

**Pennington Borough Council  
Regular Meeting – October 2, 2017**

Mayor Persichilli 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. .

Also present were Borough Administrator Eileen Heinzl, Public Safety Director Bill Meytrott, Public Works Superintendent Rick Smith, Chief Financial Officer Sandy Webb and Borough Attorney Walter Bliss.

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

Mayor Persichilli called for a moment of silence for the victims of the shootings in Las Vegas.

Mayor Persichilli asked everyone to stand for the flag salute.

**Open to the Public – Agenda Items Only**

Mayor Persichilli 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**

Mayor Persichilli announced the following Proclamation:

**PROCLAMATION**

**WHEREAS**, across the nation, traffic crashes caused nearly 32,788 fatalities in 2010, and are the leading cause of death for young people ages 15 to 34; and,

**WHEREAS**, in New Jersey 556 individuals lost their lives in traffic crashes in 2010; and

**WHEREAS**, alcohol-related crashes accounted for 20 percent of the State's traffic fatalities, while speed related crashes for 2010 climbed to 35,039 from 23, 011 recorded in 2009; and

**WHEREAS**, motorcyclists, bicycle riders and pedestrians face increased risks on New Jersey's roadways, as people opt for alternative modes of transportation; and,

**WHEREAS**, 72 motorcyclists, 13 bicyclist and 141 pedestrians were killed in New Jersey in traffic-related crashes in 2010; and

**WHEREAS**, safer driving behaviors such as buckling up every ride; obeying posted speed limits; stopping for pedestrians in crosswalks and using crosswalks when walking; avoiding aggressive driving behaviors; never driving impaired; wearing proper safety gear when riding a motorcycle or bicycle; and, focusing solely on driving by avoiding distractions, can dramatically reduce the number of traffic-related injuries and deaths;

**NOW, THEREFORE**, I Anthony J. Persichilli, Mayor of the Borough of Pennington, County of Mercer do hereby proclaim October 10, 2011, Put the Brakes On Fatalities Day, and call upon everyone to put these lifesaving behaviors into practice to improve the safety on the roadways in our community and throughout the State.

Mayor Persichilli announced that most people know or remember Tom Jackson or his wife who works at the Pennington Market. Mayor Persichilli encouraged everyone to attend the event on October 16, 2017.

**PROCLAMATION BY THE MAYOR AND BOROUGH COUNCIL  
OF PENNINGTON, NEW JERSEY**

**WHEREAS**; the Mayor and Council of the Borough of Pennington would like to recognize October 16<sup>th</sup> as a day to acknowledge the partnership of the Hopewell Valley YMCA and the Tom Jackson Youth Sports Fund; and

**WHEREAS;** in honor of Tom's love and dedication to athleticism, the organization has developed scholarships for children to participate in sports camps/leagues that encourage active lifestyles and opportunities for skill development and has raised more than \$15,000 in support thereof; and

**WHEREAS;** Tom lived in Pennington for over 30 years with his beloved family before he lost his courageous battle with Colon Cancer in 2015; and

**WHEREAS;** Tom was a champion athlete, active gardener, devoted father and loyal friend to many; and

**WHEREAS;** Tom was known throughout the community for his competitive spirit, humble kindness and his honorable strength of character; and

**WHEREAS;** Pennington Borough would like to recognize Tom's ambition for physical fitness and aim to keep his legacy alive by supporting the activities he loved and valued;

**NOW, THEREFORE, BE IT PROCLAIMED THAT,** the Mayor and Council of the Borough of Pennington hereby proclaim October 16<sup>th</sup> as a day to recognize the partnership of the Hopewell Valley YMCA and the Tom Jackson Youth Sports Fund; and

**BE IT FURTHER PROCLAIMED THAT,** the Mayor and Council encourage friends and neighbors to participate in or attend the Annual Tom Jackson Champion Golf Tournament to be held at the Hopewell Valley Golf and Country Club on October 16<sup>th</sup>, 2017 in support of the YMCA and the Tom Jackson Youth Sports Fund.

Mayor Persichilli announced the resignation of Karin Eckerson from the Historic Preservation Committee.

#### **Mayor's Appointments (with Council Approval)**

Mayor Persichilli stated that Council Members received a copy of a Citizen Leadership Form for Hannah Williams. Mayor Persichilli recommended the appointment of Hannah Williams to the Historic Preservations Committee as a Class C-Alternate for an unexpired term ending December 31, 2017. Council Member Chandler made a motion to approve the appointment, second by Council Member Lawver with all members present voting in favor.

#### **Approval of Minutes**

Council Member Lawver made a motion to approve the minutes of the September 5, 2017, Regular Meeting, second by Council Member Gnatt with all members present voting in favor with the exception of Mrs. Chandler who abstained.

#### **Presentations**

Mayor Persichilli asked Chief Financial Officer, Sandy Webb to come forward to present the Best Practices Inventory for 2017. Mrs. Webb stated that this is the seventh year that we are required to file the Best Practices Inventory and she is proud to say that in all of those seven years Pennington has not lost any of its State Aid. Mrs. Webb stated that this year the Best Practices Inventory contained twenty-five questions, down from thirty last year. Mrs. Webb stated that we needed to answer a minimum of twenty-one questions either yes or not applicable and we have twenty-three questions answered yes or not applicable so we will not be losing any State Aid for this year. Mrs. Webb stated that she would like to touch on the two questions that we have answered no to which are the same two that we have been answering no to since the inception of the Best Practices Inventory. Mrs. Webb stated that questions twenty-one and twenty-two both have to do with accumulated sick leave and whether we have a payout. Mrs. Webb stated that one question deals with bargaining units and the other with non-union employees. Mrs. Webb stated that we do have a policy that has a maximum for what employees will be paid providing that they have a bank of at least 720 hours to be eligible for any payout. Mrs. Webb stated that of the 720 hours an employee would get paid one-third of that or 240 hours. Mrs. Webb stated that Local Government Services is working on a change that would tighten up regulations to encourage municipalities to move away from doing a payout on accumulated sick. Mrs. Webb stated that she would be happy to answer any questions and if not she would like to say that she is really happy with the Borough finances.

Mr. Marciante asked if Council could discuss the list of tax appeals that was provided in the package while Mrs. Webb was still here. Mr. Marciante stated that one of the appeals was quite large and he would like to know what would cause that and what it would do to the tax rate. Mrs. Heinzl stated that the Tax Assessor, Marianne Busher is in the office tonight and she would ask her to come in to the meeting to answer questions. Mr. Lawver stated that he was shocked to see that most of the appeals were reduced by fifteen to twenty percent. Mr. Lawver stated that nine of the properties on the list were reduced due to property sales and so his question is can we proactively look at property sales and adjust based on those sales? Mrs. Busher stated that with regard to 38 Abey Drive where the assessment dropped by \$160,000 it was because of the purchase price and as she said in the report, nine of the appeals were property owners who had recently purchased. Mrs. Busher stated that she does an investigation to make sure that it is an arm's length transaction but that pretty much determines what market value is. Mr. Marciante asked how

that affects that tax rate for the Borough. Mr. Griffiths stated that the tax revenue for the Borough is based on the total valuation for the Borough. Mrs. Busher stated that the book is certified every January and that gives the Borough their ratable base and once the budget is figured out you divide the budget by the ratable base to strike the rate. Mr. Griffiths stated that last year it went up a fraction of a percent and a fraction of a percent the previous year. Mr. Griffiths stated that it had declined in 2007 or 2008 and now we are back up. Mr. Griffiths stated that with American Properties coming on, the ratable base will be going up. Mrs. Busher stated that she is working on putting in added assessments for anyone who did an improvement this year. Mrs. Busher stated that in the case of 38 Abey Drive, the house was in very poor condition and the owner had been there for a long time and had not paid any attention to their assessment and they were unable to sell it for the amount that it was assessed for. Mr. Lawver stated that if he understands this correctly, the Borough is netting \$24,000 less in taxes in 2017 but we are still responsible for paying the full amounts to Mercer County and the School District. Mr. Lawver stated that the Borough does not get any benefit if a house sells for more than the assessed value. Mrs. Busher stated that would be considered spot assessing and you cannot just adjust a property's value unless it comes to her attention that improvements were made that were not captured through the permit process. Mr. Lawver asked if Mrs. Busher proactively looks at sales versus assessed value or is it only done through appeals. Mrs. Busher stated that she only does that on appeals, because she can't spot assess up or down. Mrs. Busher stated that she has residents who come to her and say that they have their property on the market and the asking price is under the current assessment and in those cases she will go out and view the property to try to determine if the assessment can be lowered. Mr. Lawver stated that Council just went through the Best Practices Inventory and one of the questions asks if the assessed value is eight-five percent or greater than the actual value. Mr. Lawver asks how do we know that? Mrs. Busher stated that the current ratio just came in at 99.22 percent and we know that from a two year weighted study that the State Division of Taxation does, taking all usable sales to calculate the ratio. Mayor and Council thanked Marianne for her explanation.

### **Committee Reports**

**Planning & Zoning / Open Space** – Mrs. Gantt stated that the Open Space Committee approved the following Resolution:

#### **RESOLUTION OF THE PENNINGTON OPEN SPACE COMMITTEE REGARDING HOPEWELL TOWNSHIP'S AFFORDABLE HOUSING SETTLEMENT AND THE BRISTOL-MYERS SQUIBB PROPERTY ON PENNINGTON-ROCKY HILL ROAD**

The Pennington Open Space Committee (POSC) requests that the Hopewell Valley Open Space Advisory Committee (HVOSAC) adopt a resolution advising the Hopewell Township Committee to create conditions favorable for the preservation of 75 acres of existing farmland that are not yet deed restricted on the present site of Bristol-Myers Squibb on Pennington-Rocky Hill Road. The POSC authorizes its chairman, as a member of the HVOSAC, to work with its other members to develop and approve such a resolution. The Pennington Open Space Committee does not oppose either new development or redevelopment of the BMS property that is currently for sale, but supports continued observance of the terms of the existing General Development Plan (GDP), which envisioned the preservation of these 75 acres in addition to the currently preserved 145-acres. However, the Committee feels strongly that should the GDP or current zoning be revised to accommodate the Township's affordable housing settlement, then conditions should be specified that preserve this 75-acre tract of farmland to protect aesthetic and environmental values that are important to quality of life in Pennington and surroundings.

Resolution adopted unanimously by the Pennington Open Space Committee on September 6, 2017.

Mrs. Gantt stated that the Planning Board did not meet in September.

Mrs. Chandler asked if the Resolution needs to be approved by Council as well. Mrs. Chandler stated that a Council Resolution might hold more weight. Mr. Griffiths stated that he is not sure what the resolution is supposed to achieve as there is a General Development Plan which envisions preservation of the 75 acres in addition to the 145 acres. Mr. Griffiths stated that there is a General Development Plan in existence already. Mr. Lawver stated that the General Development Plan hinges on a number of benchmarks that will no longer be met because BMS will not be further developing the property. Mr. Griffiths asked if that means that the GDP in place would then become obsolete or no long applicable. Mr. Lawver responded that was correct. Mr. Griffiths asked who writes the plan and how is it enforced? Mr. Lawver stated that it was negotiated between Hopewell Township and BMS when they were seeking permits to do additional work. Mr. Lawver stated that he did not know the details of the agreement, but BMS was supposed to develop 400,000 more square feet and then they would do the 75 acres. Mr. Lawver stated that the extension of the LHT was pulled forward a couple of years ago because that was not supposed to be done until the property was further developed. Mrs. Gantt stated that the 145 acres is deed restricted, but the 75 acres that is farmland is not deed restricted. Some discussion took place regarding the location of the 75 acres. Mr. Lawver asked if any conversations have taken place regarding this. Mrs. Heinzl stated that this comes about because the Township is including the BMS property as a potential location for zoning for affordable housing. Mrs. Heinzl stated that when the rezoning of this area takes place, the request is that the 75 acres would stay preserved. Mr. Marciantie asked who has the final say on that. Mrs. Heinzl stated it would be the Township Committee. Mrs. Chandler stated that she supports this resolution and she wonders if it would hold more weight with the Township Committee if Council were to do a resolution. Mr. Lawver stated that he supports it too and he wonders if the Township

Committee would be more receptive to a conversation first before doing a resolution. Mayor Persichilli stated that he would have a conversation with the Township. Mrs. Chandler stated that right now this appears to be a request from Pennington Open Space to the Township Open Space and what she is saying is that there should be an opportunity for the Township Committee and the Borough to discuss this. Mrs. Heinzl stated that it would make sense for the Mayor to reach out to the Township as it may be that they have already address this and if not we can address it at the November meeting. Mr. Marciante stated that if the Township is looking to put affordable housing on the property, they may not want to tie up the 75 acres.

**Public Safety / Personnel** – Mr. Marciante reported the Officer Francis will be returning to full duty this week and with that said the overtime costs as of today are \$70,000. Mr. Marciante stated that when an officer goes out it kills the overtime budget. Mr. Marciante stated that the new police vehicle is part of a big emission recall and we can't take delivery until that is addressed. Mr. Meytrott stated that the vehicle that was purchased last year will also have to go in as part of the nationwide recall for emissions.

**Public Works/ Library / Shade Tree / Senior Advisory** – Mr. Lawver reported that the Shade Tree Committee has identified a few trees to be planted this fall and they have a new tree planting proposal that Mr. Bliss is reviewing that will essentially let the Borough plant trees on private property but adjacent to the right of way and in exchange the Borough would maintain the trees for a period of 10 years after which the homeowner would be responsible for the tree. Mr. Lawver stated that the idea is that because we know that we are not going to get space for a tree to grow for 70 to 80 years in between the sidewalk and the street, if we want a tall mature canopy in the future we need to encourage that trees be planted adjacent to the right of way.

Mrs. Chandler asked if after the ten years a homeowner could take down the tree and Mr. Lawver responded that they could. Mr. Lawver stated that the idea is that the tree will be mature and part of the property in ten years. Mrs. Chandler asked if it will be far enough onto the property so as to ensure that it will not interfere with the wires. Mrs. Chandler asked what type of trees will be planted because the Environmental Commission feels that we should be looking at trees that survive in a warmer climate such as South Carolina and Georgia given the current weather pattern. Mr. Lawver stated that he doesn't know what type of trees but probably larger trees such as oaks.

Mr. Lawver stated that 245 people attended the senior picnic. Mr. Lawver stated most importantly, the three municipalities have agreed to jointly apply to Mercer County for funds to repair the existing Senior Center. Mr. Lawver stated that this does not include the expansion that the Seniors have asked for, but it does include addressing the ten year to-do list of projects. Mr. Lawver stated that Mercer County is on board and we still need to figure out the matching requirements, whether or not there is a term for how long the center must remain open after the grant funds have been disbursed, if the center does close will there be a payback requirement and is the grant money paid upfront or is it a reimbursable grant. Mr. Lawver stated that we have asked A & E Construction to give us a rough estimate on the cost to repair the building and to help prepare the bid specs and he is in the process of working on that. Mr. Lawver stated that one of the key things they are looking at is to do the repairs in such a way that the Senior Center will remain open during the construction phase.

Mr. Lawver stated that with regard to Public Works, there is an ongoing problem with water pressure at the high school and after going back and forth, the district has put up an escrow to cover the engineering costs. Mr. Lawver stated that there is a lot of finger pointing going on with the school district saying that the problem is on our side. Mr. Lawver stated that the Borough Engineer, Norm Nelson is working to resolve the issue.

Mr. Lawver stated that the August trash pickup schedule of one day per week worked out very well with very few complaints. Mr. Lawver stated that there were only a few residents who put out more than the two allowed cans. Mr. Lawver stated that we are planning to continue with once a week pick up in August for next year. Mr. Lawver stated that additionally the Public Works Committee is recommending a change to trash pickup policy following a snow storm. Mr. Lawver stated that on snow emergency days when trash pickup is scheduled, it will be picked up at the discretion of the Superintendent of Public Works depending on the condition of the roads and how long the crews have been out on snow clearing. Mr. Lawver stated that crew safety will be paramount in the decision making process. Mr. Smith stated that it will be a big help to have the three guys that would normally be on trash pickup free to work on snow clearing.

Mrs. Chandler stated that the Environmental Commission discussed the once a week pickup schedule and from an environmental perspective everyone on the committee was very supportive and would actually like to see the once a week pick up expanded.

Mr. Marciante asked when the tree work in town will be completed. Mr. Lawver stated that Rich Tree Service is scheduled to be back in town the week of October 9<sup>th</sup>.

**Parks and Recreation** – Mrs. Mills had no report.

**Finance** – Mr. Griffiths stated that we had a couple of brief conversations and a couple of adjustments had to be made within the engineering budget to accommodate the accelerated application process and to accommodate some construction overruns on two projects. Mr. Griffiths stated that we should be in good shape but we might have to cut some spending until November when we can do transfers.

**Historic Preservation / Board of Health / Environmental / Economic Development** – Mrs. Chandler reported that the Economic Development Commission is trying to be proactive with regard to the economic health of the Borough and one of the thoughts is that the current millennial environment is very restaurant based. Mrs. Chandler stated that vibrant economic downtowns are restaurant based and the feeling of the committee is that Pennington is not a restaurant friendly town and that it is expensive and difficult to open a restaurant in town. Mrs. Chandler stated that the committee recognizes the balance between protecting the infrastructure and the ordinances in place in terms of opening up a restaurant. Mrs. Chandler stated that the EDC is hoping to have Mr. Smith from Public Works and Mr. Lawver from the Public Works Committee to discuss what the Economic Development Commission can do to invite and welcome new restaurants into town.

Mrs. Chandler stated that if there is anything that the group should be doing with regard to the Streetscape grant please let them know.

Mrs. Chandler stated that the main focus of the Environmental Commission is the arboretum project. Mrs. Chandler stated that the ANJEC grant requires about eighty-two volunteer hours so they will be reaching out to the Open Space, Shade Tree and Recreation committees for volunteers. Mrs. Chandler stated that she understands that the Shade Tree Commission is working on an inventory of trees in the Borough and that knowledge would be helpful to this project. Mrs. Chandler stated that she has reached out to Mr. Lawver to try to set up a meeting with Shade Tree to coordinate the work.

Mrs. Chandler stated that she spoke to the Environmental Commission about Anti-Idling and relayed the decision that Borough Council was not interested in adopting an ordinance at this time. Mrs. Chandler stated that the Environmental Commission will be looking at compliance reminder signs to alert people that there is a State Law against idling. Mrs. Chandler stated that once the signs are identified she will bring them back to Council for discussion as to where the signs should be posted.

Mrs. Chandler reported that the Governor has signed a new e-cigarette law increasing the age of tobacco and e-cigarette sales to age 21. Mrs. Chandler stated that unlike tobacco products the State of New Jersey will not be taxing e-cigarettes, that is being left to the municipalities. Mrs. Chandler stated that the Board of Health has reported that many municipalities are requiring a licensing fee for vendors of e-cigarettes and they are recommended that we do it. Mrs. Chandler distributed an outline of what the fees would be and they would be similar to the food license fee. Mrs. Chandler stated that Pennington has one potential location for sale of e-cigarettes which is the gas station and she is not sure that they are selling e-cigarettes. Mrs. Chandler stated that the law goes into effect on November 1<sup>st</sup> and the age of sale will change to 21. Mrs. Chandler stated that the state licensing fee for tobacco sales is \$50.00 and she questioned why the recommended fee for e-cigarettes is \$600.00 per location and the evidence is that higher fees reduces the number of vendors. Mrs. Chandler stated that the Board of Health provided a sample ordinance for the fee.

Mrs. Chandler stated that Pennington Borough was featured last month at the National Association of County and City Health Officials in Pittsburgh, Pennsylvania and Steve Papenberg and Toni Lewis shared the story of Pennington's journey to help the Health Department achieve National Public Health Accreditation.

Mrs. Chandler reported that Historic Preservation has received an application for a demolition of a house at 241 South Main Street. Mrs. Chandler stated that a meeting was held with a civil engineer to tour the house. Mrs. Chandler stated that the owner of the house lives in North Carolina so she was not there however she was on conference call as they discussed the findings from the tour of the house. Mrs. Chandler stated that the request is to tear down the house and the commission has written a letter to the owner requesting specific repair costs for the site and they have also asked for specific repair costs if the back of the house is demolished but the front of the house remains. Mrs. Chandler stated that there is a vague sense that it is too expensive to repair but there are no quotes. Mrs. Chandler stated that the property is very tiny and so a new house on the property would require many variances so it is unclear if the current owner understands the financial implications of knocking the house down and rebuilding. Mrs. Chandler stated that the demolishing of the house hinges on the determinations regarding the structure of the house. Mrs. Chandler stated that there are a lot of factors to be considered and the commission is trying to be sensitive to the situation but they do not see how the plan will work to the benefit of the owner and the Borough. Mrs. Chandler stated that Eric Holtermann is writing a letter to the owner that she will review. Mrs. Chandler asked if Mrs. Heinzl would like to review the letter before it goes out. Mrs. Heinzl asked if the homeowner has spoken to Zoning Officer, John Flemming. Mrs. Chandler stated that she did not think so. Mrs. Heinzl stated that Mr. Flemming would be able to explain the different variances that would be required. Mrs. Chandler stated that she would ask Eric Holtermann to include that in the letter. Mrs. Chandler stated that the owner has been advised that construction of a new house would require many variances.

### **Council Discussion**

**Vacant Properties Ordinance** – Mr. Marciante asked that this be on the agenda given the number of vacant houses in town. Mr. Marciante stated that the Borough should have an ordinance allowing the Borough to take action after a certain amount of time if the bank or owner does not maintain or repair the property at the cost of the homeowner. Mr. Marciante stated that Jackson Township has a good ordinance and Mr. Bliss was

asked to review it. Mr. Bliss stated that the Jackson Ordinance tracks the Statute for municipalities that have adopted an ordinance and it could use some refinement but it is a good starting place if Council wants to go in this direction. Mr. Lawver stated that the Public Works Committee discussed this and one question that he asked is that he would like to have a conversation with some towns that have these ordinances in place to see if it materially changed the conditions on the ground. Mr. Lawver stated that having an ordinance in place is not effective if a foreclosed homeowner and an absentee bank do not bother to register the home or respond to any requests from the Borough. Mr. Lawver stated that it would just build up more liens against the property unless it drastically changed the behavior. Mr. Lawver stated that he is not interested in building up more liens, he is more interested in making sure the homes are maintained as quickly as possible so that they can be sold. Mr. Marciante stated that it is difficult to sell a property with liens against it. Mr. Lawver stated that he is all in support of looking into this, but if it is not going to help matters than it might not be worth it.

Mr. Lawver stated that unrelated to that we should look into a rental registration ordinance because he is starting to hear more about people who are having problems with rental houses where one family signs a lease but multiple families move in or landlords rent out properties without any care about the condition of the house. Mr. Lawver stated that he is not hearing about this in Pennington but more in surrounding municipalities. Mr. Lawver stated that he does not know a lot about this, but it merits looking into.

Mr. Bliss stated that most of the things that an ordinance would allow, the Borough can do now under various laws, but we should have a strong process that gives control to the municipality and assures that when forced to take some initiative, the Borough would get reimbursed in full eventually. Mr. Bliss stated that eventually the property would sell and eventually the liens would get paid but it could take a little while. Mr. Bliss stated that isn't so much that the Borough would be doing things differently, it would give the Borough more control through an established process.

Some discussion took place regarding a couple of vacant properties in the Borough and why they have been vacant so long. Mr. Griffiths stated that banks are less concerned about foreclosed residences and more concerned about large shopping malls that are in foreclosure. Mrs. Heinzl stated that she would follow up with some towns to ask how these ordinances are working. Mrs. Heinzl stated that if she learns that other towns are saying don't go down this road she will let Council know, otherwise an ordinance will be prepared for the November meeting. Mrs. Heinzl stated that she would also pull something together in terms of a rental property ordinance.

**Tax Appeal Report** – This item was covered earlier in the meeting.

**Open Space Resolution – BMS Property** – This item was covered under committee reports.

### **Ordinances for Introduction**

Mr. Lawver stated that Ordinance 2017-16 scheduled for Introduction is being withdrawn from the agenda so that the Shade Tree Commission can review it first.

#### **BOROUGH OF PENNINGTON ORDINANCE 2017-16**

#### **AN ORDINANCE CLARIFYING THE BOROUGH CODE WITH RESPECT TO CERTAIN PROVISIONS AFFECTING TREES**

### **Ordinances for Public Hearing and Adoption**

Mayor Persichilli read Ordinance 2017-15 by title.

#### **BOROUGH OF PENNINGTON ORDINANCE 2017-15**

#### **BOND ORDINANCE PROVIDING FOR THE ACQUISITION OF A BACKHOE IN AND BY THE BOROUGH OF PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY, APPROPRIATING \$65,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$61,750 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF.**

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

Section 1. The improvement described in Section 3(a) of this bond ordinance is hereby authorized to be undertaken by the Borough of Pennington, in the County of Mercer, New Jersey (the "Borough") as a general improvement. For the improvement or purpose described in Section 3(a), there is hereby appropriated the sum of \$65,000, including the sum of \$3,250 as the down payment required by the Local Bond Law. The down payment is now available by virtue of provision for down payment or for capital improvement purposes in one or more previously adopted budgets.

Section 2. In order to finance the cost of the improvement or purpose not covered by application of the down payment, negotiable bonds are hereby authorized to be issued in the principal amount of \$61,750 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued is the acquisition of a backhoe with mower and pallet fork attachments, including all related costs and expenditures incidental thereto.

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

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

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

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

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

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

(b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is 15 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$61,750, and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

(d) An aggregate amount not exceeding \$4,000 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 Griffiths made a motion to open the Public Hearing on Ordinance 2017-15, second by Council Member Lawver. There were no comments from the public. Council Member Marciante made a motion to close the Public Hearing, second by Council Member Griffiths with all members present voting in favor. Council Member Lawver made a motion to adopt Ordinance 2017-15, second by Council Member Griffiths with all members present voting in favor.

**New Business**

**BOROUGH OF PENNINGTON  
RESOLUTION #2017 – 10.2**

**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 \$ 1,920,904.01 from the following accounts:

Current	\$ 1,710,351.76
W/S Operating	\$ 159,809.30
Grant Fund	\$ 1,302.50
Developer’s Escrow	\$ 36,577.70
Water/Sewer Capital	\$ 12,395.75
Animal Control Fund	\$ 467.00
TOTAL	\$ 1,920,904.01

**Record of Council Vote on Passage**

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

Council Member Griffiths made a motion to approve Resolution 2017-10.2, second by Council Member Lawver with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2017 – 10.3**

**RESOLUTION AUTHORIZING APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE A GRANT AGREEMENT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR THE 2018 ROAD IMPROVEMENT PLAN PROJECT**

**WHEREAS**, Borough Council has determined that part of Abey Drive and Kings Court require reconstruction;

**WHEREAS**, the project is designed to improve the condition of the roadways 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-2018 - Pennington Borough – 00434 to the New Jersey Department of Transportation on behalf of the Borough of Pennington.

**BE IT FURTHER RESOLVED**, that the 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	X				Lawver	S			
Gnatt	X				Marciante	M			
Griffiths	X				Mills	X			

Council Member Marciante made a motion to approve Resolution 2017-10.3, second by Council Member Lawver. Mr. Lawver stated that the State changed the bidding cycle so we are submitting two applications in one year. Mr. Griffiths asked in terms of engineering would these expenses be in 2018. Mr. Lawver stated that if the grant is awarding in 2018 it would have to be built in 2019 so a fair amount of the design work would have to be done in 2018. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2017 – 10.4**

**RESOLUTION APPROVING THE CERTIFIED LIST OF ELIGIBLE VOLUNTEERS FROM THE PENNINGTON FIRST AID SQUAD FOR THE LENGTH OF SERVICE AWARD PROGRAM (LOSAP)**

**WHEREAS**, Pennington Borough is in receipt of a Certified List of Eligible Volunteers from the Pennington First Aid Squad for the Length of Service Award Program for the calendar year 2016; and

**WHEREAS**, the Chief Financial Officer has reviewed the list and verified it for accuracy; and

**WHEREAS**, based on the information provided by the Pennington First Aid Squad, the Chief Financial Officer has compiled the attached list of eligible participants for the year 2016; and

**WHEREAS**, the list is required to be posted at the Pennington First Aid Squad for a period of 30 days; and

**WHEREAS**, after said 30-day posting has been completed, contributions to individual volunteer accounts shall be deposited on behalf of the eligible volunteers;

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Pennington, that the attached List of Eligible Volunteers is hereby accepted and approved.

**Record of Council Vote on Passage**

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

Council Member Chandler made a motion to approve Resolution 2017-10.4, second by Council Member Griffiths. Mr. Marciante asked if the First Aid Squad is changing to paid instead of volunteer service. Mrs. Sterling stated that this is the first year that Council is seeing this because the Fire District used to do it for us but with a change of staff they determined that they are not supposed to do. Mrs. Sterling stated that the amount due is split between Hopewell Township Fire District and Pennington Borough once the list is posted for 30 days. Mr. Marciante stated that the First Aid Squad is starting to charge for services and if that is the case we should look into this program. Mr. Meytrott stated that a number of years ago, this along with the Workers Compensation payment was set up in lieu of a dedicated funding source from the Borough. Mr. Griffiths stated that Council asked about paid service several years ago when members of the squad came to a Council meeting and at that time the squad said it would cost more to have someone in the office to handle billing and track payments. Mr. Marciante stated that they are doing it now and they are responding to calls in Ewing Township. Mr. Marciante stated that Ewing Township is a paid squad and they are then billing for calls that Pennington responds to. Mr. Meytrott stated that their philosophy has changed now and they are going to start charging. Mr. Griffiths stated that ambulance service is redundant and every time he sees an ambulance respond to a call another ambulance shows up. Mr. Griffiths stated that they do not provide acute care life service that has to be Capital Health. Mr. Griffiths stated that if the squad is charging then that changes the game. Mrs. Sterling stated that this payment is for 2016. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON  
 RESOLUTION 2017 – 10.5**

**RESOLUTION AUTHORIZING CHANGE ORDER  
 NO. 1 TO ADDRESS DRAINAGE ISSUES ON KING GEORGE ROAD**

**WHEREAS**, Van Note Harvey Associates has recommended a certain Change Order No. 1 with regard to the Contract between the Borough of Pennington and Glen G. Hale, Inc., trading as Hale Built of Flemington, New Jersey for the project known as Improvements to King George Road (VNH #: 43325-500-52) ;

**WHEREAS**, Change Order No. 1 would adjust the contract to modify the elevation of the inlet grate and the associated grading to more effectively collect the storm water, following accumulation of water during a rain event; and

**WHEREAS**, the net proposed adjustment would increase the Contract by \$7,635.98; and

**WHEREAS**, the Chief Financial Officer has authorized that funds for the proposed Change Order No. 1 are available under the NJDOT Grant in account #: G-02-44-956-000-250;

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Pennington that the aforesaid Change Order No. 1 adjusting the contract amount to correct drainage issues under the contract with Glen G. Hale, Inc. is hereby approved.

**Record of Council Vote on Passage**

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

Council Member Marciante made a motion to approve Resolution 2017-10.5, second by Council Member Lawver. Mr. Lawver asked that the motion be to approve Resolutions 2017-10.5 and 10.6 together. Mr. Lawver stated that this change order is driven by faulty design work by the previous engineer. Mr. Lawver stated that the question becomes does Council want to go back to Roberts Engineering to try to recoup all or part of these costs. Mrs. Heinzel stated that this does not seem to be the time to discuss that. Mr. Bliss stated that this would qualify as a personnel/litigation matter and ought to be discussed in closed session. Mr. Lawver asked that it be added to closed session. Upon a roll call vote all members present voted in favor of Resolution 2017-10.5 and Resolution 2017-10.6.

**BOROUGH OF PENNINGTON  
 RESOLUTION 2017 – 10.6**

**RESOLUTION AUTHORIZING CHANGE ORDER  
 NO. 1 TO ADDRESS DRAINAGE ISSUES ON PARK AVENUE**

**WHEREAS**, Van Note Harvey Associates has recommended a certain Change Order No. 1 with regard to the Contract between the Borough of Pennington and Glen G. Hale, Inc., trading as Hale Built of Flemington, New Jersey for the project known as Improvements to Park Avenue (VNH #: 43326-500-52) ;

**WHEREAS**, Change Order No. 1 would adjust the contract to modify elevation of the inlet grate and the associated grading to more effectively collect the storm water, following accumulation of water during a rain event; and

**WHEREAS**, the net proposed adjustment would increase the Contract by \$6,163.60; and

**WHEREAS**, the Chief Financial Officer has certified that funds for proposed Change Order No. 1 are available in the Account #: 7-01-29-290-000-272 in the Streets budget;

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Pennington that the aforesaid Change Order No. 1 adjusting the contract amount to correct drainage issues under the contract with Glen G. Hale, Inc. is hereby approved.

**Record of Council Vote on Passage**

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

(See Resolution 2017-10.5 above.)

**BOROUGH OF PENNINGTON  
 RESOLUTION 2017 – 10.7**

**RESOLUTION AUTHORIZING PAYMENT OF JOSEPH MAZOTAS, MAI, FOR SERVICES IN CONNECTION WITH TAX LITIGATION CONCERNING ASSESSMENT OF BLOCK 102, LOT 1, 105 WEST FRANKLIN AVENUE**

**WHEREAS**, by Resolution 2017-2.17 (copy attached) Borough Council authorized a contract for the professional appraisal services of Joseph L. Mazotas, MAI, in connection with an Assessor’s appeal of the tax assessment for the property known as Block 102, Lot 1, 105 W. Franklin Avenue in the Borough (“Property”);

**WHEREAS**, the property consists of 12.88 acres of land and was then owned by Helene Fuld Medical Center under a contract of sale with American Properties at Pennington, LLC, subject to receipt of development approvals;

**WHEREAS**, the Property was then assessed for real estate tax purposes at a total assessment of \$2,231,800 for tax year 2017;

**WHEREAS**, effective July 13, 2016, upon the application of American Properties, the Borough Planning Board granted the Property approvals for the development of 80 residential units including 16 units of affordable housing;

**WHEREAS**, as a result of the approvals the Borough appealed the assessment of the Property for tax year 2017 seeking an increase in the assessment to reflect the value of the Property with approvals as of that year (Mercer County Board of Taxation, Appeal #08-1700008A);

**WHEREAS**, Joseph Mazotas prepared an appraisal of the Property with approvals which was the basis for the Borough’s appeal;

**WHEREAS**, Joseph Mazotas also participated in the negotiation of a successful settlement of the litigation on the eve of the hearing, but not before having to prepare for testimony at the hearing and working with legal counsel and the Borough Assessor to analyze the appraisal report of the property owner’s expert;

**WHEREAS**, as the result of these efforts the settlement between the parties increased the total assessment of the Property to \$4,500,000 in 2017 with an agreed assessment in the same amount for 2018;

**WHEREAS**, pursuant to Resolution 2017-2.17, Joseph Mazotas was to be paid a fixed fee of \$3,600.00 for his services, with the understanding that if he were required at some point to give testimony at deposition or in court or other proceedings he would be compensated at the rate of \$150.00 per hour;

**WHEREAS**, Joseph Mazotas has submitted for payment his invoice in the amount of \$4,762.50 representing an additional \$1,162.50 over the fixed fee (copy attached);

**WHEREAS**, the additional \$1,162.50 is for the review and evaluation of the property owner’s expert appraisal report and related consultation and negotiation leading to settlement on the eve of hearing;

**WHEREAS**, payment of the additional amount covers services beyond the scope of the fixed fee and represents value received as reflected in the description of services and time spent included within the invoice;

**WHEREAS**, the Chief Financial Officer has certified that funds needed to pay the attached invoice, including the added amount, are available in the Legal Budget for Consultants - Account #: 7-01-20-155-000-250;

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Pennington, that payment to Joseph Mazotas in the total amount of \$4,762.50 is hereby approved.

**Record of Council Vote on Passage**

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

Council Member Lawver made a motion to approve Resolution 2017-10.7, second by Council Member Griffiths with all members present voting in favor.

**BOROUGH OF PENNINGTON  
 RESOLUTION 2017 – 10.8**

**RESOLUTION AUTHORIZING MODIFICATION OF THE APPROVED PROJECT BUDGET FOR ENGINEERING SERVICES IN 2017**

**WHEREAS**, by the professional service agreement between the Borough of Pennington and the Borough Engineer/Van Note Harvey Associates is subject to an approved Project Budget for 2017 (“Project Budget”);

**WHEREAS**, Borough Council seeks to amend the approved Project Budget to authorize increases and new work as follow:

1. the amount budgeted for engineering services in connection with Improvements to King George Road is increased by \$6,695. to produce a total budget of \$44,195. for this purpose, necessitated by the additional engineering work required by that project;
2. the amount budgeted for engineering services relating to Improvements to Park Avenue is increased by \$4,925. to \$42,425., also necessitated by the need for additional engineering work not earlier foreseen;
3. a project shall be added to the Project Budget in the amount of \$6,500. to cover services by Van Note Harvey Associates related to preparing the 2018 NJDOT Grant Application Package for the Borough, including the location plan, cost estimate and required submittals (\$5,000) as well as conceptual plans for Storm Sewer System improvements (\$1,500);

**WHEREAS**, the approved Project Budget is proposed to be further amended to deauthorize the following engineering projects earlier approved:

1. GIS of Borough Stormwater System-Phase I (\$1,000);
2. Stormwater Management Ordinance Final Update (\$5,000);

**WHEREAS**, the Project Budget is proposed to be further amended by \$ 1,260.00 by reducing the amount budgeted for NJDOT East Curlis and Weidel Detail Design, while maintaining authorization of that project to the extent of the reduced budget amount;

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Pennington that the above described amendments to the Project Budget for Engineering Services in 2017 are hereby authorized.

**Record of Council Vote on Passage**

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

Council Member Griffiths made a motion to approve Resolution 2017-10.8, second by Council Member Lawver with all members present voting in favor.

**BOROUGH OF PENNINGTON  
 RESOLUTION 2017 – 10.9**

**RESOLUTION AUTHORIZING PAYMENT TO VAN NOTE HARVEY ASSOCIATES FOR OVERTIME INSPECTION SERVICES IN CONNECTION WITH KING GEORGE ROAD/PARK AVENUE PROJECTS CONDITIONED UPON PAYMENT BY CONTRACTOR**

**WHEREAS**, Van Note Harvey Associates is responsible for performing inspection services in connection with the projects know as Improvements to King George Road (VNH#: 43325-500-52) and Improvements to Park Avenue (VNH#: 43326-500-52);

**WHEREAS**, the contractor, Glen G. Hale, Inc., trading as Hale Built of Flemington, has required performance of inspection services after normal working hours, resulting in accrual of overtime costs owed to Van Note Harvey Associates;

**WHEREAS**, the amounts owed to Van Note Harvey Associates for overtime inspection services in connection with these two projects total \$7,402.75, representing amounts due under invoice 170500040B (\$2,878.), invoice 170500041B (\$2,031.), and invoice 170500177A (\$2,493.75);

**WHEREAS**, the Bid Specifications for Park Avenue and King George Road provide that the Contractor will be responsible for payment of all costs of inspection when work is performed on Saturdays, Sundays, holidays and overtime periods (after 4:00 PM);

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Pennington that a payment to Van Note Harvey Associates in the total amount of \$7,402.75 is hereby conditionally authorized, on the condition that the required funds be first received from the contractor Glen G Hale, Inc., trading as Hale Built of Flemington.

**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	S				Marciante	X			
Griffiths	M				Mills	X			

Council Member Griffiths made a motion to approve Resolution 2017-10.9, second by Council Member Gnatt with all members present voting in favor.

**Professional Reports**

Mrs. Heinzl stated that the items on her report were covered throughout the meeting. Mrs. Heinzl stated that in addition, she got a call from Joanne Povia who works for Assemblywoman Muoio and they are looking for municipalities to be donation drop off locations for hurricane relief for Puerto Rico. Mrs. Heinzl stated that she spoke with Kim Ha in the Library and if Council agrees to the request they would be willing to have the box located outside the Library. Mrs. Heinzl stated that on Wednesday, the Assemblywoman will be holding an awareness event to announce these drop off locations. Mr. Lawver stated that in general he is not in support of the Rescue Mission box that appears every couple of months outside the Library however in this case he would support this as long as if the donations build we are prepared to come through and monitor the collections until the County can come and collect them. Mrs. Heinzl stated that the plan is to have the Armory in Lawrence as the collection site and this is a step in that direction. Mr. Griffiths stated that he agrees with Mr. Lawver. Mr. Griffiths stated that there is a whole logistics chain involved of moving these donations to Puerto Rico which ends up being more expensive than making a donation and using the funds to buy items wholesale. Mr. Griffiths stated that he feels very bad about the situation in Puerto Rico, but donating stuff is always discouraged because they can buy necessities wholesale far less expensively than buying things to donate from a store. Mr. Griffiths stated then there are the shipping costs involved. Mr. Lawver stated that if it helps raise awareness and it is a short time frame he is ok with the donation box. Mr. Lawver stated that he has had conversations in connection with the building renovation project with regard to the clutter in the hall by the Library. Mr. Lawver stated that it does not give a good first impression when you walk in the door.

Mrs. Heinzl stated that there is some concern about puppy mills and we are being encouraged to consider a model ordinance. Mrs. Chandler stated that as someone who fosters dogs from North Carolina, this idea appeals to her, however we do not have a pet store and it is unlikely that we will have one. Mrs. Chandler stated that the State has pushed this down to the municipalities to act on but do we need to do this now. Mrs. Chandler asked if an ordinance could be enacted after a pet store comes into town. Mrs. Heinzl stated that it may be a good idea to look at the zoning ordinance because maybe pet stores are not permitted. Mr. Lawver suggested starting with the zoning ordinance and go from there. Mr. Bliss stated that if the Borough does not have an ordinance a puppy mill moves into town then it is a problem.

Mrs. Heinzl stated that a Special Meeting has been scheduled for Tuesday, October 10<sup>th</sup> at 4:00pm.

Some discussion took place with regard to the bacterial leaf scorch that is infecting pin oaks throughout the Borough. Mr. Lawver stated that you can tell a tree is infected because the leaves on the uppermost branches will die off early and the tree will be full with leaves with sticks at the top with no leaves. Mrs. Chandler stated that she heard that there was an injection that could be given to a tree to treat the problem. Mrs. Heinzl stated that she got an e-mail about this and she sent it to Gabe Rosko of the Shade Tree Commission.

Mr. Bliss stated that there is a closed session item for discussion. Mr. Bliss asked to amend his advice from earlier in the meeting. Mr. Bliss stated that we should not amend the agenda in the middle of the meeting. Mr. Bliss stated that earlier he did say an item of discussion would be appropriate for closed session but can it possibly wait until the next regular meeting to be properly listed on the agenda.

Mr. Smith stated that Council has his report. Mr. Smith stated that in regards to Mr. Lawver’s comment regarding the bill list and Well 6, the repair was for a variable frequency valve.

Mr. Meytrott had nothing further to report.

**Public Comment**

Mayor Persichilli asked that anyone wishing to speak to Council 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.

**Closed Session**

**AT, 8:20 PM, BE IT RESOLVED**, that Mayor and Council shall hereby convene in closed session for the

purposes of discussing a subject or subjects permitted to be discussed in closed session by the Open Public Meetings Act, to wit:

- Potential Litigation – 63 North Main Street

AT, 8:40 PM, Mayor and Council returned to open session.

**Approval of Closed Session Minutes (for Content but not for Release)**

Council Member Lawver made a motion to approve the September 5, 2017, Closed Session Minutes for content but not for release, second by Council Member Griffiths. Upon a roll call vote all members present voted in favor with the exception of Mr. Griffiths who abstained.

With no further business to come before Council the meeting was adjourned.

Respectfully submitted,

Elizabeth Sterling  
Borough Clerk