

**Pennington Borough Council
Regular Meeting – March 9, 2009**

Mayor Persichilli called the Regular Meeting of the Borough Council to order at 7:01 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 Virginia Kerr for 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 and on the Borough Website 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 February 2, 2009, second by Council Member Heinzl. Mr. Ogren asked for a correction regarding the discussion of planting trees as a buffer at the Public Works site. Upon a roll call vote, all members present voted 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.**

There were no comments from the public.

Mayor's Business

Mayor Persichilli read Judge Robert Billmeier's letter of resignation. Judge Billmeier will be leaving the Borough effective March 16th, 2009 as he is slated to be appointed as a Mercer County Superior Court Judge. Mayor Persichilli stated that Council will be discussing the process of seeking a replacement later in the meeting.

Appointments (with Council Approval)

Recreation

- Ed Livernoche Term 1/1/2009 to 12/31/2011
- Diana Butcavage Term 1/1/2009 to 12/31/2011
- Kristen Higgins Term 1/1/2009 to 12/31/2011
- Francie McManimon Term 1/1/2009 to 12/31/2011

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

Presentations

Mr. Larry Mansier and Mr. Nils Stout of the Senior Advisory Board presented a power point presentation proposing the building of a Senior Center for the citizens of Hopewell Valley. The presentation focused on programs in place now, reviewed data collected through a community needs assessment survey and presented a view of the ideal Hopewell Valley Senior Center. Borough Council members and residents of Pennington Borough expressed concerns regarding building a new senior center versus utilizing and/or renovating the current senior center.

Mayor Persichilli thanked Mr. Mansier and the Senior Advisory Board members for their presentation. At 8:05 pm, following the presentation, Mayor Persichilli called a short recess. The meeting resumed at 8:12 pm.

Ordinances for Introduction

Mayor Persichilli read Ordinance 2009-3 by title.

**BOROUGH OF PENNINGTON
ORDINANCE NO. 2009-3**

**AN ORDINANCE INCREASING FEES FOR USE OF PARK
FACILITIES AND AMENDING CHAPTER 143 OF THE
CODE OF THE BOROUGH OF PENNINGTON**

WHEREAS, Chapter 143 of the Code of the Borough of Pennington regulates use of the Borough's parks, playgrounds and recreation areas;

WHEREAS, Chapter 143 provides that no organization (whether formal or informal) or group of people of 25 or more shall utilize park facilities without first obtaining a permit, that no person shall remain in any park between the hours of dusk and sunrise except by special permit, and no person shall sell or offer for sale any object or merchandise or any other thing within the park without first obtaining a permit;

WHEREAS, Chapter 143 further provides that permits shall be issued by the Borough Clerk in compliance with a specified procedure beginning with written application and payment of fees;

WHEREAS, Borough Council seeks to amend the permit fees for use of park facilities which have not been changed since 1974;

WHEREAS, pursuant to the amendment the fee for a basic permit will be increased from \$25 to \$50 and any additional fee for use of electricity will be eliminated;

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

1. Section 143-4, subsection B, providing for the payment of fees for park permits, is hereby amended to read as follows:¹

“B. Permits shall be issued upon the payment of a fee of [\$25]50. [An additional fee of \$10 will be charged for the use of electricity.]”

2. This ordinance shall take effect upon final passage and publication as provided by law.

Council Member Chandler made a motion to introduce Ordinance 2009-3, second by Council Member Ogren. Discussion followed with regard to what the new fee should be and whether or not there should be an extra charge for the electricity. It was agreed that there should be an increase in the rental fee to \$50 and that the additional charge for electricity should be omitted. Upon a roll call vote, all members present voted in favor.

Mayor Persichilli read Ordinance 2009-4 by title.

**BOROUGH OF PENNINGTON
ORDINANCE NO. 2009- 4**

**AN ORDINANCE CLARIFYING ENFORCEMENT OF MANDATORY SNOW REMOVAL BY
PROPERTY OWNERS AND AMENDING ARTICLE I OF CHAPTER 177
OF THE CODE OF THE BOROUGH OF PENNINGTON**

WHEREAS, Article I of Chapter 177 of the Code of the Borough of Pennington requires property owners and tenants to remove snow and ice from the sidewalks in front of or bordering on their lands within 12 hours of daylight after same has fallen or formed ;

WHEREAS, the said Article I presently provides overlapping means of enforcement, one involving notice by Borough Police to the delinquent property owner or tenant directing removal of the snow and ice forthwith and upon failure of the owner or tenant to do so, clearance of the snow or ice by the Department of Public Works with a bill to the property owner for the cost, same to become a lien against the property; the other involving issuance of a summons to the owner or tenant and imposition of a fine or fines with each day the snow or ice remains to be considered a separate offense;

WHEREAS, Borough Council seeks to amend existing enforcement provisions to ensure that clearance of snow and ice by the Department of Public Works, albeit at the expense of the property owner, is optional on the Borough's part and does not relieve property owners and tenants from their obligations under the ordinance;

WHEREAS, Borough Council further amends existing enforcement provisions to relieve the Police Department of having to notify property owners and tenants before Public Works may remove snow or ice or Police may issue a summons to the owner or tenant for failing to remove snow and ice;

WHEREAS, Borough Council also intends to clarify the basis for reimbursement in the event the Department of Public Works must remove snow and ice that the owner or tenant is required to remove;

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

1. Section 177-2 of Article I of Chapter 177 of the Code of the Borough of Pennington is hereby amended as follows:²

¹Deletions are bracketed []; new language is underlined ____

²Deletions are indicated by brackets []; new language is underlined.

In case such owner or owners, tenant or tenants of any land abutting or bordering upon any public street, avenue or highway in said borough shall neglect or refuse to remove such snow and ice within 12 hours of daylight after the same shall have fallen, or formed, or to spread the same with salt, ashes or sand as hereinbefore provided, [it shall be the duty of the Pennington Borough Police Department to notify, where possible, such owner or owners, tenant or tenants to forthwith remove said snow and ice from the sidewalk in front of or bordering on such land; and where impossible, to notify such owner or owners, tenant or tenants by reason of their nonresidence or absence from said borough, or where, having given such notices such owner or owners, tenant or tenants, shall fail to forthwith comply with said notice,] the Department of Public Works [shall] may remove or cause to be removed such snow or ice from the sidewalk in front of or bordering on such land or to [be] spread or cause same to be spread with salt, ashes or sand as hereinbefore provided.

2. Section 177-3 of Article I of Chapter 177 is hereby amended as follows:

The cost paid and incurred by the borough for removing such snow and ice from any sidewalk or for spreading same with salt, ashes or sand, as the case may be, shall be certified to the Mayor and Council of the borough, which shall examine the certificate and, if found to be [current] reasonable, shall cause such costs to be charged against the abutting lands. The elements of cost to be assessed to a property shall include all out-of-pocket and imputed costs including costs of materials, equipment, labor, supervision and administration reasonably allocable to the work. The amounts so charged shall thereupon become a lien and tax upon such real estate and be added to and become a part of the taxes next to be levied and assessed thereon.

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

Council Member Lawver made a motion to introduce Ordinance 2009-4, second by Council Member Tucker with all members present voting in favor.

Ordinances for Public Hearing and Adoption

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:³

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

³Language to be deleted is denoted by brackets []. New language is underlined _____.

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 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 Tucker made a motion to open the Public Hearing on Ordinance 2009-2, second by Council Member Lawver. There were no comments from the public. Council Member Tucker made a motion to close the Public Hearing, second by Council Member Lawver with all members present voting in favor. Council Member Tucker made a motion to adopt Ordinance 2009-2, second by Council Member Lawver. Mr. Lawver explained that this Ordinance will amend the fees for non-resident waste disposal. Upon a roll call vote, all members present voted in favor.

Committee Reports

Planning & Zoning / Environmental Commission / Library – Ms. Heinzl reported that the Planning Board did not meet in February and the next meeting will be March 9th. Ms. Heinzl reported that the Environmental Commission met on February 16th to discuss, continuation of community outreach and education programs. Ms. Heinzl stated that there was a nice turnout to the recycling forum held February 18th. Ms. Heinzl stated that Dan Napolean of the MCIA gave a presentation on recycling rules followed by a slide presentation put together by Tom Adelman of the Environmental Commission of what is recyclable. Ms. Heinzl stated that the Environmental Commission will be doing preschool seminars on environmental topics such as composting and water conservation. Ms. Heinzl stated that the Environmental Commission has also been talking about plans for solar arrays for Borough owned buildings.

Ms. Heinzl stated that the Library Board met on February 26th. Ms. Heinzl stated that an author event is being planned for early May to be held at the Hopewell Train Station in Hopewell Borough. Ms. Heinzl stated that more information will follow regarding that event. Ms. Heinzl stated that the Friends of the Public Library are discussing plans for Pennington Day. Ms. Heinzl stated that the Library has received several memorial donations in memory of former volunteers who have recently passed away.

Public Works / Economic Development – Mr. Lawver stated that after spending significant time on figuring out if the Borough would be receiving any stimulus funds, it has become apparent that stimulus funds are only for larger, more connected municipalities. Mr. Lawver stated that there is one last option that the Borough is looking into and that is a grant for the proposed solar arrays for Borough Hall and the Public Works Building.

Mr. Lawver stated that the Public Works committee has not met since the last Council Meeting; however a meeting will be scheduled very soon.

Mr. Lawver reported that the second garbage truck is now broken. Mr. Lawver reported that the truck is twelve years old and requires a new packer body. Mr. Lawver explained that if the truck is repaired, additional monies will have to be added to bring the truck into compliance with new emission regulations. Mr. Lawver stated that a decision needs to be made whether to repair the truck or move ahead with the purchase of a new garbage truck.

PENNINGTON BOROUGH PUBLIC WORKS

TO: Joseph Lawver, Chairman
Public Works Committee

FROM: Jeff Wittkop, Superintendent

DATE: March 2, 2009

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

WATER

Water pumped for the month of February 2009- 7,660,000
Daily- 273,500

Water pumped for the month of February 2008- 8,361,000
Daily- 288,300

For the month of February 2009 we averaged 14,800 gallons less per day than 2008.

TRASH

58.49 tons of household trash for the month of February 2009 vs. 64.61 tons in February 2008

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

Trash and recycling calendars have been distributed.

Mr. Lawver reported that the Economic Development Commission met in February. Mr. Lawver reported that items discussed were the proposed Farmer’s Market at the Pennington Market Shopping Center. Ms. Heinzl stated that a presentation will be made on the Farmer’s Market at the April Meeting. Mr. Lawver stated that Economic Development Commission is working on a definition of what it means to be “business friendly” and how do the different parts of the Borough live up to the definition. Mr. Lawver stated that parking continues to be a topic of discussion with the focus on addressing the issue of employee parking. Mr. Lawver stated that many businesses in town have employees parking in the few available spots downtown.

Mr. Lawver gave an update on sidewalk repairs. Mr. Lawver stated that as a result of the sidewalk meeting held in September of 2008, three out of the thirty five residents who received letters have obtained permits to repair their sidewalks. Mr. Lawver stated that in order to hasten further progress, the sidewalk committee has come up with a proposal which they would like Council to endorse. Mr. Lawver stated that the proposal is to move forward with fines to those homeowners that have already been notified, with fines being assessed at the end of the grace period for sidewalk repairs which would be the end of September 2009. Mr. Lawver stated that before that happens; another letter will go out notifying homeowners of the direction Council intends to follow regarding sidewalks. Mr. Lawver stated that if the fine process does not work, the sidewalk committee proposes that the Borough undertake the sidewalk repairs beginning in March of 2010 with the costs then assessed to the homeowner through liens. Mr. Lawver stated that as far he knows all of the outstanding tree issues have been addressed. Mr. Lawver stated that in addition, another group of twenty-five to thirty homeowners will be receiving letters this month stating that if sidewalks are not repaired by March of 2010, fines will be assessed and if not repaired by September of 2010, the Borough will undertake the repairs.

Ms. Heinzel stated that residents have approached her and asked about the Borough getting grants or pursuing a special assessment. Ms. Heinzel stated that there are residents who have complied and fixed their sidewalks at their own expense per the Borough's Ordinance. Ms. Heinzel stated that to be fair to the homeowners that have complied, the Borough needs to go forward with this plan. Ms. Heinzel stated that this process is motivated by safety, and not by simply wanting to make the sidewalks look nice.

Mr. Lawver made a motion that Borough Council move forward with the sidewalk plan as discussed specifically, that at the end of the grace period, summonses will be issued as per the Borough Ordinance, and that furthermore if repairs are still not made prior to March of 2010, the Borough will undertake the repairs and place a lien on the property to cover the costs. Ms. Kerr stated simply that Council resolves to follow the terms of the Ordinance. By voice, Borough Council agreed to the motion.

Personnel – Mr. Ogren stated that the Personnel Committee did not meet in February. Mr. Ogren stated that an appropriations bill that includes \$285,000 grant for the proposed extension of the Lawrence Hopewell Trail has been approved. Mr. Ogren stated that a year ago, Congressman Rush Holt's office solicited requests for line item appropriations and under that the Borough submitted a request for \$300,000. Mr. Ogren stated that in February 2008 he made a presentation to Council and following that meeting, he and Mayor Persichilli submitted the request. Mr. Ogren stated that presently the Senate is debating over amendments to the appropriations bill and hopefully there will be a final vote on the bill tomorrow. Mr. Ogren stated that he included two maps of the proposed trail in the Council packages. Mr. Ogren explained that this extension would bring the trail from the bridge up to the sewer treatment plants' driveway (section 2 on the map). Mr. Ogren stated that Bristol Myers Squibb is obligated to complete section one on the map.

Community Services – Ms. Chandler reported that the Parks and Recreation Commission has been discussing maintenance at Kunkel and Sked Street Parks in terms of meeting insurance requirements for playground mulch. Ms. Chandler stated that Parks and Recreation has been meeting with Public Works regarding removal of the cement building at Kunkel Park and moving the electric box. Ms. Chandler stated that they have also been working with Public Works regarding the American Flags on Main and Delaware. Ms. Chandler stated that the next event scheduled is the Family Swim on March 29th at the Pennington School. Ms. Chandler stated that they are still looking at concerts and a movie for the summer which will depend on the budget.

Public Safety – Mr. Tucker reported the following statistics for the month of February, 2009:

155	Motor Vehicle Stops
37	Warnings
19	Parking Summons
5	Motor Vehicle Reports
1	Juvenile Male Arrested

Mr. Tucker reported that Officer Frank Lynch is officially retired as of March 1, 2009. Mr. Tucker reported that the annual fire alarm testing of Borough Hall took place on February 20th and all went well. Mr. Tucker reported on various meetings and events attended by Public Safety Director, Bill Meytrott. Mr. Tucker stated that Joseph Maccaquano has been hired to replace Officer Lynch, he will begin working effective March 16th.

Mr. Tucker reported that Mr. Meytrott and Chief Meyer have met several times with reference to the Police Shared Services analysis, which is proceeding on schedule.

Mr. Tucker stated that the Public Safety Committee met on February 26th. Mr. Tucker reported that a Senior Officer will be elevated at the discretion of the Director to Acting Sergeant. Mr. Tucker reported that the Blackwell brothers on Brookside Avenue requested that there be no parking on the South side of Brookside Avenue for a short distance adjacent to the Blackwell property closest to Green Street. Mr. Tucker stated that the committee felt that this would not be a problem and recommended that an ordinance be drafted. Mr. Tucker stated that Burd Street was also discussed however the committee felt no action was necessary at this time; however statutory sign posting should be implemented and enforced. Mr. Tucker stated that the committee also discussed standing vehicles on Bixby's Way and Knowles Street for the period of time when parents arrive to pick up children from the Cambridge School, which restricts normal traffic flow and impedes emergency vehicles. Mr. Tucker stated that prior to restricting parking on Bixby's Way, Director Meytrott will contact the Director of the Cambridge School and request that he ask parents to not stop or park on the east side of Bixby's Way during pick up

time. Mr. Tucker stated that if this does not work, then no parking signs will be posted and strictly enforced. Mr. Tucker reported that the committee discussed street lighting with regard to a complaint of inadequate street lighting. Mr. Tucker stated that the committee felt that no action was needed at this time. Mr. Meytrott stated that just recently it was reported that a number of street lights are out, Public Service has been notified and their response has been that they are short of personnel and will get to it when they can.

Mr. Tucker reported that a noise complaint has come in from residents of Reading Street with regard to excess noise from the Hamilton Starz Cheerleaders who are meeting at the Pennington Industrial Park on Route 31, which is across the railroad tracks from Reading Street. Mr. Tucker stated that some of the residents have very young children and the noise is worst during the hours of 7 pm to 9 pm. Mr. Tucker stated that Pennington Police and Hopewell Township Police have been contacted and the Board of Health is working on the problem under the Noise Ordinances of both municipalities. Mr. Tucker stated that the Hamilton Starz are hoping to relocate to Hamilton Township soon.

Mr. Meytrott asked for official action to proceed with the hiring of Joseph Maccaquano, effective March 16th. Council Member Tucker made a motion to approve the hiring of Joseph Maccaquano effective March 16th, 2009 to replace Officer Frank Lynch, second by Council Member Chandler. Mr. Meytrott reviewed Mr. Maccaquano's qualifications. Upon a roll call vote all members present voted in favor of the motion.

Finance – Mr. Griffiths reported that the Finance Committee had their first meeting to begin the budget process. Mr. Griffiths reviewed anticipated revenues, highlighting a reduction in state aid, construction revenues and interest earned. Mr. Griffiths stated that there are some timely onetime offsets in expenses by way of personnel changes, however pension costs increased. Mr. Griffiths stated that the finance committee is seeking to hold taxes to a minimal increase given the economy. Mr. Griffiths stated that this will be very difficult and cuts may be required. Mr. Griffiths stated that the finance committee will continue to work on the budget over the next couple of months.

New Business

**Borough of Pennington
Resolution #2009-3.1**

RESOLUTION AUTHORIZING REFUNDS

BE IT RESOLVED, that a refund be made to American Home Mortgage Servicing, Inc. PO Box 13922, Durham, NC 27709-3922 for a refund of overpayment of 1st quarter 2009 tax in the amount of \$77.00 for Stephen Molinelli, Block 301 Lot 19.

BE IT RESOLVED, that a refund be made to American Home Mortgage Servicing, Inc. PO Box 13922, Durham, NC 27709-3922 for a refund of overpayment of 1st quarter 2009 tax in the amount of \$151.51 for Ann Devlin, Block 403 Lot 29.

BE IT RESOLVED, that a refund be made to American Home Mortgage Servicing Inc. PO Box 13922, Durham, NC 27709-3922 for a refund of overpayment of 1st quarter 2009 tax in the amount of \$117.68 for Jay D. & Meaghan Keough, Block 905 Lot 27.

BE IT RESOLVED, that a refund be made to John & Carolyn Apai, 23 Woolsey Court, Pennington, NJ 08534 for overpayment of 2009 taxes due to a Disabled Veteran exemption in the amount of \$1,566.52 for Block 102.02 Lot 2.

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 2009-3.1, second by Council Member Heinzel with all members present voting in favor.

**Borough of Pennington
Resolution #2009 – 3.2**

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 \$ 1,411,044.58 from the following accounts:

Current	\$ 1,269,306.40
W/S Operating	\$ 125,372.57
Grant Fund	\$ 1,564.07
Animal Control Fund	\$ 135.00
Developers' Escrow	\$ 5,502.73
COAH Trust Fund	\$ 9,163.81
TOTAL	\$ 1,411,044.58

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			

Council Member Chandler made a motion to approve Resolution 2009-3.2, second by Council Member Tucker. Council Members raised questions on specific bills on the bill list. Upon a roll call vote, all members present voted in favor.

**Borough of Pennington
Resolution #2009-3.3**

**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.

Municipal Clerk	Salaries	\$ 5,000.00
Police	Salaries	\$ 20,000.00
Recreation	Other Expense	\$ 3,000.00
Library	Salaries	\$ 7,500.00
Telephone	Other Expense	\$ 2,500.00
Interlocal – Recycling	Other Expense	\$ 5,000.00
Interlocal – Board of Health	Other Expense	\$ 32,318.00
Municipal Court	Other Expense	\$ 2,500.00
Total		\$ 77,818.00

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

Insurance – Workers Comp	Other Expense	\$ 11,538.35
Insurance – Liability and Other	Other Expense	\$ 4,242.29
Group Insurance – Active	Other Expense	\$ 20,000.00
Group Insurance – Retired	Other Expense	\$ 10,000.00
TOTAL		\$ 45,780.64

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	M				Ogren	X			
Heinzel	X				Tucker	S			

Council Member Griffiths made a motion to approve Resolution 2009-3.3, second by Council Member Tucker with all members present voting in favor.

**Borough of Pennington
Resolution #2009 – 3.4**

**A RESOLUTION AUTHORIZING CHANGE ORDER NO. 3
UNDER 2007 PUBLIC WORKS MAINTENANCE &
EMERGENCY SERVICES CONTRACT**

WHEREAS, the Borough Engineer has recommended that a change order be effected under the contract between the Borough of Pennington and Penn-Bower, Inc. known as the 2007 Public Works Maintenance & Emergency Services Contract;

WHEREAS, the change order is being initiated by the Engineer to (1) increase the quantity of existing contract items in the amount of \$1,141.03 to match the as-built quantities, (2) to increase the contract amount due to an error in the previous Change Order 2 in the amount \$9,000., and (3) to decrease the contract amount by \$45,690.73 because original contract quantities of items were not utilized in the project;

WHEREAS, the proposed change order would result in a net decrease in contract price in the amount of \$35,549.70;

WHEREAS, a copy of the proposed change order, designated Change Order No. 3, including itemization of the proposed increases and decreases, is attached;

WHEREAS, the proposed change order, payable from the State Department of Transportation funds awarded for the project, has been reviewed and approved by the State Department of Transportation;

WHEREAS, funds are available in Account No. W-06-00-553-000-250; and

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the aforesaid Change Order No. 3 decreasing the contract price in the net amount of \$35,549.70 is hereby approved.

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 2009-3.4, second by Council Member Chandler with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2009-3.5**

**RESOLUTION AUTHORIZING ADVERTISEMENT FOR
PUBLIC BIDS ON BURD STREET IMPROVEMENTS**

WHEREAS, the Borough of Pennington intends to construct improvements on Burd Street, funded in substantial part by a grant from the New Jersey Department of Transportation;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Borough Clerk is hereby authorized to advertise for public bids for the construction of improvements on Burd Street pursuant to plans and specifications for the project prepared by Van Note Harvey Associates and approved by the Borough Attorney in compliance with applicable law.

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 2009-3.5, second by Council Member Tucker. Ms. Kerr stated that Mr. Bliss suggested that language be added to the last line of the Resolution to read “and approved by the Borough Attorney” in compliance with applicable law. Ms. Kerr explained that this is being added because the specifications are not quite ready yet. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2009-3.6**

**RESOLUTION RECOMMENDING AMENDMENT TO N.J.S.A. 40:54-8 REGARDING TAX
LEVIES FOR FREE PUBLIC LIBRARIES**

Resolution 2009-3.6 was pulled from the agenda.

**BOROUGH OF PENNINGTON
RESOLUTION 2009-3.7**

**RESOLUTION REQUESTING THAT THE LEGISLATURE AMEND THE FAIR
HOUSING ACT TO PERMIT MUNICIPALITIES TO ESTABLISH AN
OCCUPANCY PREFERENCE FOR AFFORDABLE HOUSING UNITS**

WHEREAS, in *Southern Burlington County NAACP v. Township of Mount Laurel*, 67 N.J. 151 (1975) and *Southern Burlington County NAACP v. Township of Mount Laurel*, 92 N.J. 158 (1983), the New Jersey Supreme Court found that every growing and expanding municipality in the State has a constitutional obligation to provide its fair share of housing for low- and moderate-income families through its land use regulations; and

WHEREAS, the New Jersey Legislature codified this constitutional obligation in the Fair Housing Act, *N.J.S.A. 52:27D-301, et seq.* (“FHA”), which established the Council on Affordable Housing (“COAH”) as the administrative agency vested with primary jurisdiction for the administration of affordable housing; and

WHEREAS, the FHA authorizes COAH to promulgate regulations in order to assist municipalities with the facilitation of low- and moderate-income housing; and

WHEREAS, in 2008, COAH adopted regulations for the development of Third Round affordable housing units, which are set forth at *N.J.A.C. 5:96, et seq.* and *N.J.A.C. 5:97, et seq.*; and

WHEREAS, COAH has consistently reiterated the need for municipalities to provide affordable housing opportunities for local teachers, police officers, firefighters, emergency medical technicians and other municipal employees and volunteers, who often cannot afford to live in the communities in which they serve; and

WHEREAS, the current COAH regulations do not permit municipalities to provide income-eligible local residents, employees and volunteers with a preference for the occupancy of affordable housing units; and

WHEREAS, the Borough recognizes that its local volunteers, including firefighters and emergency medical technicians, support a local occupancy preference for affordable housing on the grounds that providing their fire, first aid and rescue volunteers (hereinafter “emergency volunteers”) with affordable housing in the Borough would strengthen their numbers and lead to an increase in volunteerism; and

WHEREAS, on January 13, 2009, Senator Raymond J. Lesniak and Senator Christopher “Kip” Bateman introduced Senate Bill No. 2485 (“S2485”), which, in part, would allow a municipality to reserve a maximum of 25 percent of its affordable housing units for persons of low- and moderate-income who live or work in the municipality or within a 10 mile radius of the municipality; and

WHEREAS, regardless of the outcome of the other provisions of S2485, some of which the Borough may take issue with, the Borough fully supports, on the merits, the provision of S2485 that establishes an occupancy preference for local residents and employees, as well as emergency volunteers; and

WHEREAS, the Borough supports the establishment of an occupancy preference for local residents, employees and emergency volunteers for the following reasons: (1) residency restrictions for municipal employment have created the need for many municipal employees to have access to affordable housing; (2) occupancy preferences for local residents, employees and emergency volunteers lead to “greener,” more environmentally-friendly municipalities; (3) it has become increasingly difficult for public sector employees and emergency volunteers, such as teachers, police officers, firefighters, emergency medical technicians and public works employees, to afford to live in the communities in which they serve, which has led to a decrease in public service and volunteerism; (4) municipalities become a safer and healthier environment for all residents when public sector employees and emergency volunteers reside in the communities in which they serve; (5) occupancy preferences for local employees and emergency volunteers would result in faster response times for those public sector employees and volunteers who are called upon to serve the community during times of inclement weather, emergency and disaster; (6) public sector employees and emergency volunteers who live in the community in which they serve are invested in their community’s growth and prosperity, which, in turn, results in higher productivity and morale among public sector employees and emergency volunteers; (7) a pool of local emergency volunteers is more cost effective for municipalities than paid public sector employees and to replace emergency volunteers with paid employees would significantly increase costs and expenses for municipalities; and (8) municipalities should be allowed to give a preference to local residents, employees and emergency volunteers when the current COAH regulations require municipalities to resolve that they will utilize local taxpayer funds, via the bonding process, to develop affordable housing should there be a shortfall of funds for the same; and

WHEREAS, the Fire Commissioners of the Borough of Pennington and the Township of Hopewell endorse this Resolution.

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

1. The Borough Council of the Borough of Pennington supports the provision of S2485 that establishes an occupancy preference for local residents and employees; and
2. The Borough Council urges the New Jersey Legislature to enact S2485 or other, similar legislation that would amend the Fair Housing Act, *N.J.S.A. 52:27D-301, et seq.*, to provide municipalities with the authority to establish an occupancy preference that allows no more than 25 percent of a municipality's affordable housing units to be made available for local residents and employees, as well as emergency volunteers.

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to Governor Jon Corzine, State Senator Shirley K. Turner, Assemblyman Reed Gusciora, Assemblywoman Bonnie Watson Coleman, Commissioner Joseph V. Doria, Jr., Department of Community Affairs, Lucy Vandenberg, Executive Director Council on Affordable Housing, William G. Dressel, Jr., Executive Director New Jersey State League of Municipalities, Hopewell Township and Hopewell Borough.

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	M				Tucker	S			

Council Member Heinzel made a motion to approve Resolution 2009-3.7, second by Council Member Tucker with all members present voting in favor.

**Borough of Pennington
Resolution #2009 -3.8**

**A RESOLUTION AUTHORIZING CHANGE ORDER NO. 2
UNDER THE BROOKSIDE AVENUE RECONSTRUCTION
CONTRACT WITH DESANTIS CONSTRUCTION, INC.**

WHEREAS, the Borough of Pennington has entered into a contract with DeSantis Construction, Inc. known as the Brookside Avenue Reconstruction Contract (VNHA #36713-500-52); and

WHEREAS, the Borough Engineer, Van Note Harvey Associates, P.C. has recommended a change order under this contract; and

WHEREAS, the proposed change order, payable from the State Department of Transportation funds awarded for the project, has been reviewed and approved by the State Department of Transportation; and

WHEREAS, the proposed change order would increase the contract price by \$800.00 to adjust the quantity of existing items to match the as-built quantities in connection with replacement of additional sidewalk directed by the Borough Engineer; and

WHEREAS, further detail on this change order is available for inspection in the Office of the Borough Clerk;

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the aforesaid change order increasing the contract price by a net amount of \$800.00 under the Brookside Avenue Reconstruction Contract 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			
Heinzel	X				Ogren	X			
Griffiths	X				Tucker	S			

Council Member Lawver made a motion to approve Resolution 2009-3.8, second by Council Member Tucker with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2009-3.9**

**A RESOLUTION OF SUPPORT FOR
THE IMPLEMENTATION OF CONCEPT #5, IMPROVEMENTS TO THE ROUTE 31
PENNINGTON CIRCLE**

WHEREAS, in response to numerous accidents involving head-on collisions and fatalities along the segment of Route 31 between the Pennington Circle and Interstate 95, Hopewell Township requested the New Jersey Department Of Transportation (Department) to improve the safety of the traveling public along this roadway segment; and

WHEREAS, for several years, the Department conducted engineering studies and held public meetings to discuss short and long term improvements that would help mitigate contributing factors to these accidents; and

WHEREAS, in 2006, the Department made a recommendation to eliminate left turns south of the Pennington Circle which was approved by Hopewell Township; and

WHEREAS, for the past 30 years the Department has studied various improvements to the Pennington Circle; and

WHEREAS, the Department has concluded its studies on the Pennington Circle and has determined that over 200 accidents occurred on the Circle or its approaches in the past 3 years and that the Pennington Circle ranks 98 out of 100 traffic circles in New Jersey requiring improvements or reconstruction to improve safety; and

WHEREAS, the Department has determined that curb line modifications, restriping and traffic island reconstruction and provision of a vehicular connection between Route 546 and the Shop-Rite property, as shown on "Concept #5", would improve the safety and efficiency at the Circle such that Levels of Service "C" would exist through the year 2027; and

WHEREAS, "Concept #5", as proposed, can be implemented with limited disruption to businesses, homeowners and the traveling public, and can be implemented in a very short time frame; and

WHEREAS, Hopewell Township Committee has endorsed Concept #5, finding that it will offer immediate and long term improvements to the safety of the traveling public in the Pennington Circle, and has recommended that this plan be implemented immediately;

NOW THEREFORE BE IT RESOLVED, by Borough Council of the Borough of Pennington, that Pennington joins in the endorsement of Concept #5 and in the recommendation by Hopewell Township Committee that this plan be implemented immediately.

Record of Council Vote on Passage

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

Council Member Ogren made a motion to approve Resolution 2009-3.9, second by Council Member Tucker. Mr. Ogren recommended the addition of language "and provision of a vehicular connection between Route 546 and the Shop-Rite property" be added to the sixth clause. Mr. Ogren stated that this is shown on the map and it is important to indicate it in the resolution because without the clause, Pennington residents going to the Shop-Rite would be unable to exit and go back North on Route 31 unless they went all the way to Denow Road to the jug handle. Mr. Ogren stated that a connection to Route 546 would allow Pennington residents to get back to the circle to head North on Route 31. Mayor Persichilli stated that there was extensive discussion of this recommendation and Mr. Pogorzelski of Hopewell Township has said that he did not see any problem with this, he has spoken to the parties and there should be no problem. Ms. Kerr stated that all of the "whereas" clauses refer to determinations made by the Department of Transportation and so this change can be made. Mr. Ogren stated that not only is it on the sketch, but he attended a meeting where this was also discussed. Upon a roll call vote, all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2009-3.10**

**RESOLUTION AUTHORIZING PARTICIPATION OF PENNINGTON BOROUGH IN THE
DEVELOPMENT OF THE MERCER COUNTY WASTEWATER MANAGEMENT PLAN**

WHEREAS, the New Jersey Department of Environmental Protection readopted the Water Quality Management Planning rules, NJAC 7:15, with amendments, repeals and new rules in May 2008 with an effective date of July 7, 2008 ("Rules"); and

WHEREAS, the Rules transfer primary responsibility for the development and updating of Wastewater Management Plans to New Jersey counties; and,

WHEREAS, the Rules require counties to submit a county-wide Wastewater Management Plan to the NJDEP; and,

WHEREAS, the Rules stipulate that failure to submit an updated Wastewater Management Plan may result in the withdrawal of all wastewater service area designations; and,

WHEREAS, the NJDEP has made funding available in the form of grants-in-aid to the counties for development of the Wastewater Management Plans; and,

WHEREAS, Mercer County accepted its role in water resource planning as the responsible wastewater management planning agency for its thirteen municipalities and will fund preparation of the Plan; and,

WHEREAS, the Plan will result in 1) a county-wide proposed sewer service area; 2) a determination of future wastewater demand and proposed infrastructure needed to support demand in both urban and non-urban municipalities; 3) an analysis of groundwater and treatment plan capacity to support future wastewater needs; and 4) determination of water supply quality and quantity including measures to ensure adequate water supply; and,

WHEREAS, municipalities have the option to participate as informed local representatives; and

WHEREAS, municipalities will participate in the quality control and assurance of data and to ensure consistency of the Plan with municipal growth plans and natural resource objectives and will not be required to make a monetary contribution to the development of the county-wide Wastewater Management Plan; and,

WHEREAS, municipalities will have continued access to data and information developed by the County for the Plan provided municipal data is supplied in an acceptable format to the County in accordance with the work program and schedule; and,

WHEREAS, the County will establish a mechanism for sharing data, information, and draft Plans to be used by the municipalities as desired; and,

WHEREAS, the Borough Council of the Borough of Pennington has concluded that it is appropriate, necessary and in the municipality's interest to fully participate in the development of the Mercer County Wastewater Management Plan through the full and active participation of the Municipal government,

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

1. The Borough of Pennington shall work with the County in the preparation of the Mercer County Wastewater Management Plan in accordance with a proposed work program and schedule issued by Mercer County.
2. The Borough of Pennington shall provide municipal data in an acceptable format to the County in accordance with the work program and schedule including any other documents as may be required; and,
3. The Borough of Pennington hereby designates the following people to act as authorized liaisons of Pennington Borough, to Mercer County in the development of the Mercer County Wastewater Management Plan:
 1. John V. Kantorek – Authorized Liaison
 2. Donald Fetzer – Authorized Liaison
 3. Pennington Borough Representative to SBRSA – Authorized Liaison

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 2009-3.10, second by Council Member Chandler. Mr. Dunworth stated that three names need to be filled in on the Resolution as authorized liaisons. Mr. Lawver stated that he proposed John Kantorek, Don Fetzer and Jeff Wittkop, however it seems that this should all fall on John Kantorek as the Borough has nothing to add. Mr. Ogren suggested putting "Pennington Borough Representative to SBRSA" as number three. Mr. Lawver stated that he is having a hard time finding a replacement for that position and he would hate to expand the scope of the job. After some discussion, Council decided to go with John Kantorek, Don Fetzer and Pennington's representative as the three authorized liaisons. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2009-3.11**

**RESOLUTION AUTHORIZING SHARED SERVICES AGREEMENT WITH HOPEWELL
TOWNSHIP FOR ADMINISTRATIVE SERVICES FOR
AFFORDABLE HOUSING PROGRAMS**

WHEREAS, the Borough of Pennington and the Township of Hopewell wish to provide administrative services for their Affordable Housing Programs through a Shared Services Agreement authorized by *N.J.S.A. 40A:65-1 et seq.*; and

WHEREAS, said Borough and Township have specified the affordable housing services to be provided with the Township's Administrative Agent serving as the Borough's Administrative Agent on a part-time basis and providing services required of an Administrative Agent as set forth in *N.J.A.C. 5:96-18.1*.

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

1. The Mayor and Clerk of the Borough of Pennington are hereby authorized and directed to enter into a Shared Services Agreement with the Township of Hopewell to provide Administrative Agent services to the Borough for the Borough's Affordable Housing Program. The nature and scope of services to be performed as required by *N.J.S.A. 40A:65-7* is as set forth in an Agreement between the Township and Borough.
2. A copy of said Agreement as required by *N.J.S.A. 40A:65-5(b)* is on file in the Office of the Borough Clerk and may be reviewed at said Office during regular office hours.
3. The aforementioned Agreement shall take effect upon the adoption of a reciprocal Resolution authorizing said Agreement by the Hopewell Township Committee.
4. A certified true copy of this Resolution shall be furnished by the Borough Clerk to the Clerk of the Township of Hopewell together with the aforementioned Agreement.
5. Should reciprocal Resolutions be adopted by the Borough and the Township and the above-referenced Agreement executed, a copy of said Agreement as required by *N.J.S.A. 40A:65-4(3)(b)* shall be filed by both Municipal Clerks with the New Jersey Department of Community Affairs, Division of Local Government Services, P.O. Box 803, Trenton, New Jersey 08625-0803.

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	M			
Heinzel	X				Tucker	X			

Council Member Ogren made a motion to approve resolution 2009-3.11, second by Council Member Chandler. Mr. Ogren asked for clarification of the agreement to ensure that this agreement covers the Accessory Apartment Program in total and not just the marketing aspect of the program. Upon a roll call vote, all members present voted in favor of the Resolution.

**BOROUGH OF PENNINGTON
RESOLUTION # 2009-3.12**

**A RESOLUTION AUTHORIZING THE FILING OF A
RECYCLING TONNAGE GRANT
FOR 2008**

WHEREAS, the Mandatory Source Separation and Recycling Act, P.L. 1987, c.102, has established a recycling fund from which tonnage grants may be made to municipalities in order to encourage local source separation and recycling programs; and

WHEREAS, it is the intent and the spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue and to expand existing programs; and

WHEREAS, the New Jersey Department of Environmental Protection has promulgated recycling regulations to implement the Mandatory Source Separation and Recycling Act; and

WHEREAS, the recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including, but not limited to, making and keeping accurate, verifiable records of materials collected and claimed by the municipality; and

WHEREAS, a resolution authorizing this municipality to apply for such tonnage grants for the calendar year 2007 will memorialize the commitment of this municipality to recycling and to indicate the assent of the Council of Pennington Borough to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations; and

WHEREAS, such a resolution should designate the individual authorized to ensure the application is properly completed and timely filed.

NOW, THEREFORE, BE IT RESOLVED by the Council of Pennington Borough that Pennington Borough, hereby, endorses the submission of the recycling tonnage grant application to the New Jersey Department of Environmental Protection and designates W. Jeffrey Wittkop to ensure that the application is properly filed.

BE IT FURTHER RESOLVED that the monies received from the recycling tonnage grant be deposited in a dedicated recycling trust fund to be used solely for the purposes of recycling.

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	S				Tucker	X			

Council Member Lawver made a motion to approve Resolution 2009-3.12, second by Council Member Heinzel. Mr. Lawver asked Mr. Wittkop if this would bring into question our certified recycling coordinator. Mr. Wittkop stated that he did not know for this year, but eventually it would, so this may be the last year that we can apply for this grant. Upon a roll call vote, all members present voted in favor.

**Borough of Pennington
Resolution #2009 – 3.13**

**RESOLUTION AUTHORIZING PAYMENT REQUEST NO. 8
TO PENN-BOWER, INC. FOR WORK COMPLETED
UNDER THE 2007 PUBLIC WORKS MAINTENANCE AND EMERGENCY SERVICES
CONTRACT**

WHEREAS, Penn-Bower, Inc. has completed work pursuant to the 2007 Public Works Maintenance and Emergency Services Contract (VNHA #37473-500-52) relating to Hale Street water service repair and Brookside Avenue sidewalk repair; and

WHEREAS, Van Note Harvey Associates, P.C., Borough Engineer, has reviewed and inspected the improvements that have been constructed and has approved payment under the contract pursuant to the contractor's Request for Payment No. 8 in the total amount of \$5,059.66;

WHEREAS, the aforesaid Request for Payment No. 8 includes an invoice for the water service repair and the sidewalk repair in the amount of \$2,002. together with a request for the release of all retainage under the contract in the amount of \$3,057.66;

WHEREAS, pursuant to Resolution 2009-3.4, Borough Council has approved a Change Order under this contract decreasing the contract price in the net amount of \$35,549.70;

WHEREAS, Van Note-Harvey Associates has recommended payment of Request for Payment No. 8 as the final payment under the 2007 Public Works Maintenance & Emergency Services Contract subject to delivery by Penn Bower, Inc. of all maintenance bonds required by the contract and approval of same by the Borough Engineer;

WHEREAS, funds are available in account # W-06-00-553-000-250;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that payment to Penn-Bower, Inc. in the amount of \$5,059.66, pursuant to Payment Request No. 8, is hereby authorized.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2009-3.13, second by Council Member Tucker with all members present voting in favor.

**Borough of Pennington
Resolution #2009 – 3.14**

**RESOLUTION AUTHORIZING AN INTERLOCAL AGREEMENT WITH
HOPEWELL TOWNSHIP TO PROVIDE
HEALTH SERVICES FOR 2009**

WHEREAS, the Borough of Pennington desires to contract with Hopewell Township for the provision of interlocal health services; and

WHEREAS, the Interlocal Services Act permits a local unit to enter into a contract with another government unit for the provision of a service which any party to the agreement is empowered to render; and

WHEREAS, the Interlocal agreement with Hopewell Township is to be completed to the satisfaction of the Borough Administrator and Borough Attorney, as well as to the satisfaction of Hopewell Township; and

WHEREAS, the cost to the Borough for the health services as outlined in the Interlocal agreement would be \$32,318, which represents a 4% increase over the previous year;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Mayor and Clerk are hereby authorized to execute the attached interlocal services agreement with Hopewell Township for the provision of health services as outlined in the agreement, subject to the approval by the Borough Attorney as to form.

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 2009-3.14, second by Council Member Griffiths with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2009-3.15**

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

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

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

WHEREAS, the formula for sharing responsibilities is in need of updating, to better reflect each municipality's pro-rata use of the Center;

WHEREAS, the three municipalities intend to enter into an interlocal services agreement for 2008, superceding prior agreements, by which Hopewell Township will continue to provide weekly cleaning services at the Center and pay to Pennington Borough the sum of \$4,160; Hopewell Borough will pay Pennington \$1,040 for the year; and Pennington will provide cleaning supplies for the building and be responsible for all maintenance to the outside of the building, snow and ice removal, HVAC maintenance, plumbing, painting and replacement of light bulbs;

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

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

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2009-3.15, second by Council Member Griffiths. Mr. Dunworth stated that the administrator of Hopewell Borough expressed concern with the increase of four percent on not just this interlocal agreement, but all interlocals, and that we are all part of the Hopewell Valley and should be looking at ways not to have these increases. Mr. Lawver stated that when he last sat down with Hopewell Township they balked at keeping increases to four percent. Mr. Lawver stated that no attempt was made to try for less than four percent. Upon a roll call vote all members present voted in favor.

Council Discussion

Liquor License – Mr. Lawver stated that at the last meeting he agreed to research and come up with a process for proceeding with sale of a liquor license. Mr. Lawver stated that he has met with the Economic Development Commission and Dave Brezinger of the Alcoholic Beverage Control Commission and after those conversations came up with a proposal. Mr. Lawver stated that he recommends beginning with an

open meeting for residents to introduce the idea and to discuss goals and objectives and he would suggest having that in May. Mr. Lawver stated that based on the feedback, assuming it is positive, Borough Council can proceed with working out the details. Mr. Lawver stated that he is not recommending that this be done by referendum, but instead by ordinance. Mr. Lawver stated that if a referendum fails, any attempt to revisit the issue, must be done through a referendum so this and any further Governing Bodies would be handcuffed on this issue. Mr. Lawver stated that in addition, if a referendum were to fail it would require a wait of five years before the issue could be addressed again. Mr. Lawver stated that the time line would then be introduction of an ordinance in October, Public Hearing and Vote in November, followed by a Resolution in the early part of next year for the issuance/sale of a license. Mr. Lawver stated that at this time he is recommending that the Borough proceed with a consumption license. Mr. Lawver stated that interest has been primarily in a consumption license and we can gain some experience before proceeding with a distribution license. Mr. Lawver stated that Mr. Brezinger did not think that the Borough could restrict the location to west of the railroad tracks as any restrictions placed have to be related to the operation of the business and not to the location of the business. Mr. Lawver stated that that there is also talk of the possibility of allowing the sale of beer and wine in grocery stores and if that were to happen the Pennington Market might be interested. Mr. Lawver asked how to proceed with the resident meeting, should it be a special meeting or included in the regular May meeting. Ms. Heinzl stated that she would like to see this discussed at a special meeting as that would highlight the importance of the issue. Mayor Persichilli stated that he would come up with a couple of dates to consider. Mayor Persichilli thanked Mr. Lawver for his report.

Administrator's Report

Definition of "Street Lines" – Mr. Dunworth stated that this emerged because of the intersection of Burd and Academy Streets. Mr. Dunworth stated that a discussion took place with Mr. Meytrott and Mr. Ogren with the issue being the definition of street lines and whether it is defined as the right of way line or the curb line. Mr. Dunworth asked Mr. Ogren to comment. Mr. Ogren stated that he thinks the present ordinance is vague and the interpretation by the Police Department is typical so in terms of law enforcement it is no longer an issue.

Meeting with School Superintendent on Budget – Mr. Dunworth stated that the Acting School Superintendent's office called to request a meeting with Borough Council. Mr. Dunworth stated they are meeting with each of the towns; however there is an issue of timing to schedule the meeting with the entire Council. Mr. Dunworth stated that as a result, Mayor Persichilli, Glen Griffiths and Joe Lawver will be meeting with Mr. Butler, Acting Superintendent on March 23rd, 2009.

Professional Reports

There were no further comments.

Public Comment Period

Mr. Joel Cermele of 322 Hale Street commented briefly on sidewalks and park fees. Mr. Cermele commended Borough Council on their hard work.

Closed Session

AT, 9:50 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:

Personnel – Acting Judge

AT, 10:01 PM, Mayor and Council returned to open session.

Council Member Griffiths made a motion to approve the February 2, 2009 Closed Session Minutes, second by Council Member Chandler with all members present voting in favor.

Borough of Pennington Resolution #2009-3.16

RESOLUTION AUTHORIZING COMPENSATION OF ACTING JUDGE

WHEREAS, Robert C. Billmeier has resigned as Judge of the Pennington Borough Municipal Court effective March 16, 2009;

WHEREAS, Judge James M. Newman has agreed to serve as Acting Judge of Pennington Borough Municipal Court effective March 16, 2009, pending appointment of a permanent person to complete the unexpired term of Judge Billmeier and pending notice to the Assignment Judge of the vicinage and to the Court Administrator;

WHEREAS, Borough Council seeks to compensate Judge Newman at the same rate as Judge Billmeier or \$865.00 per month, prorated from March 16, 2009;

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that payment of compensation to Acting Judge Newman shall be at the rate of \$865.00 per month prorated from March 16, 2009, for as long as Judge Newman serves as Acting Judge.

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	M				Ogren	X			
Heinzel	X				Tucker	S			

Council Member Griffiths made a motion to approve Resolution 2009-3.16, second by Council Member Tucker. Ms. Kerr indicated an addition to the second whereas clause “and pending notice to the assignment judge of the vicinage and to the Court Administrator;”. Upon a roll call vote, all members present voted in favor.

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