Pennington Borough Council
Regular Meeting – August 3, 2009

Mayor Persichilli called the Regular Meeting of the Borough Council to order at 7:00 pm. Borough Clerk Betty Sterling called the roll with Council Members Chandler, Griffiths, Heinzel, 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 and on the Borough Website according to the regulations of the Open Public Meetings Act.

Flag Salute

Mayor Persichilli asked everyone to stand for the Flag Salute.

Approval of Minutes

Council Member Tucker made a motion to approve the minutes of the Regular Meeting of July 6, 2009, second by Council Member Heinzel. Council Members Griffiths, Heinzel, Lawver and Tucker voted in favor of the minutes. Council Members Chandler and Ogren abstained.

Open to the Public – Agenda Items Only

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

There were no comments from the public on agenda items.

Mayor's Business

Mayor Persichilli stated that at the last meeting he announced that as a result of the Borough receiving a Safe Routes to Schools Grant for work to be done at intersections in front of the Pennington School and in front of the Tollgate School, he wrote a letter to both schools requesting assistance with the engineering costs related to the project. Mayor Persichilli stated that the Pennington School has agreed to contribute fifty percent of the engineering costs up to $14,000.

Mayor Persichilli stated that he will be meeting later next week with the Hopewell Valley Regional School Facilities Committee to present a plan for work in front of the Tollgate School and hopefully the School Board will be able to help with the engineering costs as well.

Mr. Ogren stated that there will be a meeting at Borough Hall on August 5th for members of the public to come out and hear a presentation on the Safe Routes to Schools project.

Mayor Persichilli stated that he received information on the Community Needs Assessment Survey that was conducted and he is seeking a representative from Council to attend a meeting to be held on August 13, 2009 at the Hopewell Train Station. Ms. Heinzel volunteered to attend.

Mayor Persichilli announced that as everyone knows there is and has been for quite a while, an issue with parking in the Borough parking lot. Mayor Persichilli stated that he approached Mr. Graeme McWhirter of the Pennington School with regard to adding additional parking spaces to the area behind the Borough Hall to be used by Borough employees only. Mayor Persichilli stated that Mr. Ogren drew up a sketch of the proposed spaces and Mr. McWhirter of the Pennington School was open to the idea. Mayor Persichilli stated that he received an e-mail from Mr. McWhirter indicating that he spoke to his engineers and it appears to be "doable". Mayor Persichilli explained that Mr. McWhirter does have to go before the Board of Trustees with the proposal to get their approval. Mayor Persichilli stated that the intention is to have either a paved or stoned area for Borough and Library employees to park which will open up about eight or ten spaces in the main parking lot which will hopefully help the local businesses. Mayor Persichilli stated that there is a drainage ditch that runs along the property which will need to be addressed so that no additional water drains onto the Pennington School field. Mayor Persichilli stated that he will keep Council informed as this moves along. Discussion took place with regard to paving the area or using stone. Mr. Ogren stated that paving would open up issues regarding storm drainage and runoff and most likely the surface would be crushed stone or asphalt chips which are available virtually for free. Mr. Wittkop stated that it would be difficult to plow if the area were not paved.

Mayor Persichilli announced the resignation of Bill Alexander from the Environmental Commission and the appointment of Harry Compton to fill the unexpired term of Mr. Alexander through December 31, 2009.

Ordinances for Public Hearing and Adoption

Mayor Persichilli read Ordinance 2009-9 by title.

BOROUGH OF PENNINGTON
ORDINANCE 2009-9

AN ORDINANCE DESIGNATING SOUTHBOUND BURD STREET A "STOP" STREET AT INGLESIDE AVENUE (COUNTY ROUTE 631), AND AMENDING CHAPTER 200 OF THE CODE OF THE BOROUGH OF PENNINGTON

WHEREAS, the Borough of Pennington has requested Mercer County to eliminate existing "Yield" control facing westbound Ingleside Avenue traffic and erecting "Stop" signs on southbound Burd Street where it intersects Ingleside Avenue (County Route 631);

WHEREAS, the County Engineer has determined that in the interest of safety and the expeditious flow of traffic, Burd Street should be designated the "Stop" street and the existing "Yield" control on eastbound Ingleside Avenue should be removed;

WHEREAS, the Mercer County Board of Chosen Freeholders has adopted Resolution 2009-220 designating Ingleside Avenue between Main Street (County Route 640) and New Jersey Route 31 a "through street", directing that the Yield signs facing westbound Ingleside traffic at Burd Street be removed and that Stop signs installed on the southbound Burd Street approach be installed, and these changes are in accordance with law;

WHEREAS, Article II of Chapter 200 of the Code of the Borough of Pennington ("Code") designate stop intersections and the location of stop signs in the Borough;

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

1. Article II of the Code at Section 200-6 is hereby amended to add to the intersections designated as stop intersections and the locations of stop signs the following:

Intersection	Stop Sign on
Ingleside Avenue and Burd Street	Burd Street (southbound)

2. This ordinance shall be effective upon adoption and publication as provided by law.

Council Member Tucker made a motion to open the Public Hearing on Ordinance 2009-9, second by Council Member Heinzel. There were no comments from the public. Council Member Tucker made a motion to close the Public Hearing on Ordinance 2009-9, second by Council Member Heinzel with all members present voting in favor. Council Member Tucker made a motion to adopt Ordinance 2009-9, second by Council Member Griffiths with all members present voting in favor.

Presentation

Mayor Persichilli invited Ms. Heidi Kahme of 12 Tanglewood Drive in Titusville to come forward to give her presentation on the Hopewell Valley Municipal Alliance. Ms. Kahme thanked Borough Council for allowing her to come and speak about the Municipal Alliance. Ms. Kahme stated that each year the Municipal Alliance requests a grant through Mercer County to support the programming that is brought to the Hopewell Valley. Ms. Kahme stated that part of the grant includes a cash match for which a resolution will come up later in the meeting. Ms. Kahme stated that the resolution authorizes the Mayor to sign the grant application on behalf of the Borough for an Interlocal Agreement between the three municipalities. Ms. Kahme stated that the 2010 contribution for Pennington Borough will be $1,400.00. Ms. Kahme gave a brief history of the Alliance and a brief outline of the programs that the Alliance runs so that Borough Council would have an idea as to where these funds are going. Ms. Kahme thanked Mayor Persichilli for bringing up the Community Needs Assessment and stated that she was glad that Ms. Heinzel would be attending the meeting on August 13th. Mayor Persichilli thanked Ms. Kahme for her presentation and stated that he and Mr. Meytrott have attended many Municipal Alliance meetings and there are a lot of good things going on through the Municipal Alliance. Mr. Meytrott stated that Hopewell Valleys Municipal Alliance has long been known as the most active Municipal Alliance in Mercer County.

Committee Reports

Planning & Zoning / Environmental Commission / Library – Ms. Heinzel reported that the Library Board did not officially meet during the month of July, however a small meeting took place to discuss the library's webpage design which has come to the forefront again. Ms. Heinzel stated that they have someone working through a grant to redesign the webpage. Ms. Heinzel stated that the new computers for the library will soon have new computer desks also through donations in memory of Nora Ducharme. Ms. Heinzel stated that the Library Children's Program ended at the end of July. Ms. Heinzel stated that there is one more program, a middle school book group scheduled for August 21st.

Ms. Heinzel stated that the Environmental Commission did not meet in July.

Ms. Heinzel stated that the Planning Board met on July 8th to hear an application from St. James Church to expand the church by 1757 square feet. Ms. Heinzel stated that the unused driveway will be replaced by four multipurpose classrooms. Ms. Heinzel stated that though she did not attend the meeting because she is a member of St. James Church, she heard some concerns regarding parking on Eglantine Avenue. Ms. Heinzel stated that she understands that the church is amenable to working with residents of Eglantine to ease parking problems on the street. Ms. Heinzel stated that the application was approved with no conditions with respect to parking or traffic flow, but there was an understanding that the church would work with residents on that issue.

Public Works / Economic Development – Mr. Lawver reported that the Economic Development Commission did not meet in July. Mr. Lawver stated that the "Welcome To Pennington" brochures are being printed in a limited quantity in the hopes that the Pennington Business and Professional Association will take this on as an ongoing project.

Mr. Lawver stated that the Burd Street project is near completion. Mr. Lawver commended the contractor for doing a fantastic job. Mr. Lawver stated that they were neat, they were clean and they were fast. Mr. Lawver stated that he was on the new portion of Burd Street during two downpours and there were no drainage problems. Mr. Lawver stated that in September, the contractor will return to do an additional segment of Burd Street provided the change order is approved.

Mr. Lawver stated that the next road project will be Lower King George Road. Mr. Lawver stated that he has received a quote from the engineer for the design and specification work of about $48,000.00. Mr. Lawver stated that additional work is being proposed in particular $9,000 in design and permitting for putting a load of rocks into the outfall on Lower King George Road. Mr. Lawver stated that during storms the outfall dumps into the creek and creates an erosion situation on the opposite side of the bank. Mr. Lawver stated that the fix is to put a load of rocks on the opposite bank, however to do that the DEP must give their approval, which will cost around $10 to $20,000 between permits, design and paperwork. Mr. Lawver stated that the Lower King George Road project cannot move forward without taking care of the outfall first. Mr. Lawver stated that he has also received a quote for design of the Safe Routes to Schools project of $29,000.00.

Mr. Lawver gave the following report for Water and Trash for the Month of July 2009:

PENNINGTON BOROUGH PUBLIC WORKS

TO: Joseph Lawver, Chairman
Public Works Committee

FROM: Jeff Wittkop, Superintendent

DATE: August 3, 2009

RE: COUNCIL REPORT FOR THE MONTH OF JULY 2009

WATER

Water pumped for the month of July 2009-	8,265,000
Daily-	266,000
Water pumped for the month of July 2008-	9,556,000
Daily-	308,200

For the month of July 2009 we averaged 42,000 gallons less per day than July 2008.

TRASH

73.31 tons of household trash for the month of July 2009 vs. 97.36 tons in July 2008

- Leaves should now be placed in bags without any other debris and left open.
- Fire hydrant flushing will be done August 18, 19 and 20.

Personnel – Mr. Ogren reported that the Personnel Committee did not meet in the last month, however he will come back to Council at the September Council Meeting with a discussion on Retiree Health Benefits. Mr. Ogren stated that the Personnel Committee has also looked into offering employees with dual health coverage, in other words an employee who is also covered under their spouses insurance, to eliminate Borough coverage with the savings to the Borough being split between the Borough and employee.

Mr. Ogren updated Council on the Pennington Extension of the Hopewell-Lawrence Trail. Mr. Ogren stated that he has submitted a formal request to the Federal Highway Administration for funding and Hopewell Township has engaged a civil engineer to do the preliminary design work on the project.

Community Services – Ms. Chandler stated that the Parks and Recreation Committee did not meet in July 2009.

Public Safety – Mr. Tucker recognized that as of today, the Borough Administrator has been here five years. Mr. Tucker also stated that the contractor did an excellent job on Burd Street.

Mr. Tucker reported that acquisition of a new vehicle to replace the 1999 Jeep has been put on hold pending release of 2010 New Jersey State Purchasing Bids and future discussions of hybrid type vehicles. Mr. Tucker stated that Director Meytrott assisted Princeton Borough Police Department in finding a replacement for their Chief of Police who passed away in May.

Mr. Tucker reported that the Police Department assisted with a fire at the corner of Ingleside and Main Street. Mr. Tucker reported that a new traffic pattern has been established on Burd Street at the intersection of Ingleside Avenue, the yield sign on Ingleside has been removed and a stop sign has been installed on Burd Street.

Mr. Tucker reported that Officer Burroughs graduated from EMT training on July 30th. Mr. Tucker stated that Officer Burroughs will be taking the New Jersey required tests to obtain his certification. Mr. Tucker stated that Officer Joe Maccaquano will be taking the EMT training in the Fall of this year.

Mr. Tucker gave the following statistics for the month of July 2009:

1	Theft
1	Fraudulent check
147	Motor Vehicle Stops
66	Warnings
1	DUI Summons
114	Motor Vehicle Summons Issued
4	Enforcement Arrests
1	Response to a Fire
12	First Aid Calls

Finance –Mr. Griffiths reported that the Finance Committee did not meet during the month of July 2009.

New Business

Borough of Pennington
Resolution #2009-8.1

RESOLUTION AUTHORIZING REFUNDS

BE IT RESOLVED, that a refund be issued to The Pennington School, c/o Graeme McWhirter, 112 West Delaware Avenue, Pennington, NJ 08534 for balance of account regarding, Becker Hall, Green Street in the amount of $ 500.00.

BE IT RESOLVED, that a refund be issued to Tracey Garito, 1 Gregory Drive, Hamilton, NJ 08690 in the amount of $ 976.62 for a refund for overpayment of escrow for Planning/Zoning Board application for property located on 10 North Main Street, Pennington, Block 205, Lot 23.

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	S				Tucker	X			

Council Member Chandler made a motion to approve Resolution 2009-8.1, second by Council Member Heinzel with all members present voting in favor.

Borough of Pennington
Resolution #2009 – 8.2

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 $1,612,258.68 from the following accounts:

Current	$ 1,473,176.89
W/S Operating	$ 126,884.33
Animal Control	$ 360.00

Developers' Escrow	$	2,641.48
Other Trust Fund	$	3,050.00
Grant Fund	$	841.48
Water/Sewer Capital	$	5,304.50
TOTAL	$	1,612,258.68

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	S				Tucker	X			

Council Member Chandler made a motion to approve Resolution 2009-8.2, second by Council Member Heinzel with all members present voting in favor.

BOROUGH OF PENNINGTON
RESOLUTION #2009 – 8.3

A RESOLUTION AUTHORIZING LICENSE AGREEMENT PERMITTING CERTAIN PLANTINGS IN THE PUBLIC RIGHT OF WAY

WHEREAS, William A. and Maria Burke Slover ("the Slovers") are the owners of the residential property known as 1 Academy Street in Pennington Borough, also known as Block 504, Lot 1 on the Pennington Borough Tax Map;

WHEREAS, the Slovers' property is bounded by Academy Street, Burd Street and Crawley Avenue and, as a result, has three front yards;

WHEREAS, the Slovers have been granted variances by the Pennington Borough Planning Board permitting construction of a shed within a front yard and the planting of shrubbery within a sight triangle on their property;

WHEREAS, the Slovers have installed arborvitae plantings at a height of approximately six feet within the right-of-way immediately adjacent to Academy and Burd Street;

WHEREAS, the Planning Board determined that allowing the arborvitae to remain at the present location is appropriate and still provides for safe sight distance at the intersection as presently configured and will not diminish sight distances once the intersection is reconfigured with a stop sign replacing the present yield sign as planned by the Borough;

WHEREAS, if the Borough does not replace the yield sign with a stop sign for vehicles approaching Burd Street on Academy Street within one (1) year from the date of the Board's approval, the Slovers (or their successors) must return to the Board to revisit the variance for the sight triangle;

WHEREAS, as a further condition of the Board's approval of the sight-triangle variance, the Slovers are required to enter into a license agreement with the Borough to allow the existing arborvitae to remain in the Borough's right-of-way;

WHEREAS, the proposed license agreement is attached providing, inter alia, that it shall be effective for only as long as the sight-triangle variance is effective;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Mayor of the Borough, with the attestation of the Borough Clerk, is hereby authorized to enter into and execute on behalf of the Borough the annexed License Agreement subject to such changes in further protection of the Borough as may be approved by the Borough Attorney and Borough Administrator.

Council Member Tucker made a motion to approve Resolution 2009-8.3, second by Council Member Heinzel. Mr. Ogren stated that he has reviewed the survey that was distributed and also visited the site and it appears that a motorist approaching Burd Street from Academy would actually have to be in the crosswalk to see beyond the shrubs. Mr. Ogren stated that the shrubs are already five feet high so they are already an effective visual screen. Mr. Ogren stated that this seems inconsistent with what Borough Council was trying to do with this intersection which was to improve pedestrian safety by making the crosswalk shorter. Mr. Ogren stated that he is unaware if Borough Council has ever approved putting a visual screen in the right of way and he would think that this would open the Borough up to potential liability for accidents. Mr. Ogren stated that it is one thing to approve putting the trees in the sight triangle and he would support that, but approving shrubs in the public right of way is going too far in this case. Mr. Ogren distributed a sketch that he had done proposing a different scenario for the shrubs. Ms. Heinzel stated that the sketch does indicate that a car would have to be in the crosswalk to see onto Burd Street. Ms. Chandler questioned why Council was spending time and money on this issue, when the solution would be for them to move the shrubs out of the right of way. Mr. Ogren suggested that the

shrubs be moved back out of the right of way, but still be allowed in the sight triangle. Mr. Ogren stated that would provide a good line of sight for the motorist stopped at Burd Street. Mr. Bliss stated that those are two separate decisions and the sight triangle is the Planning Boards decision, right of way is the Borough Council's decision. Mr. Bliss stated that some of the trees are in the sight triangle and some are in the public right of way. Mr. Bliss stated that the Planning Board would have to give approval for trees in the sight triangle. Mr. Lawver asked what would happen if Borough Council chose not to do the license agreement as there are other cases in Pennington where residents have put plantings in the public right of way and no action has been taken. Mr. Bliss stated that this agreement gets the Borough a "hold harmless agreement" and insurance. Mr. Bliss explained that what makes this situation unique is that the Planning Board approved the variance for planting trees in the sight triangle and made as a condition of the approval a license agreement by the Borough. Mr. Griffiths stated that his preliminary approval of the agreement was based on reports that traffic engineers had said that this was ok. Mr. Bliss explained that the ASHTO recommendation is based on the notion that there will be a stop sign at the intersection. Mr. Bliss stated that the Planning Board actually said that if in one year after the approval the stop sign is not in then the property owner has to reappear before the Planning Board. Mr. Griffiths stated that the way things are looking now, he is uncomfortable proceeding until the intersection is finished and there are photographs that document the line of sight. Mr. Griffiths stated that it appears that even the trees in the sight triangle should be moved back in order to visually clear the line of sight. Mr. Meytrott agreed and stated that he was not sure where the stop sign would be placed, but it does appear that cars would have to creep out into the intersection to see beyond the trees. Ms. Chandler asked why the Borough is spending time and money on this when the homeowner made a mistake in planting the trees there to begin with. Ms. Chandler stated that the homeowner should move the trees back and by having this discussion it is becoming the Boroughs problem. Mr. Meytrott explained that one of the other issues looked at was safety and prior to the redesign of the intersection, cars parked on Burd Street blocked more vision than the trees. After some discussion, Borough Council agreed to table Resolution 2009-8.3 until the September meeting to have a better feel for how the traffic and parking on Burd Street will be after the Pennington School is back in session. Council Member Ogren made a motion to table Resolution 2009-8.3, second by Council Member Griffiths.

Borough of Pennington
Resolution 2009-8.4

RESOLUTION TO AMEND THE 2009 ADOPTED BUDGET (CHAPTER 159)
SPECIAL ITEMS OF REVENUE AND APPROPRIATION FOR
ALCOHOL EDUCATION REHABILITATION ENFORCEMENT FUND

WHEREAS, NJSA 40A4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget, and

WHEREAS, said Director may also approve the insertion of an item of appropriation for an equal amount, and

WHEREAS, the Borough of Pennington has received $278.46 from the Alcohol Education Rehabilitation Enforcement Fund and wishes to amend its 2009 Budget to include a portion of this amount as revenue;

NOW THEREFORE BE IT RESOLVED, that the Borough Council of the Borough of Pennington hereby requests the Director of the Division of Local Government Services to approve the insertion of a special item of revenue in the budget of the year 2009 in the sum of $278.46, which is now available as revenue from:

Alcohol Education Rehabilitation Enforcement Fund, and

BE IT FURTHER RESOLVED that a like sum of $278.46 be and the same is hereby appropriated under the caption of:

Alcohol Education Rehabilitation Enforcement Fund

BE IT FURTHER RESOLVED that the Borough Clerk forward two copies of this resolution to the Director of Local Government Services.

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	S				Tucker	X			

Council Member Griffiths made a motion to approve Resolution 2009-8.4, second by Council Member Heinzel with all members present voting in favor.

Borough of Pennington
Resolution #2009-8.5

RESOLUTION APPROVING RAFFLE LICENSE RA:3-09 FOR THE HOPEWELL VALLEY CHORUS

WHEREAS, The Hopewell Valley Chorus submitted a raffle application on July 23rd, 2009 for a raffle to take place on the last Monday of December 2009, January 2010 and February 2010 and a copy of that application is attached to this resolution; and

WHEREAS, N.J.A.C. 13:47-4.1 et seq., requires seven (7) days to elapse before the Governing Body makes its findings and determinations; and

WHEREAS, the required waiting period is satisfied on August 2, 2009; and

WHEREAS, The Hopewell Valley Chorus meets the qualifications for issuance of a license for said raffle based on the findings and determination set forth in the annexed form 5-A, as required by law;

WHEREAS, The Hopewell Valley Chorus in accordance with law, will submit the required fees forthwith;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington that raffle license RA:3-09 for The Hopewell Valley Chorus be approved; and

BE IT FURTHER RESOLVED, that the Municipal Clerk will forward the annexed Findings and Determinations for RA:3-09 to the Legalized Games of Chance Control Commission in accordance with N.J.A.C. 13:47-4.1, et seq.

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	X				Tucker	M			

Council Member Tucker made a motion to approve Resolution 2009-8.5, second by Council Member Chandler with all members present voting in favor.

Borough of Pennington
Resolution #2009- 8.6

RESOLUTION PERMITTING MAINTENANCE OF A FENCE ON A PORTION OF BOROUGH DRAINAGE EASEMENT AT 400 READING STREET

WHEREAS, E. Brooke Shultis and Corissa Prevete ("Owners") are the owners of the single-family residential property known as 400 Reading Street in the Borough of Pennington, which is subject to a 20-foot wide drainage easement to the Borough of Pennington as described in Deed Book 2366 at Page 853;

WHEREAS, the Borough's drainage easement is located along the southerly boundary of the Owners' property and runs east to west, as shown on the annexed survey of the property by AVI Luzon Professional Land Surveyor dated July 24, 2009 ("Survey");

WHEREAS, Owners seek to maintain a fence which will encroach temporarily upon the Borough's easement for the purpose of preventing their dog from wandering from the yard;

WHEREAS, the proposed fence is a three-rail split-rail fence about four feet high, with wire mesh along the inside, and surrounds the side and back yards of the Owners' property as shown on the annexed survey;

WHEREAS, the fence has been constructed with a 10-foot wide gate at the front, closest to Reading Street, to permit access to the easement area as shown on the annexed survey;

WHEREAS, Owners' seek permission from the Borough to maintain the fence described above and to enter into an agreement to this effect;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Mayor is hereby authorized to enter into an agreement with E. Brooke Shultis and Corissa Prevete, permitting them to maintain the fence as aforesaid subject to the following conditions and promises:

1. Owners comply with Borough ordinances governing fences.

2. Owners agree that they will remove that portion of the fence encroaching upon the easement at any time the Borough so requests. The costs of such removal shall be borne solely by Owners. If Owners fail to promptly remove the encroaching fence upon request of the Borough, the Borough

may remove it and charge the reasonable cost of the removal to Owners. If the Borough requests that the fence be removed for any reason, the Borough shall not be required to replace the fence.

3. Owners agree that before they transfer ownership of the property known as 400 Reading Street, they shall remove that portion of the fence which encroaches upon the easement.

4. This Agreement between Owners and the Borough is not assignable or transferable by Owners. The Agreement does not run with the land and shall not be recorded.

5. Owners agree that they shall indemnify and hold harmless the Borough from any and all costs, claims and liabilities (including related attorneys' fees) arising out of the existence or location of the fence.

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 2009-8.6, second by Council Member Tucker with all members present voting in favor.

Borough of Pennington
Resolution #2009-8.7

RESOLUTION AUTHORIZING JOINT GRANT APPLICATION WITH HOPEWELL TOWNSHIP AND HOPEWELL BOROUGH FOR MUNICIPAL ALLIANCE FUNDING

WHEREAS, Hopewell Township, Hopewell Borough and Pennington Borough intend to file a joint application with the County of Mercer for funding of the Hopewell Valley Municipal Alliance for 2010;

WHEREAS, all three municipalities have annually executed agreements to participate in the Municipal Alliance Program and each year have jointly signed and submitted the grant renewal application; and

WHEREAS, each of the municipalities has agreed to provide a proportionate share of the required local contribution based on respective student enrollment in the Hopewell Valley school system;

WHEREAS, Pennington's proportionate share for 2010 is $1,400.00; and

WHEREAS, funds for this purpose will be available in Borough account #10-01-42-104-000-267, Interlocal Agreements;

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Mayor, with the attestation of the Clerk, is hereby authorized to execute the aforesaid application for funding and to take such additional steps as may be required to further the application, and all such actions taken by the Mayor and Clerk to date are hereby accepted and ratified.

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 2009-8.7, second by Council Member Tucker with all members present voting in favor.

BOROUGH OF PENNINGTON
RESOLUTION #2009-8.8

A RESOLUTION AUTHORIZING SHARED SERVICES AGREEMENT WITH THE BOARD OF FIRE COMMISSIONERS OF HOPEWELL TOWNSHIP FIRE DISTRICT NO. 1

WHEREAS, the Borough of Pennington ("Borough") is responsible for certain fire inspection services pursuant to the Uniform Fire Safety Act (N.J.S.A. 52:27D-195, et. seq.) (the "Fire Safety Act"); and

WHEREAS, pursuant to the Uniform Shared Services and Consolidation Act (N.J.S.A. 40A:65-1, et seq.) the Borough desires to contract with the Board of Fire Commissioners of Hopewell Township Fire District No. 1 (the "Board") for the provision of fire inspection services and other certain services required by the Fire Safety Act; and

WHEREAS, the Borough and the Board are both "local units" and the fire inspection services and other certain services required by the Fire Safety Act are "shared services" within the meaning of N.J.S.A. 40A:65-3;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Mayor of the Borough, with the attestation of the Borough Clerk, is hereby authorized to enter into and execute on behalf of the Borough a Shared Services Agreement providing for the aforesaid services in substantially the form annexed to this Resolution.

Record of Council Vote on Passage

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

Council Member Tucker made a motion to approve Resolution 2009-8.8, second by Council Member Heinzel with all members present voting in favor.

BOROUGH OF PENNINGTON
RESOLUTION #2009 – 8.9

A RESOLUTION AUTHORIZING RELEASE OF
REMAINDER OF PERFORMANCE GUARANTEE FOR HOWE COMMONS

WHEREAS, the developer of Howe Commons originally posted a Performance Guarantee covering certain improvements on the property in the amount of $227,048.64;

WHEREAS, by Resolution 2007-12.9 this Performance Guarantee was reduced to $68,114.59 pursuant to N.J.S.A. 40:55D-53, based upon partial completion of the work;

WHEREAS, the Borough Engineer has reported that the remainder of the work has been satisfactorily completed, that the as-built plans have been transmitted to the Department of Public Works, and that the remainder of the Performance Guarantee should be released by the Borough;

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that release of the remainder of the Performance Guarantee for Howe Commons is hereby authorized and 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			
Griffiths	X				Ogren	X			
Heinzel	X				Tucker	S			

Council Member Lawver made a motion to approve Resolution 2009-8.9, second by Council Member Tucker with all members present voting in favor.

Borough of Pennington
Resolution #2009-8.10

RESOLUTION AUTHORIZING CHANGE ORDER NO. 1
UNDER CONTRACT WITH MECO, INC. FOR
BURD STREET RECONSTRUCTION

WHEREAS, the Borough of Pennington has entered into a contract with Meco, Inc. for the project known as Burd Street Reconstruction (VNHA #38594-500-52);

WHEREAS, the Borough Engineer, Van Note Harvey Associates, P.C. has recommended a change order, designated Change Order no. 1 under this contract; and

WHEREAS, the proposed change order, payable from the State Department of Transportation funds awarded for the project, has been submitted to the State Department of Transportation for approval; and

WHEREAS, the proposed change order would increase the contract price by $32,951.00 to extend the limits of curbing and paving by 305 linear feet; and

WHEREAS, funds are available in Account No. G-02-44-939-000-255; 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 No. 1, producing an increase of contract price in the amount

of $32,951.00 under the contract for Burd Street, is hereby approved, subject to approval by the State Department of Transportation.

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	S			
Griffiths	X				Tucker	X			

Council Member Lawver made a motion to approve Resolution 2009-8.10, second by Council Member Ogren with all members present voting in favor.

Mr. Bliss asked for a closed session discussion of Resolution 2009-8.11, award of contract for Garbage Truck.

Council Discussion

Hopewell Valley Green Future Task Force – Ms. Heinzel stated that last week she met with Vanessa Sandom, Mayor of Hopewell Township, and Michelle Hovan of Hopewell Borough to discuss formation of the Hopewell Valley Green Future Task Force to be charged with guiding our Sustainable New Jersey work. Ms. Heinzel stated that discussion took place as to what tasks this group would be working on, primarily promoting education, and identifying energy alternatives for both the municipality and homeowners within the municipality, working to promote environmental education, recycling efforts and so forth. Ms. Heinzel stated that a discussion took place with regard to the benefits of working on this jointly as opposed to each municipality individually. Ms. Heinzel stated that the three municipalities would need to pass resolutions to form this task force. Ms. Heinzel stated that a liaison would be appointed from each governing body as well as an employee working on this project. Ms. Heinzel stated that there will also be interested residents on the task force, with the idea being four representatives from each municipality as well as a representative from the school district. Ms. Heinzel asked that a resolution be done for the September meeting.

Police Hybrid Vehicle – Mr. Dunworth stated that the 1999 Jeep needs to be replaced, funds have been budgeted and just recently the discussion of purchasing a hybrid vehicle resurfaced. Mr. Ogren stated that he spoke to Director Meytrott regarding a hybrid vehicle, the cost associated, types of vehicles etc and the bottom line is that a hybrid vehicle would cost more than a conventional police vehicle. Mr. Ogren stated that there is a State Grant Program that would allow the Borough to get a grant for the difference in cost between a conventional and a hybrid police vehicle. Mr. Ogren stated that this program is called the Local Government Greenhouse Gas Reduction Grant Program. Mr. Ogren stated that the process calls for a pre-application to be submitted by September 4th and if that is approved a final application to be submitted by December 11th. Mr. Ogren stated that he did not see a downside to submitting a pre-application providing that there is a vehicle available through State Contracts. Mr. Meytrott stated that a list of State Contracts for 2010 vehicles should be available soon. Mr. Meytrott stated that there all different types of vehicles that may become available shortly and so delaying another month will give the Borough more options to choose from. Discussion took place with regard to hybrids versus conventional vehicles and with regard to foreign versus domestic vehicles.

Mayor Persichilli recognized Eva Kaplan of Railroad Place who stated that she would like to suggest that the Borough consider purchasing a near zero emission vehicle. Mr. Meytrott stated that the Borough is limited in the type of vehicle because for liability reasons the vehicle has to be a police type vehicle.

Administrator's Report

Family Leave Insurance Law – Mr. Dunworth gave a basic overview of the Family Leave Insurance Law which became effective July 1, 2009. Mr. Dunworth stated that Council has information regarding this new legislation in their packets. Mr. Dunworth stated that deductions are made from employees only, there is no employer contribution, and a fund is set up similar to unemployment and disability. Mr. Dunworth stated that employees can then request to have time off for family issues such as caring for a sick family member, birth of a child etc. Mr. Dunworth stated that after a waiting period the employee would receive two-thirds of their salary for a maximum time frame. Mr. Dunworth stated that all employees in the State are required to pay into the fund. Mr. Dunworth stated that there is a provision in the law whereby employers can require that employees use up to two weeks of their sick/vacation bank prior to receiving this benefit. Mr. Dunworth stated that in order for the Borough to require this use of sick/vacation time, a resolution would be needed. Mr. Dunworth suggested that this issue be referred to the Personnel Committee for discussion.

Professional Reports

There were no reports from Professionals. .

Public Comment Period

Mayor Persichilli asked anyone wishing to speak to come forward and state their name and address for the record and to limit comments to a maximum of five minutes.

There were no comments from the public.

Closed Session

Mayor Persichilli read the following resolution to convene in Closed Session.

AT, 8:21 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:

Contract – Garbage Truck

AT, 8:31 PM, Mayor and Council returned to open session.

Council Member Tucker made a motion to approve the minutes of the April 6, 2009 Closed Session meeting for content but not for release second by Council Member Heinzel with all members present voting in favor.

Council Member Tucker made a motion to approve the minutes of the May 4, 2009 Closed Session meeting for content but not for release, second by Council Member Heinzel with all members present voting in favor.

Council Member Tucker made a motion to approve the minutes of the July 6, 2009 Closed Session meeting for content but not for release, second by Council Member Heinzel with all members present voting in favor with the exception of Council Members Chandler and Ogren who abstained.

At 8:32 PM, Council Member Tucker made a motion to adjourn the meeting, second by Council Member Griffiths.

Respectfully submitted,

Elizabeth Sterling
Borough Clerk