

**Pennington Borough Council
Regular Meeting – April 2, 2018**

Mayor Persichilli called the Regular Meeting of the Borough Council to order at 7:00 pm. Borough Clerk Betty Sterling called the roll with Council Members Gnatt, Griffiths, Lawver, Marciante and Mills in attendance. Mrs. Chandler was absent.

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

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

Mayor Persichilli asked everyone to stand for the Flag Salute.

Open to the Public – Agenda Items Only

Mayor Persichilli read the following statement.

The meeting is now open to the public for comments on items on the agenda for which no public discussion is provided. In an effort to provide everyone interested an opportunity to address his or her comments to the Governing Body, a public comment time limit has been instituted for each speaker. **Please come forward and state your name and address for the record. Please limit comments to the Governing Body to a maximum of 3 minutes.**

There were no comments from the public.

Mayor Business

Mayor Persichilli announced that a Proclamation has been prepared recognizing April 27, 2018 as Arbor Day in the Borough of Pennington. Mayor Persichilli stated that the annual Arbor Day celebration will be held on April 27th at the Tollgate Elementary School.

Mayor Persichilli announced the resignation of Andrew Potts from the Public Works Department effective April 4, 2018 and the resignation of Debbie Gorczycki from the Board of Health.

Mayor Persichilli announced the formation of an Ad-Hoc Landfill Redevelopment Committee consisting of Joe Lawver, Kit Chandler, Glen Griffiths, Kevin Ryan, Winn Thompson, Harry Compton, Eileen Heinzl and Terry Ward. Mayor Persichilli stated that this committee will be exploring ways to develop the landfill.

Appointments (with Council Approval)

Mayor Persichilli announced three appointments requiring Council approval.

Council Member Lawver made a motion to approve the appointment of Julianna Aberger to the Library Board for a 5 year term expiring December 31, 2022, second by Council Member Mills with all members present voting in favor.

Council Member Griffiths made a motion to approve the appointment of Marjorie Kaplan to the Board of Health for an unexpired term ending December 31, 2018, second by Council Member Lawver with all members present voting in favor. .

Council Member Mills made a motion to approve the re-appointment of Ned Crislip as a member of the Historic Preservation Commission for a four year term ending December 31, 2021, second by Council Member Gnatt with all members present voting in favor.

Mayor Persichilli announced that Council would be convening in Closed Session for a few minutes so that professionals in attendance could then be excused from the remainder of the meeting. Mayor Persichilli asked members of the audience to step out of the room for a short time.

Closed Session

AT, 7:05 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:

- Tax Appeal – Mercer Mutual
- Personnel – Rick Smith – Extraordinary Comp Time Request

AT, 7:22 PM, Council returned to open session.

Approval of Closed Session Minutes (for content but not for release)

Council Member Lawver made a motion to approve the minutes of the February 5, 2018 and the March 5, 2018 Closed Session minutes for content but not for release, second by Council Member Marciante with all members present voting in favor with the exception of Mrs. Gnatt who abstained.

Approval of Minutes]

Council Member Lawver made a motion to approve the minutes of the February 5, 2018 Regular Meeting, second by Council Member Marciante with all members present voting in favor with the exception of Mrs. Gnatt who abstained.

Council Member Marciante made a motion to approve the minutes of the March 5, 2018 Regular Meeting, second by Council Member Lawver with all members present voting in favor with the exception of Mrs. Gnatt who abstained.

Committee Reports

Planning & Zoning / Open Space – Mrs. Gnatt reported that at the Planning Board Re-organization meeting, Jim Reilly was appointed as Chair and Kate O’Neill was appointed Vice-Chair. Mrs. Gnatt stated that Kate O’Neill will also be Chair of the Application Review Committee. Mrs. Gnatt stated that Winn Thompson stepped down as the Chair but will remain on the Board as a regular member. Mrs. Gnatt stated that at the March 13th meeting, the Board discussed the Town Center Zone and Town Center Buffer Zone regulations and whether the provisions are the best way to address the contemporary needs of the Borough. Mrs. Gnatt stated that the regulations do not include a minimum lot size. Mrs. Gnatt stated that Mr. Flemming, Zoning Officer for the Borough spoke and ultimately the issue was referred back to the Application Review Committee for further review and discussion with the Borough Planner. Mrs. Gnatt stated that Mr. Flemming also recommended that the ordinance regarding teardowns be clarified and he proposed amending the ordinance to define partial destruction and this issue was also referred to the Application Review Committee for further review. Mrs. Gnatt stated the Mr. Flemming reported that The Pennington School would like to install a 120 foot x 40 foot net on Burd Street at the side of the baseball field and the Board decided that this would require site plan approval. Mr. Marciante stated that he hopes that the Planning Board considers the residents in the area when they consider the application. Mr. Lawver asked Mrs. Gnatt to let Council know when the application will be discussed.

Public Safety / Personnel – Mr. Marciante reported that the Personnel Committee will be working on a policy related to flex time. Mr. Marciante stated that the Police Department had a presentation on e-tickets which save money and streamline the ticket process. Mr. Marciante stated that the cost will be in the budget for 2018.

Parks & Recreation – Mrs. Mills reported on Library Programs including a presentation on the History of the Birth Control Pill, a make your own pinball machine workshop and a living history character portrayal of Jacqueline Kennedy Onasis that were held in February and March. Mrs. Mills reported that this week there will be a drop in class on spring glass votive decorating, on April 22nd Larry Kitter will be presenting on Crossroads of the American Revolution and on May 16th the annual volunteer reception will take place. Mrs. Mills stated that a new initiative in the works is a homebound delivery service for patrons who are unable to get to the Library. Mrs. Mills stated that Pennington residents with active library cards are eligible for this service. Mrs. Mills stated that the Parks and Recreation group held a very successful Easter Egg Hunt.

Public Works/ Library / Shade Tree / Senior Advisory –Parks and Recreation – Mr. Lawver reported that the Public Works Committee will meet later this week. Mr. Lawver thanked Rick Smith and the Public Works crew for all of the good work on managing the storms that have taken place. Mr. Lawver stated that the Curlis and Weidel water project has commenced and the contractor will be managing the project with the school children and their safety in mind. Mr. Lawver stated that the Borough has received a grant of \$693,900 for the reconstruction of Abey Drive. Mr. Lawver stated that this is one of the larger grants that the Borough has received and it will go a long way towards the work that is needed on Abey Drive.

Mr. Lawver reported that in addition to the Arbor Day celebration coming up the Shade Tree Committee is applying for two grants, one through Pennington Day for a pilot program that will encourage residents to plant large, long-lasting shade trees in their front yards. Mr. Lawver stated that the second grant that is being applied for is a New Jersey Urban Community Forestry Grant for ornamental trees to be planted in the right-of-way.

Mr. Lawver stated that the Senior Advisory Board did not meet last month because of the storm. Mr. Lawver stated that important to note is that a meeting is scheduled with Hopewell Township and Hopewell Borough on April 12th to discuss cost sharing for the necessary repairs at the current Senior Center to be used until Hopewell Township builds their new community center.

Finance – Mr. Griffiths stated that the 2018 budget is being introduced tonight. Mr. Griffiths stated that he circulated some highlights/notes on the budget. Mr. Griffiths stated that one of his notes will be changing due to the decrease in valuation. Mr. Griffiths stated that the 2017 reserve was up \$54,000 or

7.7%, last year 81% of the surplus was applied to the balance the budget and this year we will apply 79% of the surplus to balance the budget. Mr. Griffiths stated that the surplus amount will likely change given the decrease in valuation. Mr. Griffiths stated that at this point the Finance Committee is recommending no tax increase for 2018 which amounts to a 5 year compounded tax increase equal to 7% even or 1.4% average per year. Mr. Griffiths stated that in 2019 there will probably be a tax increase because we are anticipating additional engineering costs next year for grant projects. Mr. Griffiths stated that he would like to recognize that the Chief Financial Officer Sandra Webb raised the question of a tax increase this year and the Finance Committee declined her suggestion because committee's strategy overall is to try and work on improving valuation in the community and they recognize every tax increase puts potential pressure on valuation. Mr. Griffiths stated that the Borough has not fully recovered from the 2007 peak in valuation to \$525million so right now the Borough is 5% below the peak. Mr. Griffiths stated that this is a calculated risk but the committee thinks that 2018 will be okay. Mr. Griffiths stated that the committee discussed the potential of a one-time revenue for sale of a liquor license and ongoing revenue from PSE&G rent and potential additional property tax coming in from American Properties. Mr. Griffiths stated that a couple of revenues were increased this year including municipal court fines which was up \$26,000 and construction code fees which were up \$32,000 mainly attributed to American Properties. Mr. Griffiths stated that this is most likely a one-time increase although when Phase II is started there will be additional boosts and depending on the timing that may help with the 2019 budget.

Mr. Griffiths stated that in terms of expenses, they are up 4% which is of some concern, however most notable increases are IT infrastructure, security wands for the municipal court, engineering for approved DOT projects, police salaries, purchase of a new police vehicle, shotguns and the e-ticket system and increases in statutory expenditures. Mr. Griffiths stated that there was a modest decline in health benefits due to employee contributions and changes in coverage.

Mr. Griffiths stated that the second to last payment on legacy debt will be made this year leading up to a \$116,000 reduction of debt service in 2020. Mr. Griffiths stated that in the meantime to avoid incurring new debt we are budgeting for the final payment on a 2017 backhoe purchase and the budget includes a significant partial payment for one new truck with snow plow for the Public Works Department. Mr. Griffiths stated that the remainder of the payment will be included in the 2019 budget along with an allocation towards the purchase of another new truck with snow plow.

Mayor Persichilli asked if there is any concern with the reserve and how it is being used and are the reserves sufficient so that we don't get into dangerous territory. Mr. Griffiths stated that it depends on who you ask. Mr. Griffiths stated that the same ratio was used last year and the reserve regenerated and increased. Mr. Griffiths stated that we balance what concerns could be expressed against the potential for the liquor license revenue and additional unanticipated revenue keeping in mind that 2019 will be the last year for the high debt service payments. Mr. Griffiths stated that there are some risks and in ten years the Borough has been able to regenerate surplus each year except for one year where there were grant reimbursement issues. Mr. Lawver stated that if the Borough was using 90% or more of surplus there might be a problem, but because we are using only 80% of surplus, if we do not regenerate 100% we can absorb that in the next year's budget and still be okay and that will get us to the 2020 reduction in debt service. Mr. Lawver stated that is what makes him comfortable with this budget.

Mr. Griffiths stated that with regard to the Utility budget, the situation is more favorable than last year. Mr. Griffiths stated that rent revenue increased in 2017 by 6.5% which brought us to the forecasted amount which was important to satisfy the DCA concerns. Mr. Griffiths stated that the reserve also increased significantly and in 2018 we are only applying 29% of the reserve to balance the budget compared to 81% last year. Mr. Griffiths stated that we will need to watch the impact of the vacancy of the BMS building on sewer revenue but at this point the committee is not recommending a water/sewer rate increase for 2018. Mr. Griffiths stated that with the utility the Borough has the option of increasing rates during the year should the numbers fall below forecast.

Mr. Griffiths stated that expenses are up 16% due to salaries, chlorine equipment and additional testing. Mr. Griffiths stated that debt service will see some relief in 2020 due to "legacy" debt from two decades ago. Mr. Griffiths stated that we will see additional NJEIT debt service coming on in the next few years for infrastructure projects however given that the NJEIT program offers principal forgiveness for half of the loan amount there will still be a reduction in debt service in the year 2020. Mr. Griffiths stated that the NJEIT program has made water upgrade projects much more affordable for the Borough.

Historic Preservation / Board of Health / Environmental / Economic Development – No report due to Ms. Chandler's absence.

Council Discussion

Letter – Hazardous Discharge Site Remediation Fund (HDSRF) Application – Mrs. Heinzl stated that a letter was included in the Council packages from Michael Moreni of Excel Engineering stated that the Borough is in line for approval of a grant in the amount of \$301,604.00 for Preliminary Assessment and Site/Investigation and Remedial Investigation Assessment at the landfill site. Mrs. Heinzl stated that a meeting was held with Michael Moreni and a representative from the DEP and that factored in the Borough's favor because the DEP is interested in seeing something happen with the landfill site. Mrs. Heinzl stated that Mr. Moreni anticipates that we should be receiving these funds by the end of June and at the point he will be appointed as the Licensed Site Remediation Professional (LSRP) and that is when the process will

begin. Mr. Lawver stated that Mr. Moreni indicated that his timeline would be about six months so hopefully by the end of the year the Borough should have an idea of the value of the property and what can potentially be done with the property.

Ordinances for Introduction

Mayor Persichilli read Ordinance 2018-1 by title.

**BOROUGH OF PENNINGTON
ORDINANCE 2018-1**

**AN ORDINANCE PERTAINING TO PEDDLING AND SOLICITING AND AMENDING CHAPTER
147 OF THE CODE OF THE BOROUGH OF PENNINGTON**

WHEREAS, Pennington Borough Council seeks to revise and supersede the present provisions of Chapter 147 of the Code of the Borough of Pennington, governing peddling and soliciting, with a view toward simplifying and improving regulation to better protect the safety and privacy of residents;

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Pennington, that Chapter 147 of the Borough Code is hereby deleted in its entirety and replaced by the following:

1. **Purpose.** The purpose of this chapter is to protect the persons, property, privacy and wellbeing of Borough residents. The regulations contained in this chapter are intended to protect the safety and wellbeing of persons and property by ensuring that before entering upon the properties of residents or approaching them in their homes all peddlers, solicitors and canvassers, whether commercial or non-profit, are licensed to do so. The regulations seek to promote the privacy of residents by enabling them to register their residence on a “do-not-solicit” list maintained by the Borough which would prohibit door-to-door peddling, soliciting or canvassing to any such residence. Provision is also made for an alternative “do-not-solicit” list prohibiting only door-to-door commercial solicitations. Licensing of peddlers, solicitors and canvassers approaching residents in the streets or other public places of the Borough or working from a stationary location in a public place is limited to commercial vendors.
2. **Definitions.** As used in this chapter, the following terms have the meanings indicated.
 - A. “Peddling” means the selling or attempted selling of goods or services when done from a stationary location on a street or other public place or by traveling from house to house, place to place or street to street. A “Peddler” is an individual engaged in peddling.
 - B. “Soliciting” means the taking or attempted taking of orders for the sale of goods or services to be delivered or performed at a future time when done from a stationary location on a street or other public place or by traveling from house to house, place to place or street to street. A “Solicitor” is an individual engaged in soliciting.
 - C. “Canvassing” means communicating or attempting to communicate with residents to promote, distribute information about, seek support or solicit money for any religious, charitable, educational, civic, fraternal, political or other not-for-profit organization or cause, when done ~~from a stationary location on a street or other public place or by traveling from house to house, place to place or street to street.~~ A “Canvasser” is one engaged in canvassing.
3. **License Required.** It shall be unlawful for any peddler, solicitor, canvasser or other individual to engage in peddling, soliciting or canvassing in the Borough of Pennington without first obtaining a license for that purpose as further provided in this chapter. The only exceptions to this requirement shall be individuals possessing a peddler or similar license pursuant to New Jersey statute, N.J.S.A. 45:24-1, et seq. Individuals intending to engage in peddling or soliciting shall obtain a “Solicitor’s License.” Individuals intending to engage in canvassing shall obtain a Canvasser’s License.
4. **Application Procedure.** An individual seeking a license under this chapter shall file an application with the Borough Clerk on the applicable form supplied by the Clerk or found on the Borough website. The application shall contain (a) the applicant’s name and current address, (b) contact information, (c) any previous name or alias, (c) age, weight, eye color and hair color, (d) date of birth, (e) driver’s license number and state of licensure, (f) vehicle registration and state of registration, if applicable, (g) purpose of requested license, including nature of business, goods and services to be sold or reason for canvass, (h) name, address and contact information for applicant’s employer, if applicable, (i) name, address and contact information for at least two character references, (j) disclosure whether applicant has ever been convicted of any crime, misdemeanor or disorderly persons offense, with description of the nature, location and date of same, if applicable, (j) social security number and (k) a signed statement under oath swearing to or affirming the truth of the supplied information. The completed application form shall be submitted together with a two-inch square photograph of the applicant, a letter or other written statement from any

individual, firm or organization represented by the applicant certifying that the applicant is authorized to act as its representative, and the appropriate license fee as set forth in Article VI of Chapter 98 of the Code.

5. Investigation. The original application and related documents shall be referred to the Pennington Borough Police Department for investigation. The application shall be approved or disapproved by the Director of Public Safety of the Borough within fourteen (14) days, except the application may be disapproved only if the Director makes one or more of the following findings with respect to the applicant: (a) conviction of a crime of moral turpitude; (b) prior violation of an ordinance or law pertaining to peddlers, solicitors or canvassers; (c) previous fraudulent acts or conduct; (d) record of breaches of solicited contracts; (e) concrete evidence of bad character. However, a candidate for public office who has filed required petitions and been qualified for inclusion on the ballot shall not be denied a license in any circumstance for as long as the candidate remains qualified to be on the ballot.

6. Issuance and Display of Approved Licenses. An approved license shall be issued in the form of a badge able to be worn on the outer garment of the licensee, containing the words "Solicitor" or "Canvasser" in large bold print, bearing the name and photograph of the applicant, indicating the approval of the applicant for licensure, the date of expiration of the license and the signature of the Borough Clerk. The badge shall be worn by the licensee at all times the licensee is engaged in peddling, soliciting or canvassing by affixing it to the front of an outer garment in such a way as to be conspicuous. The licensee shall permit the police and any inquiring resident to examine the badge closely upon request.

7. Expiration of Licenses. All licenses issued pursuant to this chapter shall expire on December 31 next succeeding the date of issuance.

8. Revocation of License. Any license issued pursuant to this chapter may be revoked by the Director of Public Safety for conviction of a crime of moral turpitude, falsification of statements made in the application process, violation of any of the terms of this chapter, misrepresentations or fraudulent conduct while engaged in licensed activities and other unlawful activity bearing on the safety or privacy of residents.

9. Appeals of Denial or Revocation of Licenses. An applicant or licensee may appeal the denial or revocation of a license to Borough Council, which shall hold an informal hearing to resolve the appeal no later than its next regular meeting.

10. Permitted Hours of Peddling, Solicitation and Canvassing. No activity licensed in accordance with this chapter shall occur **(a)** before 9:00 A.M. or after ~~one-half (1/2) hour before sunset~~ 6:00 P.M. during the months of November through April; **and (b) before 9:00 A.M. or later than 8:00 P.M. during the months of May through October.**

11. Do Not Solicit List.

- A. All residents of the Borough may register their name and address with the Borough Clerk together with a request to be placed on one of two "Do-Not-Solicit" lists to be maintained by the Borough. One list shall register residents who do not wish to be approached at their residence or within the perimeter of their property by any Peddler, Solicitor or Canvasser without exception. The second list shall register residents who do not wish to be approached at their residence or within the perimeter of their property by any Peddler or Solicitor.
- B. It shall be unlawful for a licensee to approach or seek personal contact with the occupant of any residence either at the residence or within the perimeter of the property if the residence is registered on a Do-Not-Solicit list applicable to that licensee. ./
- C. Residents shall remain on the Do-Not-Solicit list selected for a period of four (4) years unless earlier removed in writing by a written request addressed to the Borough Clerk or it is established to the satisfaction of the Borough Clerk that the resident has moved away from the registered address. After the applicable list expires the Borough Clerk shall notify all affected residents in writing, who must then renew in writing their requests to be included on the list.
- D. The Borough Clerk shall maintain copies of the two "Do-Not-Solicit" lists and provide them to all individuals who obtain a Peddler, Solicitor or Canvasser license. The Clerk shall charge a fee for the lists pursuant to ~~N.J.S.A. 47:1A-5~~ **Chapter 98 of the Code.**
- E. The Borough Clerk shall also maintain copies of the lists on the Borough website and shall update the lists on January 1, April 1, July 1 and October 1 of each year.
- F. The Clerk shall forward copies of the lists and list updates to the Director of Public Safety for enforcement purposes.
- G. **Upon completion of registration on the elected "Do-Not-Solicit List" the registrant will receive a decal stating either "DO NOT SOLICIT – Registered with the Pennington Borough Municipal Clerk on the 'Do Not Solicit List' for Peddlers and Solicitors -- VIOLATORS WILL BE PROSECUTED" or "DO NOT SOLICIT, DO**

NOT CANVASS - Registered with the Pennington Borough Municipal Clerk on the 'Do Not Solicit List' for Peddlers, Solicitors and Canvassers – VIOLATORS WILL BE PROSECUTED." These decals as appropriate must be displayed in a clearly visible location such as front door or window adjacent to the front door.

12. **Posted property. No peddler or solicitor shall enter onto any property on which is located a sign or signs stating "No Peddlers, No Solicitors," and no peddler, solicitor or canvasser shall enter onto any property on which is located a sign or signs stating "No Peddlers, No Solicitors, No Canvassers," or other signs conveying in substance that the entry of anyone engaged in peddling or soliciting or peddling, soliciting or canvassing, as intended, is forbidden. Signage forbidding entry onto any property shall include signage located at the entrance of any housing development on behalf of the occupants of any condominium/townhouse or age-restricted community.**

13. **Enforcement.** Enforcement of this chapter, with respect to both soliciting or canvassing without a license and soliciting at residences on a Do-Not-Solicit list shall be the responsibility of the Pennington Police Department.

14. **Violations and Penalties.** Any individual violating any of the provisions of this chapter shall, upon conviction, be subject to a fine not exceeding \$1,000., imprisonment not exceeding 90 days or a period of community service not exceeding 90 days, or any combination thereof.

BE IT FURTHER ORDAINED that the provisions of this ordinance shall be severable, such that if any provision is deemed invalid the remaining provisions shall remain fully effective.

AND BE IT FURTHER ORDAINED that Chapter 98 of the Code, at Article VI, Section 98.30, Miscellaneous Fees, is hereby amended as set forth below.

1. Sub-Section 98-30. B is amended as follows:

"Peddler's and Solicitor's permit licenses as required by ~~See. 147-6~~ Chapter 147 of this Code: \$100.

2. A new Sub-Section 98.30.C is added, to read as follows:

"Canvasser's license as required by Chapter 147 of this Code: ____"

3. **A new Sub-Section 98.30.D is added, to read as follows:**

"Fee for photocopy of 'Do Not Solicit List' pursuant to Chapter 147 of the Code: as provided for copies of government records in N.J.S.A. 47:1A-5.

AND BE IT FURTHER ORDAINED that this Ordinance shall be effective upon passage and publication as provided by law.

Council Member Marciante made a motion to introduce Ordinance 2018-1, second by Council Member Gnatt. Mr. Lawver stated that the ordinance refers to peddling, soliciting and canvassing but then the licensing is only for soliciting and canvassing. Mr. Lawver asked if a license would be issued for peddling. Mr. Bliss stated that we could issue a license however they are consolidated by language in the ordinance, peddlers and solicitors get a solicitors badge. Mr. Lawver stated that was fine, he was just looking for clarity. Mr. Lawver stated that it was unclear to him whether politicians or their representatives need a license. Mr. Bliss stated that anyone going door to door will need a license. Mr. Bliss stated that the ordinance uses deductive logic from the notion that the purpose of the ordinance is to protect homeowners from people who knock on their door and the desire to make sure that we know who they are and that imposters can be detected. Mr. Bliss stated that in addition from the other end, homeowners can elect to join a "Do Not Solicit" group. Mr. Bliss stated that once the premise is adopted that the purpose is to protect the security of homeowners then anyone who is knocking on doors has to be licensed. Mr. Bliss stated that it does not mean that they have to pay a fee, but the Borough has to know who they are. Mr. Bliss stated that the one exception for politicians is that it does not apply to candidates for office who have filed petitions and have been admitted to the ballot. Mr. Lawver stated that candidates can't get petitions signed without a license. Mr. Bliss stated that as amended the canvasser's license only pertains to house to house not public places, place to place or street to street. Mr. Lawver stated that as he read through this, the "Do Not Solicit" list sounds like a great idea but it looks to him that it will be relatively burdensome to manage. Mr. Lawver stated that this ordinance seems to be a fairly heavy handed tool to address something that he is unaware of as a major problem in town. Mr. Lawver thanked Mr. Marciante for sharing a letter that went out in Hopewell Township regarding a burglary but he is not sure that this ordinance will stop that from happening.

Mr. Marciante asked if community based organizations can be exempted from the fee. Mr. Bliss stated that he does not see how it could be done even-handedly. Mr. Bliss stated that if the function of the badge is two-fold, one there is a place that knows who this person is and the other function is that it theoretically protects residents against imposters. Mr. Bliss stated that anyone can pose as a member of a community group and knock on doors but it is the badge that identifies people. Mr. Bliss stated that it is arguably in the interest of the community groups to have a system of identification that gives the homeowner

confidence in who they are. Mr. Marciante asked if the boy scouts go door to door selling popcorn and a resident complains how that would be addressed. Mr. Bliss stated that a non-profit selling a product for the purpose of raising money would get caught up in the definition of a peddler or solicitor. Mr. Bliss stated that under the definition a canvasser can solicit money but the question is selling a product. Mr. Bliss stated that the considerations for peddlers and solicitors is a little different because in addition to the security issue and the privacy issue you have the integrity of the product and the integrity of the transaction and a resident gets burned they would want to know how to find the person. Mr. Bliss stated that when dealing with peddlers and solicitors the fly by night fear is an extra fear that his license system will address.

Mr. Marciante stated that he spoke with Mrs. Heinzl today and the sunset tables for the months indicated in the ordinance will be in the dark for certain periods and that is not what was agreed on. Mr. Marciante stated that the idea was that this would only be allowed during daylight hours. Mrs. Heinzl stated that Mr. Marciante had suggested 9am to 6pm from November to April and 9am to 7pm for May to October. Mr. Marciante stated that in response to Mr. Lawver's concern about the work involved in keeping a list, it would be cheaper to buy stickers for the door saying Do Not Solicit. Mrs. Heinzl stated that a list would still need to be kept. Mr. Bliss stated that a list would be needed as an enforcement tool. Mr. Bliss stated that it would be difficult to prove a case based on a window decal. Mr. Bliss stated that whether it would deter a certain percentage of this then it would work without concern. Mr. Bliss stated that he built this ordinance around the ordinance that Hamilton Township adopted. Mr. Bliss stated that this ordinance for Pennington could be much milder. Mr. Bliss stated that his first draft did not have a requirement for a decal it was going strictly on the list. Mrs. Mills asked how prevalent this is in Pennington Borough because she does not get a lot of solicitors. Mayor Persichilli stated that this came about because of organizations that come out three or four times a year and also because a resident came out to two previous meetings expressing concern. Mayor Persichilli stated that the list will generate some administrative work and we will have to figure out the particulars. Mayor Persichilli stated that if Council would like to discuss this at another time they can hold off on introduction of the ordinance. Mr. Griffiths stated that the \$100.00 fee would have a chilling effect on a legitimate non-profit organization. Mr. Bliss stated that the ordinance before Council has a blank space for the fee for canvassers on the theory that Council would discuss the fee. Mr. Bliss stated that the current fee is \$100.00 with no fee for non-profit organizations. Mr. Bliss stated that the proposal has been that the fee be uniform for both. Some discussion took place regarding community based non-profit organizations. Mayor Persichilli asked if Council was ready to vote on introduction or if they wanted to wait. Mr. Marciante wanted to proceed. Upon a roll call vote, all members present voted in favor of introduction with the exception of Mr. Lawver and Mrs. Mills who voted no. Mr. Bliss stated that since this ordinance has been introduced and will be scheduled for public hearing and adoption at the next meeting, the blank space for the fee for canvassing should be filled in. Mr. Marciante asked for an example of a canvasser. Mr. Bliss stated that a canvasser could be anybody who is advocating for a cause, getting signatures on a petition, collecting money for a cause. Mr. Griffiths asked if a nonprofit like the Boy Scouts selling mulch would be a canvasser. Mr. Bliss stated that the ordinance does not make a decision on selling a product to make money, it addresses soliciting money. Mr. Bliss stated that it is not recognized as a commercial transaction, the homeowner would understand that the product being purchased is priced to include a contribution to the group. Mr. Bliss stated that it is different with a commercial vendor. Mr. Griffiths suggested inviting some of the local nonprofit organizations to come in and answer the question whether going door to door is part of their ongoing revenue strategy as opposed to soliciting at a public place such as the market. Mrs. Heinzl stated that this ordinance is designed to make sure that anyone going door to door is properly identified. Mr. Griffiths stated that the real purpose of this ordinance is to prevent potential criminal activity, casing households under the guise of soliciting or canvassing. Mr. Griffiths stated that the resident who came to the last two meetings was legitimately concerned about the safety of his family. Mr. Bliss stated that Hopewell Township has an ordinance that regulates solicitors, hawkers, peddlers, and all commercial vendors and it is totally silent on nonprofits. Mrs. Heinzl stated that this ordinance contemplates two lists, one to prohibit commercial solicitors and the other is to prohibit all solicitors.

Following the discussion Mr. Bliss stated that the ordinance should be introduced with the fee for canvassing filled in and the hours changed to reflect daylight hours only. Mr. Bliss explained that right now nonprofit organizations are not paying a fee and the ordinance regulates solicitors and peddlers but exempts nonprofits which means they do not have to have a license or pay a fee. Mr. Bliss stated that the proposed ordinance takes a small step towards forcing them to be registered in the form of a license with a photo and a badge. Mr. Lawver stated that Council should recognize that if this ordinance is approved, Council has obligated the Borough to do a serious investigation of each person who comes in and requests a license. Mr. Bliss stated that theoretically this ordinance opens up a whole new population of potential licensees that currently does not exist because the current population gets for the most part an automatic exemption. Mr. Bliss stated that with regard to the fee for canvassers, nonprofit organizations do not pay real estate taxes, they do not pay sales tax and they don't pay income tax so the notion that they should not pay a peddlers fee is not extraordinary. Mr. Bliss stated that with regard to the "Do Not Solicit" list, it is a service being provided to the community in terms of enhanced security and enhanced privacy and it is a rock solid way to keep people from coming to the door. Mr. Griffiths stated that if the fee is kept at \$100, no one would do it anyway. Mr. Bliss asked if the purpose was to protect security and privacy or is it to just put a lid on soliciting. Mr. Marciante stated that the purpose is security. Mr. Lawver stated that the more Council talks about this, the more questions that are raised. Mr. Lawver volunteered to sit down with Mr. Marciante and go through the ordinance and come up with all possible scenarios that need to be addressed before the next meeting. Mr. Lawver made a motion to withdraw his motion to introduce and table the ordinance until the next meeting, second by Council Member Griffiths with all members present voting in favor.

Mayor Persichilli read Ordinance 2018-3 by title.

**BOROUGH OF PENNINGTON
ORDINANCE # 2018-3**

**AN ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS
AND TO ESTABLISH A CAP BANK IN ACCORDANCE WITH N.J.S.A. 40A: 4-45.14 IN
THE BOROUGH OF PENNINGTON, NEW JERSEY**

WHEREAS, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to .5% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the Mayor and Council of the Borough of Pennington, Mercer County hereby determines that it is advisable and necessary to increase its CY 2017 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

NOW THEREFORE BE IT ORDAINED, by the Mayor and Council of the Borough of Pennington, in the County of Mercer, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2017 budget year, the final appropriations of the Borough of Pennington shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5 %, amounting to a total increase of \$92,643.42, said amount being \$26,469.54 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, and that the CY 2017 municipal budget for the Borough of Pennington be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that the Mayor and Council of the Borough of Pennington hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

BE IT FURTHER ORDAINED, that any that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon be filed with said Director within 5 days after such adoption.

Council Member Griffiths made a motion to introduce Ordinance 2018-3, second by Council Member Lawver with all members present voting in favor.

Mayor Persichilli read Ordinance 2018-4 by title.

**BOROUGH OF PENNINGTON
RESOLUTION NO. 2018-4**

**ORDINANCE AMENDING CHAPTER 98 OF THE
BOROUGH CODE REGARDING FEES**

WHEREAS, Borough Council seeks to update certain fees contained in Chapter 98 of the Borough Code;

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

1. Chapter 98 of the Code of the Borough of Pennington is amended by adding to Section 98-30.C: Registration of Vacant Building, as required by Chapter 136, initially and annually: \$250.
2. Chapter 98 of the Code of the Borough of Pennington is amended by adding to new Section 98-30.D: Annual fee for Electronic Smoking Device Establishment License: \$600.
3. Chapter 98 of the Code of the Borough of Pennington is amended by adding to new Section 98-30.E: Fee for Memorial Tree: \$300.
4. Chapter 98 of the Code of the Borough of Pennington is amended by adding to new Section 98-

30.F: Fee for Adopt a Flag: \$42.

5. Chapter 98 of the Code of the Borough of Pennington is amended by amending Section 98-29, Dog Licensing, at subsection E: Fee for late registration: ~~\$3-\$5~~ per month ~~or part thereof per dog~~ after May 31;
6. Chapter 98 of the Code of the Borough of Pennington is amended by amending Section 98-29, Cat Licensing, at subsection B: Fee for late registration: ~~\$3-\$5~~ per month ~~or part thereof per cat~~ after May 31.
7. This Ordinance shall be effective upon passage and publication as provided by law.

Council Member Griffiths made a motion to introduce Ordinance 2018-4, second by Council Member Lawver. Mr. Marciante asked how much it costs to plant a tree. Mr. Lawver stated that it cost between \$200 and \$250 to buy the tree and then the Borough plants it. Mr. Lawver stated that there is also a cost for the plaque. Upon a roll call vote all members present voted in favor.

Mayor Persichilli read Ordinance 2018-5 by title.

**BOROUGH OF PENNINGTON
 ORDINANCE #2018 – 5**

**AN ORDINANCE TO PROVIDE FOR AND DETERMINE THE RATE OF
 COMPENSATION OF OFFICERS AND EMPLOYEES OF THE BOROUGH OF
 PENNINGTON, COUNTY OF MERCER, STATE OF NEW JERSEY
 FOR THE YEAR 2018**

**BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF
 PENNINGTON AS FOLLOWS:**

SECTION I: EMPLOYMENT POSITIONS/ANNUAL COMPENSATION

- a. The following official and employment designations are hereby confirmed and the rate of compensation of each officer and employee of the Borough of Pennington, whose compensation shall be on an annual basis, is:

Borough Administrator	\$ 52,251.40
Borough Clerk	\$ 42,571.85
Treasurer / Assistant Chief Financial Officer	\$ 72,735.65
Tax Collector	\$ 30,585.90
Utility Collector	\$ 30,585.90
Technical Assistant to Construction	\$ 11,892.35
Tax Assessor	\$ 12,989.20
Zoning Officer	\$ 8,790.10
Land Use Admin/Admin Asst.	\$ 51,232.00
Deputy Registrar	\$ 2,213.75
Supt. of Public Works	\$82,256.50
Licensed Water Operator	\$45,900.00
Judge of Municipal Court	\$ 12,349.60
Court Administrator	\$ 17,259.50
Prosecutor - (Flat Rate per Court Session)	\$ 300.00
Public Defender – (Flat Rate per Court Session)	\$ 200.00
Court Officer – (Flat Rate per Court Session)	\$75.00
Public Safety Director	\$ 55,831.85
Construction Official	\$ 27,271.75
Plumbing Sub-Code	\$ 40.35 / hour
Fire Sub-Code	\$ 40.95 / hour
Electric Sub-Code	\$39.54 / hour

- b. One person may serve in more than one office or position of employment as listed in Section a hereof.

- c. The amounts shown in Section a. hereof are the maximum amounts to be paid, however, at the discretion of Borough Council, lesser amounts can be paid.
- d. The rate of compensation of each employee, paid on an hourly basis is as follows:

	Minimum	Maximum
Finance		
Municipal CFO(p/t)	\$ 25.00	\$ 82.22
Police Department:		
Crossing Guards	\$ 15.00	\$ 26.50
Special Police	\$ 16.92 per hour	
Part Time Employees – All Departments:		
Part Time or Temporary	\$ 8.00	\$ 21.50
Part Time/Temporary/Licensed	up to a maximum of	\$ 45.00

SECTION II: Employee/Personnel Manual.

The terms and conditions of employment as set forth in the Borough Employee or Personnel Manual, as the same may exist and change from time to time, are hereby incorporated herein by reference. The Personnel Manual does not create a contract of employment and except for employees who are tenured; no contract of employment other than “at will” has been expressed or implied. The policies, rules and benefits described in the Manual are subject to change at the sole discretion of the Borough Council at any time.

SECTION III:

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed.

SECTION IV:

Terms and Conditions of employment for Police and Public Works employees are specified in the respective labor agreements.

SECTION V:

This ordinance shall take effect upon final adoption and publication according to law, but the salaries herein provided for shall be retroactive to January 1, 2018.

Council Member Griffiths made a motion to introduce Ordinance 2018-5, second by Council Member Gnatt with all members present voting in favor.

Mayor Persichilli read Ordinance 2018-6 by title.

**BOROUGH OF PENNINGTON
ORDINANCE 2018-6**

**AN ORDINANCE CONCERNING SHADE TREES AND AMENDING AND CLARIFYING
CHAPTER 13, ARTICLE I OF THE BOROUGH CODE**

WHEREAS, shade trees are an important part of the quality of life in the Borough of Pennington and the Borough Shade Tree Committee provides invaluable assistance to Borough Council in the care and management of trees and the enhancement of the urban forest in this municipality;

WHEREAS, Borough Council seeks to clarify certain provisions of the Borough Code with respect to the advisory responsibilities of the Shade Tree Committee, the management of trees, particularly in or near the public right-of-way, and obligations of the Borough and property owners with respect to them;

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

1. **Article I of Chapter 13 of the Code of the Borough of Pennington, at Section 13-1, concerning the establishment, purpose and membership of the Shade Tree Committee, is hereby amended and supplemented to read in its entirety as follows:**

Section 13-1. Establishment, membership and purpose.

~~[A. The regulation, planting, care and control of shade and ornamental trees and shrubbery upon and in the streets, highways and public property of the Borough of Pennington, except state highways, unless the State Highway Department shall assent thereto, and except county highways, parks and parkways if a County Shade Tree Commission is operative and gives assent thereto, shall be exercised by and under the authority of the Borough Council. In order to aid the Borough~~

~~Council in regulating the planting, care and control of shade and ornamental trees and shrubbery upon and in the streets, highways and public property, there is hereby established a Shade Tree Committee.~~

~~B. The purpose of the Shade Tree Committee shall be to recommend legislation and other appropriate action to the Borough Council [and to recommendations] regarding the regulation, planting, care and removal of shade and ornamental trees and shrubbery in the Borough generally.~~

~~C. The Shade Tree Committee hereby established shall consist of seven members, who shall be residents of this municipality and, when feasible, have experience or expertise in the area of arboriculture or related fields.]~~

A. The Shade Tree Committee has been established by ordinance effective December 2, 1985, amended April 4, 2016. It shall consist of seven members who shall be residents of this municipality and, when feasible, have experience or expertise in the area of arboriculture or related fields.

B. The purpose of the Shade Tree Committee is to advise Borough Council in the exercise of its authority over the regulation, planting, care and removal of shade and ornamental trees and shrubbery upon and in the streets, highways, public right-of-way and public property of the Borough of Pennington. This authority shall not extend to state highways unless the State Highway Department shall assent thereto, or to county highways, roads, parks and parkways unless a County Shade Tree Commission is operative and gives assent thereto.

2. Article 1 of Chapter 13 of the Code of the Borough of Pennington is hereby supplemented by the addition of the following new Section 13-1.1, concerning definitions:

Section 13-1.1 . Definitions.

A. "Care" as used herein shall include trimming, spraying, watering, mulching and other measures calculated to protect the public safety or the health and well-being of the tree or shrubbery.

B. "Trees and shrubbery upon and in the public right-of-way and public property of the Borough" shall mean any tree or shrub whose trunk at ground level is wholly or partially in the public right-of-way or on public property.

C. "Trees and shrubbery on private property" shall mean any tree or shrub whose trunk at ground level is not in the public right-of-way or on public property in whole or in part.

D. "Public right-of-way" or "right-of-way" is the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas and other areas within the street lines. The street lines are parallel to each other equidistant from the center of the street, in conformance with prescribed street widths as displayed on the Borough Tax Map.

E. "Urban Forest" shall mean all of the trees and other vegetation in and around our cities and towns. It includes trees in home landscapes, schoolyards, parks and greenbelts, utility rights-of-way and cemeteries. It also includes trees along streets and streams and anywhere else that trees can grow in and around a community.

F. "Community Forestry Management Plan" shall mean a plan developed by a municipality that outlines the goals and objectives for managing trees on municipal property with the intent of minimizing liability to the municipality and maximizing the useful life of the tree resource. The plan is to be approved by the New Jersey Department of Environmental Protection, Division of Parks and Forestry, New Jersey Forest Service.

3. Article I of Chapter 13 at Section 13-5, concerning further the responsibilities of the Shade Tree Committee, is amended and supplemented to read in its entirety as follows:

Section 13-5. Scope of Responsibilities.

The Shade Tree Committee ~~{organized under this article shall have power to}~~ in its advisory capacity may:

A. Recommend to ~~the~~ Borough Council legislation and other appropriate action governing the regulation, ~~planting~~, care and removal of ~~shade and ornamental~~ ~~such~~ trees and shrubbery upon and in the public right-of-way and public property of the Borough, and use of the ground surrounding ~~the same~~ them, so far as may be necessary for their growth, care and protection. ~~now~~

~~located or which may hereafter be planted in any public highway, park or parkway or public right-of-way, except such as are excluded pursuant to § 13-1A of this article. "Care," as used herein shall include trimming, spraying and other measures calculated to protect the health and well being of the tree or shrubbery.] All such recommendations shall be B. Recommend [legislation and other appropriate action] to the Borough Council [regulating the use of the ground in the proximity of affected trees and shrubbery, so far as may be necessary for the public safety and for the health, proper growth, care and protection of the trees and shrubbery.] to Borough Council the care or removal of any tree in whole or in part, with notice to the Borough's Superintendent of Public Works and subject to such conditions as the Committee deems appropriate consistent with the purposes of this ordinance, after weighing the following considerations:~~

- ~~(a) the safety of the public;~~
- ~~(b) the condition or health of the tree;~~
- ~~(c) the appropriateness of the location of the tree or shrub;~~
- ~~(d) the significance of the tree for preservation of the urban forest;~~
- ~~(e) opportunities for planting replacement trees or shrubbery conforming with Shade Tree Committee specifications;~~
- ~~(f) the immediacy of the need for action;~~
- ~~(g) the availability of public or private financing for the action contemplated~~
- ~~(h) other factors favoring removal or non-removal of the tree in the best interests of the Borough and its residents.~~

~~BC. Recommend to Borough Council with notice to the Superintendent of Public Works legislation and other appropriate action to enhance and protect [Recommend to Borough Council, with notice to the Borough's Superintendent of Public Works, the need for removal of any tree or part thereof dangerous to public safety. Trees presenting a risk to public safety may include but need not be limited to trees in the public right-of-way, on public property, or on private property encroaching on the public right-of-way.] With respect to enhancing and protecting the public property of the Borough and the public right-of-way, including:~~

- ~~1. Recommend to Borough Council the planting of trees and shrubbery upon or in the public right-of-way or public property; and ,after visiting potential sites and, in conjunction with any adjoining property owner, consulting the list of recommended shade trees for the Borough to identify the type or types of trees and the location and size that may be appropriate;~~
- ~~2. Recommend to Borough Council legislation and other appropriate action for the care or removal of roots, limbs, branches and other growth extending from trees and shrubbery on private property into or over public property or the public right-of-way.~~

~~Recommendations for the planting of trees shall be made after visiting the potential site and consulting the list of shade trees recommended for the Borough to identify the type or types of trees and the location and size that may be appropriate. When the potential site is in a public right-of-way adjoining private property, the Committee shall review the list of recommended shade trees in consultation with the adjoining property owner.~~

~~CD. Recommend to the Borough Council, with notice to the Borough's Superintendent of Public Works, the care, treatment or removal of any tree situated upon on private property which is believed to harbor a disease or insect harmful to trees or other vegetation readily communicable to neighboring healthy trees or other vegetation in the care of the municipality, and recommend to Borough Council entry upon the private property for that purpose, with the consent of the owner thereof, provided that the suspected condition is first confirmed by a certificate issued by or on behalf of the New Jersey Department of Agriculture [the making, altering, amending and repeal of ordinances by the governing body necessary or proper for carrying out the provisions hereof].~~

~~DE. [Recommend to Borough Council, with notice to the Borough's Superintendent of Public Works, the care, treatment or removal of any tree situated upon private property which is believed to harbor a disease or insect harmful to trees or other vegetation, readily communicable to neighboring healthy trees or other vegetation in the care of the municipality, and recommend to Borough Council the entry upon the private property for that purpose, with the consent of the owner thereof, provided that the suspected condition is first confirmed by a certificate issued by or on behalf of the New Jersey Department of Environmental Protection.] Develop and maintain a list of trees recommended for shade tree plantings in the Borough. The list shall provide a variety of options, taking into consideration the regional climate, the size of the tree and its root systems, and the available space for a planting. Advise the Borough in the crafting and implementation of its "Community Forestry Management Plan."~~

~~EF. [Review requests by property owners for the removal of shade and ornamental trees and shrubbery in the public right-of-way, and with respect to each such request, determine whether the requested removal is in the interest of public safety or otherwise in the best interests of the Borough~~

~~and its residents and make a recommendation to the Borough Council based upon this review and determination.] Encourage private property owners to plant, care for and maintain shade trees, ornamental trees and ornamental shrubs on their property as part of the urban forest.~~

~~G. [Develop and maintain a list of trees that are recommended for shade tree plantings in the Borough. The list shall provide a variety of options, taking into consideration the regional climate, the size of the tree and its root systems, and the available space for a planting.]~~

~~H. [Encourage arboriculture.]~~

4. Article I of Chapter 13 at Section 13-6, concerning responsibilities for the cost of planting, care and removal of trees, is amended to read in its entirety as follows:

Section 13-6. ~~Procedure and~~ Payment for planting or removal of trees.

~~A. [Except as otherwise provided herein, the planting, care and removal of trees or parts of trees on public property and on private property but within or encroaching upon the public right-of-way shall be paid for by the Borough to the extent provided for in the annual budget for the Shade Tree Committee approved by the Borough Council. The planting, care and removal of trees and shrubbery upon and in the public right-of-way and public property of the Borough shall be paid for by the Borough provided the work is:~~

- ~~(a) included in the annual budget for the Shade Tree Committee approved by Borough Council.~~
- ~~(b) authorized by separate action of Borough Council in its sole discretion even when budgeted, and~~
- ~~(c) conducted by the Department of Public Works or a contractor retained by the Borough in conformance with the Local Public Contracts Law.~~

~~B. [The planting, care and removal of trees or parts of trees shall be subject to oversight by the Shade Tree Committee, including but not limited to the cutting of the roots of trees which encroach upon the public right-of-way. The actual work shall be conducted in consultation with and subject to the direction of the Department of Public Works or its designee. It shall be a violation of this article for any property owner to remove a tree or part of a tree in the public right-of-way.] The removal of all or part of the roots extending from trees and shrubbery on private property onto public property or into the public right-of-way as needed to protect the public safety or public infrastructure shall also be paid for by the Borough, subject to the same conditions as set forth in the preceding subsection.~~

~~C. [Where a private property owner has requested that a tree or trees be planted within the public right-of-way along any portion of his or her property, the Shade Tree Committee shall review this request and visit the premises if necessary. The Shade Tree Committee shall consult the list of recommended shade trees for the Borough when considering the type or types of trees that should be planted and their location and size. These considerations shall be made in conjunction with the affected property owner. Upon completion of these considerations, the Shade Tree Committee shall forward to Borough Council and the Borough's Superintendent of Public Works its recommendations. If trees are to be planted, the cost to purchase and plant the trees shall come from the Shade Tree Committee annual budget.] In other instances involving care or removal of trees and shrubbery on private property pursuant to this ordinance or the Borough Code, the work shall be paid for by the property owner. These instances include the removal of parts of trees and shrubbery on private property extending over public property or into the public right-of-way, and the removal of trees determined to be diseased or otherwise dangerous to the public safety. The work in each case shall be performed by the Department of Public Works or a contractor retained by the Borough except with respect to work required to be performed by the property owner pursuant to Section 177-21 of the Code.~~

~~D. [Where a tree or part of a tree located upon private property, but not within the public right-of-way, is dangerous to public safety or requires removal by reason of disease as provided herein, unless public safety or the disease requires immediate removal, the Shade Tree Committee shall give the property owner 10 days' notice that it intends to recommend removal of such tree to Borough Council. Within that ten-day period, the property owner may request a hearing before the Shade Tree Committee, and the Shade Tree Committee shall report the property owner's objections to the Borough Council. If the Borough Council decides to have the tree or part thereof removed, the costs incurred shall be a lien against the property, unless paid by the property owner.] When the Shade Tree Committee determines that a tree located on private property requires removal in whole or in part because it is diseased or otherwise dangerous to the public safety, the Committee shall give the property owner 10 days' notice that it intends to recommend removal of all or part of the tree to Borough Council. Within that ten-day period the property owner may request a hearing before the Shade Tree Committee and the Committee shall report the property owner's objections to Borough Council. If the public safety requires immediate removal of the tree, no notice shall be necessary.~~

~~E. [a property owner requests the removal of a Borough owned shade or ornamental tree or shrubbery on private property, but within the public right-of-way, and a member of the Shade Tree Committee or its qualified agent have visited the property and the Shade Tree Committee and~~

~~Borough Council have determined that based on inspection the shade or ornamental tree or shrubbery may be removed without detriment to the interests of the Borough and its residents, taking into account the health, size, location and variety of the tree or shrubbery, Borough Council may arrange for that shade or ornamental tree or shrubbery to be removed. The cost incurred for the removal of the tree(s) and for the replacement of the tree(s) in the same or an alternate location within the Borough shall be a lien against the property, unless paid by the property owner. The property owner shall also be responsible for the cost of work for tree removal in the public right-of-way for which the owner has agreed to provide private financing as part of the review process described in Section 13-5.A.2.~~

F. ~~[The planting of trees under the Pennington Memorial Tree Planting Program shall be at the expense of the applicant.]~~ When the expense of the planting, care or removal of a tree or shrubbery, including the purchase of trees and shrubbery and replacement trees and shrubbery, is to be charged to a property owner pursuant to this article, the following provisions apply:

1. When the work is performed by the Borough Department of Public Works, the charges for the work, in addition to out-of-pocket costs, shall be computed according to the pertinent charges for labor and equipment provided in Chapter 98 of the Code, concerning fees.
2. When the work is performed by a contractor retained by the Borough, in accordance with the Local Public Contracts Law, the charge for the work shall be the charges and reimbursements incurred by the Borough, in addition to its out-of-pocket costs.
3. Charges for replacement trees will be at actual cost plus 10%.
4. The amount due for the work and out-of-pocket costs, unless earlier paid directly to the Borough by the property owner, shall be certified by Borough Council to the collector of taxes of the Borough and shall thereupon become a lien upon the affected real estate and be included in the next tax bill rendered to the owner or owners thereof and be collected in the same manner as other taxes against that property.

G. The planting of trees under the Pennington Memorial Tree planting program shall be at the expense of the applicant.

5. **Article I of Chapter 13 is further amended by the addition of the following new Section 13-11, prohibiting property owners from removing trees or parts of trees on public property or in the public right-of-way, as follows:**

Section 13-11. Prohibition Against Removal of Trees on Public Property or in the Public Right of Way.

A. No person shall remove any tree or shrubbery or part of a tree or shrubbery upon or ~~and~~ in the streets, highways, public right-of-way or public property of the Borough unless expressly authorized by Borough Council in the accordance with this article or otherwise pursuant to the Borough Code.

B. Any person violating this prohibition shall, upon conviction thereof, be subject to a fine not exceeding \$1,000. Such person also shall be required to pay for correction of the work as necessary to bring it into compliance with applicable specifications and requirements.

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

Council Member Lawver made a motion to introduce Ordinance 2018-6, second by Council Member Gnatt. Mr. Marciante stated that Council received two copies of the ordinance one amended copy and one "clean" copy without underlining and he has spoken to Mrs. Heinzl and he does not understand what is being changed and what is staying the same. Mr. Marciante stated that it seems there is an impact to residents and it should be clear what is changing and it looks like this is putting the cost on the homeowner. Mr. Lawver stated that this ordinance is clarifying practice and there is not a lot of change. Mr. Lawver stated that anything that is crossed out is coming out and the underlined language is going in. Mrs. Heinzl stated that the confusion is her fault because she suggested that a "clean" copy be distributed to make it more readable. Mrs. Heinzl stated that Mr. Marciante makes a good point that it is hard to figure out what the changes are. Mr. Lawver stated that it would have been better to rescind the current ordinance in its entirety and introducing a complete new ordinance. Mr. Marciante stated that he just wants to know how this will affect homeowners. Mrs. Heinzl stated that the Shade Tree Committee has done a lot of work on this ordinance and if Mr. Lawver is okay with holding this ordinance until the next meeting she will share the changes with Council so that it is clear. No vote was taken, the ordinance was tabled to the May meeting.

Budget Introduction

**BOROUGH OF PENNINGTON
 RESOLUTION #2018 – 4.4**

**RESOLUTION AUTHORIZING A SELF-EXAMINATION OF THE
 2018 MUNICIPAL BUDGET OF THE MAYOR AND COUNCIL OF
 THE BOROUGH OF PENNINGTON**

WHEREAS, N.J.S.A. 40A:4-78b has authorized the Local Finance Board to adopt rules that permit municipalities in sound fiscal condition to assume the responsibility, normally granted to the Director of the Division of Local Government Services, of conducting the annual budget examination; and

WHEREAS, N.J.A.C. 5:30-7 was adopted by the Local Finance Board on February 11, 1997; and

WHEREAS, pursuant to N.J.A.C. 5:30-7-2 through 7-5, the Borough of Pennington has been declared eligible to participate in the program by the Division of Local Government Services, and the Chief Financial Officer has determined that the local government meets the necessary conditions to participate in the program for the 2018 budget year.

NOW THEREFORE BE IT RESOLVED, by the governing body of the Borough of Pennington that in accordance with N.J.A.C. 5:30-7.6a & 7.6b and based upon the Chief Financial Officer’s certification, the governing body has found the budget has met the following requirements:

1. That with reference to the following items, the amounts have been calculated pursuant to law and appropriated as such in the budget:
 - a. Payment of interest and debt redemption charges
 - b. Deferred charges and statutory expenditures
 - c. Cash deficit of preceding year
 - d. Reserve for uncollected taxes
 - e. Other reserves and non-disbursement items
 - f. Any inclusions of amounts required for school purposes
2. That the provisions relating to limitation on increases of appropriations pursuant to N.J.S.A. 40A:4-45.2 and appropriations for exceptions to limits on appropriations found at N.J.S.A. 40A:4-45.3 et seq., are fully met (complies with CAP law).
3. That the budget is in such form, arrangement and content as required by the Local Budget Law and N.J.A.C. 5:30-4 and 5:30-5.
4. That pursuant to the Local Budget Law:
 - a. All estimates of revenue are reasonable, accurate and correctly stated.
 - b. Items of appropriation are properly set forth
 - c. In itemization, form arrangement and content, the budget will permit the exercise of the comptroller function within the municipality.
5. The budget and associated amendments have been introduced and publicly advertised in accordance with the relevant provisions of the Local Budget Law, except that failure to meet the deadlines of N.J.S.A. 40A:4-5 shall not prevent such certification.
6. That all other applicable statutory requirements have been fulfilled.

BE IT FURTHER RESOLVED that a copy of this resolution will be forwarded to the Director of the Division of Local Government Services upon adoption.

Record of Council Vote on Passage

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

Council Member Lawver made a motion to approve Resolution 2018-4.4, second by Council Member Griffiths with all members present voting in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION #2018-4.5**

**RESOLUTION CERTIFYING GOVERNING BODY COMPLIANCE WITH THE UNITED STATES
 EQUAL EMPLOYMENT OPPORTUNITY COMMISSION’S “ENFORCEMENT GUIDANCE ON
 THE CONSIDERATION OF ARREST AND CONVICTION RECORDS IN EMPLOYMENT
 DECISION UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964”**

WHEREAS, N.J.S.A. 40A:4-5 as amended by P.L. 2017, c.183 requires the governing body of each municipality and county to certify that their local unit’s hiring practices comply with the United States Equal Employment Opportunity Commission’s “Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964,” as amended, 42 U.S.C. § 2000e et seq., (April. 25, 2012) before submitting its approved annual budget to the Division of Local Government Services in the New Jersey Department of Community Affairs; and

WHEREAS, the members of the governing body have familiarized themselves with the contents of the above-referenced enforcement guidance and with their local unit’s hiring practices as they pertain to the consideration of an individual’s criminal history, as evidenced by the group affidavit form of the governing body attached hereto.

NOW, THEREFORE BE IT RESOLVED, that the Borough Council of the Borough of Pennington, hereby states that it has complied with N.J.S.A. 40A:4-5, as amended by P.L. 2017, c.183, by certifying that the local unit’s hiring practices comply with the above-referenced enforcement guidance and hereby directs that Clerk to cause to be maintained and available for inspection a certified copy of this resolution and the required affidavit to show evidence of said compliance.

Record of Council Vote on Passage

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

Council Member Mills made a motion to approve Resolution 2018-4.5, second by Council Member Gnatt. Mr. Bliss stated that Council has received materials related to this including Section 6.1 of the Personnel Manual which describes the hiring procedures of the Borough. Mr. Bliss stated that the major thrust of the EEOC document is concern about obtaining criminal background information and how it is used. Mr. Bliss stated that with regard to the Borough, not including the Police Department, the Borough does not require fingerprinting or background checks for applicants. Mr. Bliss stated that the language of Section 6.1 has been reviewed by the Borough Administrator and the Public Safety Director and it is affirmed that our hiring practices both on the civilian side and on the police conform to the EEOC document. Mr. Bliss stated that Council received a copy of the Employment Application used by the Borough and that document appears to comply with the EEOC guidance. Mr. Bliss stated that with regard to the Police Department, there is use of criminal background information but it is not used in the form of automatic disqualifiers and the practice is to assess each individual on his or her individual merits. Mr. Bliss stated that is his assessment based on his conversations with the Borough Administrator and Public Safety Director. Mr. Meytrott stated that on the police side, they follow the statutory requirements of NJ40A:14-122 under general qualifications and when it comes to criminal history issues the only thing mentioned in the statute is the individual be of good moral character and have not been convicted of any criminal events involving moral turpitude. Mr. Meytrott stated that would be an automatic disqualifier because it is state law but there are no other automatic disqualifiers when they hire. Mr. Bliss stated that with that said, the application of the statute in terms of crimes of moral turpitude would be ones that would be assessed on an individual basis as to the facts of the crime, the age of the crime, employment history surrounding the facts and so forth. Mr. Bliss stated that this is the kind of analysis that the EEOC talks about and it cites the criteria for evaluating criminal histories. Mr. Bliss stated that the three criteria are to consider the nature of the events, the facts of the underlying conduct, the nature of the position and the age of the offense. Mrs. Heinzl stated that this is a law the Governor Christie signed and it is required prior to submission of the budget. Upon a roll call vote all members present voted in favor. Mrs. Sterling reminded Mayor and Council that they will have to sign the affidavit.

**BOROUGH OF PENNINGTON
RESOLUTION #2018 – 4.14**

RESOLUTION TO INTRODUCE BUDGET FOR 2018

Section 1.

Municipal Budget of the Borough of Pennington, County of Mercer for the Fiscal Year 2018.

BE IT RESOLVED, that the attached statement of revenues and appropriations shall constitute the Municipal Budget for the year 2018;

BE IT FURTHER RESOLVED, that said Budget be published in The Hopewell Valley News in the issue of April 13, 2018.

The Governing Body of the Borough of Pennington does hereby approve the attached as the Budget for the year 2018.

Notice is hereby given that the Budget and Tax Resolution was approved by the Borough Council of the Borough of Pennington, County of Mercer, on April 2, 2018. A hearing on the Budget and Tax

Resolution will be held at the Borough Hall, on May 7, 2018 at 7:00 pm at which time and place objections to said Budget and Tax Resolution for the year 2018 may be presented by taxpayers or other interested persons.

Record of Council Vote on Passage

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

Council Member Griffiths made a motion to introduce the budget for 2018, second by Council Member Lawver. Mr. Lawver thanked Mr. Griffiths for his leadership on this process. Mrs. Heinzel added that working with Mr. Griffiths and the Finance Committee and borough professionals has been very good and she has enjoyed the process. Mrs. Heinzel stated that going forward she would like to continue to work on keeping track of the budget as we move forward. Mayor Persichilli asked Mrs. Webb if she had any comments. Mrs. Webb stated that in light of the closed session and the tax settlement that was discussed, if the tax rate is going to remain that same as last year, the amount to be raised for taxation has to be reduced and the anticipated surplus amount has to be increased in the amount of \$17,722.20 which is a change to the document in front of Council. Mrs. Webb stated that making this change now so that the budget is introduced with the corrected numbers will eliminate the need to amend the budget prior to adoption. Upon a roll call vote all members present voted in favor.

New Business

**BOROUGH OF PENNINGTON
RESOLUTION #2018 – 4.1**

RESOLUTION AUTHORIZING REFUNDS

BE IT RESOLVED, that a refund be issued to Richard Van Fleet, President, Creative Media Works, Inc. in the amount of \$1,200.00 for refund of escrow for Planning Board application P17-002 for Block 503, Lot 24, also known as 44 South Main Street, Pennington, NJ 08534.

Record of Council Vote on Passage

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

Council Member Griffiths made a motion to approve Resolution 2018-4.1, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2018 – 4.2**

RESOLUTION AUTHORIZING PAYMENT OF BILLS

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

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Pennington that the bills be paid on audit and approval of the Mayor, the Appropriate Council Member and the Treasurer in the amount of \$ 1,658,820.08 from the following accounts:

Current	\$ 1,607,012.25
W/S Operating	\$ 37,438.36
Developers Escrow	\$ 14,369.47
TOTAL	\$ 1,658,820.08

Record of Council Vote on Passage

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

Council Member Lawver made a motion to approve Resolution 2018-4.2, second by Council Member Mills with all members present voting in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION #2018-4.3**

**RESOLUTION AUTHORIZING AMENDMENTS TO THE
 2018 TEMPORARY BUDGET**

WHEREAS, the 2018 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 2018 Temporary Budget for the Current Account.

Administration	Salaries	\$10,000.00
Administration	Other Expense	\$10,000.00
Municipal Clerk	Salaries	\$10,000.00
Finance	Salaries	\$10,000.00
Tax Collection	Salaries	\$7,500.00
Tax Assessment	Salaries	\$3,000.00
Planning Board	Salaries	\$3,000.00
Construction	Salaries	\$2,000.00
Police	Salaries	\$45,000.00
Streets	Salaries	\$20,000.00
Streets	Other Expense	\$10,000.00
Trash	Salaries	\$10,000.00
Trash	Other Expense	\$25,000.00
Library	Salaries	\$5,000.00
Street Lighting	Other Expense	\$6,000.00
Social Security	Other Expense	\$5,000.00
DCRP	Other Expense	\$2,000.00
Municipal Court	Salaries	\$4,000.00
	Total	\$187,500.00

BE IT FURTHER RESOLVED, that the following additional funds be appropriated for the 2018 Temporary Budget for the Water and Sewer Fund:

Water	Salaries	\$25,000.00
	TOTAL	\$25,000.00

Record of Council Vote on Passage

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

Council Member Griffiths made a motion to approve Resolution 2018-4.3, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION #2018 – 4.6**

**RESOLUTION AUTHORIZING REFUND OF REDEMPTION
 MONIES TO OUTSIDE LIENHOLDER**

WHEREAS, at the Borough Tax Sale held on October 26, 2017, a lien was sold on Block 1002, Lot 12, also known as 417 South Main Street, Pennington, NJ, for 2016 delinquent taxes; and,

WHEREAS, this lien, known as Tax Sale Certificate #16-00001, was sold to Vasyl or Maria Kavatsiuk, for 0%, redemption fee and a \$31,800.00 premium: and,

WHEREAS, J & M Schragger LLC, 417 South Main Street, Pennington, NJ 08534, has effected redemption of Certificate #16-00001 in the amount of \$27,529.97.

NOW, THEREFORE, BE IT RESOLVED, that the Treasurer be authorized to issue a check in the amount of \$27,529.97, payable to Vasyl or Maria Kavatsiuk, 449 Mountain Avenue, Berkeley Heights, NY 07922 for the redemption of Tax Sale Certificate #16-00001.

BE IT FURTHER RESOLVED, that the Treasurer be authorized to issue a check in the amount of \$31,800.00 (Premium) to the aforementioned lienholder.

Record of Council Vote on Passage

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

Council Member Griffiths made a motion to approve Resolution 2018-4.6, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION #2018-4.7**

**RESOLUTION AUTHORIZING GRANT AGREEMENT BETWEEN
 THE BOROUGH OF PENNINGTON AND THE STATE OF NEW JERSEY BY AND FOR THE
 DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR
 A NJ URBAN & COMMUNITY FORESTRY PROGRAM (NJUCF)**

WHEREAS, the governing body of the Borough of Pennington desires to further the public interest by obtaining a grant from the State of New Jersey in the amount of \$10,000.00 to fund the project known as Reforestation Tree Planting.

WHEREAS, this grant requires a fifty percent (50%) cash or in-kind match of the total grant amount; and

WHEREAS, matching funding sources may be federal, state, the local government itself, private foundations or non-profits or volunteers; and

WHEREAS, the Chief Financial Officer has certified that funds are available in the Shade Tree budget under 8-01-26-313-000-250;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and the Borough Administrator with the attestation of the Borough Clerk are hereby authorized as follows:

1. To make application for such a grant.
2. If awarded, to execute a grant agreement with the State for a grant in an amount not more than \$10,000.00, subject to approval as to form by the Borough Attorney.
3. To execute any amendments thereto which do not increase the Grantee's obligations.

Record of Council Vote on Passage

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

Council Member Marciante made a motion to approve Resolution 2018-4.7, second by Council Member Mills with all members present voting in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION 2018 – 4.8**

**RESOLUTION AUTHORIZING LIEN AND TAX FOR
 COSTS OF RETRIEVAL OF A BROKEN SNAKE LODGED IN THE BOROUGH SEWER PIPE AT
 432 BURD STREET, BLOCK 905, LOT 26 ON THE BOROUGH TAX MAP, PURSUANT TO
 SECTIONS 159-18, 159-36 AND 206-9 OF THE PENNINGTON BOROUGH CODE**

WHEREAS, on or about February 13, 2018 the Department of Public Works was summoned to the residence at 432 Burd Street in the Borough in connection with a blockage in the sewer connection between the house and the Borough's service lateral in the street;

WHEREAS, the call to Public Works was initiated by a contractor for the owner who was attempting to address the blockage;

WHEREAS, Public Works performed a video inspection and discovered that the blockage was caused by a broken snake in the line apparently left there by a plumber employed by the owner;

WHEREAS, later that day the Superintendent of Public Works spoke with the owner of 432 Burd Street and made arrangements for a second video the next day, when the homeowner would be home and able to observe;

WHEREAS, a major concern of the Borough was the prospect of the broken snake migrating into the Borough’s sewer lines with the likelihood of damaging them;

WHEREAS, on March 2, 2018, the Borough retained the services of David G. Lanning, Inc. to attempt retrieval of the snake, and though this attempt was not successful (the snake was retrieved only after the homeowner replaced the house connection), charges were incurred by the Borough;

WHEREAS, David G. Lanning, Inc. has submitted the attached Invoice #24628 dated March 5, 2018 in the amount of \$512 for the work requested by the Borough;

WHEREAS, pursuant to Sections 159-18 and 206-9 of the Borough Code, the owner of 432 Burd Street is responsible for these costs;

WHEREAS, pursuant to Section 159-36 of the Borough Code, these charges shall be and remain a lien upon the premises, 432 Burd Street, Block 905, Lot 26, and shall be collected in the same manner as all other taxes and municipal charges upon real estate as provided by law;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the aforesaid amount of \$512 shall be charged against Block 905, Lot 26 and shall become a lien and tax thereon and be added to and become part of the taxes next to be levied and assessed against such property, pursuant to Section 159-36 of the Pennington Borough Code.

Record of Council Vote on Passage

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

Council Member Lawver made a motion to approve Resolution 2018-4.8, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2018-4.9**

**RESOLUTION AUTHORIZING AWARD OF COMP TIME TO
SUPERINTENDENT OF PUBLIC WORKS RICHARD SMITH IN RECOGNITION OF
EXTRAORDINARY CIRCUMSTANCES**

WHEREAS, during the periods February 27, 2018 to March 13, 2018 and March 21, 2018 to March 22, 2018, the Borough was hit with three storms, Winter Storm Quinn which consisted of heavy wind and rain resulting in damage to trees and downed wires and Winter Storms Riley and Toby, both heavy snowstorms requiring extensive plowing, salting and storm-related services by the Department of Public Works;

WHEREAS, the heavy snow required Ricky Smith, the Superintendent of Public Works, to work 102.5 hours in excess of his regular work schedule of which Mr. Smith is requesting 67 hours as extraordinary comp time;

WHEREAS, under Policy #4.4 of the Personnel Manual of the Borough, a management employee hired after May 1, 2008 is not eligible for comp time except in extraordinary circumstances upon the approval of both Mayor and Council;

WHEREAS, Mayor and Council believe that extraordinary circumstances exist in the present case because Mr. Smith worked many hours in excess of his regular schedule to meet emergent needs of the Borough created by a these unique weather events;

WHEREAS, in the judgment of Mayor and Council authorization of comp time for Mr. Smith in the present case serves the best interests of the Borough;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the award of 67 hours of comp time to Richard Smith is hereby authorized subject to the

provisions of the Borough Personnel Manual governing use of comp time and provided that the 67 hours of comp time are used by May 2, 2018.

Record of Council Vote on Passage

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

Council Member Marciante made a motion to approve Resolution 2018-4.9, second by Council Member Mills with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2018 – 4.10**

**RESOLUTION AUTHORIZING A PROFESSIONAL
SERVICES AGREEMENT WITH PARS ENVIRONMENTAL INCORPORATED FOR THE
COMPLETION OF THE 2017 RIGHT TO KNOW SURVEY**

WHEREAS, the Borough Council of the Borough of Pennington seeks to retain the services of PARS Environmental, Inc., licensed engineers, to assist the Borough in completion of the 2017 Right To Know Survey;

WHEREAS, a copy of the PARS proposal, dated March 26, 2018, is annexed to this resolution;

WHEREAS, the contemplated services include inventory of areas that contain hazardous chemicals, completion of the 2017 Right to Know Survey for each area, together with update of the Written Hazard Communications Plan (Tasks 1 and 2 in attached proposal);

WHEREAS, the areas inventoried for hazardous chemicals will include:

1. Borough Hall/Library/Police Dept.
2. Senior Citizen Center
3. Public Works Garage
4. Well House 4 & 5
5. Well House 6
6. Well House 7
7. Well House 8 & 9

WHEREAS, PARS Environmental, Inc. will prepare the appropriate number of surveys and distribute them to all required state and local agencies as well as provide a copy for the Borough files; and

WHEREAS, PARS Environmental, Inc. has agreed to perform Tasks 1 and 2 for the lump sum amount of \$1,800.00;

WHEREAS, the attached PARS proposal includes additional tasks which may be optional, namely tasks 3 through 4a, as described on pages 2 and 3 and priced on page 4 of the proposal;

WHEREAS, Borough Council wishes to authorize the Borough Administrator and the Borough Clerk, as appropriate, to obtain the performance of such of the additional Tasks numbered 2 through 5 as may be legally required;

NOW THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Borough Administrator and Borough Clerk of the Borough are hereby authorized to issue one or more purchase orders or enter into one or more agreements with PARS to ensure performance of Tasks 1 and 2 at the cost of \$1,800. and to issue or enter into such additional purchase orders or agreements as needed to obtain performance of such of the additional Tasks 3 through 5 as may be legally required, at the price or prices indicated in the proposal.

Record of Council Vote on Passage

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

Council Member Lawver made a motion to approve Resolution 2018-4.10, second by Council Member Griffiths with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2018 - 4.11**

RESOLUTION AUTHORIZING SEWER SERVICE TO 100 LEWIS BROOK DRIVE IN HOPEWELL TOWNSHIP (BLOCK 46, LOT 15.02 ON THE HOPEWELL TOWNSHIP TAX MAP) SUBJECT TO AMENDMENT OF THE PENNINGTON SEWER SERVICE AREA

WHEREAS, Daniel Popkin and Robin Federiconi (“Owners”), owners of the house and property known as 100 Lewis Brook Drive in Hopewell Township, also known as Block 46, Lot 15.02 on the Hopewell Township Tax Map (“Property”), have requested sewer service from the Pennington Water and Sewer Utility;

WHEREAS, the Property abuts the Borough of Pennington and is part of a larger tract of land located partly in the Borough, the Borough portion, consisting of .51 acres, being known as Block 104, Lots 7, 8, 9 10 and 11 on the Pennington Borough Tax Map;

WHEREAS, in a 2009 amendment to the Mercer County Water Quality Management Plan the Pennington Sewer Service Area was expanded to include certain residential areas in Hopewell Township adjacent to the Borough;

WHEREAS, the 2009 expansion of the Pennington Sewer Service Area was intended to meet the needs of existing development, particularly properties experiencing septic failure, without fueling increased development;

WHEREAS, the 2009 amendment to the Water Quality Management Plan was further predicated upon expansion of the existing Pennington Treatment Plant of the Stony Brook Regional Sewerage Authority from 0.30 million gallons per day to 0.455 million gallons per day;

WHEREAS, the expansion of the Pennington Plant has not yet occurred and the available capacity for additional sewer service must be carefully husbanded, taking into account especially the projected needs of future development within Pennington:

WHEREAS, the Property is not now located within the Pennington Sewer Service Area, though adjacent to it, and the Public Works Committee of Pennington Borough Council will not endorse and Borough Council will not approve expansion of sewer service beyond it;

WHEREAS, Owners have proposed that the Borough expand the Sewer Service Area to include the Property on the condition that the Property be deed restricted to permit the construction of only one dwelling on it;

WHEREAS, the Property includes wetlands and a riparian buffer but Owners represent that the sewer service they propose will be routed under the existing driveway on the Property and under a portion of one of the lots in the Borough, ultimately connecting to the Borough manhole on Lewis Brook Road to eliminate any environmental impact from the proposed connection;

WHEREAS, Council has determined that, but for the location of the Property outside the Pennington Sewer Service Area, special circumstances favor conditional authorization of sewer service for the Property at this time because (a) the septic system on the Property is at the end of its useful life, (b) the Property is located in close proximity to Baldwin’s Creek, a FW2-NT stream flowing into a C-1 stream on the outskirts of the Borough, (c) the Property will be connected to the Borough’s main by a single residential service lateral and no extension of the main will be required, and (d) service of the single residence on the Property will have a de minimis impact on the overall capacity of Pennington’s sewer system;

WHEREAS, Borough Council has further determined, on the recommendation of the Public Works Committee, that expansion of the Pennington Sewer Service Area to include the Property would be appropriate provided: (a) Hopewell Township consents to amendment of the Water Quality Management Plan for this purpose; (b) the proposed expansion of the Sewer Service Area and proposed sewer connection are reviewed and approved by the Borough Engineer, under an escrow agreement between Owners and the Borough providing that the full cost of that review and related services be paid by Owners, together with the cost of such additional engineering services as required to finalize the Service Area expansion and the sewer connection; (c) Borough Council determines, after review and recommendation by the Borough Environmental Commission, that approval is appropriate on environmental grounds; and (d) the Owners will amend their deed to restrict development of the Property to single-family residential use;

WHEREAS, upon expansion of the Pennington Sewer Service Area to include the Property, after obtaining all related amendments and approvals required to effect such expansion, Borough Council will approve sewer service to the Property in accordance with Owners’ proposal, subject to the following additional conditions precedent:

1. Amendment of the 1977 Agreement among the Borough of Pennington, the Township of Hopewell and the Hopewell Township Municipal Utilities Authority (“1977 Agreement”) to designate the Property as one of the properties in Hopewell Township adjacent to the Pennington sewer collection system authorized for service by that system;
2. the Owners shall be responsible for performing all acts and incurring all costs needed to connect and tap into the Borough main in the Borough, subject to compliance with the Borough Code, inspection and approval by the Borough Water and Sewer Utility and payment of applicable fees;
3. the Borough shall have no obligation to maintain the sewer lateral connecting the Property to the Borough’s main and same shall be the responsibility of Owners and their successors in title to the Property, Hopewell Township and the Hopewell Township Municipal Utilities Authority as appropriate;
4. Owners agree to install such metering devices as required by the Borough to permit accurate billing for the sewer service;
5. Owners shall obtain all approvals by Hopewell Township, the Hopewell Township Municipal Utilities Authority, Mercer County and the New Jersey Department of Environmental Protection as may be

required for construction of proposed facilities in Hopewell Township;

WHEREAS, Borough Council grants this conditional authorization with specific reference to the unique characteristics of the Property and proposed service as explained and the authorization shall not be construed as acknowledgment of an obligation on the Borough's part to extend service to other properties in the sewer service area except on a case by case basis;

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

1. Borough Council will expand the Pennington Sewer Service Area to include the Property upon satisfaction of the conditions for this expansion set forth above, to wit:
 - (a) Hopewell Township consents to amendment of the Water Quality Management Plan for this purpose;
 - (b) the proposed expansion of the Sewer Service Area and proposed sewer connection are reviewed and approved by the Borough Engineer, under an escrow agreement between Owners and the Borough providing that the full cost of that review be paid by Owners;
 - (c) Borough Council determines, after review and recommendation by the Borough Environmental Commission, that approval is appropriate on environmental grounds; and
 - (d) the Owners amend the deed or deeds to the Property, in a form approved by the Pennington Borough Attorney, to restrict development of the Property to single-family residential use.
2. Borough Council will approve sewer service to the Property after all conditions for expansion of the Sewer Service Area have been satisfied and all amendments and approvals required to effect the expansion have been obtained, subject to the following conditions precedent as further described above: (1) amendment of the 1977 Agreement; (2) Owners' acknowledgment of owners' responsibility to connect to the Borough main in the Borough; (3) acknowledgment of appropriate allocation of responsibility for repair and maintenance of the lateral and connection; (4) Owners' agreement to install necessary metering devices; and (5) all necessary approvals.
3. The escrow agreement between the Borough and owners covering the services of the borough engineer shall include not only the cost of engineering services related to review of the proposed expansion of the Sewer Service Area and proposed sewer connection but also all services related to amendment of the water quality management plan and other procedural steps for finalizing the proposed expansion of the Sewer Service Area and all services related to satisfying conditions for connection to the borough system including related inspections. The intent is that Owners establish and fund an escrow to cover all services by the Borough Engineer in connection with this matter through conclusion.

Record of Council Vote on Passage

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

Council Member Lawver made a motion to approve Resolution 2018-4.11, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION #2018-4.12**

RESOLUTION AUTHORIZING THE BOROUGH ADMINISTRATOR TO SUBMIT A GRANT APPLICATION TO PENNINGTON DAY FOR A GRANT FOR TREE PLANTING

WHEREAS, the Borough Shade Tree Committee desire to support the planting of up to 10 trees on private property as part of an effort to restore the borough's tree canopy following removal of 30 trees in 2017 and the need to remove even more; and

WHEREAS, each year Pennington Day awards grants to non-profits, civic organizations, schools and municipalities for specific projects that will serve Pennington and the Hopewell Valley;

NOW, THEREFORE, BE IT RESOLVED, that the Borough Administrator with the attestation of the Borough Clerk are hereby authorized to submit a grant to Pennington Day in the amount of \$2,500.00.

Record of Council Vote on Passage

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

Council Member Marciante made a motion to approve Resolution 2018-4.12, second by Council Member Gnatt with all members present voting in favor with the exception of Mr. Lawver who abstained.

**BOROUGH OF PENNINGTON
 RESOLUTION 2018-13**

RESOLUTION AUTHORIZING AMENDED CONTRACTS BETWEEN BOROUGH OF PENNINGTON AND STATE OF NEW JERSEY REGARDING PRELIMINARY ENGINEERING WORK BY THE BOROUGH WATER AND SEWER UTILITY AS REQUIRED FOR ROUTE 31 RECONSTRUCTION PROJECT

WHEREAS, the State of New Jersey is undertaking the Route 31 Reconstruction Project extending from Bull Run Road, near I-95, to Branch of Stony Brook near Trap Rock Industries (“Project”);

WHEREAS, in connection with the Project, the State has sought to contract with the Borough of Pennington Water and Sewer Utility to assist with protection, relocation and/or adjustment of the existing water and sewer facilities at State expense;

WHEREAS, by Resolution 2017-5.6, Borough Council authorized the execution of contracts, one for water and one for sewer, each with a maximum spending limit of \$2,500., for providing these services by the Borough Engineer;

WHEREAS, Van Note-Harvey Associates has in fact rendered services to the State under these contracts and has invoiced approximately 20% of the maximum under each contract with more work expected;

WHEREAS, when the State did not pay initial invoices for Van Note-Harvey’s work it was discovered that the State had never executed the contracts executed and sent to them by the Borough;

WHEREAS, the State now presents contracts amending the 2017 agreements, one for sewer and one for water, which will be executed at the same time the 2017 agreements are finally executed, so that the two sets of agreements will be effective, the latter sets superseding the former sets to the extent of any inconsistencies;

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 execute the attached Amendment Agreements 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				Absent	Lawver	M			
Gnatt	X				Marciante	X			
Griffiths	S				Mills	X			

Council Member Lawver made a motion to approve Resolution 2018-4.13, second by Council Member Griffiths with all members present voting in favor.

Professional Reports

Mrs. Heinzl stated that PSE&G is finishing up the solar array project and they would like to make a formal presentation to the Borough and more importantly they would like to explain to the Public Works employees how this is going to work. Mrs. Heinzl stated that they will be making the presentation on April 12th at 2 or 3 o’clock and she will send out a reminder to everyone.

Mr. Bliss apologized and stated that there was discussion that should have taken place regarding Resolution 2018-4.11 approving sewer service to 100 Lewis Brook Drive. Mr. Bliss make two corrections to the resolution. Mr. Bliss stated that in the 2nd Whereas from the bottom on page 1, one of the conditions for incorporation of this property in to the sewer service area is that the owners deed restrict the property to permit the construction of only one dwelling. Mr. Bliss clarified the language to allow out structures in addition to one dwelling. Mr. Bliss read the new language into the record,” b) the owners will amend their deed to restrict development of the property to single family residential use.” Mr. Bliss stated that further he would make the same change to the “Now, Therefore Be It Resolved”, to read “b. the owners amend the deed or deeds to the property in a form approved by the Pennington Borough attorney to restrict development of the property to single family residential use.” Mr. Bliss asked that the earlier motion and second be withdrawn and a vote on the amended resolution be taken. Council Member Lawver made a motion to withdraw the motion and approve the amended resolution as stated, second by Council Member Gnatt with all members present voting in favor.

There were no other comments from professionals.

Public Comment

Mayor Persichilli asked anyone wishing to speak to come forward and state their name and address for the record and to limit comments to the Governing Body to a maximum of 3 minutes.

At 8:39pm, Council Member Griffiths made a motion to adjourn the meeting, second by Council Member Mills.

Respectfully submitted,

Elizabeth Sterling
Borough Clerk