Marciantie stated that CodeRed has been replaced by Nixle until the County approves us to use Swift911. Mr. Lawver asked if information for residents who signed up for CodeRed was transferred over to Nixle? Mr. Meytrott stated that Mrs. Heinzl is working on that with the County and they believe that anyone who signed up under CodeRed would automatically transfer to Swift911. Mrs. Heinzl stated that she would send a letter to the County Administrator asking when the switch would take place because she has not heard back from the person she has been dealing with.

Public Works/ Library / Shade Tree / Senior Advisory – Mr. Lawver stated that there is significant work to be done this year that will require great coordination. Mr. Lawver stated that King George Road and Park Avenue are scheduled for road reconstruction and the East Curlis Avenue/Weidel Drive water main upgrade will also be taking place and we want to make sure that the construction crews are not working on top of each other so these projects will be coordinated through the Borough Engineer. Mr. Lawver stated that a request has been made to Mercer County for mill and overlay of Lanning and Voorhees but we have not heard anything yet. Mr. Lawver stated that the FEMA Generator project is also on schedule for this year. Mr. Lawver stated that the NJDOT Grant Application for 2017 was submitted and the project that was identified for reconstruction is Burd Street.

Mr. Lawver stated that Gabe Rosko will continue as Chairman of the Shade Tree Commission. Mr. Lawver asked if the RFP for tree work has gone out. Mrs. Heinzl stated that a list of twenty-eight trees has been identified and the RFP should be going out soon.

Mr. Lawver stated that Mr. Larry Mansier will continue as Chairman of the Senior Advisory Board and Weed Tucker will be the Secretary. Mr. Lawver stated that the new Senior Coordinator put together a Senior Resource Fair on January 26, 2017 which he attended. Mr. Lawver stated that these are the types of services that we should get behind and support. Mr. Lawver stated that he will make sure to let Council know when the next event will be held because it was worth attending.

Mr. Lawver invited Council Members to visit Hopewelltownship.org/senior_news.html. Mr. Lawver stated that this lists everything that is being coordinated for all senior services across the valley. Mr. Lawver stated that the Senior Advisory Board is once again hosting Explorations and the first courses will begin on April 10th.

Parks and Recreation – Mrs. Mills had nothing to report.

Finance – Mr. Griffiths stated that he distributed a report to Council Members and he would be happy to

answer any questions. Mr. Griffiths stated that the Finance Committee met and primarily discussed the proposed engineering budget. Mr. Griffiths stated that the committee is recommending an increase in the temporary engineering agreement from \$25,000 to \$100,000 and that will be addressed in Resolution 2017-2.3. Mr. Griffiths stated that the Finance Committee also discussed the bond ordinance that was introduced earlier in the meeting and the impact that it would have on the budget. Mr. Griffiths stated that several strategic initiatives were discussed the first one being the Borough owned property development. Mr. Griffiths stated that a long term street maintenance plan was discussed. Mr. Griffiths stated that this plan would begin with an in-depth inventory of all Borough owned streets and in depth engineering evaluation so that we can categorize the streets by lifespan, what type of work is needed and priority. Mr. Griffiths stated that related to the road work is the question of location of sewer lines and whether those lines need to be repaired. Mr. Griffiths stated that the third strategic initiative is the inspection and inventory of sewer lines potentially requiring repair. Mr. Griffiths stated that Mr. Smith is in the process of getting some estimates for inspection of the sewer lines. Mr. Lawver stated that the goal of inspection of the lines is to get a year or two ahead of road work that needs to be done.

Mr. Griffiths stated that short term projects include the FEMA Generator project and Borough Hall improvements. Mr. Griffiths stated that Borough Hall is in need of HVAC, Roof and Window replacement and the Finance Committee is looking to fund those repairs this year.

Mr. Griffiths stated that the Finance Committee will meet again this Thursday to continue to work on the budget.

Historic Preservation / Board of Health / Environmental / Economic Development – Mrs. Chandler stated that the report for Environmental Commission was already discussed. Mrs. Chandler stated that the Board of Health did not meet. Mrs. Chandler stated that Economic Development and Historic Preservation held their annual awards event last week. Mrs. Chandler stated that the Pennington Fire Company was honored as Business of the Year and Ken Baker was recognized for work done on his home on South Main Street in the Historic District.

New Business

**BOROUGH OF PENNINGTON
RESOLUTION #2017 – 2.1**

RESOLUTION AUTHORIZING REFUNDS

BE IT RESOLVED, that a refund be issued to Wells Fargo Real Estate Tax Services, LLC, Attn: Refunds/Financial Support, 1 Home Campus, MAC X2302-04D, Des Moines, IA 50328-0001, for an overpayment of 2017, 1st quarter taxes, Block 402, Lot 5, also known as 4 North Riding Drive, in the amount of \$444.17.

BE IT RESOLVED, that a refund be issued to Julie Felsher, 120 East Delaware Avenue, Pennington, NJ 08534, for balance of Planning Board escrow account P09-003 for Block 602, Lot 14, also known as 120 East Delaware Avenue, in the amount of \$2,359.95

BE IT RESOLVED, that a refund be issued to Daniel Popkin, 129 East Delaware Avenue, Pennington, NJ 08534, for balance of Planning Board escrow account P07-002 for Block 304, Lot 27, also known as 129 East Delaware Avenue, in the amount of \$556.00.

BE IT RESOLVED, that a refund be issued to James Banks, 16 West Delaware Avenue, Pennington, NJ 08534, for balance of Planning Board escrow account P16-007 for Block 503, Lot 11, also known as 16 West Delaware Avenue, in the amount of \$852.00.

BE IT RESOLVED, that a refund be issued to Gary Mertz, P.O. Box 250, Sergeantsville, NJ 08557, for balance of engineering inspection fees for Block 103, Lot 6 (old Block 2, Lot 1.01), also known as 300 North Main Street, in the amount of \$500.00.

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	X				Marciante	M			
Griffiths	S				Mills	X			

Council Member Marciante made a motion to approve Resolution 2017-2.1, second by Council Member Griffiths with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2017 – 2.2**

RESOLUTION AUTHORIZING PAYMENT OF BILLS

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

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Pennington that the bills be paid on audit and approval of the Mayor, the Appropriate Council Member and the Treasurer in the amount of \$ 2,430,062.11 from the following accounts:

Current	\$ 1,710,353.17
W/S Operating	\$ 153,143.86
Developers Escrow	\$ 5,028.70
Grant Fund	\$ 1,673.25
Animal Control Fund	\$ 525.00
Water/Sewer Capital	\$ 559,338.13
TOTAL	\$ 2,430,062.11

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	X				Marciante	X			
Griffiths	X				Mills	S			

Council Member Chandler made a motion to approve Resolution 2017-2.2, second by Council Member Mills with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2017-2.3**

**RESOLUTION AUTHORIZING AMENDMENTS TO THE
2017 TEMPORARY BUDGET**

WHEREAS, the 2017 Budget for the Borough of Pennington has not been adopted; and

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

NOW, THEREFORE, BE IT RESOLVED, that the following additional appropriations be made in the 2017 Temporary Budget for the Current Account.

Tax Assessment	Other Expense	\$1,500.00
Legal	Other Expense	\$28,000.00
Engineering	Other Expense	\$75,000.00
Group Insurance	Other Expense	\$75,000.00
Streets	Other Expense	\$10,000.00
Borough Property	Other Expense	\$20,000.00
Library	Salaries	\$7,000.00
Library	Other Expense	\$20,000.00
Electricity	Other Expense	\$5,000.00
Social Security	Other Expense	\$7,500.00
PERS	Other Expense	\$64,320.00
PFRS	Other Expense	\$53,365.00
Total		\$366,685.00

BE IT FURTHER RESOLVED, that the following additional funds be appropriated for the 2017 Temporary Budget for the Water and Sewer Fund:

Water/Sewer	Other Expense	\$20,000.00
PERS	Other Expense	\$27,566.00
Insurance – Group Insurance	Other Expense	\$25,000.00
TOTAL		\$72,566.00

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	X				Marciante	X			
Griffiths	S				Mills	X			

Council Member Chandler made a motion to approve Resolution 2017-2.3, second by Council Member Griffiths with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2017-2.4**

**RESOLUTION AUTHORIZING CONTRACT WITH CITY
CONNECTIONS, LLC**

WHEREAS, the Borough of Pennington has need for WebPage development, storage and maintenance services;

WHEREAS, the Borough seeks to enter into contract with City Connections, LLC of Hazlet, New Jersey (“City Connections”) for provision of these services in 2017;

WHEREAS, the form of proposed contract entitled WebPage Development Agreement, is attached to this Resolution;

WHEREAS, the total fee for services under the Agreement shall not exceed \$2,000.00 without the prior written approval of Borough Council;

WHEREAS, the Chief Financial Officer has certified that funds are available;

WHEREAS, City Connections shall comply with all applicable Anti-Discrimination and Affirmative Action laws as set forth in the annexed Exhibit A;

NOW, THEREFORE, BE IT RESOLVED, by Borough Council of the Borough of Pennington, that the Mayor, with the attestation of the Borough Clerk, is hereby authorized to execute the aforesaid WebPage Development Agreement with City Connections on behalf of the Borough.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2017-2.4, second by Council Member Griffiths with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2017 – 2.5**

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

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

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

WHEREAS, the three municipalities intend to enter into a shared services agreement for 2017, superseding prior agreements, by which Hopewell Township will continue to provide weekly cleaning services at the Center and pay to Pennington Borough the sum of \$4,682.00; Hopewell Borough will pay Pennington \$1,170.00 for the year; and Pennington will provide cleaning supplies for the building and be responsible for all maintenance to the outside of the building, as well as snow and ice removal from sidewalks and parking lots, HVAC maintenance, plumbing, painting and replacement of light bulbs;

WHEREAS, the proposed form of agreement is annexed to this Resolution;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Mayor, with the attestation of the Borough Clerk, is hereby authorized to execute the annexed agreement on behalf of Pennington Borough.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2017-2.5, second by Council Member Gnatt

with all members present voting in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION #2017 – 2.6**

RESOLUTION AUTHORIZING A CONTRACT WITH CM3 BUILDING SOLUTIONS ON BEHALF OF INVENSYS BUILDING SYSTEMS FOR THE SUPPORT AND MAINTENANCE OF ITS PROPRIETARY SOFTWARE AND FOR RELATED EQUIPMENT REPAIR IN CONNECTION WITH OPERATION OF THE HVAC SYSTEM FOR BOROUGH HALL FOR THE YEAR 2017

WHEREAS, Invensys Building Systems (“Invensys”) is the designer of specialized software and equipment for the monitoring and regulation of HVAC systems and the identification of system-related problems requiring maintenance and repair; and Invensys has designed and installed such a control system for Borough Hall;

WHEREAS, the central component of the Invensys control system installed in Borough Hall for the monitoring and regulation of the HVAC system is a central control module designed and constructed by Invensys which consists of proprietary hardware and software and is connected to an Invensys-designed circuit of sensors throughout the building;

WHEREAS, CM3 Building Solutions (“CM3”) is an authorized factory representative of Invensys and is licensed by Invensys to conduct all operations necessary to support and maintain the proprietary hardware and software of Invensys;

WHEREAS, the Borough has entered into an agreement with CM3 on behalf of Invensys for a term of two years beginning January 1, 2016, subject to annual renewals and the availability of funding as required by law thereafter, for the maintenance of the central control module and related circuitry and sensors and for the performance of equipment repairs as needed by this control system (“Agreement”);

WHEREAS, the most important services to be provided by CM3 on behalf of Invensys under the proposed agreement relate to the support and maintenance of the central control module and related proprietary hardware and software used to monitor and regulate the HVAC system;

WHEREAS, the equipment repair services to be performed by CM3 on behalf of Invensys under the proposed agreement are incidental to and interrelated with maintenance of its proprietary hardware and software and combining responsibility for maintenance of that proprietary system in a single contract with responsibility for related equipment repair ensures accountability for repairs;

WHEREAS, the contract price for services relating solely to repair of equipment is below the threshold for public bidding, and the amount in question combined with the problems inherent in coordinating repairs with the use of proprietary software makes solicitation of competitive quotations not practicable;

WHEREAS, the Borough now seeks to renew the Agreement pursuant to its terms for the year 2017, at a price not to exceed \$14,532 for the year;

WHEREAS, the Agreement may be terminated by the Borough upon 30 days written notice, in which event the contract price will be prorated;

WHEREAS, the Agreement may be amended by written amendment signed by both parties;

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

WHEREAS, prior to entering into the contract, CM3 and Invensys shall provide sworn statements made under penalty of perjury that neither they nor any of their covered principals, partners, officers or subsidiaries has made or will make during the term of this contract a political contribution in violation of the Code of the Borough of Pennington or N.J.S.A. 19:44A-20.5 prohibiting certain political contributions by business entities awarded contracts by the Borough for professional services;

WHEREAS, CM3 shall comply with requirements for Anti-Discrimination and Affirmative Action as set forth in the annexed Exhibit A;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Mayor and Borough Clerk, with the advice of the Borough Attorney, are hereby authorized to take such steps as necessary to renew the aforesaid Agreement for a contract price not to exceed \$14,532 for 2017, subject to the terms set forth in the annexed proposal and the above recitals.

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	S				Marciante	X			
Griffiths	X				Mills	X			

Council Member Chandler made a motion to approve Resolution 2017-2.6, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2017 – 2.7**

RESOLUTION AUTHORIZING SHARED SERVICES AGREEMENT BETWEEN BOROUGH OF PENNINGTON AND COUNTY OF MERCER FOR EMS DISPATCH SERVICES FOR THE YEAR 2017

WHEREAS, beginning July 1, 2014, EMS dispatch services for the greater Mercer County area became available through Mercer County, and Mercer County began providing EMS dispatch services to Pennington under a shared services agreement;

WHEREAS, the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1, et seq., permits local units of government to enter into a contract with any other local unit for the joint provision within their combined jurisdiction of any service which any party to the agreement is empowered to render within its own jurisdiction;

WHEREAS, under the proposed shared services agreement, Mercer County would arrange for and provide EMS dispatch services, including emergency medical dispatch and community support services, for the Borough of Pennington;

WHEREAS, the term of the proposed agreement is one (1) year from January 1, 2017 through December 31, 2017;

WHEREAS, Pennington would pay for these services through an annual assessment representing the cost of calls made to and received by the County for EMS dispatch services within Pennington’s boundaries;

WHEREAS, based on the annual assessment the annual cost for Pennington Borough for the year 2017 will be \$2,590.00 as set forth in the attached agreement;

WHEREAS, a copy of the proposed shared services agreement is attached to this Resolution;

WHEREAS, the Chief Financial Officer has certified that funds are available in the 2017 budget:

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Mayor, with the attestation of the Borough Clerk, is hereby authorized to enter into the annexed Shared Services Agreement with Mercer County for the provision of EMS dispatch services as described therein.

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	X				Marciante	X			
Griffiths	S				Mills	X			

Council Member Chandler made a motion to approve Resolution 2017-2.7, second by Council Member Griffiths with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2017 -2.8**

RESOLUTION AUTHORIZING PROFESSIONAL SERVICES AGREEMENT WITH NEW JERSEY ANALYTICAL LABORATORIES FOR CALENDAR YEAR 2017

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

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

WHEREAS, New Jersey Analytical Laboratories has submitted a proposal for the work dated January 23, 2017, for a contract price of \$14,700 to be invoiced at \$1,225 per month each month of the calendar year 2017;

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

WHEREAS, the aforesaid proposal also provides that if additional sampling and analysis services

are required by the New Jersey Department of Environmental Protection (NJDEP) they shall be invoiced separately;

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

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

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

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

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED, by Borough Council of the Borough of Pennington, that the Borough Administrator is hereby authorized to issue an appropriate purchase order and accept as a binding contract the attached proposal by New Jersey Analytical Laboratories dated January 23, 2017 for a contract price not to exceed \$14,700.for the calendar year 2017, **without the McGowan Compliance option (item 10)**, subject to such amendments for supplemental services required by NJDEP as may hereafter be agreed upon;

BE IT FURTHER RESOLVED, that a copy of this resolution shall be published in the official newspaper as required by law.

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	S				Marciante	X			
Griffiths	X				Mills	X			

Council Member Chandler made a motion to approve Resolution 2017-2.8, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2017-2.9**

**RESOLUTION APPOINTING THE PUBLIC AGENCY COMPLIANCE
OFFICER FOR THE BOROUGH OF PENNINGTON**

WHEREAS, in accordance with N.J.S.A. 10:5-31 et seq. the Borough of Pennington is required to comply with public procurement and contracting regulations; and

WHEREAS, from time to time, the Division of Contract Compliance and EEO in Public Contracts, Department of the Treasury (the "Division") revises regulations for compliance **with** its statutes and regulations; and

WHEREAS, in accordance with N.J.A.C. 17:27-3.2 and subsequent amendments, each public entity is now required to appoint a Public Agency Compliance Officer to serve as a point of contact between the public entity and the Division; and

WHEREAS, the Borough Council of the Borough of Pennington is thus required to appoint a Public Agency Compliance Officer and to forward a resolution naming that appointee to the Division for its

records.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Pennington that Eileen Heinzl, Borough Administrator is hereby appointed to serve as the Public Agency Compliance Officer for the Borough of Pennington; and

BE IT FURTHER RESOLVED that the Borough Clerk is authorized to complete and submit to the Division the required "Designation of Public Agency Compliance Officer (P.A.C.O.);"

BE IT FURTHER RESOLVED that a copy of this resolution shall be forwarded to the Division of Contract Compliance and EEO in Public Contracts, Department of the Treasury.

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	S				Marciante	X			
Griffiths	X				Mills	X			

Council Member Chandler made a motion to approve Resolution 2017-2.9, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2017 – 2.10**

**RESOLUTION AUTHORIZING PAYMENT OF TRANSITION
EXPENSES OF ROBERTS ENGINEERING GROUP, LLC**

WHEREAS, Roberts Engineering Group, LLC has expended time and incurred expenses in providing digital documents and copies of documents and records for use by the Borough and the Borough Engineer, including documents pertaining to tax maps, current road projects, current NJEIT projects, planning board records and all other current and ongoing work;

WHEREAS, to compile these records, which were a combination of paper, PDF and AutoCAD, Roberts Engineering Group, LLC incurred \$750.00 of expenses related to preparation and copying, and it requests reimbursement in this amount;

WHEREAS, this request for reimbursement is set forth in the annexed letter by Carmela Roberts, PE, CME, President of Roberts Engineering Group, LLC, dated February 1, 2017;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Borough Administrator is hereby authorized to have Roberts Engineering Group LLC reimbursed in the amount of \$750 as set forth above.

Record of Council Vote on Passage

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

Council Member Gnatt made a motion to approve Resolution 2017-2.10, second by Council Member Griffiths with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION # 2017 – 2.11**

**RESOLUTION DETERMINING QUALIFIED BIDDER FOR
NEW PLENARY RETAIL CONSUMPTION LICENSE**

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

WHEREAS, by Resolution 2016-9.8, adopted on September 7, 2016 ("Resolution 2016-9.8"), Borough Council authorized advertisement for bids for purchase of the License and established a process for the receipt and review of submissions by prospective bidders, first in the form of applications for prequalification for licensure and then, for those thereby qualifying to bid, submission of actual bids;

WHEREAS, on September 23 and September 30, 2016, the Borough Clerk published notice to prospective bidders in the Times of Trenton and in the Hopewell Valley News in accordance with law, providing that applications for prequalification of bidders be submitted to the Borough Clerk no later than 4:00 pm on Tuesday, November 15, 2016;

WHEREAS, by the date and time for the receipt of applications, one application was received, submitted by Cugino’s Holding LLC, 147-149 W. Delaware Avenue, Pennington, New Jersey 08534 (“Cugino’s);

WHEREAS, the application of Cugino’s has now been reviewed by the Borough and Cugino’s and its principals have been subject to background investigations by the Pennington Borough Police Department, as required by law;

WHEREAS, as a result of this process, Cugino’s has been determined to be qualified to bid for the License;

WHEREAS, upon adoption of this Resolution, Cugino’s is qualified to submit a bid for the License in conformance with the requirements of Resolution 2016-9.8, provided the bid is received by the Borough Clerk no later than Wednesday, February 22, 2017 at 12:00 noon;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Pennington, in the County of Mercer, State of New Jersey, that the Borough Council of Pennington hereby confirms that the single entity qualified to bid for the License is Cugino’s Holding LLC as set forth above; and be it

FURTHER RESOLVED, that the bidding and application process shall proceed in conformance with the requirements of Resolution 2016-9.8.

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	X				Marciante	M			
Griffiths	X				Mills	S			

Council Member Marciante made a motion to approve Resolution 2017-2.11, second by Council Member Mills. Mr. Lawver invited Mr. Ben Sanford, co-owner of Cugino’s to come forward. Mr. Sanford stated that when he filled out the application form for the license they applied for the entire premises to be licensed and that includes the proposed restaurant which has not yet been constructed and the Italian Market that is fully operational. Mr. Sanford stated that he would like to be able to sell alcohol in the market prior to the restaurant being operational. Mr. Bliss stated that the Borough has a formula for the license and he would think that Alcoholic Beverage Control would have to address the question. Mr. Bliss stated that the resolution ties the license to a restaurant. Mr. Sanford asked if prior to construction they would be able to sell unopened beer and/or wine for consumption off the premises. Mr. Bliss stated that he did not believe so but he would have to research it further. Mr. Bliss stated that the resolution addresses the terms of the licenses and ties it to a restaurant with a certain number of seating and also a time period in which the restaurant must become operational. Mr. Bliss stated that the anticipation is that the license will not be used until the restaurant is operational. Mr. Sanford asked if there is an amendment that could be done to allow for sales of unopened beer and wine. Mr. Lawver stated that more research is needed before an answer can be given.

Mr. Sanford stated that his next question has to do with the property that was discussed earlier this evening. Mr. Sanford stated that he has met informally with Mrs. Heinzl and Mr. Smith. Mr. Sanford stated that the property behind the proposed restaurant currently has an old pump house that is boarded up and needs work. Mr. Sanford stated that his initial idea was to request use of a portion of the property for employee parking, dumpsters, grease removal and possibly use of the pump house for storage. Mr. Sanford proposed that he would repair the pump house and make it visually appealing. Mr. Sanford stated that he would like to be able to take deliveries involving larger trucks without having to utilize the main parking lot. Mr. Sanford stated that he is seeking a long term lease but he understands that might not be possible considering the discussion earlier and the proposed plans for the landfill site. Mr. Sanford stated that having a lease in place would give them some negotiation power with a potential developer. Mr. Sanford stated that he would like a ten-year lease with a ten-year option. Mrs. Chandler stated that the piece of property under discussion is part of the big picture piece of property and we will not know what that picture is until we get the environmental study done. Mrs. Chandler stated that once we get the study and we figure out the direction that we are going with the property then we can come back to this request. Mrs. Chandler stated that there is interested in other pieces of the property, but from the Borough’s perspective we really do not want to piecemeal the property. Mrs. Chandler stated that based on the study and whatever the Borough Planner comes up with we might end up breaking up the property, but at this time we do not know. Mr. Marciante stated that he did not agree, the building is an eyesore and we should either spend the money to fix it up or knock it down so it is not an eyesore. Mr. Griffiths stated that he would agree that this is a holistic concept and he would look hard for a way to accommodate Cugino’s interest on a lease basis so that there is use of the land but it is a strategic issue and at this stage of the game we should not separate it thinking in the long term. Mr. Griffiths stated that possibly a short term arrangement could be reached and possibly that could be integrated into the strategic plan. Mr. Sanford asked if an agreement could be reached in the interim. Council Members were in agreement that something could be worked out. Mr. Sanford was advised to meet with Mrs. Heinzl and Mr. Bliss to discuss the parking situation and also to discuss the sale of unopened containers prior to opening the restaurant. Upon a roll call vote all members present voted in favor of the Resolution.

**BOROUGH OF PENNINGTON
RESOLUTION #2017-2.12**

**RESOLUTION AUTHORIZING ADVERTISEMENT FOR BIDS
FOR WATER SYSTEM UPGRADES ON EAST CURLIS AVENUE AND WEIDEL DRIVE
SUBJECT TO AUTHORIZATION BY THE NEW JERSEY ENVIRONMENTAL TRUST**

WHEREAS, the Borough of Pennington seeks to construct water system upgrades to East Curlis Avenue and Weidel Drive in the Borough;

WHEREAS, the funds for the proposed project are being provided by the New Jersey Environmental Infrastructure Trust program (NJEIT) and the Borough of Pennington without special assessment of property owners;

WHEREAS, the Borough now seeks to advertise for bids for this project as required by the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq. subject to authorization by the New Jersey Environmental Infrastructure Trust;

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

1. The Borough Clerk is hereby authorized to take all actions necessary to advertise for and receive, in the manner provided by law, bids for construction of the aforesaid water system upgrades to Upper King George Road and Park Avenue in the Borough, pursuant to plans, specifications and bid documents prepared by the Borough Engineer and subject to authorization by the New Jersey Environmental Infrastructure Trust.

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	S				Marciante	X			
Griffiths	X				Mills	X			

Council Member Chandler made a motion to approve Resolution 2017-2.12, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION NO. 2017 – 2.13**

**RESOLUTION AUTHORIZING APPROVAL TO SUBMIT A GRANT APPLICATION AND
EXECUTE A GRANT AGREEMENT WITH THE NEW JERSEY DEPARTMENT OF
TRANSPORTATION FOR THE 2017 ROAD IMPROVEMENT PLAN PROJECT**

WHEREAS, Borough Council has determined that Burd Street requires reconstruction;

WHEREAS, the project is designed to improve the condition of the roadway including resurfacing, reconstruction and drainage;

NOW THEREFORE BE IT RESOLVED, that the Borough Council of the Borough of Pennington, formally approves the grant application for the above stated project;

BE IT FURTHER RESOLVED, that the Borough Engineer is hereby authorized to submit an electronic grant application identified as MA-2017 - Pennington Borough – 00434 to the New Jersey Department of Transportation on behalf of the Borough of Pennington.

BE IT FURTHER RESOLVED, that the Mayor or Acting Mayor with the attestation of the Borough Clerk is hereby authorized to sign the grant agreement on behalf of the Borough of Pennington and that his signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

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	X				Marciante	X			
Griffiths	X				Mills	S			

Council Member Chandler made a motion to approve Resolution 2017-2.13, second by Council Member Mills with all members present voting in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION 2017 – 2.14**

**RESOLUTION AMENDING TEMPORARY PROFESSIONAL
 SERVICES AGREEMENT WITH BOROUGH ENGINEER**

WHEREAS, Resolution 2017-1.10 appoints Norman Nelson of Van Note-Harvey Associates the Municipal Engineer for the Borough of Pennington;

WHEREAS, the same Resolution authorizes a temporary professional services agreement with Norman Nelson and the firm of Van Note-Harvey Associates for a sum not to exceed \$25,000 subject to negotiation of a final agreement;

WHEREAS, Borough Council now seeks to amend its prior resolution and increase the sum of \$25,000 to \$100,000, which shall continue to be subject to negotiation of a final agreement;

WHEREAS, the Chief Financial Officer has certified that the funds are available;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that Resolution 2017-1.10 is hereby amended to increase the amount allotted to temporary compensation of the Municipal Engineer from \$25,000 to \$100,000., pending negotiation of a final agreement, it being understood that all other provisions of Resolution 2017-1.10 are to remain the same.

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	S				Marciate	X			
Griffiths	X				Mills	X			

Council Member Chandler made a motion to approve Resolution 2017-2.14, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION 2017 – 2.15**

**RESOLUTION AUTHORIZING CONTRACT WITH WATER RESOURCE MANAGEMENT AS
 WATER AND SEWER COMPLIANCE OFFICER**

WHEREAS, the Borough seeks to enter into a contract with Water Resource Management to provide professional services as Water and Sewer Compliance Officer for the Borough in 2017;

WHEREAS, Water Resource Management has supplied a letter dated January 12, 2017 (“Proposal”) describing the scope of services as Water and Sewer Compliance Officer, as set forth in the numbered paragraphs 1, 2, 3, 4 and 5 of the Proposal;

WHEREAS, as further described in the Proposal, Water Resource Management will provide these services for a flat fee of \$375 per month;

WHEREAS, other parts of the Proposal relating to a proposed monthly fee for services as Backup Licensed Operator and for other services beyond the scope of services are not covered by this Resolution;

WHEREAS, Water Resource Management and its personnel hold all required New Jersey DEP licenses required to perform the services of Water and Sewer Compliance Officer;

WHEREAS, the funds necessary to pay for these services are available;

NOW, THEREFORE, BE IT RESOLVED, by Borough Council of the Borough of Pennington, that the attached Proposal is hereby accepted and Water Resource Management is hereby appointed Water and Sewer Compliance Officer for Pennington Borough for 2017, subject to the following conditions:

1. that the Proposal be amended to ensure compliance by Water Resource Management with Anti-Discrimination and Affirmative Action requirements of the State of New Jersey as set forth in the annexed Exhibit A;
2. that the Proposal be further amended to provide that the contract between Water Resource Management and the Borough shall be terminable on 30 days prior written notice by either party;
3. that Water Resource Management demonstrate coverage by sufficient professional liability insurance, to be approved by the Borough Attorney; and
4. the Mayor and/or Borough Administrator are authorized to issue such purchase orders and

contract documents as further necessary to retain and pay for the services of Water Resource Management as Water and Sewer Compliance Officer consistent with the Proposal.

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	S				Marciante	X			
Griffiths	X				Mills	X			

Council Member Chandler made a motion to approve Resolution 2017-2.15, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2017 – 2.16**

RESOLUTION APPOINTING LARNEY MYER AS REPRESENTATIVE TO THE MERCER COUNTY BICYCLE AND PEDESTRIAN TASK FORCE

WHEREAS, the Mercer County Bicycle and Pedestrian Task Force was organized seven years ago consisting of representatives from each town in Mercer County along with the Mercer County Planner and/or Engineer; and

WHEREAS, the mission of the Task Force is to advance safe and effective bicycle and pedestrian travel in Mercer County; and

WHEREAS, the Task Force is currently serving as the steering committee to help develop a bike plan for county roads as part of a Delaware Valley Regional Planning Commission study; and

WHEREAS, it is the desire of Mayor Anthony Persichilli to appoint Larney Myer to serve as representative to the Mercer County Bicycle and Pedestrian Task Force;

NOW, THEREFORE BE IT RESOLVED, by Borough Council of the Borough of Pennington that the Mayor’s appointment of Larney Myer to serve as representative to the Mercer County Bicycle and Pedestrian Task Force is hereby 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	X				Marciante	X			
Griffiths	S				Mills	X			

Council Member Chandler made a motion to approve Resolution 2017-2.16, second by Council Member Griffiths with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2017-2.17**

RESOLUTION AUTHORIZING PROFESSIONAL SERVICES AGREEMENT WITH APPRAISER JOSEPH L. MAZOTAS, MAI, FOR SERVICES IN CONNECTION WITH APPRAISAL OF THE PROPERTY KNOWN AS 105 WEST FRANKLIN AVENUE, BLOCK 102, LOT 1, PENNINGTON BOROUGH TAX MAP

WHEREAS, the property known as Block 102, Lot 1 on the Tax Map of the Borough of Pennington, also known as 105 West Franklin Avenue in the Borough of Pennington, consists of approximately 12.88 acres of land and improvements owned by Helene Fuld Medical Center (hereafter “the Property”);

WHEREAS, effective July 13, 2016, upon the application of American Properties at Pennington, LLC, the Pennington Borough Planning Board has granted the Property conditional preliminary and final major site plan and subdivision and related approvals for the development of 80 residential units including 16 units of affordable housing;

WHEREAS, the Property is currently assessed for real estate tax purposes at \$2,231,800., including \$1,980,200 for land and \$251,600 for improvements;

WHEREAS, the Borough seeks professional appraisal services to assist in determination of the correct assessment of the property for tax purposes in light of the approvals;

WHEREAS, the Borough seeks to retain for this purpose Joseph L. Mazotas, MAI, 344 Nassau Street, Princeton, New Jersey 08540 (“Appraiser”), pursuant to his proposal for services dated February 3, 2017 attached to this Resolution (“Proposal”);

WHEREAS, pursuant to the Proposal, the Appraiser will be paid a fixed fee of \$3,600 for his services, including all expenses, with the further understanding that if he is required at some later point to give testimony at deposition or in court or other proceedings he will be compensated at the rate of \$150 per hour, as further set forth in the Proposal;

WHEREAS, the necessary funds are available for these services as proposed;

NOW, THEREFORE, BE IT RESOLVED, by Borough Council of the Borough of Pennington, that the attached Proposal is hereby accepted, subject to the following conditions:

5. that the Proposal be amended to ensure Appraiser’s compliance with Anti-Discrimination and Affirmative Action requirements of the State of New Jersey as set forth in the annexed Exhibit A;
6. that the Appraiser demonstrate coverage by sufficient professional liability insurance, to be approved by the Borough Attorney; and
7. that the Mayor, Borough Administrator and Borough Clerk are authorized to issue such purchase orders and contract documents as further necessary to retain and pay for Appraiser’s services, consistent with this approval, as the Borough attorney may approve.

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	X				Marciante	M			
Griffiths	X				Mills	X			

Council Member Marciante made a motion to approve Resolution 2017-2.17, second by Council Member Chandler with all members present voting in favor.

Council Discussion

E-Mail Update – Mrs. Heinzl asked if everyone was able to start using the new e-mail system. Mrs. Chandler stated that she had an issue with her password but she is working with RND Consulting to resolve it. Mrs. Heinzl stated that one of the features of the system is a calendar for setting up meetings which she has started using. Mr. Griffiths stated that he has a lot of spam. Mr. Lawver stated that the e-mails that were transferred from the old system contained a lot of spam e-mails but the new system does not have many at all.

Distribution of Volunteer Manual – Mrs. Heinzl stated that she cleaned up the volunteer manual based on comments from Council and it is ready to go. Mrs. Heinzl stated that distribution would take place in house because we are asking volunteers to sign that they have received and read the manual. Mrs. Heinzl stated that we really tried to make clear the process for purchasing because that has been a problem in the past. Mrs. Heinzl stated that we have a lot of great volunteers and they do great things but sometimes things fall through the cracks.

Elected Officials – On-line Training – Mrs. Heinzl stated that information for the annual MEL training was included in the packages. Mrs. Heinzl stated that the Borough receives a credit for each person who completes the training.

Professional Reports

Mrs. Chandler asked why there was such an increase in trash for this year compared to last year. Mr. Smith stated that he did not know, it could be from the weekend truck rentals but as you look back through the years there are fluctuations in the numbers.

Mrs. Heinzl stated that Hopewell Township Zoning Board heard the PSE&G application and after a very long discussion the Zoning Board did approve the application. Mrs. Heinzl stated that one of the neighbors expressed concern about buffering of the solar arrays and PSE&G agreed to put together a planting of thirty plus trees which they also agreed to guarantee for the life of the lease. Mrs. Heinzl stated that she spoke to Mr. Powers who indicated that they have not received the resolution of approval yet but they are anxious to get started.

Mrs. Heinzl stated that there is a need for a special meeting in February for the bond ordinance and also the Developers Agreement for American Properties. Mrs. Heinzl stated that the Developers Agreement is essentially a contract between the Borough and American Properties that controls the order of the construction. Mrs. Heinzl stated that the Planning Board meets this Wednesday and hopefully they will resolve the revisions to the resolution of approval. Mrs. Heinzl stated that the Developers Agreement has been worked on by the various parties and a draft is almost ready to go. Mrs. Heinzl asked if February 13th at 5:30pm would work for a Special Meeting.

Approval of Minutes

Council Member Chandler made a motion to approve the minutes of the January 9, 2017 Reorganization Meeting, second by Council Member Griffiths with all members present voting in favor with the exception of Council Member Gnatt who abstained.

Council Member Chandler made a motion to approve the minutes of the January 9, 2017 Regular Meeting, second by Council Member Griffiths. Mr. Marciante stated that he needed to clear the air with regard to the discussion that took place after he left the meeting. Mr. Marciante stated that he did not want any further discussion and he will not pursue this further, but he feels that an injustice has been done. Mr. Marciante stated that at the January 9th meeting Mr. Bliss asked him to leave the meeting after making his statement. Mr. Marciante stated that after reading the meeting minutes he realized it was a mistake to leave because he was not able to defend himself against the statements that were made after he left. Mr. Marciante stated that Mr. Lawver's comment regarding being told no and that there was a process was wrong because that is totally different than what was actually said to him. Mr. Marciante stated that he was told by Mr. Lawver and Mrs. Heinzl at the December 27th meeting that the tree was his responsibility and "we can't afford to take down every tree in the right of way, it would set a bad precedent and we are not going to do it". Mr. Marciante stated that Mr. Bliss' comment about being a public employee confuses him because if you cannot rely on the Shade Tree Chairman who was contacted and came to look at the tree, and the Borough Administrator, then what procedure should an average resident follow to get something done in this town. Mr. Marciante stated that he can't count on anyone in the room to give him options including the Borough Attorney. Mr. Marciante questioned Mr. Griffith's comments regarding the timing of the tree removal. Mr. Marciante stated that after five years of waiting and then asking the Borough Administrator two months prior to removing the tree is not jumping the gun. Mr. Marciante stated that in the midst of cutting down the tree he received an e-mail from the Borough Administrator indicating that the tree is the Borough's responsibility. Mr. Marciante stated that lastly as for setting a precedent is concerned, if the Borough is at fault or has a problem and it would set a precedent to correct it then we should correct the problem and not try to make our residents into scape goats. Mr. Marciante stated that Council is here to represent the people in the Borough and do the right thing and the right thing was not done in this situation. Upon a roll call vote all members present voted in favor with the exception of Mrs. Gnatt who abstained and Mr. Marciante who voted No.

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

Council Member Chandler made a motion to approve the December 12, 2016 Closed Session minutes for content but not for release, second by Council Member Marciante with all members present voting in favor.

At 8:49pm with no further business to come before Council the meeting was adjourned.

Respectfully submitted,

Elizabeth Sterling
Borough Clerk