

**Pennington Borough Council
Regular Meeting – February 2, 2009**

Mayor Persichilli called the Regular Meeting of the Borough Council to order at 7:02 pm. Borough Clerk Betty Sterling called the roll with Council Members Chandler, Griffiths, Heinzl, Lawver, Ogren, and Tucker in attendance.

Also present were Borough Administrator, Eugene Dunworth, Public Works Superintendent, Jeff Wittkop, Public Safety Director, Bill Meytrott and Borough Attorney, Walter Bliss.

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

Approval of Minutes

Council Member Tucker made a motion to approve the minutes of the December 29, 2008, Regular Meeting, second by Council Member Chandler with all members present voting in favor.

Council Member Chandler made a motion to approve the minutes of the January 5, 2009, Reorganization Meeting, second by Council Member Tucker with all members present voting in favor.

Council Member Tucker made a motion to approve the minutes of the January 5, 2009, Regular Meeting, second by Council Member Chandler with all members present voting in favor.

Open to the Public – Agenda Items Only

Mayor Persichilli read the following statement:

Meeting open to the public for comments on items on the agenda for which no public discussion is provided. In an effort to provide everyone interested an opportunity to address his or her comments to the Governing Body, a public comment time limit has been instituted for each speaker. **Please come forward and state your name and address for the record. Please limit comments to the Governing Body to a maximum of 5 minutes.**

Mr. Andy Carver of 300 North Main Street asked Council if funds could be added to Ordinance 2009-1 for planting trees to buffer the view of the garbage trucks from North Main Street. Mr. Lawver stated that some trees have already been planted and he has indicated to Mr. Carver that as more trees or funding become available it is the intention of the Borough to continue to fill out the screening between the trucks and the street. Mr. Lawver explained that in three to five years the trees that have been planted will mature and fill out which should significantly address the visibility issues. Mr. Carver stated that he did not agree with Mr. Lawver and he would like to hear from other members of Council. Mr. Griffiths stated that he supports Mr. Lawver and agrees that this year the Borough simply does not have the money. Mr. Griffiths stated no one else has come forward with comments about the view of the trucks or to justify spending money for more trees. Mr. Ogren stated that he is sympathetic to the need for screening the trucks and it is true that Norway Spruce are not fast growing, there may be funds left over in the capital budget for the new public works building for some additional screening. Mr. Tucker stated that Mr. Carver knew the Public Works facility was in the works when he bought his house and the Borough has planted trees with more planned. Mr. Tucker stated that Mr. Wittkop has taken some action to position the trucks to help the view. Mayor Persichilli stated that as was stated the budget for this year and probably also for next year are going to be very difficult. Mayor Persichilli stated that the Borough watches every penny that is spent. Mr. Carver thanked Borough Council for their time.

Mr. O'Dea of 124 South Main Street stated that he came before Council at the last meeting to discuss the Borough Ordinance regarding brush pickup. Mr. O'Dea stated that he has not heard anything and would like to know if a conclusion has been reached with regard to the application of the Ordinance. Mayor Persichilli stated that he has not received any comments from Council Members with regard to Mr. O'Dea's request for a review of the Ordinance. Mr. O'Dea stated that the ordinance specifically refers to property owner and whether he decides to own a house, fix it up and sell it or live in the house he is still the property owner. Mr. Lawver stated that he has not had a chance to review the ordinance; however the ordinance also refers to contractors being responsible for their own debris. Mr. Lawver stated that the Borough does not remove debris for landscapers that are contracted by residents in the Borough and that is the basis of Council's interpretation of the Ordinance; however he will go back and review the ordinance. Mr. Griffiths thanked Mr. O'Dea for his time and stated that there does seem to be a lack of clarity within the ordinance. Mayor Persichilli asked Mr. Lawver and Mr. Bliss to take a look at the ordinance and report back to Council.

Mayor's Business

Mayor Persichilli recognized former Mayor Susan Riley and Former Senator Bill Schluter and his wife Nancy Schluter. Nancy Schluter of 205 South Main Street stated that they wanted to come and personally express their thanks for everyone involved in assisting with the fire at their home. The Schluter thanked the Pennington Fire Company, Borough Council and the many residents of the Borough who have come out to express their sorrow at seeing a very old home sustain significant damage. Ms. Schluter stated that they feel that Pennington Borough is a great place to live and they plan to return once their house is restored. Mr. Schluter expressed thanks and gratitude to Patrolman Novin Thomas and everyone who was there the night of the fire.

Mayor Persichilli read the following proclamation and presented Mr. Brit West of N.T. Callaway with the first annual Business Person of the Year award.

**THE PENNINGTON ECONOMIC DEVELOPMENT COMMISSION PROUDLY PRESENTS ITS
FIRST BUSINESS OF THE YEAR AWARD TO N.T. CALLAWAY REAL ESTATE and BRIT
WEST.**

WHEREAS, the Pennington Economic Development Commission is very honored to present its first annual business award to N.T. Callaway Real Estate and its agent, Brit West, and

WHEREAS, N.T. Callaway Real Estate and Brit West exemplify the meaning of this coveted recognition, and

WHEREAS, the Pennington Economic Development Commission created this prestigious award to recognize, promote and reward the achievements and accomplishments of Pennington Borough businesses who have had an important impact and have made special contributions to the economic vitality of our business district and enhance the quality of life for all residents of Pennington, and

WHEREAS, N.T. Callaway and Brit West have been proudly honored, in the spirit and intent of this award, for their professionalism, service, leadership and financial support they so generously make to Pennington, its business community and other civic and charitable organizations, and

WHEREAS, the Pennington Economic Development Commission cites N.T. Callaway and Brit West for being true examples of businesses giving back to their communities as decisive factors for their strong and positive expression and genuine appreciation for presenting this inaugural award to them.

NOW, THEREFORE, BE IT PROCLAIMED, that the Mayor and Council of the Borough of Pennington hereby endorse the award of the Business of the Year Award to N.T. Callaway and Brit West and commend them on their contribution to the community.

Mr. West expressed his thanks and introduced Mr. Norman Callaway who was also in attendance. Mr. West stated that they came to Pennington to expand their business in 2004. Mr. West stated that shortly after they moved in they were approached to participate in Pennington Day and that's how they got started. Mr. West stated that they plan to continue working with the Economic Development Commission as well as continue with their involvement in the community.

Mayor Persichilli introduced Mr. Eric Holterman to discuss Master Plan Assistance. Mr. Holterman of 45 North Main Street stated the he would like to discuss the inclusion of a Historic Preservation Element for the next revision of the Pennington Master Plan. Mr. Holterman stated that he is an architect with the firm of Holt, Morgan, Russell in Princeton and they specialize in historic preservation architecture. Mr. Holterman reviewed some of the projects that he has worked on including some of the homes on Main Street in Pennington. Mr. Holterman stated that there is wide agreement that the historic architecture is an essential component to the character of Pennington. Mr. Holterman stated that through his dealings with the Zoning Board over the years, he thinks that the Board does a great job of working to protect the character of Pennington; however there could be a concern that the Zoning Board is not the most appropriate way to protect a historic resource. Mr. Holterman stated that as an example, much of Main Street has the same zoning as King George Road and the character of those two places are extremely different. Mr. Holterman stated that the Master Plan could include a Historic Preservation Element which is quite different than a Historic Preservation District. Mr. Holterman explained that a Historic Preservation Element as part of the Master Plan can take on a variety of different language that can be very specific or very broad with the important thing being the acknowledgement of Historic Preservation in Pennington. Mr. Holterman stated that currently there is a program funded by the Division of Cultural Affairs, sponsored through an organization called Preservation New Jersey which provides a free consultant who specializes in Historic Preservation Element to any towns interested. Mr. Holterman stated that the consultant is also a specialist in Main Street Ordinances and Master Plan issues. Mr. Holterman read an excerpt from the Heritage Consulting website. Mr. Holterman stated that he would be willing as a resident of Pennington to volunteer some of his time towards this as well. Mayor Persichilli stated that several years ago the concept of a Historic Preservation District came up and it seemed the people were not in favor of it. Former Mayor Susan Riley was on Council at the time, she stated that this was a very emotional issue when it came up. Ms. Riley stated that in the mid 1980's when the proposed ordinance came up it had no teeth at all and about the only thing that could happen would be that any one who wanted to tear down an existing building had to come before a review board, though they did not have to accept the decision of the review board. Ms. Riley stated that the primary issue was preventing tear downs. Ms. Riley stated that when the ordinance was proposed the Council vote was a tie with the Mayor casting the deciding vote. Ms. Riley stated that the main opposition was the idea that no one should be able to dictate what is done to someone's house, though there was nothing in the ordinance that would allow that. Ms. Riley stated that if Council decides to pursue this, a lot of time needs to be spent on educating the community. Ms. Susan Porcella of 11 East Delaware stated that Mary Mistretta in Borough Hall has a complete set of files which includes a survey of every building that was rated. Mr. Holterman stated that the reason that he is bringing this up is that there is this free program funded by the Department of Community Affairs and when that money runs out the program will end. Mr. Holterman stated that the consultant is available for free and there is no obligation to do more than listen to what she has to say. Mr. Lawver inquired as to what the process would be for bringing the consultant on board and moving it forward. Mr. Holterman stated that in this case he would suggest forming a committee of interested people that would include people involved in historic groups in town and people involved with Zoning and Borough Council. Ms.

Chandler stated that she would be interested in serving on a committee. Ms. Porcella strongly recommended that Ms. Chandler consult with Jack Koeppel, David Blackwell and Jack Davis as they would be a wealth of information.

Mayor Persichilli thanked Mr. Holterman.

Mayor's Appointments

Mayor Persichilli announced that he has appointed Tom Ogren as Council representative to the Open Space Committee for a term of 1/1/2009 to 12/31/2009.

Appointments (with Council Approval)

Mayor Persichilli announced the re-appointment of Beverly Tucker and Mary Mistretta to the Board of Health for a term of 1/1/09 to 12/31/2011. Council Member Tucker made a motion to approve the appointments, second by Council Member Chandler with all members present voting in favor.

Mayor Persichilli stated that the presentation by the Senior Advisory Board that is listed on the agenda will be rescheduled to another meeting.

Ordinances for Introduction

Mayor Persichilli read Ordinance 2009-2 by title.

BOROUGH OF PENNINGTON ORDINANCE 2009-2

ORDINANCE CONCERNING REQUIREMENTS FOR COLLECTION OF SOLID WASTE AND AMENDING ARTICLE II OF CHAPTER 172 OF THE CODE OF THE BOROUGH OF PENNINGTON

WHEREAS, the Code of the Borough of Pennington pertaining to the collection of solid waste presently limits basic trash service to two approved trash containers from each property per collection day, with trash in excess of two approved containers having to be treated as bulk trash for which one or more bulk-trash collection stickers must be purchased from the Borough for each additional container based on weight;

WHEREAS, Borough Council seeks to amend these provisions of the Code to provide that property owners may supplement basic trash service by payment of an annual license fee for additional containers;

WHEREAS, Borough Code requirements pertaining to trash collection service provide that a person owning a residential property within both the Borough and Hopewell Township on which more than 41 percent of the dwelling on the property is located in Hopewell Township does not qualify for solid waste disposal by the Borough unless the owner requests the service and pays a fee equal to the difference between the Borough's annual cost of collection and the amount of real property taxes paid to the Borough by the property owner;

WHEREAS, Borough Council seeks to revise the formula for the fees charged to adjacent property owners for solid waste disposal service;

WHEREAS, Borough Council further seeks to amend Article II of Chapter 172 of the Code by deleting redundant references which overlap Article I of Chapter 172, pertaining to recycling;

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Pennington, that Article II of Chapter 172 of the Code of the Borough of Pennington, is hereby amended as follows:¹

1. Section 172-10 of the Code, concerning basic trash service, is hereby amended to read:

A. The Borough will collect, on days to be designated by the Public Works Department, nonrecyclable trash which has been placed at the curb in one or more [an] approved trash containers.

B. The basic trash service shall include the curbside collection [by the Borough] of up to two approved trash containers [placed] on [a] collection days from every [each] property [as set forth] on the Borough's tax records for which an individual tax bill is issued by the Borough as well as from every adjacent property owner which has requested the service and paid the required fee as set forth in Section 172-13 herein. Property owners and adjacent property owners may supplement this basic service by the purchase of an annual license from the Borough authorizing use of one or more additional approved trash containers. The license shall be effective for one year beginning on July 1 and ending on June 30 of the following calendar year, regardless of the

¹Language to be deleted is denoted by brackets []. New language is underlined _____.

date of purchase. The fee for the license per container shall be determined by the Department of Public Works on an annual basis and approved by Borough Council as part of its budget process.

C. Approved trash containers shall be placed at the curb for collection no later than 7:00 a.m. on the collection day and removed from the curb no later than 9:00 p.m. on the day of collection. Approved trash containers shall not be placed at the curb prior to 5:00 p.m. on the day prior to the designated collection day.

D. If a designated collection day falls on a holiday recognized by the Borough, then the collection will be done on the next scheduled collection day.

[E. Trash which includes recyclable material will not be collected by the Borough.]

2. Section 172-13 of the Code, concerning adjacent property owners, is hereby amended to read:

A. The Borough shall, if requested by an adjacent property owner, provide the adjacent property owner with solid waste disposal under the provisions of this Section 172-13.

B. The adjacent property owner shall pay the Borough for the collection of his/her solid waste. The fee for said collection shall be [the difference between] the yearly cost per dwelling [to the Borough] for disposal of single-family dwelling solid waste as determined by the Public Works Department [less] and approved by Borough Council as part of its annual budget process. [the amount of yearly real property taxes paid to the Borough by the adjacent property owner.]

C. The Borough shall calculate the fee and shall bill the adjacent property owner at the same time as it bills customers for water and sewer charges. The payment shall be due from the adjacent property owner within 30 days of the billing. If the bill to the adjacent property owner is not paid within 90 days of the date billed, the Borough may suspend the solid waste collection until the fee is paid.

3. Section 172-14 of the Code, concerning participation in mandatory recycling, is hereby amended to read:

[A.] All property owners and participating adjacent property owners shall [separate aluminum and bimetal cans, glass, newspapers, cardboard and plastic, plants, trees and branches, leaves and other yard waste, exclusive of grass clippings, from all other solid waste and shall] participate in the recycling program adopted [from time to time by the Borough] in Article I of this chapter.

[B. It shall be a violation of this article for any person unauthorized by the Borough to collect, pick up or cause to be collected or picked up any designated mandatory recycling material. Any collection of recycling material in violation of this article shall constitute a separate offense.]

4. Section 172-17 of the Code, concerning violations and penalties, shall be amended to read as follows:

Any person who violates or neglects to comply with any provisions of this article or any regulation promulgated pursuant thereto shall receive at least one warning before an enforcement action is brought but thereafter shall [,upon conviction thereof,] be subject to a fine not to exceed \$[1,000] 500. [,imprisonment for a period not to exceed 90 days or a period of community service not to exceed 90 days, or any combination thereof.] each day the violation continues to constitute a separate offense.

5. If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this ordinance shall be deemed valid and effective.

6. This ordinance shall become effective upon adoption and publication thereof as provided by law.

Council Member Lawver made a motion to introduce Ordinance 2009-2, second by Council Member Heinzl. Mr. Lawver stated that this version of the Ordinance corrects language with regard to calculation of fees for adjacent properties and also changes the penalty. Upon a roll call vote all members present voted in favor.

Ordinances for Public Hearing and Adoption

Mayor Persichilli read Ordinance 2009-1 by title.

BOROUGH OF PENNINGTON ORDINANCE 2009-1

BOND ORDINANCE PROVIDING FOR THE ACQUISITION OF A NEW GARBAGE TRUCK IN AND BY THE BOROUGH OF PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY, APPROPRIATING \$170,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$161,500 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 \$170,000, including the sum of \$8,500 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 \$161,500 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 new garbage truck, including all related costs and expenditures incidental thereto.

(b) The estimated maximum amount of bonds or 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 note shall mature later than one year from its date. The 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 notes issued pursuant to this ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All 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 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 notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the 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 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 ordinance, is 5 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 \$161,500, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$7,500 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. 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 ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 8. The Borough hereby declares the intent of the Borough to issue the bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3(a) of this bond ordinance. This Section 8 is a declaration of intent within the meaning and for purposes of Treasury Regulations §1.150-2 or any successor provisions of federal income tax law.

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

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

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

Council Member Lawver made a motion to open the Public Hearing on Ordinance 2009-1, second by Council Member Tucker. There were no comments from the public. Council Member Lawver made a motion to close the public hearing, second by Council Member Tucker with all members present voting in favor. Council Member Lawver made a motion to adopt Ordinance 2009-1, second by Council Member Tucker. Mr. Lawver stated that the Borough is now down to one garbage truck as one of the trucks does not meet the latest DEP requirements. Mr. Lawver stated that the truck will be used as a back up, but it has not been retrofitted for the diesel afterburner as the cost could not be justified. Mr. Wittkop stated that this truck would be used as a trade in on the new one. Upon a roll call vote, all members present voted in favor.

Committee Reports

Planning & Zoning / Environmental Commission / Library – Ms. Heinzl reported that the Library Board met on January 29th, 2009 for their reorganization meeting. Ms. Heinzl stated that the Library Board has appointed a new president, Kathleen O’Conner, Pete O’Hara will stay on as Treasurer. Ms. Heinzl stated that the Library has hired a new part time clerical assistant to replace Amy DiDario. Ms. Heinzl stated that the children’s area of the Library has been painted a bold new color. Ms. Heinzl stated that the children’s area is undergoing some improvements and it is still a work in progress.

Ms. Heinzl stated that the Planning Board met January 14th, 2009 for their reorganization meeting and voted for Winn Thompson as Chairman and Jeanne Donlon as Vice-Chair. Ms. Heinzl reported that two applications were heard. Ms. Heinzl stated that the first application for 1 Academy Court which consists of two separate variances was carried and will continue at the next meeting. Ms. Heinzl stated that the second application for a use variance by Cricket Communications for additional antennas on top of the Pennington Fire Company was approved.

Ms. Heinzl stated that the Environmental Commission met on January 19th, 2009 for their reorganization meeting. Ms. Heinzl stated that Jim Gaffney was elected Chairman of the Environmental Commission. Ms. Heinzl stated that the Environmental Commission was going to have a joint meeting with Hopewell Township Environmental Commission on January 26th, 2009, but that meeting will be rescheduled. Ms. Heinzl stated that the Environmental Commission is continuing with a very enthusiastic outreach program on recycling. Ms. Heinzl stated that as part of this program there will be a recycling forum on February 18th, 2009. Ms. Heinzl stated that there is also some talk about trying to get certification for the Borough under a Sustainable New Jersey Program.

Ms. Heinzl stated that a recent newspaper article stated that the School Board has decided to table the idea for the referendum question that came out of the Ad Hoc Committee.

Public Works / Economic Development – Mr. Lawver reported that the Economic Development Commission met for their reorganization meeting on January 26th, 2009. Mr. Lawver stated that Ron Roveda and Rachel Torpey will be Co-Chairs for this year. Mr. Lawver stated that the Commission will be working on setting new priorities for 2009.

Mr. Lawver stated that Public Works Committee met on a couple of issues, preliminary plans for a solar array at Borough Hall and at the Public Works Building. Mr. Lawver stated he will be working with an ad hoc group consisting of Jim Gaffney, Tom Adelman, Joanne Held, Eileen Heinzl. Mr. Lawver stated that utility billing information is being pulled together to begin researching whether the Borough can get funding for an energy audit. Mr. Lawver stated that Penny Althoff presented her water report to the committee. Mr. Lawver stated that report clearly shows that the Borough needs a new source of water and proposals are being requested from Ms. Althoff and from Van Note Harvey on development of a new well

on the site of the new Public Works Building. Mr. Lawver stated that discussions continue with regard to a new water tower, if one is needed, what it would look like, and how much storage is needed. Ms. Lawver stated that also discussed were potential projects for the Federal Stimulus package if and when it comes through.

Mr. Lawver gave the following report of Water and Trash for the month of January, 2009.

PENNINGTON BOROUGH PUBLIC WORKS

TO: Joseph Lawver, Chairman
Public Works Committee

FROM: Jeff Wittkop, Superintendent

DATE: February 2, 2009

RE: **COUNCIL REPORT FOR THE MONTH OF JANUARY 2009**

WATER

Water pumped for the month of January 2009-	8,319,000
Daily-	268,300
Water pumped for the month of January 2008-	8,736,000
Daily-	281,800

For the month of January 2009 we averaged 13,500 gallons less per day than 2008.

TRASH

70.91 tons of household trash for the month of January 2009 vs. 79.53 tons in January 2008

Leaves should now be placed in bags without any other debris and left open.

February 16th is a holiday and there will be no trash collection. The trash will be picked up the following day, Tuesday, February 17th.

Trash and recycling calendars will be distributed soon.

Personnel - Mr. Ogren stated that the Personnel Committee did not meet in January.

Community Services – Ms. Chandler stated that Pennington Parks and Recreation met in January to plan for the new year. Ms. Chandler stated that most of the discussion was on the tight budget and how park maintenance and tree maintenance will be balanced with summer concerts and entertainment. Ms. Chandler stated that Parks and Recreation is looking at reducing the number of concerts to ensure that any maintenance is done first.

Public Safety – Mr. Tucker thanked fire and police personnel for their prompt and efficient response to the fire at Bill and Nancy Schluter’s home. Mr. Tucker stated that Hopewell Township Police assisted with traffic control, Pennington Public Works assisted with setting up barriers and it was a great team cooperative effort.

Mr. Tucker reported that Officer Frank Lynch has submitted a letter stating his retirement as of January 31, 2009. Mr. Tucker stated that Officer Lynch’s letter states his option to rescind such retirement up until March of 2009. Mr. Tucker stated that tentatively Mr. Lynch’s replacement is scheduled to begin working as of March 16th.

Mr. Tucker stated that Probationary Officer Daryl Burroughs is proceeding with field training and is now assigned solo shifts.

Mr. Tucker reported on events and meetings that Public Safety Director Bill Meytrott and members of the Police Department have participated in.

Mr. Tucker reported the following statistics for the month of January 2009.

195	Motor Vehicle Stops
87	Warnings Issued
32	Parking Summonses
1	Adult Male arrest
1	Adult Female arrest

Finance – Mr. Griffiths reported that the Finance Committee has not met yet, but continues to work on assembling income numbers. Mr. Griffiths stated assuming there will be no state aid this year, the finance committee will be looking at some cuts and if state aid comes in the committee will consider “wish list” items. Mr. Lawver stated that with the state aid figures coming in later and later, are there any steps that departments can be taking now so that we avoid problems in the last part of the year. Mr.

Dunworth stated that departments are very aware of the urgency of the situation based on Glen's memo that went out with the budget request sheets. Mr. Dunworth stated that the budget requests that have been submitted have adhered to the zero increase request made by Mr. Griffiths. Mr. Lawver commended the Borough Staff for doing what needs to be done on shoestring budgets.

New Business

**Borough of Pennington
Resolution #2009-2.1**

RESOLUTION AUTHORIZING REFUNDS

BE IT RESOLVED, that a refund be made to Frank Whyte, 30 Lochatong Road, West Trenton, NJ 08628 for balance of escrow for Planning Board application P07-009 for Block 205.01, Lot 1, 21 W. Delaware Avenue, in the amount of \$ 594.50.

Record of Council Vote on Passage

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	M				Lawver	X			
Griffiths	X				Ogren	X			
Heinzel	X				Tucker	S			

Ms. Chandler made a motion to approve Resolution 2009-2.1, second by Council Member Tucker with all members present voting in favor.

**Borough of Pennington
Resolution #2009 – 2.2**

AUTHORIZING PAYMENT OF BILLS

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

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Pennington that the bills be paid on audit and approval of the Mayor, the Appropriate Council Member and the Treasurer in the amount of \$ 1,403,800.67 from the following accounts:

Current	\$ 1,322,485.04
W/S Operating	\$ 67,794.95
Grant Fund	\$ 796.77
Animal Control Fund	\$ 53.73
Developers' Escrow	\$ 6,316.84
COAH Trust Fund	\$ 6,000.00
General Capital	\$ 13.93
Water/Sewer Capital	\$ 319.07
Trust Other	\$ 19.19
Recreation Trust	\$ 1.15
TOTAL	\$1,403,800.67

Record of Council Vote on Passage

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	S				Lawver	M			
Griffiths	X				Ogren	X			
Heinzel	X				Tucker	X			

Council Member Lawver made a motion to approve Resolution 2009-2.2, second by Council Member Chandler. Council Members had questions on specific bills on the bill list. Upon a roll call vote, all members present voted in favor.

**Borough of Pennington
Resolution #2009-2.3**

**RESOLUTION AUTHORIZING AMENDMENTS TO THE
2009 TEMPORARY BUDGET**

WHEREAS, the 2009 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 2009 Temporary Budget for the Current Account.

Finance	Other Expense	\$ 15,000.00
Insurance – Liability & Other	Other Expense	\$ 7,088.20
Insurance – Workers Comp.	Other Expense	\$ 12,307.54
Construction	Salaries	\$ 5,000.00
Streets	Other Expense	\$ 25,000.00
Borough Property	Other Expense	\$ 15,000.00
Library	Other Expense	\$ 20,000.00
I/L – Dispatch	Other Expense	\$ 25,772.91
Tax Collection	Other Expense	\$ 2,300.00
	Total	\$ 127,468.65

BE IT FURTHER RESOLVED, that the following additional funds be appropriated for the 2009 Temporary Budget for the Water and Sewer Fund:

Water	Other Expense	\$ 30,000.00
Sewer	Other Expense	\$ 10,000.00
SBRSA	Other Expense	\$ 79,692.40
	TOTAL	\$ 119,692.40

Record of Council Vote on Passage

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	S				Lawver	X			
Griffiths	X				Ogren	X			
Heinzel	M				Tucker	X			

Council Member Heinzel made a motion to approve Resolution 2009-2.3, second by Council Member Chandler with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION # 2009-2.4**

**RESOLUTION AUTHORIZING THE PROPER OFFICIALS OF THE
BOROUGH OF PENNINGTON TO EXECUTE AN AGREEMENT FOR CONTINUED
PARTICIPATION IN THE HOME INVESTMENTS PARTNERSHIPS PROGRAM
CONSORTIUM WITH THE COUNTY OF MERCER**

WHEREAS, the HOME Investment Partnerships Program seeks to expand the supply of decent and affordable housing, particularly rental housing, for low and very low income Americans; and,

WHEREAS, the HOME Investment Partnership Program seeks to strengthen the abilities of state and local governments to design and implement strategies for achieving adequate supplies of decent, affordable housing; and,

WHEREAS, the HOME Investment Partnership Program seeks to extend and strengthen partnerships among all levels of government and the private sector, including for-profit and non-profit organizations, in the production and operation of affordable housing; and,

WHEREAS, the HOME Investment Partnerships Program provides state and local governments with the flexibility to decide what kind of housing assistance, is most appropriate for meeting their housing needs; and,

WHEREAS, the HOME Investment Partnerships Program encourages state and local governments to use HOME funds efficiently and to undertake the most cost-efficient housing activities requiring the smallest state and local matching contributions for Federal funds; and,

WHEREAS, in order to qualify for funding under this program, a municipality or consortium of municipalities must have a minimum ‘critical housing need’ of \$500,000.00; and,

WHEREAS, the City of Trenton is the only municipality within Mercer County eligible, on an independent basis for HOME Investment Partnerships Program funds; and,

WHEREAS, the remaining Mercer County municipalities interested in participating in the HOME Investment Partnerships Program must pool together into a consortium to be eligible for funding; and,

WHEREAS, there is no cost to municipalities to participate in the Mercer County HOME Investment Partnerships Program Consortium, aside from the required matching funds for any project a municipality may undertake; and,

WHEREAS, the Mercer County HOME Investment Partnerships Program Consortium would be a source of funding for a project the Borough of Pennington may undertake in its own affordable housing program without requiring the Borough of Pennington to undertake any specific projects; and,

WHEREAS, participation by the Borough of Pennington in the Mercer County HOME Investment Partnerships Program Consortium would be beneficial to its relations with other Mercer County municipalities and Pennington meets the eligibility requirements for participation in the HOME Investment Partnerships Program; now,

NOW, THEREFORE, BE IT RESOLVED, participation in the Mercer County HOME Investment Partnerships Program Consortium is hereby endorsed; and,

BE IT FURTHER RESOLVED, that the Mayor and the Municipal Clerk are hereby authorized and directed to execute said Mercer County HOME Partnerships Program Consortium Agreement.

Record of Council Vote on Passage

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	X				Lawver	X			
Griffiths	X				Ogren	S			
Heinzel	X				Tucker	M			

Council Member Tucker made a motion to approve Resolution 2009-2.4, second by Council Member Ogren with all members present voting in favor.

**Borough of Pennington
Resolution #2009-2.5**

A RESOLUTION AUTHORIZING A RISK CONTROL AGREEMENT WITH CONNER STRONG RISK CONTROL TO COORDINATE ALCOHOL AND DRUG TESTING SERVICES FOR THE BOROUGH OF PENNINGTON FOR THE YEAR 2009

WHEREAS, the Borough is required to provide an alcohol and controlled substances program for CDL (commercial drivers license) drivers and other participants in compliance with 49 CFR 382 and 49 CFR 40; and

WHEREAS, Conner Strong Risk Control is experienced in and capable of providing such services; and

WHEREAS, this contract shall be for specific services set forth in Exhibit "A" which shall expire on December 31, 2009;

WHEREAS, the Borough agrees to a fee of \$66.34 per participant (Exhibit "B");

WHEREAS, the services authorized by the contract are professional services and the amount of expense to be incurred under this contract for these services is in any event substantially below the threshold for public bidding;

WHEREAS, Conner Strong Risk Control has completed and submitted a Business Entity Disclosure Certification which certifies that neither he nor his firm has made any reportable contribution to a political or candidate committee in the Borough of Pennington and shall not make any such contribution through the term of the contract;

NOW THEREFORE BE IT HEREBY RESOLVED, that the Mayor of the Borough, with the attestation of the Clerk, and subject to such changes in form as may be required by the Borough Attorney, is hereby authorized to execute the attached contract between the Borough and Conner Strong Risk Control for the provision of Alcohol and Drug Testing Services for 2009.

Record of Council Vote on Passage

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	X				Lawver	X			
Griffiths	X				Ogren	X			
Heinzel	S				Tucker	M			

Council Member Tucker made a motion to approve Resolution 2009-2.5, second by Council Member Heinzel with all members present voting in favor.

**Borough of Pennington
Resolution 2009-2.6**

RESOLUTION AUTHORIZING RELEASE OF PERFORMANCE GUARANTEE RELATING TO STRAUBE CENTER – CAMBRIDGE SCHOOL (VNHA #38548-500-52)

WHEREAS, the Straube Center has posted a certain performance guarantee for the completion of improvements required by the Borough Planning Board in connection with the Center’s Cambridge School (VNHA #38548-500-52);

WHEREAS, the present balance of the aforesaid performance guarantee consists of part letter of credit (\$63,648.00, drawn on the Hopewell Valley Community Bank) and part cash (\$7,072.00) totaling \$70,720.00 plus interest earned to date (hereafter “Performance Guarantee”);

WHEREAS, the aforesaid improvements have been completed, inspected and approved as satisfactory by the Borough Engineer with one exception: the developer awaits approval of revised easement descriptions and map;

WHEREAS, the Borough Engineer has recommended that the letter of credit be released and that the cash portion of the performance guarantee be held until the revised easement descriptions and map are reviewed and approved by Nassau Surveying;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that release of the aforesaid Performance Guarantee, including all interest earned to date, is hereby authorized as follows:

1. the letter of credit portion of the performance guarantee may be released immediately;
2. the cash portion of the performance guarantee shall be released upon receipt of approval of revised easement descriptions and map, upon approval by the Borough Engineer, without need for further authorization by Borough Council.

Record of Council Vote on Passage

COUNCILMAN	AYE	NAY	N.V	A.B	COUNCILMAN	AYE	NAY	N.V	A.B.
Chandler	X				Lawver	X			
Griffiths	X				Ogren	S			
Heinzel	X				Tucker	M			

Council Member Tucker made a motion to approve Resolution 2009-2.6, second by Council Member Ogren with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2009-2.7**

RESOLUTION APPOINTING DONALD FETZER, P.E., OF VAN NOTE-HARVEY ASSOCIATES AS BOROUGH ENGINEER FOR THE YEARS 2009 THROUGH 2011

WHEREAS, the Borough is required by law to appoint a Municipal Engineer and to contract for related engineering services for a three year term;

WHEREAS, the Borough Administrator has determined and has certified in writing that the anticipated value of this contract for professional services, having a term of three (3) years, will exceed \$17,500;

WHEREAS, approval of this contract complies with the Local Pay-To-Play Law, N.J.S.A. 19:44A-20.5, effective January 1, 2006, which, except in prescribed circumstances, prohibits the award of contracts with a value in excess of \$17,500 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 new 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 makes this appointment 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 appointment also complies with the Code of the Borough of Pennington, Section 15-1, et seq., prohibiting the award of public contracts to certain political contributors;

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 because the services contracted for are of such a qualitative nature as will not reasonably permit the drawing of specifications or the receipt of competitive bids;

WHEREAS, Donald Fetzer of Van Note-Harvey Associates, a licensed professional engineer of the State of New Jersey, has served as Borough Engineer and proposes to continue to serve in this capacity subject to a contract to be hereafter approved by Borough Council;

WHEREAS, Donald Fetzer and Van Note-Harvey Associates has completed and submitted a Business Entity Disclosure Certification which certifies that the firm has made no reportable contribution to a political or candidate committee in the Borough of Pennington and shall not make any such contribution through the term of the contract;

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 the Borough Council of the Borough of Pennington that Donald Fetzer of Van Note-Harvey Associates is hereby appointed as the Municipal Engineer of the Borough of Pennington for a term of three years expiring on December 31, 2011;

BE IT FURTHER RESOLVED, that a copy of this resolution shall be published in the Hopewell Valley News as required by law within ten (10) days of its adoption.

Record of Council Vote on Passage

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	X				Lawver	M			
Griffiths	X				Ogren	X			
Heinzel	X				Tucker	S			

Council Member Lawver made a motion so approve Resolution 2009-2.7, second by Council Member Tucker with all members present voting in favor.

**BOROUGH OF PENNINGTON
Resolution #2009-2.8**

**RESOLUTION AUTHORIZING PROFESSIONAL SERVICES
AGREEMENT WITH BOROUGH ENGINEER**

WHEREAS, the Borough Council of the Borough of Pennington has appointed Donald E. Fetzer, P.E., of the firm of Van Note-Harvey Associates, P.C., as Borough Engineer for a term of three years, effective January 1, 2009, as provided by law;

WHEREAS, this appointment is subject to approval of a professional services agreement between the Borough and Van Note-Harvey Associates;

WHEREAS, Van Note-Harvey Associates has proposed the attached "Agreement Between Borough and Consulting Engineer for Professional Services," having a term of three years beginning January 1, 2009;

WHEREAS, the Agreement describes the services to be performed by Mr. Fetzer and Van Note-Harvey staff and related billing rates;

WHEREAS, as set forth in Borough Council's resolution of February 2, 2009 appointing Mr. Fetzer, award of this contract complies with the Local Public Contracts Law and the Local Pay-to-Play Law;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington that the aforesaid Agreement Between Borough and Consulting Engineer for Professional Services, to be effective January 1, 2009 for a term of three (3) years, is hereby approved; and the Mayor, with the attestation of the Borough Clerk, is hereby authorized to execute the Agreement on behalf of the Borough; and

BE IT FURTHER RESOLVED, that the Borough Engineer is authorized to endorse permit applications including treatment works approvals on behalf of the Borough for projects previously approved by the Planning Board.

Record of Council Vote on Passage

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	X				Lawver	M			
Griffiths	X				Ogren	X			
Heinzel	X				Tucker	S			

Council Member Lawver made a motion to approve Resolution 2009-2.8, second by Council Member Tucker with all members present voting in favor.

**Borough of Pennington
Resolution #2009-2.9**

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 YEAR 2009

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 seeks to enter into an agreement with CM3 on behalf of Invensys for the year 2008 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;

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 substantially 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 proposed agreement is therefore exempt from public bidding pursuant to the exceptions set forth in N.J.S.A. 40A:11-5(1)(dd) and N.J.S.A. 40A:11-6.1a and related regulations;

WHEREAS, the terms of the contract with CM3 on behalf of Invensys will be reviewed and revised to the satisfaction of the Borough Administrator and Borough Attorney and such contract shall not exceed the contract price of \$11,652;

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 a political contribution in violation of the Code of the Borough of Pennington prohibiting certain political contributions by business entities awarded contracts by the Borough for consulting services;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Mayor and Borough Clerk are hereby authorized to execute a contract with CM3 on behalf of Invensys for 2009 as aforesaid.

Record of Council Vote on Passage

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	X				Lawver	X			
Griffiths	X				Ogren	X			
Heinzel	S				Tucker	M			

Council Member Tucker made a motion to approve Resolution 2009-2.9, second by Council Member Heinzel with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2009-2.10**

RESOLUTION AUTHORIZING SHARED SERVICES AGREEMENT WITH MERCER COUNTY FOR THE PARIS GRANT PROGRAM

WHEREAS, the State of New Jersey has launched its pioneering Public Archives and Records Infrastructure Support (PARIS) grant program to meet the strategic records management, preservation, and storage needs of county and municipal governments; and

WHEREAS, a top priority of the PARIS grants program is to achieve efficiencies of cost and operation through shared services and to create a service structure for municipalities that do not have the resources to create one for themselves; and

WHEREAS, in the 2009-2010 grant cycle, priority funding will be given to county projects to perform shared services on preservation projects to include records purging & cleanup, microfilming and staff training in records management policies and procedures; and

WHEREAS, the Borough of Pennington desires to collaborate with the County of Mercer in the performance of the PARIS Grant program; and

WHEREAS, the Borough of Pennington is acknowledging that their eligible funding of \$40,000.00 will be leveraged with Mercer County; and

WHEREAS, the Borough of Pennington is acknowledging that the County of Mercer would be both the lead agency and the applicant for such a proposal; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Pennington, that the Borough of Pennington does support and commit to cooperation and participation in the PARIS grant for the purposes set forth above, and to execute and deliver all documents required incident thereto.

Record of Council Vote on Passage

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	M				Lawver	X			
Heinzel	S				Ogren	X			
Griffiths	X				Tucker	X			

Council Member Chandler made a motion to approve Resolution 2009-2.10, second by Council Member Heinzel with all members present voting in favor.

**Borough of Pennington
Resolution # 2009-2.11**

RESOLUTION AUTHORIZING BUDGET TRANSFERS

WHEREAS, N.J.S.A. 40A:4-58 provides that during the last two months of the fiscal year, should it become necessary to expend funds for any purposes specified in the budget an amount in excess of the respective sums appropriated therefore and there shall be an excess in any appropriations over and above the amount deemed to be necessary to fulfill the purpose of such appropriations transfers may be made; and

WHEREAS, transfers may not be permitted to appropriations for contingent expenses or deferred charges; and

WHEREAS, transfers may not be permitted from appropriations for contingent expenses, deferred charges, cash deficit of the preceding year, reserve for uncollected taxes, down payments, capital improvement fund or interest and redemption charges;

NOW THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Pennington that transfers be made between the following year 2008 budget appropriations:

<u>Current Fund Appropriations:</u>	<u>TO:</u>	<u>FROM:</u>
Municipal Clerk – Other Expense	\$1,600.00	
Tax Map Maintenance	\$ 300.00	
Streets – Other Expense		\$ 1,900.00
Total Current Fund	\$ 1,900.00	\$ 1,900.00

Record of Council Vote on Passage

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	M				Lawver	X			
Griffiths	S				Ogren	X			
Heinzel	X				Tucker	X			

Council Member Chandler made a motion to approve Resolution 2009-2.11, second by Council Member Griffiths with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2009-2.12**

RESOLUTION AUTHORIZING A LOCAL GOVERNMENT ENERGY AUDIT

WHEREAS, the New Jersey Board of Public Utilities, Office of Clean Energy administers the Local Government Energy Audit Program (Program), an incentive program to assist local government agencies to conduct energy audits and to encourage implementation of energy conservation measures; and

WHEREAS, the Governing Body of the Borough of Pennington has decided to apply to participate in the Local Government Energy Audit Program; and

WHEREAS, the facilities to be audited are in New Jersey, are owned by the Borough of Pennington, are served by a New Jersey regulated public utility, and the Borough of Pennington has not already reserved \$100,000 in the Program this year as of this application; and

WHEREAS, it is acknowledged that acceptance into the Program is dependent on the Scope of Work and cost proposal, and that Program rules will have to be met in order to receive incentive funds, and

WHEREAS, upon acceptance into the Program, the Borough of Pennington will prepare Facility Data Forms and Scopes of Work for each facility to be audited, solicit quotations from the authorized contractors, and submit the Part B application; and

WHEREAS, the Borough of Pennington understands that energy audit work cannot proceed until an Application Approval Notice is received from the Program;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Pennington, that the Governing Body approves submission of an Application for participation in the Local Government Energy Audit Program of the New Jersey Board of Public Utilities 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	S				Lawver	M			
Heinzel	X				Ogren	X			
Griffiths	X				Tucker	X			

Council Member Lawver made a motion to approve Resolution 2009-2.12, second by Council Member Chandler. Mr. Lawver explained that if the Borough decides to participate in the Clean Energy Program for a Municipal Energy Audit, one of the elements that need to be completed is to have this resolution approved. Mr. Lawver stated that the Municipal Energy Audit program will pay for seventy five percent of the costs of the Municipal Energy Audit with the potential to recoup the remaining twenty five percent if the energy improvement expenditures exceed the twenty five percent balance. Upon a roll call vote, all members present voted in favor.

Council Discussion

Liquor License – Mayor Persichilli asked to reopen for discussion the concept of a liquor license for Pennington Borough. Mayor Persichilli stated that an informational memo from Walter Bliss was included in the Council packages and he would like to get comments from Council as to whether to proceed with a Liquor License. Mr. Lawver stated that the Economic Development Commission has discussed this issue on and off in the past and they are supportive of a liquor license in general. Mr. Lawver stated that the feeling is that it would be another draw to bring people into town. Mr. Lawver stated that he has heard comments both in favor and against liquor licenses. Mr. Lawver proposed that if Borough Council is in favor of pursuing this that the residents be given ample opportunity to participate. Mr. Ogren commented on whether the Borough could place restrictions on location. Mayor Persichilli stated that details could be ironed out at a later date; he just wanted to get a feel from Council as to whether to proceed with looking into a liquor license for Pennington Borough. Discussion took place with regard to whether to proceed with an ordinance or to proceed with a referendum. Council was in favor of having community input in this decision. Mayor Persichilli asked Mr. Bliss how to proceed. Mr. Bliss stated that Council needs to come to a consensus as to whether to move with a referendum or not. Mr. Bliss stated that he will check with Alcoholic Beverage Control to make sure that we follow the appropriate steps. Mr. Lawver stated that he would be willing to work with Mr. Bliss and come back next meeting with a proposal of how to proceed and a time line for the process.

Mayor Persichilli asked if there any comments from the public, there were none.

Police Study – Mayor Persichilli asked Bill Meytrott to report as to where he and Chief Myers are with regard to the Police Study. Mr. Meytrott stated that in consultation with Chief Myer he has drawn up a proposal on how to proceed. Mr. Meytrott stated that he distributed the proposal selectively prior to last month’s meeting and then generally to all members of Borough Council shortly thereafter. Mr. Meytrott stated that all of Council should now have a copy of the proposal for the analysis. Mr. Meytrott asked if anyone had questions or comments on the proposal. Mr. Meytrott stated that one of the benefits of doing this type of study in house is that the proposal can be modified from time to time with no cost factor involved. Mr. Meytrott stated that after talking to Chief Myer he drafted the proposal based on the direction that he felt Council wanted to proceed. Mayor Persichilli asked if anyone would like to comment on the proposal. Several Council Members stated that they did not receive the proposal. Mr. Meytrott

stated that he and Chief Myer could begin working on the study and if Council Members have comments or concerns with the proposal they can be discussed at the next meeting.

Grease Interceptor/Monitoring Port – Mayor Persichilli stated that a local business in town has approached him with regard to the Borough Ordinance on Grease Interceptors. Mayor Persichilli stated that Around the Table is looking at moving to another location in Pennington and the question is whether she will be required to put in a monitoring port at the new location. Mayor Persichilli stated that the owner of Around the Table has indicated that she can show her monitoring reports for the last two to three years that show that she is not putting grease into the system. Mayor Persichilli stated that Borough Council is trying to keep businesses in town and the question is how to handle a situation like this, so that a business owner does not have to put out a large sum of money again. Mr. Lawver stated that the test results that Around the Table has are significantly below the ordinance specifications. Mr. Lawver stated that there are two things to consider, one Ms. Toto has not been completely forthright in this situation. Mr. Lawver stated that she was required to test all of 2008 and no tests were done. Mr. Lawver stated that Health Officer did not follow up on that because her prior test results were so low. Mr. Lawver stated that the other issue is how to track the history of this and any other cases so that there will be a record for the future. Some discussion took place with regard to this situation and how to monitor changes to the business. Mr. Wittkop asked if other businesses have a portal and they have up to date documented evidence that they are not exceeding the levels will they be permitted to stop monitoring. Mr. Wittkop stated that The Pennington School and Hopewell Valley Regional High School have portals and every grease interceptor installed has a portal. Mr. Wittkop explained that the ordinance is not menu driven; the ordinance states that if cooking is done on the premises, a grease interceptor is required. Mr. Wittkop stated that presently the other two monitoring locations are not reaching the level that requires installation of a grease interceptor. Mr. Wittkop stated that the Borough has spent thousands cleaning out grease at the pump stations so he looks at this as a collective thing and not individually which is the reason why the portal was required so that the Borough has a way to monitor grease getting into the sewer system. Mr. Wittkop stated that The Pennington School and the High School have internal grease interceptors that are not up to the Borough standards for grease interceptors. Mr. Wittkop stated that both schools felt that because they were changing their menus to reduce fat, and they had a grease interceptor that they could put in a monitoring port. Mr. Wittkop stated that under the ordinance the Borough had no choice but to allow the sampling port. Mr. Wittkop suggesting having Around the Table install an internal grease interceptor that could be monitored to see if something more is needed. Mr. Wittkop stated that for a small business this solution would work. Mr. Wittkop stated however that this is not provided for in the ordinance. Mr. Wittkop and Mr. Bliss agreed that the business would most likely be required to have an internal grease interceptor under the plumbing code. Mr. Lawver stated that what he understands is that the Borough is in favor of doing what can be done to help this business stay in town with the concerns being that it is done in such a way as to avoid loopholes that other larger producers could utilize while at the same time making the existing grease trap provisions apply. Mr. Lawver stated that he would be willing to go back and relate to Around the Table that she may be required under the plumbing code to install an internal grease interceptor and come back to Council next meeting with a proposal.

Administrator's Report

Snow Removal Ordinance – Mr. Dunworth deferred to Mr. Meytrott. Mr. Meytrott stated that the snow removal ordinance with regard to sidewalks has developed a glitch on the enforcement end. Mr. Meytrott stated that what has occurred is that in the past the Police Department has interpreted the ordinance in sections. Mr. Meytrott stated that recently the Municipal Court has taken a different view and now is interpreting the ordinance as a whole. Mr. Meytrott stated that this creates a problem in that there are four sections to the snow removal ordinance. Mr. Meytrott stated that the second section entitled “Failure to Remove and Removal by Borough” which basically requires the Police Department to notify any property owner who has not removed or attempted to remove snow and ice from the sidewalk and allow a time for it to be completed. Mr. Meytrott stated that it goes on to say that the Department of Public Works shall remove or cause to be removed such snow. Mr. Meytrott stated that the Police Department has always interpreted that section to mean that if you don't remove your snow or ice from the sidewalk, then after the Police Department advises it must be done, the Public Works Department can go in and do it. Mr. Meytrott stated that there is also a fourth section that goes into penalties which states that the Police Department can issue a summons for failure to clear the sidewalk. Mr. Meytrott stated that the Police Department has interpreted that to mean that if the Borough did not want the Department of Public Works to remove the snow or ice then the Police Department did not have to notify every homeowner, they could just be issued a summons for failure to remove snow or ice. Mr. Meytrott stated that for a number of years this has worked, however just recently the Municipal Court, because some residents appealed the ordinance, has taken a different tack and said that the Police Department must now read the ordinance as a whole. Mr. Meytrott explained therefore before any summonses can be issued, the Police Department must first go out and notify each property owner. Mr. Meytrott stated that the Police Department notified about 65 residents after the first snowfall and after waiting the 12 hour period, went back out to issue summonses. Mr. Meytrott explained that the problem with this is that it snowed again before the police could go back to issue summonses. Mr. Meytrott explained that he would like to request a change to the ordinance to remove the section of 177-2 that says “it shall be the duty of the Pennington Borough Police Department to notify, where possible, such owner or owners... shall fail to forthwith comply with said notice.” Mr. Meytrott than stated that he would also like to change “the Department of Public Works shall...” to “the Department of Public Works may...”. Mr. Meytrott explained that these changes will essentially allow the Police Department after it snows to issue a summons without making any notification first. Mr. Meytrott stated that a resident had suggested having the Borough send a message out with either the water/sewer bills or the tax bills reminding residents of the requirements for snow removal. Council briefly discussed the request and agreed to make the change to the ordinance. Discussion took place with regard to if the Public Works Department were to clear a resident's sidewalk according to the ordinance, how would the

Borough be reimbursed. Council agreed that reimbursement terms should also be spelled out in the ordinance.

Professional Reports

There were no further comments.

Public Comment Period

There were no comments from the public.

Closed Session

AT, 9:40 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:

First States Tax Appeal

AT, 10:06 PM, Mayor and Council returned to open session.

At 10:06 pm, Council Member Tucker made a motion to adjourn the meeting, second by Council Member Chandler.

Respectfully submitted,

Elizabeth Sterling
Borough Clerk