

**Pennington Borough Council
Regular Meeting – March 1, 2010**

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, Heinzl, Lawver, Ogren, and Tucker in attendance. Mr. Griffiths was in attendance, but was out of the room during the roll call.

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

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

Flag Salute

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 the following Proclamation.

Proclamation

Whereas the Hopewell Valley Chorus was founded by three Hopewell Borough residents in 1959; performed its first concert in 1960; and will celebrate 50 years of excellence in choral music and community spirit with a concert on May 23, 2010; and

Whereas in the past five decades, the Hopewell Valley Chorus has been a musical home to more than 700 non-auditioned members; and

Whereas the Hopewell Valley Chorus has performed in community events including the Hopewell Valley 9/11 commemoration, Memorial Day celebrations, the dedication of the Veterans' Park, Hopewell Harvest Fair, in assisted living centers, and, for eleven years has performed the National Anthem for Trenton Thunder audiences, and

Whereas The Hopewell Valley Chorus has awarded scholarships totaling nearly \$35,000 to 50 musically gifted students from Hopewell Valley Central High School and has given these students an opportunity to perform for the community; and

Whereas the Hopewell Valley Chorus has collaborated with other vocal groups including the Trenton Choral Society and the Trenton Children's Chorus, sharing the joy of music and community across Mercer County; and

Whereas since 2003, the Hopewell Valley Chorus has raised \$18,000 through its annual Spring Into Song concert, providing summer campships for 20 talented young singers from the Trenton Children's Chorus, who attended Summer Music Camp Albemarle at the American Boychoir School; and

Whereas Hopewell Valley Chorus programs are made possible in part by the New Jersey State Council on the Arts/Department of State, a Partner Agency of the National Endowment for the Arts, and by funds from the Mercer County Cultural and Heritage Commission; and

Whereas the Hopewell Valley Chorus was recognized in the *Times of Trenton* on Sunday, April 18, 2004 for "Embracing Community Spirit" in its partnership with the Trenton Children's Chorus as after-school tutors and musical mentors; and

Whereas The Hopewell Valley Chorus supports and features guest composers, instrumentalists and vocalists in performance; and

Whereas choral singing forms a bond among those lovers of music who sing together; and encourages community service through music,

Now, Therefore, I, Anthony Persichilli, Mayor of the Borough of Pennington, Pennington, NJ, do hereby proclaim May 2010 Hopewell Valley Chorus Month. Mayor Persichilli presented the Proclamation to Kate O'Neill and two other representatives from the Hopewell Valley Chorus. Ms. O'Neill thanked Mayor Persichilli and Borough Council and spoke a few words about the Hopewell Valley Chorus.

Mayor Persichilli announced the following resignations:

Ed Livernoche – Parks and Recreation
Kristen Higgins – Parks and Recreation

Mayor Persichilli announced the formation of an Ad Hoc Redevelopment Committee to research options for the landfill site. The members of the committee will be:

Anthony Persichilli
Joe Lawver
Tom Ogren
Harry Compton
Cosmo Iacavazzi
Rachel Torpey

Mayor's Appointments

Mayor Persichilli announced the following appointments:

Parks and Recreation

Steve Cusma – term beginning 1/1/2010 and ending 12/31/2010
Brett Margulis to fill an unexpired term ending 12/31/2011
Dina Dunn to fill an unexpired term ending 12/31/2011

Appointments with Council Approval

Board of Health

Debbie Gorczycki – reappointed to a term beginning 1/1/2010 and ending 12/31/2012

Library Board

Kathleen Mahle – 5 year term beginning 1/1/2010 and ending 12/31/2014

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

Ordinances for Introduction

Mayor Persichilli read Ordinance 2010-5 by title.

BOROUGH OF PENNINGTON ORDINANCE # 2010-5

ORDINANCE AMENDING CHAPTER 98 OF THE CODE OF THE BOROUGH OF PENNINGTON CONCERNING FEES

WHEREAS, Borough Council of the Borough of Pennington seeks to revise the fees charged for Borough services while also incorporating as many fees as practicable into Chapter 98 of the Borough Code, pertaining to fees;

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Pennington, that the Code of the Borough of Pennington ("Code") is hereby amended (with language to be deleted bracketed [] and new language underlined) as follows:

1. With respect to miscellaneous land use fees, Subsection D of Section 98-19 of the Code, is hereby amended to read:

"D. Certified list of property owners: .25 cents per name or \$10 whichever is greater."

2. Section 34-28 of the Code is amended to read:

"Pursuant to the provisions of N.J.S.A. 40:55D-12c, the Borough's designated representative shall within seven days after receipt of a request therefor, and upon receipt of payment of [**a fee of \$10**]

the fee required by Chapter 98 of this Code, make and certify a list from the current tax duplicate of names and addresses of owners to whom the applicant is required to give notice pursuant to Article III, sec. 34-27B, of this article.”

3. Chapter 98 of the Borough Code is hereby amended to add a new Article V pertaining to Dog and Cat Control fees, as follows:

98-26. Annual fees related to the licensing of a dog as provided in Section 67-2 of this Code are the following:

- A. License fee: \$15. per dog.
- B. Registration tag: \$1. per dog.
- C. Surcharge for Pilot Clinic Fund: \$.20 per dog.
- D. Fee for not neutering dog: \$3. per dog.
- E. Fee for late registration: \$3 per month or part thereof per dog.

98-27. The fee for a replacement tag as required by Section 67-4 of this Code is \$5.

98-28. Annual license fees for kennels and pet shops as provided in Section 67-11 of this Code are the following:

- A. Kennel providing accommodations for 10 or fewer dogs: \$100.
- B. Kennel providing accommodations for more than 10 dogs: \$250.
- C. Pet shop: \$250.
- D. Shelter or pound: \$0.

98-29. Annual fees related to the licensing of a cat and for lost license tag or sleeve as required by Section 67-21 of this Code are the following:

- A. License fee: \$10. per neutered cat; \$13 per non-neutered cat.
- B. Fee for late registration: \$3 per month or part thereof per cat.
- C. Fee for a replacement license tag or sleeve: \$5.

4. Section 67-2 of the Code is amended to read:

“A. The owner of any newly acquired dog of licensing age or of any dog which attains licensing age shall make application for license and registration tag for such dog within 10 business days after such acquisition o[~~f~~]r age attainment. Dog licenses shall be issued by the Borough Clerk upon payment of a license fee [~~tax of \$5.50~~] for each dog, plus a charge [~~of \$1~~] for each registration tag, plus a surcharge [~~of \$0.20~~] for a Pilot Clinic Fund as required by the State of New Jersey Department of Health to provide funding for a pilot low-cost spay/neuter clinic for dogs and cats. In addition to the above license fees, there shall be a payment [~~of \$3~~] required for any dog of reproductive age which has not had its reproductive capacity permanently altered through sterilization for an Animal Population Control Fund as required by the State of New Jersey Department of Health. The owner shall state at the time application is made for such license and upon printed forms provided for such purpose, his/her name, address and telephone number and the name, breed, color and sex of each dog owned or kept by him/her and shall present proof of compliance with all other ordinances and regulations relating to dogs. Dogs whose owners are nonresidents (temporarily within the Borough), dogs brought into the Borough for the purpose of participating in any dog show, dogs used as guides for blind persons and commonly known as “Seeing-eye” dogs, dogs used to assist handicapped persons and commonly known as “service dogs” or dogs used to assist deaf persons and commonly known as “hearing ear” dogs shall be licensed and registered as other dogs hereinabove provided for, except that the owner or keeper of such dog shall not be required to pay any fee therefor.

B. Licenses shall expire on December 31 and shall be renewed annually, subject to the same fees, charges and surcharges as for initial licensure.

[B] C. In addition to the license charge set forth in Subsection A above, the owner of any dog shall pay a late registration fee [~~of \$1 per month~~] for each month, or any portion thereof, for all licenses issued after February 1 of each year.”

D. The dollar amounts of all fees, charges and surcharges required by this section are set forth in Section 98-26 of this Code.

5. Chapter 98 of the Borough Code is hereby amended to add a new Article VI pertaining to Miscellaneous Non-Land Use Fees, as follows:

98-30. The following miscellaneous fees shall be collected as required by the applicable sections of this code:

A. Annual license fee for body art establishments, as required by Section 76-1 of this Code: \$500.

B. Peddler's permit, as required by Section 147-6 of this Code: \$100.

6. Subsection B of Section 76-1 of this Code is hereby amended to read:

“B. Body art establishment licenses shall be issued on an annual basis upon payment of an annual license fee as set forth in Chapter 98 of this Code [of \$250] and upon satisfactory compliance with the New Jersey State Sanitary Code.”

7. Section 147-6 of this Code is hereby amended to read:

“The amount of the required license fee is **[hereby fixed at \$10]** set forth in Article VI of Chapter 98 of this Code.

8. Chapter 98 of the Borough Code is hereby further amended by the creation of a new Article VII providing for Fees Pertaining to Environmental Health Programs, as follows:

“98-31. License fees and related charges for retail food establishments as provided in Section 112-1 of this Code shall be:

A. Retail food establishments at a permanent location that prepare food: \$120 per year or any part thereof.

B. Retail food establishments at a permanent location that sell only prepackaged food items: \$60 per year or any part thereof.

C. Retail food establishments owned by charitable and/or non-profit organizations: \$30 per year or any part thereof.

D. Establishments for temporary events and not licensed as permanent establishment: \$30 per event or any part thereof.

E. Plan review fee required for all retail food establishments except those owned by charitable and/or non-profit organizations: \$120.”

“98-32. License fees and related charges for food and beverage vending machines as provided in Section 112-2 of the Code shall be:

A. Vending machine permit fee, per machine: \$15.

9. Subsection A(4)(a) of Section 112-1 of the Code is hereby amended to read:

[1] For those establishments that prepare food: fee **[\$100]** per year or any part thereof provided in Chapter 98 of this Code.

[2] For those establishments which sell only prepackaged food items: fee **[\$50]** per year or any part thereof provided in Chapter 98 of this Code.

[3] For charitable and/or non-profit organizations: fee **[\$25]** per year or any part thereof provided in Chapter 98 of this Code.

[4] For those establishments that participate in temporary events and are not licensed as permanent establishments in Pennington Borough: fee **[\$25]** per event or any part thereof provided in Chapter 98 of this Code.

10. Subsection D of Section 112-1 of the Code is hereby amended to read:

“Menus and Floor and Equipment Plans shall be submitted and reviewed by the Health Department in conjunction with any new facilities, renovations, repair or alteration of all existing facilities and the issuance of any permits by the municipal construction office for said construction, renovation, repair or alteration. A plan review fee in the amount set forth in Chapter 98 of this Code [of \$100] is required for all retail food establishments.” [The plan review fee for charitable and/or non-profit organizations is waived.]

11. Subsection B of Section 112-2 of the Code is hereby amended to read:

“Permit fee per machine[.]; t[T]he fee per machine is **[\$10]** provided in Chapter 98 of this Code.”

12. Chapter 98 of the Borough Code is hereby further amended by the creation of a new Article VIII providing for Fees Pertaining to Use of Borough Parks, as follows:

“98-33. Fees for use of Borough parks as provided in Section 143-4 of this Code shall be:

- A. Permit for use of park by documented non-profit \$25.
- B. All Others \$50.

13. Subsection B of Section 143-4 of the Code is amended to read as follows:

“Permits shall be issued upon the payment of [a] the fee [of \$50] provided in Chapter 98 of this Code.”

14. Chapter 98 of the Borough Code is hereby further amended by the creation of a new Article IX providing for Fees Pertaining to Solid Waste Disposal, as follows:

“98-34. Fees for bulk household trash and additional non-bulk trash as required by Section 172-11 of this Code shall be:

- A. Bulk trash stickers: 1 sticker per 40 pounds @ \$3 each.
- B. Non-bulk trash pick-up in excess of two 30 gallon trash containers on any one collection day: 1 sticker per container @ \$3 each. No container may exceed 40 pounds.

98-35. Fees for trash pick-up for non-taxpayers who are adjacent property owners pursuant to Section 172-13 of this Code shall be:

- A. \$325 per year for two 30-gallon containers twice/week. No container may exceed 40 pounds.
- B. Bulk trash stickers and stickers for pick-up in excess of two 30-gallon containers on any one collection day: 1 sticker per 40 pounds of bulk items and 1 sticker per excess container @ \$3 each. No container may exceed 40 pounds.

15. Subsection F of Section 172-11 of the Code is hereby amended to read:

“The collection fee for bulk household trash or additional nonbulk trash (i.e. sticker prices) shall be as set forth in Chapter 98 of this Code **[determined by the Public Works Department on an annual basis and approved by the Borough Council as part of its budget process].**

16. Subsection B of Section 172-13 of the Code is hereby amended to read:

“The adjacent property owner shall pay the Borough for the collection of his/her solid waste. The fee for said collection is set forth in Chapter 98 of this Code **[shall be the yearly cost per dwelling for disposal of single-family dwelling solid waste as determined by the Public Works Department and approved by Borough Council as part of its annual budget process].**”

17. Chapter 98 of the Borough Code is hereby further amended by the creation of a new Article X providing for Fees Pertaining to Streets and Sidewalks, as follows:

“98-36. Computation of charges for the costs incurred by the Borough for removal and remediation of snow and ice on sidewalks pursuant to Section 177-3 of this Code shall be based on the following rates:

A. Equipment hourly rates, including the time required to mobilize and demobilize from the site, shall be as follows:

- (1) Snow blower: \$25.00.
- (2) Service truck: \$75.00.
- (3) Dump truck: \$100.00.
- (4) Deicer: cost plus 15%.

B. Labor hourly rates, including the time required to mobilize and demobilize from the site, shall be as follows:

- (1) Foreman: \$85.00.
- (2) Operator: \$75.00.
- (3) Laborer: \$65.00.

C. For overtime (OT), a multiplier will be applied to labor rates equal to the highest applicable multiplier from the following:

- (1) Work before 7:30 a.m.: 1.5.
- (2) Work after 3:30 p.m.: 1.5.
- (3) Work on Saturday: 1.5.
- (4) Work on Sunday: 2.0.
- (5) Work on Borough-recognized holidays: 2.0.
- (6) Continuous work in excess of 12 hours.

98-37. Payments for road-opening permits pursuant to Sections 177-7 of this Code shall be made according to the following schedule:

<u>Type of Pavement</u>	<u>Fee Per Square Yard</u>	<u>Minimum Payment (less than 3 sq. yds)</u>	<u>Minimum Payment (3 or more sq. yds)</u>
<u>Stone block pavement, broken stone base</u>	\$7.00	\$50.	\$100.
<u>Granite pavement, concrete base</u>	\$10.00	\$50.	\$100.
<u>Concrete pavement</u>	\$4.50	\$50.	\$100.
<u>Bituminous pavement, concrete base</u>	\$6.50	\$50.	\$100.
<u>Bituminous pavement, broken stone base</u>	\$6.00	\$50.	\$100.
<u>Brick pavement, with portland cement, concrete or bituminous concrete base</u>	\$8.00	\$50.	\$100.
<u>Penetration macadem, stone base</u>	\$3.00	\$50.	\$100.
<u>Asphalt block pavement, concrete base</u>	\$8.50	\$50.	\$100.
<u>Macadem pavement, with or without surface treatment</u>	\$2.00	\$50.	\$100.
<u>Earth shoulder</u>	\$0.50	\$50.	\$100.

98-38. Fees for storage of materials pursuant to Section 177-15 of this Code shall be as follows:

- A. Storage permit for first 15 days: \$50.
- B. Storage permit for each day in excess of 15 days: \$10.

18. Section 177-3 of the Code shall be amended as follows:

“The cost paid and incurred by the Borough for removing such snow and ice from the 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 reasonable, shall cause such costs to be charged against the abutting lands. 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. Computation of charges shall be based on the rates set forth in Chapter 98 of this Code. **[following rates:**

A. Equipment hourly rates, including the time required to mobilize and demobilize from the site, shall be as follows:

- (1) Snow blower: \$25.00**
- (2) Service truck: \$60.80**
- (3) Dump truck: \$60.80**

(4) Deicer: cost.

B. Labor hourly rates, including the time required to mobilize and demobilize from the site, shall be as follows:

- (1) Foreman: \$81.15
- (2) Operator: \$59.30
- (3) Laborer: \$59.30

C. For overtime (OT), a multiplier will be applied to labor rates equal to the highest applicable multiplier from the following:

- (1) Work before 7:30 a.m.: 1.5.
- (2) Work after 3:30 p.m.: 1.5.
- (3) Work on Saturday: 1.5.
- (4) Work on Sunday: 2.0.
- (5) Work on Borough-recognized holidays: 2.0.
- (6) Continuous work in excess of 12 hours.]”

19. Section 177-7 of this Code shall be amended to read:

“No permit will be granted under this article in excess of 15 yards unless first approved by the Mayor and Council. Payments for all permits whether or not in excess of 15 yards must be made according to the [following] applicable schedule in Chapter 98 of this Code. [:]”

[Type of Pavement	Fee Per Square Yard	Minimum Payment
Stone block pavement, broken stone base	\$7.00	\$25
Granite pavement, concrete base	\$10.00	\$50
Concrete pavement	\$4.50	\$25
Bituminous pavement, concrete base	\$6.50	\$50
Bituminous pavement, broken stone base	\$6.00	\$25
Brick pavement, with portland cement, concrete or bituminous concrete base	\$8.00	\$50
Penetration macadem, stone base	\$3.00	\$25
Asphalt block pavement, concrete base	\$8.50	\$50
Macadem pavement, with or without surface treatment	\$2.00	\$18
Earth shoulder	\$0.50	\$3
Storage permit for first 15 days	–	\$5]

20. Section 177-15 of the Code is hereby amended as follows:

“It shall be unlawful for any person, firm, corporation or municipality to store any materials on the right of way of any road or street in the Borough of Pennington (for the maintenance of which the Pennington Borough Council is responsible), for any purpose whatsoever without a written permit first had and obtained as hereinafter provided. The charge for such permit is set forth in Chapter 98 of this Code [shall be \$5 for the first 15 days and \$1 per day for each and every day thereafter].”

21. Chapter 98 of the Borough Code is hereby further amended by the creation of a new Article XI containing Fees pertaining to Fire Prevention:

“98-39. The following fees are authorized by the Uniform Fire Safety Code (P.L. 1983, c. 383; N.J.S.A. 52:27D-192 et seq.) and N.J.A.C. 5:70:2.9(c) pursuant to Section 104-6 of this Code:

A. Life-hazard uses.

- (1) Type 1 permit: \$35.
- (2) Type 2 permit: \$138.
- (3) Type 3 permit: \$276.
- (4) Type 4 permit: \$414.
- (5) Type 5 permit: (Reserved)

B. Industrial and commercial uses.

(1) Fees for industrial and commercial uses not classified as life-hazard uses by the Uniform Fire Code shall be as follows:

<u>Gross Floor Area</u> <u>(square feet)</u>	<u>Fee</u>
<u>Under 1,000</u>	<u>\$25</u>
<u>1,001-5,999</u>	<u>\$50</u>
<u>6,000-9,999</u>	<u>\$75</u>
<u>10,000 or above</u>	<u>\$100</u>

(2) The payment of the above fees shall be the responsibility of the occupant of the premises.

C. Multiple-family dwellings.

(1) Fees for multi-family dwellings shall be as follows:

- (a) Three to five units: \$15.
- (b) Six to 25 units: \$50.
- (c) Twenty-five units and above: \$200.

(2) The payment of the above fees shall be the responsibility of the owner of the premises.

98-40. The fee for a certificate of compliance concerning required alarms, pursuant to Section 104-12 of this Code, shall be \$35.

22. Section 104-6 of the Code is hereby amended as follows:

“The [following] fees [are] authorized by the Uniform Fire Safety Code (P.L. 1983, c. 383; N.J.S.A. 52:27D-192 et seq.) and N.J.A.C. 5:70:2.9(c) [:] are set forth in Chapter 98 of this Code. The payment of required fees for life-hazard uses and other industrial and commercial uses shall be the responsibility of the occupant of the premises. The payment of fees required for multi-family dwellings shall be the responsibility of the owner of the premises. The above-described fees shall be paid by the responsible party on or before the date specified in the notice served upon said party by the Fire Official, which date shall be at least 30 days from the date of the notice.

[A. Life-hazard uses.

- (1) Type 1 permit: \$35.**
- (2) Type 2 permit: \$138.**
- (3) Type 3 permit: \$276.**
- (4) Type 4 permit: \$414.**
- (5) Type 5 permit: (Reserved)**

B. Industrial and commercial uses.

(1) Fees for industrial and commercial uses not classified as life-hazard uses by the Uniform Fire Code shall be as follows:

Gross Floor Area (square feet)	Fee
Under 1,000	\$25
1,001-5,999	\$50
6,000-9,999	\$75

10,000 or above

\$100

(2) The payment of the above fees shall be the responsibility of the occupant of the premises.

C. Multiple-family dwellings.

(1) The payment of the fees below shall be the responsibility of the owner of the premises:

- (a) Three to five units: \$15.
- (b) Six to 25 units: \$50.
- (c) Twenty-five units and above: \$200.

(2) The above-described fees shall be paid by the party as designated above on or before the date specified in the notice served upon said party by the Fire Official, which date shall be at least 30 days from the date of the notice.]

23. Section 104-12 of the Code is hereby amended as follows:

“In any case of change of occupancy of a structure subject to the requirements of Sec. 104-11, no owner shall sell, lease or otherwise permit occupancy of such structure for residential purposes [of **such structure**] without first obtaining a certificate of compliance. An application for the certificate of compliance shall be made by the owner to the local Fire Official on such forms as may be provided by said official and shall pay a fee [of \$35] at the time of filing the application as set forth in Chapter 98 of this Code. The local Fire Official shall promptly make an inspection of the structure to determine that the structure is equipped with the required alarm devices and , if the structure is so equipped, shall immediately issue the certificate of compliance.”

24. Chapter 98 of the Borough Code is hereby further amended by the creation of a new Article XII containing Fees pertaining to Water and Sewer Usage:

98-41. The quarterly base and usage charges for water and sewer customers pursuant to Section 206-1 of the Borough Code are the following:

A. Quarterly charges for water customers (per increments of one-thousand gallons or portion thereof):

<u>Usage Meter Size (inches)</u>	<u>Base Charge</u>	<u>First Excess Usage Block Charge</u>	<u>Second Excess Usage Block Charge</u>	<u>Third Excess Usage Block Charge</u>	<u>Fourth Excess Usage Block Charge</u>
	<u>4,000 Gallons or Less</u>	<u>4,001- 20,000 Gallons (per 1,000 gallons)</u>	<u>20,001- 60,000 Gallons (per 1,000 gallons)</u>	<u>60,001- 200,000 Gallons (per 1,000 gallons)</u>	<u>More than 200,000 Gallons (per 1,000 gallons)</u>
Less than 1	\$26.87	\$6.24	\$6.43	\$6.61	\$7.30
1	\$41.01	\$6.24	\$6.43	\$6.61	\$7.30
2	\$116.55	\$6.24	\$6.43	\$6.61	\$7.30
3	\$261.44	\$6.24	\$6.43	\$6.61	\$7.30
4	\$384.20	\$6.24	\$6.43	\$6.61	\$7.30
6	\$717.91	\$6.24	\$6.43	\$6.61	\$7.30

B. Quarterly charges for sewer customers (per increments of one-thousand gallons or portion thereof):

<u>Usage Meter Size (inches)</u>	<u>Base Charge</u>	<u>First Excess Usage Block Charge</u>	<u>Second Excess Usage Block Charge</u>	<u>Third Excess Usage Block Charge</u>	<u>Fourth Excess Usage Block Charge</u>
	4,000	4,001-	20,001-	60,001-	More than
	Gallons or	20,000	60,000	200,000	200,000
	Less	Gallons	Gallons	Gallons	Gallons
		(per 1,000 gallons)	(per 1,000 gallons)	(per 1,000 gallons)	(per 1,000 gallons)
All sizes	\$29.54	\$6.65	\$6.73	\$6.82	\$6.92
	per 1,000	per 1,000	per 1,000	per 1,000	per 1,000
	gallons	gallons	gallons	gallons	gallons

C. The minimum quarterly base charge for multiunit residential or multiunit commercial or a combination thereof serviced through a single water meter shall be determined by the product of the number of units by the minimum quarterly base charge of a one-inch meter, regardless of the size of the meter(s) that feeds the units.

D. Sewage or other wastes containing unduly high concentrations of other substances which add to the operating costs of the sewage treatment works will be subject to a surcharge to be determined by the borough on the basis of the character and volume for such sewage and wastes. Where, in the opinion of the borough, sewage and other wastes of a deleterious character adversely affect the treatment processes, the borough reserves the right to require that such sewage and wastes be treated by the contributor to remove or neutralize the objectionable substances before discharge into the sewers.

E. Base and usage charges shall be due on March 1, June 1, September 1 and December 1.

F. Premises introducing water into a permanent private pool may be allowed a reduction in the charge of sewer usage in an amount equal to the volume of water introduced into the pool. This will require the installation and rental of a temporary meter in conformance with the Borough Code.

98-42. Quarterly standby fees for private fire-protection systems pursuant to Section 206-2 of this Code are as follows:

A. Quarterly standby fees for private fire-protection systems regardless of the rate or quantity of that service:

<u>Size of Private Lines (inches)</u>	<u>Fee (per connection)</u>
<u>2</u>	<u>\$119</u>
<u>4</u>	<u>\$439</u>
<u>6</u>	<u>\$907</u>
<u>8</u>	<u>\$1,545</u>

B. Customers who are late in making payment of the standby fee will be given notice as to their deficiency in payment, and a copy of this notice shall be sent to the customer's insurance carrier.

C. Standby fees shall be due on March 1, June 1, September 1 and December 1.

98-43. Connection fees pursuant to Section 206-3 of this Code are as follows:

A. Standard connection fees:

- (1) Standard water connection is \$1,400.
- (2) Standard sewer connection fee is \$2,400.

B. Connection fees shall be paid by all persons connecting to the water and/or sewer system, based upon the product of the connection fee multiplied by the number of equivalent dwelling units, as determined and/or approved by the Superintendent of Public Works, or designated representative.

C. Any change in use or increase in the same use of any existing property or facility shall be subject to review and reevaluation of the water and sewer connection service and the number of equivalent dwelling units assigned to the project. Any increase in the number of equivalent dwelling units shall subject the applicant to additional connection fees.

D. Connection fees shall be due prior to the installation of the physical connection.

98-44. Tapping fees pursuant to Section 206-4 of the Code are the following:

A. Water tapping fees.

(1) Water Type 1 (full service - full width) (30 feet or more): \$2,807. Full service includes all inspection, excavation, bedding, backfill, pavement restoration, parts, equipment and labor to install a complete service connection to the curb stop located just beyond the curblines. Service connections exceeding 60 feet or located within county roads will be assessed additional fees on a case-specific basis.

(2) Water Type 2 (full service - half width): \$2,400. Full service includes all inspection, excavation, bedding, backfill, pavement restoration, parts, equipment and labor to install a complete service connection to the curb stop located just beyond the curblines. Service connections located within county roads will be assessed additional fees on a case-specific basis.

(3) Water Type 3 (cut-in service): \$800. Cut-in service includes only the physical tapping of the water main, including the corporation stop, equipment and labor. The applicant's plumber provides for the remainder of the service connection. Road opening and inspection fees apply.

Note: Taps one inch and smaller must be performed by the borough. Taps greater than one inch must be performed by the applicant's plumber.

B. Sewer tapping fees.

(1) Water Type 1 (full service - full width) (30 feet or more): \$2,400. Full service includes all inspection, excavation, bedding, backfill, pavement restoration, parts, equipment and labor to install a complete lateral connection to the cleanout located just beyond the curblines. Lateral connections exceeding 60 feet or located within county roads will be assessed additional fees on a case-specific basis.

(2) Water Type 2 (full service - half width): \$1,900. Full service includes all inspection, excavation, bedding, backfill, pavement, connection restoration, parts, equipment and labor to install a complete lateral connection to the cleanout located just beyond the curblines. Lateral connections located within county roads will be assessed additional fees on a case-specific basis.

(3) Water Type 3 (cut-in service): \$800. Cut-in service includes only the physical tapping of the sewer main, including the tee saddle, equipment and labor. The applicant's plumber provides for the remainder of the lateral connection. Road opening and inspection fees apply.

Note: Lateral taps greater than four inches must be performed by the applicant's plumber.

D. Tapping fees shall be due prior to the physical connection.

98-45. Meter fees charged pursuant to Section 206-5 of the Code are as follows:

A. Meters one inch or less in size shall be purchased from the borough. Meters greater than one inch are provided by the applicant and must be approved by the Superintendent of Public Works or designated representative.

<u>Cost</u>	<u>Meter Size (inches)</u>
<u>120.00</u>	<u>5/8 and 3/4</u>
<u>\$220.00</u>	<u>one (1)</u>

B. Meter fees are due at the time of delivery of the meter.

98-46. Inspection and field service fees pursuant to Section 206-6 of the Code are as follows:

A. Inspection fees are:

- (1) Service connections: \$160.
- (2) Lateral connections: \$160.
- (3) Certified construction cost, off-site improvements (escrow): 7.8%

B. Equipment hourly rates are as follows:

- (1) Backhoe: \$120.00.
- (2) Service truck: \$75.00.
- (3) Dump truck: \$100.00.
- (4) Parts: 172%

Note: Includes the time required to mobilize to and demobilize from the site.

C. Labor hourly rates:

(1) Base hourly rates are as follows:

- (a) Foreman: \$85.00.
- (b) Operator: \$75.00.
- (c) Laborer: \$65.00.

Note: Includes the time required to mobilize and demobilize from the site.

(2) Overtime (OT) hourly rates are determined by applying the following multipliers to the base labor rates:

- (a) Work before 7:30 a.m.: 1.5.
- (b) Work after 3:30 p.m.: 1.5.
- (c) Work on Saturday and Sunday: 1.5.
- (d) Work on borough-recognized holidays: 2.0.
- (e) Continuous work in excess of 12 hours: 2.0.

D. Line stopping fees are as follows:

- (1) Nondisruptive or minor disruptive: \$250.
- (2) Major disruptive: \$1,200.

E. Temporary meter charges are as follows:

- (1) Meter installations: \$75.00.
- (2) Rental (two week maximum): \$50.00.
- (3) Removal and recording: \$75.00.
- (4) Special billing: \$25.00.

98-47. Administrative fees pursuant to Section 206-7 of the Code shall be charged as follows:

- A. Interest will be charged at the same rate as the interest on tax bills.

B. Returned checks: \$20.00 .

C. Account closeout (shutoff): \$[57]65.

D. Account setup (turn-on): \$[26]30.

E. Non-quarterly or additional meter readings: \$[52]60. (On non-quarterly billings, if the reading is requested due to an actual error by the Borough, the fee will be waived.)

F. House Inspections: \$60.

98-48. Application and review fees pursuant to Section 206-8 of the Code are the following:

A. Per EDU for first EDU: \$15.60.

B. Per EDU for subsequent EDU: \$78.

C. Request for availability of service: \$62.40.

D. Certified construction cost, off-site improvements (escrow): 3.2%

98-49. Fees for inspections on sale of property pursuant to Section 206-15 of the Code are as follows:

A. Fee for inspection with required 10-day notice: \$30.

B. Fee for inspection without required 10-day notice: \$60.

25. Section 206-1 of the Code is hereby amended as follows:

A. There are hereby established [**the following**] quarterly charges for water customers as set forth in Chapter 98 of this Code, as may be amended from time to time. [:

Usage Meter Size (inches)	Base Charge	First Excess Usage Block Charge	Second Excess Usage Block Charge	Third Excess Usage Block Charge	Fourth Excess Usage Block Charge
	4,000 Gallons or Less	4,001-20,000 Gallons (per 1,000 gallons)	20,001-60,000 Gallons (per 1,000 gallons)	60,001-200,000 Gallons (per 1,000 gallons)	More than 200,000 Gallons (per 1,000 gallons)
Less than 1	\$26.87	\$6.24	\$6.43	\$6.61	\$7.30
1	\$41.01	\$6.24	\$6.43	\$6.61	\$7.30
2	\$116.55	\$6.24	\$6.43	\$6.61	\$7.30
3	\$261.44	\$6.24	\$6.43	\$6.61	\$7.30
4	\$384.20	\$6.24	\$6.43	\$6.61	\$7.30
6	\$717.91	\$6.24	\$6.43	\$6.61	\$7.30

NOTE: Usage charges are per one-thousand-gallon increments, or portion thereof.]

B. There are hereby established [**the following**] quarterly charges for sewer customers as set forth in Chapter 98 of this Code, as may be amended from time to time. [:

Usage Meter Size (inches)	Base Charge	First Excess Usage Block Charge	Second Excess Usage Block Charge	Third Excess Usage Block Charge	Fourth Excess Usage Block Charge
	4,000 Gallons or Less	4,001-20,000 Gallons (per 1,000 gallons)	20,001-60,000 Gallons (per 1,000 gallons)	60,001-200,000 Gallons (per 1,000 gallons)	More than 200,000 Gallons (per 1,000 gallons)
All sizes	\$29.54 per 1,000 gallons	\$6.65 per 1,000 gallons	\$6.73 per 1,000 gallons	\$6.82 per 1,000 gallons	\$6.92 per 1,000 gallons

NOTE: Usage charges are per one-thousand-gallon increments, or portion thereof.]

C. The minimum quarterly base charge for multiunit residential or multiunit commercial or a combination thereof serviced through a single water meter shall be determined by the product of the number of units by the minimum quarterly base charge of a one-inch meter, regardless of the size of the meter(s) that feeds the units.

D. Sewage or other wastes containing unduly high concentrations of other substances which add to the operating costs of the sewage treatment works will be subject to a surcharge to be determined by the borough on the basis of the character and volume for such sewage and wastes. Where, in the opinion of the borough, sewage and other wastes of a deleterious character adversely affect the treatment processes, the borough reserves the right to require that such sewage and wastes be treated by the contributor to remove or neutralize the objectionable substances before discharge into the sewers.

E. Base and usage charges shall be due on March 1, June 1, September 1 and December 1.

F. Premises introducing water into a permanent private pool may be allowed a reduction in the charge of sewer usage in an amount equal to the volume of water introduced into the pool. This will require the installation and rental of a temporary meter in conformance with the Borough Code.

26. Section 206-2 of the Code is hereby amended as follows:

A. There is hereby established a quarterly standby fee for private fire-protection systems regardless of the rate or quantity of that service **[as follows]**: The amounts of the fee, which shall vary by size of private line and be collected on a per-connection basis are set forth in Chapter 98 of this Code as may be amended from time to time. [:

Size of Private Lines (inches)	Fee (per connection)
2	\$119
4	\$439
6	\$907
8	\$1,545]

B. Customers who are late in making payment of the standby fee will be given notice as to their deficiency in payment, and a copy of this notice shall be sent to the customer's insurance carrier.

C. Standby fees shall be due on March 1, June 1, September 1 and December 1.

27. Section 206-3 of the Code is amended as follows:

A. There are hereby established **[the following]** standard connection fees as set forth in Chapter 98 of this Code as may be amended from time to time. [:

- (1) Standard water connection is \$1,341.**
- (2) Standard sewer connection fee is \$2,316.]**

B. Connection fees shall be paid by all persons connecting to the water and/or sewer system, based upon the product of the connection fee multiplied by the number of equivalent dwelling units, as determined and/or approved by the Superintendent of Public Works, or designated representative.

C. Any change in use or increase in the same use of any existing property or facility shall be subject to review and reevaluation of the water and sewer connection service and the number of equivalent dwelling units assigned to the project. Any increase in the number of equivalent dwelling units shall subject the applicant to additional connection fees.

D. Connection fees shall be due prior to the installation of the physical connection.

28. Section 206-4 of the Code is hereby amended as follows:

A. There are hereby established tapping fees to cover the efforts required by the Borough for new connections to the water and sewer system.

B. Water tapping fees. The amounts of fees for new connections to the water system are set forth in Chapter 98 of this Code, as may be amended from time to time. The categories of fees are the following:

(1) Water Type 1 (full service - full width) (30 feet or more): **[\$2,807.]** Full service includes all inspection, excavation, bedding, backfill, pavement restoration, parts, equipment and labor to install a complete service connection to the curb stop located just beyond the curblin. Service connections exceeding 60 feet or located within county roads will be assessed additional fees on a case-specific basis.

(2) Water Type 2 (full service - half width): **[\$2,339.]** Full service includes all inspection, excavation, bedding, backfill, pavement restoration, parts, equipment and labor to install a complete service connection to the curb stop located just beyond the curblin. Service connections located within county roads will be assessed additional fees on a case-specific basis.

(3) Water Type 3 (cut-in service): **[\$781.]** Cut-in service includes only the physical tapping of the water main, including the corporation stop, equipment and labor. The

applicant's plumber provides for the remainder of the service connection. Road opening and inspection fees apply.

Note: Taps one inch and smaller must be performed by the borough. Taps greater than one inch must be performed by the applicant's plumber.

B. Sewer tapping fees. The amounts of fees for new connections to the sewer system are set forth in Chapter 98 of this Code, which may be amended from time to time. The categories of fees are the following:

(1) Water Type 1 (full service - full width) (30 feet or more): [**\$2,339.**] Full service includes all inspection, excavation, bedding, backfill, pavement restoration, parts, equipment and labor to install a complete lateral connection to the cleanout located just beyond the curblin. Lateral connections exceeding 60 feet or located within county roads will be assessed additional fees on a case-specific basis.

(2) Water Type 2 (full service - half width): [**\$1,870.**] Full service includes all inspection, excavation, bedding, backfill, pavement, connection restoration, parts, equipment and labor to install a complete lateral connection to the cleanout located just beyond the curblin. Lateral connections located within county roads will be assessed additional fees on a case-specific basis.

(3) Water Type 3 (cut-in service): [**\$781.**] Cut-in service includes only the physical tapping of the sewer main, including the tee saddle, equipment and labor. The applicant's plumber provides for the remainder of the lateral connection. Road opening and inspection fees apply.

Note: Lateral taps greater than four inches must be performed by the applicant's plumber.

D. Tapping fees shall be due prior to the physical connection.

29. Section 206-5 of the Code is hereby amended as follows:

A. Meters one inch or less in size shall be purchased from the Borough. Meters greater than one inch are provided by the applicant and must be approved by the Superintendent of Public Works or designated representative.

B. The charges for meters purchased from the Borough are set forth in Chapter 98 of this Code as may be amended from time to time.

[Cost	Meter Size (inches)
109.15	5/8 and 3/4
\$210.50	one (1)

[B] C. Meter fees shall be due at the time of delivery of the meter.

30. Section 206-6 of the Code is hereby amended as follows:

A. Inspection fees for service connections, lateral connections and determination of construction cost for off-site improvements shall be established as set forth in Chapter 98 of this Code as may be amended from time to time. [shall be as follows:

(1) Service connections: \$157.

(2) Lateral connections: \$157.

(3) Certified construction cost, off-site improvements (escrow): 7.8%]

B. Use of Borough equipment in connection with inspections and field service shall be charged at [Equipment] hourly rates set forth in Chapter 98 of this Code as may be amended from time to time.[shall be as follows:

(1) Backhoe: \$101.35.

(2) Service truck: \$60.80.

(3) Dump truck: \$60.80.

(4) Parts: 172%]

[Note:] The rates shall [I]include[s] the time required to mobilize to and demobilize from the site.

C. The labor of Borough personnel in connection with inspections and field service shall be charged at [Labor] hourly rates set forth in Chapter 98 of this Code as may be amended from time to time.

[(1) Hourly rates shall be as follows:

(a) Foreman: \$81.15.

(b) Operator: \$59.30.

(c) Laborer: \$59.30.

[Note:] The rates shall [I]include[s] the time required to mobilize to and demobilize from the site.

(2) Overtime (OT) hourly rates are determined by applying the following multipliers to the base labor rates:

(a) Work before 7:30 a.m.: 1.5.

(b) Work after 3:30 p.m.: 1.5.

(c) Work on Saturday and Sunday: 1.5.

(d) Work on borough-recognized holidays: 2.0.

(e) Continuous work in excess of 12 hours: 2.0.

D. Line stopping fees are as follows:

(1) Nondisruptive or minor disruptive: \$235.

(2) Major disruptive: \$1,169.

E. Temporary meter charges are as follows:

(1) Meter installations: \$70.15.

(2) Rental (two week maximum): \$39.05.

(3) Removal and recording: \$70.15.

(4) Special billing: \$23.45.]

31. Section 206-7 of the Code is hereby amended as follows:

“The Borough shall be reimbursed for administrative charges, including interest on unpaid accounts, returned checks, account setups and closeouts and non-quarterly or additional meter readings, as set forth in Chapter 98 of this Code, as may be amended from time to time.

[A. Interest will be charged at the same rate as the interest on tax bills.

B. Returned checks: \$20.00.

C. Account closeout (shutoff): \$57.

D. Account setup (turn-on): \$26.

E. Non-quarterly or additional meter readings: \$52. (On non-quarterly billings, if the reading is requested due to an actual error by the Borough, the fee will be waived.)]

32. Section 206-8 of the Code is hereby amended as follows:

Application and review fees payable to the Borough are set forth in Chapter 98 of this Code.

[A. Per EDU for first EDU: \$15.60.

B. Per EDU for subsequent EDU: \$78.

C. Request for availability of service: \$62.40.

D. Certified construction cost, off-site improvements (escrow): 3.2%]

33. Section 206-15 of the Code is hereby amended as follows:

“Upon the sale of a property served by the water or sewer system, an inspection of the interior of the unit shall be required in order to ensure that the water and/or sewer service connections have not been altered or damaged (including meters, readers, sump pump connections, etc.). Any alterations or damages required to be repaired will be the responsibility of the seller of the property. Notice of the impending sale shall be given to the Borough at least ten days prior to the anticipated closing date. The fee for this inspection is set forth in Chapter 98 of this Code, as may be amended from time to time. The fee is doubled for an inspection on less than the required 10-day notice [shall be \$30, provided, however, that if the required notice is not provided the fee shall be \$60]. The fee for this inspection will be covered under the account closeout line item.”

34. This ordinance shall take effect upon passage and publication as provided by law except the Dog and Cat Control Fees, as set forth in proposed new Borough Code Sections 98-26 through 98-29 and corresponding amendments to existing Borough Code Sections 67-2, 67-4, 67-11 and 67-21 shall not be effective until January 1, 2011.

Council Member Chandler made a motion to introduce Ordinance 2010-5, second by Council Member Tucker. Mr. Bliss stated that there have been several drafts of this ordinance and so he would like to clarify some of the changes that have been made between this version and the version that was distributed at the February meeting. Upon a roll call vote, all members present voted in favor of introduction of the Ordinance.

Mayor Persichilli read Ordinance 2010-6 by title.

**BOROUGH OF PENNINGTON
ORDINANCE #2010-6**

**ORDINANCE AUTHORIZING ISSUANCE OF CERTAIN LICENSES FOR THE CONSUMPTION
AND DISTRIBUTION OF ALCOHOLIC BEVERAGES SUBJECT TO
STATE AND LOCAL REGULATIONS**

WHEREAS, Borough Council of the Borough of Pennington seeks to amend the Code of the Borough of Pennington to repeal prohibitions against the issuance of licenses for plenary retail consumption and plenary retail distribution of alcoholic beverages;

WHEREAS, under the State statute governing licensing of the sale and distribution of alcoholic beverages, N.J.S.A. 33:1-1, et seq., no more than one plenary retail consumption license and no more than one plenary retail distribution license may be issued in Pennington Borough;

WHEREAS, the proposed amendments to the Borough Code also include provisions regulating the hours and operations of licensed premises;

WHEREAS, the ordinance further provides for annual fees payable to the Borough for the authorized licenses, established at \$2,500 for the plenary retail consumption license and \$2,500 for the plenary retail distribution license; and

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

1. Section 63-1 of Article I of Chapter 63 of the Code of the Borough of Pennington (“Code”), prohibiting the issuance of certain alcoholic-beverage licenses, is hereby repealed.
2. Article I of Chapter 63 of the Code is hereby amended to provide the following provisions regulating licensing and sale of alcoholic beverages in the Borough, beginning with a new section 63-1:

63-1 PURPOSE.

This chapter is enacted to regulate the sale and transportation of alcoholic beverages in the Borough of Pennington in accordance with the provisions of an act of the Legislature of the State of New Jersey entitled An Act Concerning Alcoholic Beverages, comprising Chapter 436 of the Laws of 1933, its supplements and amendments, and also comprising N.J.S.A. 33:1-1 et seq., and in accordance with the rules and regulations of the State Director of Alcoholic Beverage Control.

63-2 DEFINITIONS.

For the purpose of this chapter, words and phrases herein shall have the same meanings as in N.J.S.A. 33:1-1 et seq., and the rules and regulations of the Director of the Division of Alcoholic Beverage Control.

63-3 LICENSES.

63-3.1 Laws Applicable.

All applications for licenses, all licenses issued and all proceedings under this chapter shall be in accordance with the act, rules and regulations referred to in section 63-1, and all other applicable laws of the State of New Jersey or the United States.

63-3.2 Issuing Authority.

All licenses required by this chapter shall be issued by the Mayor and Borough Council, which shall also administer the provisions of this chapter.

63-3.3 License Required.

No person shall sell or distribute alcoholic beverages within the Borough without obtaining a license in accordance with applicable State statutes and regulations and the provisions of this chapter.

63-3.4 Types and Number of Authorized Licenses.

New Jersey statutory law and this ordinance, as the same may be hereafter amended, shall control the issuance of licenses and the number of authorized licenses. Authorized licenses shall be limited to one plenary retail consumption license and one plenary retail distribution license.

63-3.5 Terms of Licenses.

Licenses shall be effective for one year from July 1 to June 30 of the following year, inclusive.

63-3.6 License Fees.

The annual fees for licenses for the sale or distribution of alcoholic beverages in the Borough shall be as set forth in the Schedule of Fees in Chapter 98 of this Code.

63-4 REGULATIONS OF LICENSE.

63-4.1 Hours of Sale: Weekdays.

No licensee shall sell, serve or deliver or allow, or permit the sale, service or delivery of any alcoholic beverage or permit the consumption of any alcoholic beverage on a licensed premises between 2:00 am and 9:00 am Monday through Saturday.

63-4.2 Hours of Sale: Sundays.

No licensee shall sell, serve, deliver or allow, or permit the sale, service or delivery of any alcoholic beverage or permit the consumption of any alcoholic beverage on a licensed premises on a Sunday between the hours of 2:00 a.m. and 11:00 a.m.

63-4.3 Closing Provisions.

During the hours that the sale of alcoholic beverages is prohibited, the licensed premises shall be closed except that part of the premises used for a restaurant or grill, which must be entirely separated and locked from the barroom of the premises and must have a separate entrance and exit. No person shall be admitted or permitted to remain in the closed portion of the premises except the licensee or bona fide employees of the licensee.

63-4.4 Maintenance of Premises.

Licensed premises shall at all times be kept in a safe, clean and sanitary condition. All rooms, passageways, entrances, exits and stairways must be well lighted.

63-4.5 Rooms Open to the Public.

No person shall be served in any room or place which is not open to the public generally, except private dining rooms. All places in which alcoholic beverages are sold or dispensed, excepting private dining rooms, shall at all hours be so arranged, and blinds open, so that a full view of the interior may be had from the public thoroughfare or from adjacent rooms to which the public is freely admitted. All such premises during business shall be lighted sufficiently so that a full view of the interior may be had by the public.

63-5 INSPECTIONS AND SUPERVISION.

Any officer, as defined in N.J.S.A. 33:1-1p, shall have full authority to inspect, investigate and supervise the licensed premises for the purpose of enforcing the provisions of these regulations, the Alcoholic Beverage Control Act or any rules or regulations promulgated thereunder.

63-6 VIOLATIONS.

Any person who shall knowingly aid or abet another in the violation of any provision of these regulations shall be punishable in the same manner as the violation aided or abetted. Any attempt to evade these regulations or any provisions thereof, either directly or indirectly, by acquiescence, collusion or connivance by or with any licensee, his agents, servants or employees, shall be considered a violation of these regulations.

63-7 REPORTS.

Whenever there shall be a conviction for violation of any provision of this chapter, the judge shall forthwith certify such conviction to the borough council. If the conviction is of a person other than a licensee, the judge shall indicate the name of the licensee upon whose premises the violation occurred.

63-8 REVOCATION OF LICENSE.

Any license issued under this chapter may be suspended or revoked for violation of any of the provisions of this chapter or any provision of N.J.S.A 33:1-1 et. seq. or any other applicable statute or any of the rules or regulations of the State Director of Alcoholic Beverage Control.

Proceedings for suspension or revocation shall be in accordance with the provisions of N.J.S.A. 33:1-31 by service of a five day notice of charges preferred against the licensee and affording a reasonable opportunity for hearing.

Suspension or revocation of a license shall be in addition to any other penalty which may be imposed for a violation of this chapter.

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

Council Member Lawver made a motion to introduce Ordinance 2010-6, second by Council Member Tucker. Mr. Lawver stated that he cleaned up the version that was distributed at the February meeting to eliminate redundancies between the Ordinance and the State Statute. Mr. Lawver explained that these were items that the Borough would have no local control over and so the Ordinance now contains only items that are truly under local control. Following a brief discussion and upon a roll call vote, all members present voted in favor of introduction of Ordinance 2010-6. Mayor Persichilli asked what the next steps would be for this Ordinance. Mr. Lawver stated that the public hearing will be held at the April 5th meeting, followed by a resolution to sell a liquor license. Mr. Lawver stated that he will research the procedure over the summer and he anticipates sale of a license before the end of this year or early next year.

Committee Reports

Planning & Zoning / Environmental Commission / Library – Ms. Heinzl stated that the Planning Board has not met yet for this year, but they will meet on Wednesday, March 10, 2010 and reorganization will take place then. Ms. Heinzl stated that the Historic Preservation Plan Element will also be presented at the meeting.

Ms. Heinzl stated that the Environmental Commission had a meeting on February 15th which was sparsely attended. Ms. Heinzl stated that the Environmental Commission is still discussing education outreach and what to plan for Pennington Day.

Ms. Heinzl stated that the Hopewell Valley Green Future Task Force is beginning to form small committees to take apart the Sustainable New Jersey Certification Program and work on various ways that each of the three municipalities can obtain certification under the program.

Ms. Heinzl stated that the Library Board met last week. Ms. Heinzl stated that the new Library website is up and running and is very user friendly. Ms. Heinzl stated that a notice has gone out to Library members about a new program called Sustainable Sundays to be held each Sunday in March. Ms. Heinzl stated that this program will be an Environmental Film Festival featuring a movie about environmental issues beginning this Sunday, March 7th. Ms. Heinzl reported that in February, the Library hosted blood pressure screening here at the Borough Hall. Ms. Heinzl explained that this program was part of the Community Outreach/Adult Program and those that did come out appreciated the service.

Public Works / Economic Development – Mr. Lawver stated that the Economic Development Commission has been talking to Pennington Hardware to see if there is anything that can be done to assist with the problems that they are experiencing due to the roof collapse during the last snow storm. Mr. Lawver stated that they are hoping to reopen early next week. Mr. Lawver stated that there has been talk about the EDC generating support among the business community to help Pennington Hardware do a grand reopening. Mr. Lawver stated that the EDC has also been looking into the possibility of banners to be hung in the downtown business district from utility poles. Mr. Lawver stated that they are currently working on the design of the banner and coordination with Parks and Recreation regarding the flags that are usually on the utility poles.

Mr. Lawver reported that the Public Works Committee has not met but certainly the Public Works Department has been busy with snow removal. Mr. Lawver stated that already the overtime budget is in trouble and the budget will have to be reviewed very carefully. Mr. Lawver stated that in addition to the snow storms the Public Works Department has also been working on water main breaks. Mr. Lawver stated that a 70,000 gallon a day water main break has been repaired on King George Road and they are still looking for a 40,000 gallon a day water main break that has the department stumped. Mr. Lawver stated that if anyone sees water bubbling up in unusual places they should contact the Public Works Department.

Mayor Persichilli stated that he has been contacted by the owners of 245 South Main Street once again regarding snow removal in front of their building which is supposed to be taken care of by the County. Mayor Persichilli stated that many years ago there was an agreement made with Mercer County that they would plow that area.

Mr. Lawver gave the following water and trash report for the month of February, 2010:

PENNINGTON BOROUGH PUBLIC WORKS

TO: Joseph Lawver, Chairman
Public Works Committee

FROM: Jeff Wittkop, Superintendent

DATE: March 1, 2010

RE: **COUNCIL REPORT FOR THE MONTH OF FEBRUARY 2010**

WATER

Water pumped for the month of February--	7,570,000
Daily-	270,300
Water pumped for the month of February 2009-	7,660,000
Daily-	273,500

For the month of February 2010 we averaged 3,500 gallons less per day than February 2009.

TRASH

56.13 tons of household trash for the month of February 2010 vs. 58.49 tons in February 2009

Reminder that recycling is now single stream. Residents can still separate into the existing yellow and green buckets, or combine materials into one bucket. According to MCIA this will be a savings of \$6,260 to Pennington Borough.

There will be a Household Chemical & Electronics Waste Disposal Day, March 20th at the Dempster Fire School.

Leaves now have to be bagged. They should be left in open bags without sticks or debris.

Personnel – Mr. Ogren stated that the Personnel Committee did not meet in February.

Community Services- Ms. Chandler reported that Parks and Recreation met, reorganized and began to plan the calendar of events for 2010. Ms. Chandler stated that they are looking first at maintenance that is needed at each of the parks. Ms. Chandler stated that they discussed in great length the cement block building in Kunkel Park. Ms. Chandler stated that they have received some quotes for moving the electric and they are looking at how the money can be worked into the budget. Ms. Chandler stated that once that is done, they can take a look at what events will be planned. Ms. Chandler stated that once the electric is moved they will look into demolishing the building.

Police- Mr. Tucker reported that on February 3rd, Pennington Borough officials met with Hopewell Township and the NJ Department of Transportation to hear plans on a project involving the reconstruction of the State Highway 31 overpass just north of Ingleside Avenue.

Mr. Tucker reported on the snow storm the dumped about 18 inches in Pennington on February 10th and 11th. Mr. Tucker reported that two parking summonses were issued, but no summonses were issued for sidewalks. Mr. Tucker commended both the Police and Public Works Departments for their work during the storm.

Mr. Tucker reported that on February 19th a lock down safety drill was conducted at the Tollgate Elementary School with no problems reported.

Mr. Tucker reported that Mr. Meytrott continues to meet with the Pennington Day Committee to work on plans for this years event.

Mr. Tucker reported that on February 25th and 26th another snow storm struck leaving approximately 9 inches of snow on the ground. Mr. Tucker reported that there were no calls for extra police services, but power was out at the Northern end of the Borough.

Mr. Tucker gave the following statistics for the month of February 2010:

Motor Vehicle Stops	139
Warnings Issued	69
Parking Summonses	18
Motor Vehicle Summonses	99
Collision Reports	11

Mr. Tucker reported that the handicap bathroom is close to completion at the Pennington Senior Center. Mr. Tucker stated that Pennington Borough contributed \$3,142 towards the cost from a grant received quite a while ago.

Finance – Mr. Griffiths reported that the Finance Committee did not formally meet, however he met briefly with Chief Financial Officer, Sandra Webb, Treasurer, Betty Sterling and Borough Administrator

Gene Dunworth to review the 2009 Annual Financial Statement. Mr. Griffiths stated that the next step will be that Betty and Sandy will take the first crack at recommended spending and to determine what the deficit will actually look like.

Mayor Persichilli reported that he met with Hopewell Township and one of the items discussed was interlocal agreements. Mayor Persichilli reported that the Township has agreed to keep the current contracts at 4 percent for this year and take a look at the agreements as we go through the year. Mayor Persichilli stated that he warned the Township that we have been looking around at alternative services but for this year we should be ok. Mayor Persichilli stated that we will continue to plan and look for alternatives.

New Business

**Borough of Pennington
Resolution #2010-3.1**

RESOLUTION AUTHORIZING REFUNDS

BE IT RESOLVED, that a refund be issued to PHH Mortgage Corp/Rochester, c/o First American R/E Tax Service, P.O. Box 961250, Fort Worth, TX 76161-9887 for an overpayment of first quarter 2010 taxes in the amount of \$4885.62 for Block 302, Lot 3.

BE IT RESOLVED, that a refund be issued to Sovereign Bank, c/o First American R/E Tax Service, P.O. Box 961250, Fort Worth, TX 76161-9887 for an overpayment of first quarter 2010 taxes in the amount of \$171.74 for Block 303, Lot 2.

BE IT RESOLVED, that a refund be issued to Chase Home Finance LLC, c/o First American R/E Tax Service, P.O. Box 961250, Fort Worth, TX 76161-9887 for an overpayment of first quarter 2010 taxes in the amount of \$3514.95 for Block 703, Lot 4.

BE IT RESOLVED, that a refund be issued to BAC Tax Services Corporation, CA6-913-LB-01, P.O. Box 10211, Van Nuys, CA 91499-6089 for an overpayment of first quarter 2010 taxes in the amount of \$164.78 for Block 706, Lot 4.

BE IT RESOLVED, that a refund be issued to Chase Home Finance LLC, c/o First American R/E Tax Service, P.O. Box 961250, Fort Worth, TX 76161-9887 for an overpayment of first quarter 2010 taxes in the amount of \$599.20 for Block 801, Lot 25.

BE IT RESOLVED, that a refund be issued to Bethpage Federal Credit Union, c/o First American R/E Tax Service, P.O. Box 961250, Fort Worth, TX 76161-9887 for an overpayment of first quarter 2010 taxes in the amount of \$50.00 for Block 905, Lot 31.

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 2010-3.1, second by Council Member

**Borough of Pennington
Resolution #2010 – 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 \$ 1,548,393.79 from the following accounts:

Current	\$ 1,321,751.77
W/S Operating	\$ 57,658.44
Grant Fund	\$ 1,986.50
Developers' Escrow	\$ 2,330.60
Water/Sewer Capital	\$ 16,766.48
General Capital	\$ 147,900.00
TOTAL	\$ 1,548,393.79

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	M				Ogren	X			
Heinzel	X				Tucker	X			

Council Member Griffiths made a motion to approve Resolution 2010-3.2, second by Council Member Chandler. Council Member questioned specific bills on the bill list. Ms. Heinzel questioned an invoice from Van Note Harvey Associates for \$470.00 which covers inspection of one sidewalk. Mr. Lawver stated that sometime in the next month, the Borough needs to come up with an alternative to paying Van Note Harvey for sidewalk inspections because the fee charged is on \$100.00. Mr. Lawver stated that a decision needs to be made quickly because spring is coming and people will begin working on their sidewalks again. Mr. Lawver explained that Van Note Harvey is charging an hour of travel time for each sidewalk inspection and so the solution needs to be to find someone local who can do the inspections. Upon a roll call vote, all members present voted in favor.

**Borough of Pennington
Resolution #2010-3.3**

**RESOLUTION AUTHORIZING AMENDMENTS TO THE
2010 TEMPORARY BUDGET**

WHEREAS, the 2010 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 2010 Temporary Budget for the Current Account.

Administration	Salaries	\$ 1,250.00
Administration	Other Expense	\$ 1,000.00
Municipal Clerk	Salaries	\$ 5,000.00
Planning Board	Salaries	\$ 5,000.00
Police	Salaries	\$ 20,000.00
Prosecutor	Salaries	\$ 500.00
Streets	Salaries	\$ 40,000.00
Streets	Other Expense	\$ 20,000.00
Trash	Other Expense	\$ 20,000.00
Borough Property	Other Expense	\$ 10,000.00
Library	Salaries	\$ 10,000.00
Library	Other Expense	\$ 10,000.00
Electricity	Other Expense	\$ 10,000.00
Telephone	Other Expense	\$ 5,000.00
Gas, Fuel, Lubricants	Other Expense	\$ 5,000.00
Social Security	Other Expense	\$ 10,000.00
I/L – Recycling Services	Other Expense	\$ 10,000.00
Public Defender	Salaries	\$ 1,000.00
	Total	\$ 183,750.00

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

Water	Salaries	\$ 20,000.00
Water	Other Expense	\$ 30,000.00
Sewer	Salaries	\$ 20,000.00
Sewer	Other Expense	\$ 20,000.00
SBRSA	Other Expense	\$ 80,000.00
	TOTAL	\$ 170,000.00

Record of Council Vote on Passage

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

Council Member Griffiths made a motion to approve Resolution 2010-3.3, second by Council Member Tucker with all members present voting in favor.

**BOROUGH OF PENNINGTON
Resolution #2010-3.4**

**RESOLUTION AUTHORIZING LEASE OF PENNINGTON BOROUGH SENIOR
CITIZENS' CENTER TO THE COUNTY OF MERCER**

WHEREAS, the Borough of Pennington has leased the multi-purpose room and kitchen facilities of the Hopewell Valley Senior Citizens' Center to the County of Mercer for use between the hours of 8:00 a.m. and 1:00 p.m., Monday through Friday, by the Mercer County Senior Citizens Nutrition Program;

WHEREAS, the aforesaid lease is now proposed to be renewed for the term of two years beginning January 1, 2010 and ending December 31, 2011 at the rate of \$8,500.00 for 2010 and \$9,000.00 for 2011, payable quarterly;

WHEREAS, the proposed renewal lease provides for termination by either party upon 90 days' notice in writing, with rent to be adjusted on a per diem basis;

WHEREAS, pursuant to the proposed lease, the County agrees to indemnify and hold harmless the Borough from liability relating to the acts or omissions of the County, provided such acts are not attributed in any way to the negligence of the Borough;

WHEREAS, the proposed lease requires the Borough to pay for utilities and to arrange for snow removal as necessary, while requiring the County to be responsible for repairs and replacements relating to its activities on the premises as well as for the costs of a telephone installed specifically for its use;

NOW, THEREFORE, BE IT RESOLVED, by Borough Council of the Borough of Pennington, that the Mayor, with the attestation of the Clerk, is hereby authorized to enter into the aforesaid Lease, of which a copy is attached, on behalf of the Borough.

Record of Council Vote on Passage

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

Council Member Tucker made a motion to approve Resolution 2010-3.4, second by Council Member Ogren with all members present voted in favor.

**PENNINGTON BOROUGH
RESOLUTION 2010-3.5**

**RESOLUTION AUTHORIZING RELEASE OF CASH PORTION OF MAINTENANCE
GUARANTEE SUPPLIED BY MERCER MUTUAL INSURANCE COMPANY IN CONNECTION
WITH 2003 PLANNING BOARD APPROVALS FOR DEVELOPMENT ON BLOCK 4.02, LOT 13
IN PENNINGTON BOROUGH (SUPPLEMENTING RESOLUTION 2010-2.15)**

WHEREAS, on February 12, 2003, Mercer Mutual Insurance Company, located at 10 North Highway 31, Pennington, NJ 08534, obtained preliminary/final site plan, variance and waiver approvals by the Pennington Borough Planning Board in connection with the development of a building addition and related site improvements on the Mercer Mutual site at the above location, also known as Lot 13 in Block 4.02 on the Borough Tax Map;

WHEREAS, a condition of these approvals was the posting of a Maintenance Guarantee to secure completion of required public improvements and other requirements;

WHEREAS, Mercer Mutual Insurance Company thereafter posted the required Maintenance Guarantee, consisting of a bond in the amount of \$544,169. underwritten by surety Selective Insurance Company of America plus cash in the amount of \$60,463.28;

WHEREAS, the Borough Engineer, by Van Note-Harvey Associates (VNHA #34893-500-52), has now reported that the improvements and requirements covered by the Maintenance Guarantee have been completed to the satisfaction of the Engineer, and the Engineer has recommended that Borough Council release the posted Maintenance Guarantee;

WHEREAS, by Resolution 2010-2.15 adopted by Borough Council on February 1, 2010, the Selective Insurance Company bond was authorized to be released but, as the result of an oversight, the cash amount was not;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that release of the aforesaid cash amount plus accrued interest to Mercer Mutual Insurance Company is hereby authorized.

Record of Council Vote on Passage

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

Council Member Lawver made a motion to approve Resolution 2010-3.5, second by Council Member Heinzel with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2010 - 3.6**

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

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

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

WHEREAS, in the 2010-2011 grant cycle, priority funding will be given to county projects that serve the records management needs of the municipalities in their county; and

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

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

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

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

Record of Council Vote on Passage

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

Council Member Tucker made a motion to approve Resolution 2010-3.6, second by Council Member Heinzel with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION NO. 2010- 3.7**

**RESOLUTION IN SUPPORT OF FEDERAL FUNDING FOR THE PENNINGTON EXTENSION
OF THE LAWRENCE-HOPEWELL TRAIL**

WHEREAS, the Lawrence-Hopewell Trail is a regional recreational amenity which will be of much greater benefit to Pennington residents through the construction of a safe, off-road connection from the Trail to Pennington Borough;

WHEREAS, a connecting trail to the Lawrence-Hopewell Trail is proposed for federal funding along Pennington-Rocky Hill Road (County Rt. 624) from the Stony Brook bridge to the driveway to the sewage treatment plant of the Stony Brook Regional Sewage Authority;

WHEREAS, Pennington Borough requested federal funds for construction of the proposed trail connection and said funds were included in the FY09 Omnibus Appropriations Bill;

WHEREAS, Hopewell Township in support of the proposed trail connection has engaged an engineering firm to design and obtain permitting for said project;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington that it enthusiastically supports the proposed trail connection and will accept and administer federal grant funds in the amount of \$266,760 provided by the FY09 Omnibus Appropriations Bill under the Transportation, Community and Systems Preservation Program.

NOW, THEREFORE, BE IT FURTHER RESOLVED, by the Borough Council of the Borough of Pennington, that the Mayor and Borough Administrator are authorized to execute all documents necessary for the administration of federal grant funds for said project.

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 2010-3.7, second by Council Member Tucker. Mr. Ogren stated that although we have talked about this project in the past, this Resolution was not done. Mr. Ogren explained that this Resolution is a requirement of the Federal Grant. Upon a roll call vote, all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2010 – 3.8**

RESOLUTION AUTHORIZING REDUCTION OF PERFORMANCE GUARANTEE FOR THE PENNINGTON SCHOOL IN CONNECTION WITH PARTIAL COMPLETION OF CONSTRUCTION

WHEREAS, The Pennington School (“the School”) has received Planning Board approvals for construction of certain improvements (VNHA #38547-210-71) conditioned upon the posting of a performance guarantee;

WHEREAS, Phase I of the project, which included only work on the softball field on Greene Avenue, involved posting a guarantee in cash in the amount of \$73,506;

WHEREAS, Phase II of the project, which covers site work on the main campus of the School, including the installation of an artificial turf field, relocated sewage pumping station, new circulating drives and parking areas, involved the posting of a performance guarantee in the form of \$356,192.10 in cash and \$3,139,573.50 in a letter of credit;

WHEREAS, the School has requested reduction in the amount of the performance guarantee posted for the project based on the amount of work completed on the project;

WHEREAS, the requested reduction is for the maximum amount permitted by Borough policy and the Municipal Land Use Law, N.J.S.A. 40:55D-53;

WHEREAS, the Borough Engineer reports that the work in Phase I has been satisfactorily completed and release of the full amount of the performance guarantee for that phase of the project is recommended;

WHEREAS, the Borough Engineer also estimates that a substantial percentage of the bonded improvements in Phase II have been installed satisfactorily and that the guarantee may be reduced up to 120 percent of the uncompleted work, but the present Resolution will address only the Phase I work and reduction of the guarantee for Phase II will be addressed in a separate resolution upon receipt of additional information;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Borough Clerk is hereby authorized to release to The Pennington School the aforesaid cash guarantee for Phase I, in the amount of \$73,506, together with accrued interest.

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 2010-3.8, second by Council Member Chandler with all members present voting in favor.

**Borough of Pennington
Resolution #2010 – 3.9**

RESOLUTION AUTHORIZING CHANGE ORDER NO. 2 UNDER CONTRACT WITH MECO, INC. FOR BURD STREET RECONSTRUCTION

WHEREAS, the Borough of Pennington has entered into a contract with Mecco, 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, is subject to approval by the State Department of Transportation; and

WHEREAS, the proposed change order would decrease the contract price by \$ 24,638.51 to reflect as-built quantities as further set forth in the attached documents for Change Order No. 2 prepared by Van Note Harvey Associates; 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. 2, producing a reduction of contract price in the amount of \$ 24,638.51 under the contract for Burd Street, is hereby approved subject to the approval of 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	S				Lawver	M			
Heinzel	X				Ogren	X			
Griffiths	X				Tucker	X			

Council Member Lawver made a motion to approve Resolution 2010-3.10, second by Council Member Chandler with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2010-3.10**

**RESOLUTION AWARDING MAINTENANCE
SERVICES CONTRACT**

WHEREAS, the Borough of Pennington has advertised for requests for proposals for the provision of maintenance services for the Borough in connection with a list of small projects;

WHEREAS, the requirements for each project and the role to be played by the contractor shall vary according to the nature of the project and the availability of Borough employees, vehicles and equipment to assist with the work, as determined by the Superintendent of Public Works on a project-by-project basis;

WHEREAS, the Borough reserves the right to decide not to undertake one or more of the listed projects, and no work shall be authorized under this Agreement if the proposed work would cause the cumulative cost of projects under the contract to exceed \$17,500;

WHEREAS, on February 17, 2010 proposals from four contractors were received by the Borough in the form of proposed hourly rates for labor and equipment, a summary of which is attached;

WHEREAS, consistent with the recommendation of the Superintendent of Public Works, the contractor selected is C.M. DiCocco, Inc., which is believed to have presented the proposal in the best interests of the Borough, price and all other factors considered;

WHEREAS, C.M. DiCocco, Inc is the second lowest quote among the contractor proposals submitted but is considered the most advantageous to the Borough because the lowest proposal is not high enough to insure compliance with applicable Prevailing Wage Laws; and

WHEREAS, further details concerning each proposal are on file with the Borough Clerk;

WHEREAS, the funds needed to enter into this contract are available;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the aforesaid maintenance services contract is hereby awarded to C.M. DiCocco, Inc.; and the Mayor, with the attestation of the Borough Clerk, is hereby authorized to enter into said contract in substantially the form annexed hereto subject to such changes as to form approved by the Borough Attorney.

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 2010-3.10, second by Council Member Chandler. Mr. Bliss stated that the Resolution contains a blank space because a determination needs to be made as to who the contract should be awarded to. Mr. Bliss explained that an advertisement was done for RFP's and four proposals were received. Mr. Bliss stated that Council has been provided with a summary of the four proposals. Mr. Bliss stated that the legal standard for awarding the contract because it does not exceed the bid threshold of \$17,500 would be to award a contract that is most advantageous to the Borough, price and other factors considered. Mr. Bliss stated that he has discussed this with Mr.

Dunworth and Mr. Wittkop and he would defer to them to present which of the four proposals is most advantageous. Mr. Lawver explained the breakdown of prices that were submitted, for example, M1 is a small excavator and operator, M2 is a laborer, M3 is a backhoe and operator and M4 is a dump truck. Mr. Lawver stated that when the proposals were reviewed they looked at what work would be done under the contract to determine what would be used the majority of the time. Mr. Lawver stated that 75 percent to 90 percent of the time the Borough will need a backhoe and operator. Mr. Lawver stated that the decision predominantly rests on the pricing of M3. Mr. Lawver stated that of the four contractors that submitted proposals, prices submitted by R. Moslowski appear to be too low to be prevailing wage rates. Mr. Lawver stated that because this contract can be awarded up to \$17,500 the prices would need to reflect prevailing wage rates. Mr. Lawver stated the law requires that prevailing wage be paid for contracts over \$14,000 and change. Mr. Lawver stated that R. Moslowski's proposal has been disqualified. Mr. Lawver stated that means that C.M. DiCocco would be the second lowest proposal. Mr. Wittkop stated that if you group one hour for M1, M2, M3 and M4 for each contractor and add them together, C.M. DiCocco would have come out as the lowest of the remaining three contractors. Mr. Dunworth stated that there is a part two, Emergency Repairs, which will be awarded at the April meeting. Mr. Dunworth explained that this contract is for maintenance projects that the Borough has identified as projects that need to be done. Mr. Bliss stated that with that background the proposal is to fill in the blanks on the resolution with C.M. DiCocco, Inc. Mr. Bliss added a new recital to the resolution. Upon a roll call vote all members present voted in favor of the Resolution.

**Borough of Pennington
Resolution #2010-3.11**

**RESOLUTION DEDICATING BY RIDER FORFEITED FUNDS RECEIVED BY THE
COUNTY OF MERCER TO BE PLACED IN A SEPARATE TRUST ACCOUNT**

WHEREAS, N.J.S.A. 40A:4-39 allows the governing body of local units to dedicate revenues anticipated during the fiscal year when the revenue is not subject to accurate estimates in advance, and

WHEREAS, the Chief Financial Officer has requested that such a "Dedication by Rider" to the budget be created for Municipal Law Enforcement Funds and that those funds are to be accounted for separately;

NOW THEREFORE BE IT RESOLVED, that such funds received by the Borough of Pennington be placed in a specific trust account and that such trust account shall be considered a "Dedication by Rider" to the budget per N.J. S. A. 40A:4-39 for the sole purpose state above.

Record of Council Vote on Passage

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

Council Member Tucker made a motion to approve Resolution 2010-3.11, second by Council Member Heinzel with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2010-3.12**

**RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF PENNINGTON URGING
THE LEGISLATURE TO AMEND THE OPEN PUBLIC RECORDS ACT TO ADDRESS VARIOUS
TECHNICAL AND PRACTICAL ISSUES**

WHEREAS, Governor Donald T. DiFrancesco signed the Open Public Records Act (OPRA), N.J.S.A. 47A:1A-1 et seq., into law on January 8, 2002 to increase public access to state government records, stating that the bill is about access and what open government should be: Government of the people; and

WHEREAS, Government DiFrancesco stated at the bill signing that the bill was not perfect, and acknowledged the hard work and negotiations between legislators and the many interested parties, including the New Jersey League of Municipalities, that went into the compromise; and

WHEREAS, elected and appointed municipal officials recognize the importance and virtue of access to public records for all citizens, as it encourages openness and transparency in government and increases confidence in the operation of government; and

WHEREAS, along with transparency of government comes the responsibility to safeguard citizens reasonable expectation of privacy; and

WHEREAS, the law granting access to public records also created a 13-member Privacy Study Commission whose mission was to study the privacy issues raised by the collection, processing, use, and dissemination of information by public agencies in light of the recognized need for openness in government, and to recommend specific measures, including legislation, the commission may deem appropriate to deal with these issues and to safeguard the privacy rights of individuals; and

WHEREAS, in the course of its study, the commission reviewed the current and proposed means used for the collection, processing, use and dissemination of information by state and local government agencies; and

WHEREAS, the Privacy Study Commission studied three (3) specific areas: the disclosure of home addresses and telephone numbers, commercial use of public information held by public agencies and the impact of technology on privacy concerns; and

WHEREAS, although municipal officials and municipal clerks have embraced OPRA and supports the fundamental purpose of OPRA, compliance with OPRA is a problem for municipalities due to conflicting decisions, requestors testing both the records custodian and OPRA, and a loss of efficiency and out-of-pocket costs to municipalities; and

WHEREAS, municipal officials and municipal clerks believe that OPRA needs to be reformed to create standardization in providing records to the public while protecting citizens' reasonable expectation of privacy and to prevent individuals, attorneys and businesses from profiting from the provisions of OPRA where they have no legitimate interest in the records they are requesting.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Governor and State Legislature are urged to review the provisions of OPRA and consult with municipal officials, municipal clerks, the Government Records Council, the New Jersey Press Association and the New Jersey League of Municipalities to reform OPRA to:

AR-306-09

1. Adoption of the following recommendations of the Privacy Study Commission:
 - a. Home telephone numbers, including cell phone numbers, should not be disclosed.
 - b. Individuals should be permitted to opt-out of disclosure of their home addresses.
 - c. E-mail addresses provided by individuals to government entities should be accorded the same protection as telephone numbers and remain confidential.
 - d. Exemption from access from the commercial use of information should be contained in legislation, regulations or by Executive Order.
 - e. Consideration of the proposition that when the secondary or derivative use of a public record is a commercial/profit-making use, the commercial user should be expected to contribute to the cost of recovery of developing and maintaining such records.
2. Amending the current fee schedule to a uniform per page rate and clarifying the term "actual costs" for Special Service Charge to include the cost of labor.
3. When agencies adopt regulations exempting certain records from disclosure, those agencies need to recognize the impact of technology on the ability to search records and make the regulations comprehensive enough to ensure that the adopted regulation cannot be circumvented by technology.
4. The Governor should immediately fill the two vacant public seats on the Government Records Council in order to best protect the interest of all parties involved in the proper implementation of the OPRA statute.
5. Clear authorization for the Records Custodian to bill for time spent organizing data, researching documents or translating documents to a different medium. An example is scanning documents to provide them electronic copies. Records Custodians should not be required to create a document that is not typically maintained by the municipality.
6. A distinction should be made between those who seek a record for their own personal use and those who intend to make a secondary commercial use of the information, as recommended by the Privacy Study Commission.
7. The municipality should be entitled to receive a seven (7) day extension for any large or complicated requests. Currently, the requestor must agree. This particularly affects small municipalities with a small or part-time staff.
8. The requestor should be required to pick up their records within a week so that the Records Custodian does not have to keep them indefinitely. If the records are not picked up within one week, the request should be considered fulfilled.
9. Direct the Government Records Council or Office of Administrative Law as to when attorney's fees should be awarded to requestors under OPRA to limit the award of attorney's fees to situations where there was a willful violation of OPRA that resulted in the requestor failing to receive a legitimately requested document.
10. Create regulations to prevent a requestor from repeatedly using OPRA to request the same documents as this creates an unnecessary and unreasonable burden on the taxpayers of the community who must underwrite the costs of these repeated responses.

11. Documents which are already available to the public on a municipality's website should be excluded from OPRA.
12. The Government Record Council should have mandatory mediation for all complaints. Currently, mediation takes place only where both parties agree.

BE IT FURTHER RESOLVED, that copies of this resolution shall be forwarded to the Commissioner of the Department of Community Affairs, the Government Records Council, the members of the New Jersey State Legislature representing Mercer County, the Governor of the State of New Jersey, Mercer County Municipal Clerks and the Municipal Clerks' Association of New Jersey.

Council Member Lawver made a motion to approve Resolution 2010-3.12, second by Council Member Chandler. Mr. Ogren asked if this resolution came from the League of Municipalities. Ms. Sterling stated that the resolution came with a request for support from West Windsor Township. Mr. Ogren stated that he has a problem with resolutions that pertain to pending litigation, where we are not sure what the position of the League is and where the resolutions tend to be very detailed in terms of policy implications. Mr. Ogren stated that he did not feel that Council should take a position on very specific legislative matters.

Mayor Persichilli stated that we frequently get copies of resolutions from other municipalities asking for support. Mayor Persichilli asked how Council wanted to handle these requests to determine if Borough Council wants to take a position on certain issues. Council Members were in favor of these items appearing as Council Discussion items first as opposed to resolutions for consideration. Mayor Persichilli stated that way someone could check to see if the League has taken a position or has input into the issue.

Mr. Lawver stated that he thinks the requests are worth considering however he did not feel that OPRA was a big issue in Pennington. Mr. Lawver stated that if there are issues that affect Pennington Borough he feels that Borough Council should be more proactive.

Mr. Tucker stated that he looked into this resolution and checked with the Press Association. Mr. Tucker stated that he has some concerns with OPRA. Mr. Tucker stated that there is no question that the OPRA legislation needs work.

Mayor Persichilli stated that he would be willing to pull this resolution off the agenda and going forward these types of requests will come before Council as discussion items first.

**BOROUGH OF PENNINGTON
RESOLUTION 2010 – 3.13**

**RESOLUTION AUTHORIZING A GRANT APPLICATION TO THE
N.J. ASSOCIATION OF ENVIRONMENTAL COMMISSIONS**

WHEREAS, the New Jersey Association of Environmental Commissions (ANJEC) has announced a 2010 Smart Growth Planning Grants Program to encourage and enable New Jersey municipalities to develop land use plans that protect the environment; and

WHEREAS, the Smart Growth Planning Grants Program provides funds for a variety of projects and activities including the preparation of plans for the re-use of brownfields; and

WHEREAS, the Borough of Pennington is the owner of a brownfields site (Block 4.01, Lot 15) which includes a closed landfill and a storage yard and vacant garage formerly used by the Borough's Public Works Department; and

WHEREAS, a plan for redevelopment of the site would enable the Borough of Pennington to determine how best to re-use this 7 plus acre site taking into consideration environmental concerns associated with the landfill and the Lewis Brook which runs through the site; and

WHEREAS, the Borough is willing to provide the required matching funds for the project up to a maximum of \$5,000.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that Mayor Anthony Persichilli is authorized to submit an application to the New Jersey Association of Environmental Commissions for a Smart Growth Planning Grant to develop a plan for redevelopment and re-use of the herein referenced site.

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	S				Tucker	X			

Council Member Ogren made a motion to approve Resolution 2010-3.13, second by Council Member Heinzel. Mr. Ogren stated that this pertains to a grant program sponsored by the NJ Association of Environmental Commissions that provides planning grants once a year for municipal projects. Mr. Ogren stated that there is a limited amount of money and he felt that maybe this should be considered for the landfill site given that it is the largest portion of vacant land left in the Borough. Mr. Ogren stated that this may be a long shot, but he is willing to do the application. Mayor Persichilli stated that if the Borough can

get money to use in the efforts to redevelop the landfill, then he is in favor of applying. Mr. Lawver stated that over the years it seems that there was money available for defining cleanup that would be necessary and getting the site to the point where it could be sold. Mr. Lawver stated that it would be great to have someone come in with a plan, but he is not sure that he would be willing to commit money to do that and additionally he is concerned that if the Borough has a redevelopment plan, there may be extra strings attached to this project. Mr. Lawver stated that he is also not sure what value the Borough would get out of doing this. Mr. Lawver stated that he is not sure that the Borough should commit to anything this year. Mr. Lawver stated that he is hesitant to move forward until the newly appointed Ad Hoc Committee is up and running. Mr. Ogren stated that if the Borough were to get a grant award out of this the funds would most likely not be available until next year. Mr. Ogren stated that additionally the committee could work with a consultant during the grant process. Mr. Griffiths stated that it is important to determine the value of the property first and that can't be done until the environmental studies are done. Mr. Lawver stated that he is waiting for a quote from Hill Environmental that will address three things; a Phase I evaluation of the portion of the landfill that were not initially studied, a Phase I of the adjacent property on Broemel Place, estimated costs for those two pieces and thirdly to reactivate the Memorandum of Agreement with the DEP which addresses the landfill site itself. Discussion took place with regard to whether it would be worthwhile to apply for the grant and if awarded to have a study done given that there are other steps that need to be taken before anything can be done at the site anyway. Mr. Griffiths asked if this could be postponed until next month. Mr. Ogren stated that the deadline is March 31st. Upon a roll call vote all members present voted in favor with the exception of Council Members Griffith and Lawver who voted no.

**Borough of Pennington
Resolution #2010 – 3.14**

**A RESOLUTION AUTHORIZING PAYMENT REQUEST NO. 5 TO
LIBERTY CONSTRUCTION AND DEVELOPMENT, INC. FOR WORK COMPLETED ON THE
WELL 8 WATER TREATMENT SYSTEM PROJECT**

WHEREAS, Liberty Construction and Development, Inc. has completed certain work pursuant to contract for the Well 8 Water Treatment System Project (VNHA #39203-500-22); and

WHEREAS, Van Note Harvey Associates, P.C. has reviewed the application and recommends payment for completed work pursuant to the Contractor's Request for Payment No. 5 (\$ 53,060.00) less two percent (2%) retainage (\$ 1,061.20), the net due therefore amounting to \$51,998.80; and

WHEREAS, this is a partial payment under the contract; and

WHEREAS, funds are available in the Water/Sewer Capital budget; and

WHEREAS, Borough Council approves this Resolution as an emergency addition to the agenda, upon the recommendation of the Borough Engineer, in order to avoid interruption of the work in the interest of the Public Health and Safety.

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that payment to Liberty Construction and Development, Inc. in the amount of \$ 51,998.80 pursuant to payment request No. 5 is hereby authorized.

Record of Council Vote on Passage

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

Council Member Lawver made a motion to approve Resolution 2010-3.14, second by Council Member Griffiths. Mr. Lawver stated that the work on Well 8 is predominantly finished and we are now in the testing and recalibrating stages. Upon a roll call vote all members present voted in favor.

Council Discussion

Mr. Ogren asked that the discussion on No Parking at Crosswalks be deferred to the April meeting so that Council Members have time to review information.

Administrator's Report

Avanti Request - Mr. Dunworth stated that Vince Severino has submitted a letter expressing interest in purchasing the property that he currently leases for his outdoor dining area. Mr. Lawver stated that his concern is the amount of money the Borough will have to spend on engineering and legal costs in order to sell this small piece of property. Mr. Lawver asked if it would be better to consider a 99 year lease. Mr. Dunworth stated that the person paying for all the costs would be the one interested in purchasing the property. Mr. Lawver asked if Mr. Severino has any idea how much the cost would be. Mr. Bliss stated that before the property can be sold it has to be not needed for public use and can not be subject to restrictions. Mr. Bliss stated that would involve reviewing whatever ordinance was done when the municipal parking lot was done and the geographical bounds of the property. Mr. Bliss stated that all proceeds of the sale would by Statue have to be applied to any outstanding bonds if there are any. Mr. Bliss stated that when there is land less than the minimum required for a lot, there are some complications. Mr. Bliss explained that there is no

minimum lot size in the Town Center Zone. Mr. Bliss stated that the Town Center Ordinance reads that all lots in existence at the time the ordinance was adopted shall be deemed conforming lots and from that time forward what is limited is the aggregation of lots. Mr. Bliss stated that means there would have to be a sub-division of the land and then it would be merged. Mr. Bliss stated that the fact that Avanti's is a condominium is problematical because it is assumedly part of the common area if it is outside his condominium box. Mr. Bliss stated that there are a number of legal issues that need to be figured out preceded by some basic fact finding. Mr. Bliss stated that Mr. Severino would have to hire an attorney to make a presentation to the Planning Board for sub-division. Mr. Bliss stated that the bidding process is not terribly complicated because no one is interested in the land except the Borough, Avanti's and the other contiguous land owner is by law another potentially interested party. Mr. Bliss stated that if there are two contiguous property owners which there are in this case, both owners would have to be invited to bid on the property. Mr. Bliss stated that if there were only one contiguous property owner, the price could be determined by negotiation. Mr. Bliss stated that the statute is silent as to how it is determined when there are more than one contiguous owner, however the standard is fair market value. Mr. Bliss stated that the lease in place is an at-will lease terminable at will by the Borough. Mr. Bliss stated that leasing the property allowed the Borough to sidestep some of the sticky issues. Ms. Heinzl asked if the Borough were to consider a long term lease, would the requirements have to be met. Mr. Bliss stated that a 99 year lease is effectively selling the land and would therefore require going through the same process as a sale. Mr. Griffiths suggested sending a letter to Mr. Severino stating the steps he would have to take in order to purchase the land. After some discussion, Mr. Lawver offered to meet with Mr. Severino and explain that Council has no objections to his request other than the costs that will be involved. Mr. Lawver stated that if after the meeting, the request is withdrawn then a letter will be sent out to Mr. Severino.

Professional Reports

Mr. Meytrott stated that he has received a request from Dan Ulmstead, Principal of Tollgate School, regarding an event to be held at the conclusion of the Principals Reading Challenge at Tollgate School in April. Mr. Meytrott stated that Mr. Ulmstead would like to have a tethered hot air balloon that he will ride up in with another faculty member. Mr. Meytrott stated that there are no ordinances involved and the Department of Transportation Aviation Unit does not get involved with tethered balloons and the FAA has no involvement if they are tethered. Mr. Meytrott stated that Mr. Ulmstead would like to know if the Borough has any objections and what those objections would be. Following a brief discussion, Council had no objection to the event.

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.

Closed Session

Mayor Persichilli read the following statement to convene in Closed Session:

AT, 8:40 PM, BE IT RESOLVED, that Mayor and Council shall hereby convene in closed session for the purposes of discussing a subject or subjects permitted to be discussed in closed session by the Open Public Meetings Act, to wit:

Police Contract – One Shift Only
Potential Litigation – Hopewell Twp/Capital Health

AT, 10:02 PM, Mayor and Council returned to open session.

At 10:02 pm, Council Member Heinzl made a motion to adjourn the meeting, second by Council Member Tucker.

Respectfully submitted,

Elizabeth Sterling
Borough Clerk