

**Pennington Borough Council
Regular Meeting – July 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, Lawver, Marciante and Mills in attendance. Mrs. Chandler and Mr. Griffiths were absent.

Also present were Borough Administrator Eileen Heinzl, Public Safety Director Bill Meytrott, Public Works Superintendent Rick Smith 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.

Approval of Minutes

Council Member Marciante made a motion to approve the minutes of the June 2, 2018 Regular Meeting, second by Council Member Lawver with all members present voting in favor.

Committee Reports

Planning & Zoning / Open Space – Mrs. Gnatt stated that she had nothing to report for Open Space. Mrs. Gnatt stated that the Planning Board met on June 13th to review the proposed Ordinance amending the Pennington Historic Crossroads District to include the Pennington African Cemetery and the board voted unanimously to recommend to Borough Council that the Ordinance be adopted as it is consistent with the Borough Master Plan.

Public Safety / Personnel – Mr. Marciante reported that Officer Francis resigned during the month of June and he is pleased to announce the hiring of Keith Yasunas once the resolution is acted on later in the meeting. Mr. Marciante stated that the interview committee feels that hiring Mr. Yasunas will help stabilize the Police Department. Mr. Marciante stated that Mr. Yasunas is fully certified from the Hunterdon County Sheriff's Office so there will be minimal training required.

Mr. Marciante reported that the Public Safety Committee met to discuss the future needs of the Police Department and there will be more information on that in the near future. Mr. Marciante stated that they also discussed the No Knock Ordinance. Mr. Marciante stated that there will be no background checks, violating solicitors will be given a warning per organization before a summons will be issued. Mr. Marciante stated that residents must be on the Do Not Knock List and will have the option to put a sticker on their door or not. Mr. Marciante stated that the Borough has been having trouble attracting Crossing Guards so the Committee agreed to increase the hourly rate to \$25.00 per hour.

Public Works/Shade Tree/ Senior Advisory – Mr. Lawver stated that the Shade Tree Committee is working on the annual tree inventory so people will be out and about looking at the trees in town.

Mr. Lawver stated that the Senior Advisory Board met but he missed the meeting.

Mr. Lawver stated that the Public Works Committee discussed the new State requirement for an Asset Management Plan. Mr. Lawver stated that the Public Works Committee agreed to contract with Van Note Harvey Associates to create the Asset Management Plan since part of the process is applying to NJEIT for funding for the Plan. Mr. Lawver stated that the Plan will give the Borough a better understanding of its water system but it will also require ongoing documentation of the water system.

Mr. Lawver stated that the Borough has been working diligently with Mercer County to address South Main Street drainage issues. Mr. Lawver explained that the Borough has been searching for a storm sewer that will extend up 212 South Main Street to get their water off the sidewalk and out of the street but also to give other residences with similar problems an way to directly tie into the storm sewer without sending water out over the sidewalks and driveways.

Mr. Lawver stated that garbage collection for the month of July is regular two days a week but for the

month of August garbage will only be collected once a week, on Mondays.

Library / Parks and Recreation – Mrs. Mills stated that Parks and Recreation is gearing up for the July 4th races.

Mrs. Mills reported that the Library had a very nice turnout for the Library Rocks kickoff for the Summer Reading Program.

Finance – No report due to Mr. Griffith's absence.

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

Council Discussion

CSX Proposed Easement – Mrs. Heinzl stated that she got a call from a representative for CSX who stated that they are looking for an access easement so that they can a truck down to the track to do monthly maintenance. Mrs. Heinzl stated that she along with Rick Smith and Bill Meytrott met with CSX representatives on the cul-de-sac on Reading Street, where the Senior Center is located. Mrs. Heinzl stated that they looked at various locations and during the process they noticed that there is access to the track from the other side of Route 31 on property owned by Thompson Realty. Mrs. Heinzl stated that they asked why this access was not being used and found out that CSX was actually using that as access but then the owner of the property asked them to stop. Mrs. Heinzl stated that CSX then approached the Borough to ask for an easement. Mrs. Heinzl stated that she spoke with Mr. Bliss and he suggested tracking down the owner of the property across the street. Mrs. Heinzl stated that she called and learned that the property owner is actually in litigation because CSX was trespassing on the driveway and so they were asked to stop. Mrs. Heinzl stated that CSX is asking the Borough for an easement for a driveway that they would construct and maintain. Mrs. Heinzl stated that they explained to CSX that the Senior Center may not be there forever and there may be other plans for the property. Mrs. Heinzl stated that she explained that the Borough would not want to do anything that might interfere with future development of the property. Mrs. Heinzl stated that CSX understood that and they suggested that if a driveway easement was granted that could always move it. Mrs. Heinzl stated that they looked at other locations but getting back to the discussion with the owner across the street, the owner was willing to offer CSX use of the existing driveway for a cost, but they were not able to come to an agreement. Mrs. Heinzl stated that CSX provided a draft of an easement which Mr. Bliss has looked at. Mrs. Heinzl stated that CSX proposes to pay for the easement based on the appraised value of the property.

Mr. Bliss stated that his thoughts on the easement are fairly straight forward and the big issues are the business details, that being whether the Borough wants to give up an essentially permanent easement until such time as the railroad no longer needs it. Mr. Bliss stated that it would involve gating, removal of trees and construction of a twelve foot wide gravel driveway, relocatable but only to another location on the property. Mr. Bliss stated that it seems to him that if there is an owner on the other side of the highway who is ready to convey such an easement for a price, then that is the better solution.

Mr. Marciante stated that Reading Street is a quiet street and he would think that the homeowners would not be open to trucks driving on the street.

Mr. Meytrott stated that it would be a pickup truck which currently cannot get access from the north or south. Mr. Meytrott stated the property that CSX is looking at is a very steep incline and if you look across the street where CSX used to come in to the tracks it is a much easier access to the track.

Mr. Lawver stated that CSX has not been the most responsive or cooperative with Borough requests in the past so he is not inclined to diminish the value of that property by signing a permanent easement unless CSX is willing to make some significant commitments to the Borough like addressing the bridge over Broemel Place and the Delaware Avenue bridge sidewalk. Mrs. Mills agreed with Mr. Lawver and stated that when you get involved with easements with an entity that has been unresponsive in the past it does not make sense and she would hesitate agreeing to an easement. Mrs. Heinzl stated that she would let CSX know that Council was not in favor of granting the easement.

Fence Permit Application – 413 Sked Street – Mayor Persichilli asked if this request is any different from other request that have come before Council. Mr. Sterling stated that Mr. Smith reviewed the request. Mr. Smith stated that if the fence is permanent then as long as the understanding is that if the Borough needs to gain access to the easement the fence would be removed at the cost of the homeowner. Mr. Smith stated that he does not have any other issues with the request. Mrs. Heinzl stated that Mr. Jablonski had at one time asked the Borough to lift the easement because they wanted to put in a garage or a shed and at the time the response not to lift the easement. Mrs. Heinzl stated that the next step is to prepare a resolution and agreement for the next meeting.

Block Party – Laning Avenue – July 10th and September 3rd – Mr. Marciante stated that the request is for Voorhees Avenue. There were no concerns with the Block Party.

Ordinances for Introduction

Mayor Persichilli read Ordinance 2018-11 by title.

**BOROUGH OF PENNINGTON
ORDINANCE 2018-11**

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

WHEREAS, Pennington Borough Council seeks to revise the present provisions of Chapter 147 of the Code of the Borough of Pennington, governing peddling and soliciting, to eliminate background investigations from the permit application process and to insert hours for solicitation and to make miscellaneous edits to ensure all language is consistent;

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Pennington, that Chapter 147 of the Borough Code is hereby amended as follows:

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 accomplish this purpose 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, have a permit 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. Commercial vendors are also required to obtain a permit to approach residents in the streets or other public places of the Borough or to work from a stationary location in a public place.

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 by a commercial vendor 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 by a commercial vendor 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 by traveling from house to house. A “Canvasser” is one engaged in house-to-house canvassing.

D. “Commercial Vendor” means any person providing goods or services whose normal business involves the sale, rental, lease or provision of those goods or services.

3. **Permit Required.**

A. It shall be unlawful for any individual to engage in peddling or soliciting in the Borough of Pennington without first obtaining a permit for that purpose as further provided in this chapter. The permit shall be common for both peddlers and solicitors and be known as a “Solicitor’s Permit.” 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..

B. It shall be unlawful for any individual to engage in canvassing house-to-house in the Borough without first obtaining a permit for that purpose as further provided in this chapter. The permit shall be common for all canvassers and be known as a “Canvasser’s Permit.”

4. **Application Procedure for Solicitor’s Permit.** An individual seeking a solicitor’s permit under this chapter shall file an application with the Borough Clerk on the applicable form supplied by the Borough 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, (d) age, weight, eye color and hair color, (e) date of birth, (f) driver’s license number and state of licensure, (g) vehicle registration and state of registration, if applicable, (h) purpose of requested permit, including nature of business and goods and services to be sold, rented, leased or otherwise provided, (i) name, address and contact information for applicant’s employer, if applicable, (j) name, address and contact information for at least two character references, (k) 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, (l) social security number and (m) 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 permit fee as set forth in Article VI of Chapter 98 of the Code.

~~5. **Investigation.** The original application for solicitor's permit 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 or his designee within fourteen (14) days, except the application may be disapproved only if the Director or his designee 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; or (e) concrete evidence of bad character.~~

6. **5. Application Procedure for Canvasser's Permit.** An individual seeking a canvasser's permit under this chapter shall file an application with the Borough Clerk on the applicable form supplied by the Borough Clerk or found on the Borough website. The application shall contain (a) the applicant's name and current address, (b) contact information, (c) purpose of the canvass and a description of any goods or services to be sold or given away as part of the canvass, (d) name, address and contact information for applicant's employer, if applicable, and (e) 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 and 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. There shall be no fee for a Canvasser's Permit ~~and no investigation required for approval of a Canvasser's Permit.~~

7. **6. Display of Approved Permit Upon Request.** Any person to whom a permit has been issued shall carry the same at all times while acting as or carrying on the business of a peddler, solicitor or canvasser and shall display the same upon request.

8. **7. Expiration of Permits.** All permits issued pursuant to this chapter shall expire on December 31 next succeeding the date of issuance.

9. **8. Revocation of Permit.** Any permit issued pursuant to this chapter may be revoked by the Director of Public Safety or his designee 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 activities authorized by the permit, and other unlawful activity bearing on the safety or privacy of residents.

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

11. **10. Permitted Hours of Peddling, Solicitation and Canvassing.** No activity permitted in accordance with this chapter shall occur (a) before 9:00 A.M. or after 9:00 P.M.

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 only.

B. It shall be unlawful for the holder of a permit 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 permittee.

C. Residents shall remain on the Do-Not-Solicit list until they request to be removed or move from the registered address.

D. The Borough Clerk shall maintain copies of the two "Do-Not-Solicit" lists and provide them to all individuals who obtain a Solicitor's or Canvasser's permit.

E. The Borough Clerk shall also maintain copies of the lists on the Borough website.

F. The Borough Clerk shall forward copies of the lists and list updates to the Director of Public Safety for enforcement purposes.

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

13. **Violations and Penalties.** Any individual violating any of the provisions of this chapter shall, upon conviction, be subject to a fine:

- a. First violation - \$50.00
- b. Second violation - \$100.00
- c. Third violation - \$100.00 and prohibition from all future peddling, soliciting and canvassing.

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:

“Solicitor’s Permit as required by Chapter 147 of this Code: \$100.

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 2018-11, second by Council Member Mills. Mr. Lawver stated that he went through the changes and he also thanked Mr. Bliss for removing the investigation language. Mr. Lawver stated that the application procedure for solicitors and canvassers should be the same since there will be no investigations required for either type of license. Mr. Lawver stated that the idea is that this is a registration and if down the line someone files a complaint, the Borough would share this information with them. Mr. Lawver stated that social security numbers or things like that are not necessary since there will be no background investigation. Mr. Lawver suggested that he would remove J, K, and L of paragraph four. Mr. Lawver asked if there is still a need for a photograph. Mr. Lawver asked if badges are provided at this time. Mrs. Sterling stated that badges are not provided; currently solicitors are given a certificate that they are to carry with them. Mr. Lawver asked why this ordinance asks for two photographs. Mrs. Sterling stated that the current application asks that the applicant provide a photograph. Mr. Meytrott stated that the only reason that he could see for requiring a photograph is so that if there is a complaint the police would have a photograph to refer to. Mr. Lawver asked if instead the applicant be required to provide a photo ID in order to register. Mr. Bliss stated that he is concerned that the itinerate vendors do not have a great track record in terms of consumer affairs and the information on file even though not investigated is a resource if and when there is a complaint or grievance. Mr. Bliss stated that it is a way to track the vendor. Mr. Lawver agreed and stated that he is not suggesting that we eliminate everything, he is suggesting that we get rid of information that we would never use. Mr. Lawver stated that if we have concerns about solicitors, then we should have the same concerns regarding a canvasser. Mr. Lawver stated that most complaints in town have been about canvassers being aggressive. Mr. Lawver stated that if we are not going to use the information requested or provide it to someone making a complaint he would not want the Borough to be responsible for keeping the information. Mr. Lawver stated that the information collected for both applications should be the same. Mr. Lawver stated that he understands the concerns stated by Mr. Bliss, but he does not think the Borough is well-positioned to determine the validity of contractors who come in to solicit business. Mr. Bliss stated that his thinking was being able to locate the contractor in the event there is a complaint. Mr. Lawver stated that a state issued Id would be a better tool for that.

Mr. Marciante stated that whatever is done should be the same for both solicitors and canvassers. Mr. Lawver agreed but stated except for the fee. Mrs. Heinzl stated that Mr. Lawver suggested calling this a registration so should that also be changed in the ordinance. Mrs. Heinzl asked if applicants will be provided with something that they carry with them. Mr. Lawver stated that they should have proof of registration. Mr. Bliss stated that there is a difference between a permit and a registration. Mr. Bliss stated that permit means permission and registration is passive. Mr. Lawver stated that he would recommend proof of registration.

Mr. Bliss asked if Mr. Lawver would like to change the ordinance now prior to introduction. Mr. Lawver stated that he would suggest making the changes and bringing the ordinance back next month for introduction.

Mr. Lawver stated that he would also like to revisit expiration of permits. Mr. Lawver stated that the ordinance says that the registration expires on December 31st. Mr. Lawver asked what happens if someone applies December 1st. Mrs. Sterling stated that we do not get a lot of requests for solicitor’s permits, but anyone who comes in is advised that the permit expires at the end of the year. Mrs. Sterling stated that a lot of places must have that requirement because no one is ever surprised by it. Mr. Lawver stated that if that is what has always been done then ok, but he would think that a six month term might work better. Mrs. Sterling asked if the fee would have to be paid every six months. Mrs. Sterling stated that it would be difficult to keep track of the permits and their expirations if it was a six month period. Mr. Lawver stated

that if no one has ever complained then he is fine with leaving it alone.

Mr. Lawver stated that the revocation of permit language seems excessive. Mr. Lawver stated that he thinks that the Borough should have the ability to revoke, but he is not sure if it should be tied to a conviction of moral turpitude. Mr. Lawver stated that it should be because of significant complaints by residents.

Mr. Lawver stated that his last comment pertains to the violations. Mr. Lawver stated that he would recommend giving a warning and then the first violation should be \$100, second \$500 and third \$1,000 and prohibition from future peddling, soliciting and canvassing in the Borough. Mr. Lawver stated that the issue that he has is that the way it is written is per individual so how do we capture the consistently bad organizations, like the magazine sellers and the aggressive non-profits/canvassers.

Mr. Bliss asked if Council is looking to fine the company as well as the solicitor. Mr. Marciante stated that he would think just the company. Mr. Bliss stated that right now the ordinance has only individuals being fined. Mr. Bliss asked if Council wants to keep that or eliminate that and just fine the company they work for. Mr. Lawver stated that he would like to leave the language regarding the individual but he would like to be able to stop that company from soliciting in town. Mr. Lawver stated that he is not worried about collecting penalties; he just wants to be able to decline permits going forward. Some discussion took place with regard to how this section should be reworked. Mr. Bliss stated that in order to serve a summons, the individual would have to be served and how to get jurisdiction over the company needs to be spelled out. Mr. Lawver stated that language should be included that after three offenses, revocation for the organization would be one year, and after three more offenses revocation for five years or something like that. Mr. Bliss stated that the only thing hanging him up is that if the ordinance is left just the way it is with an added provision that any time there are more than three solicitors for any one company found to be in violation, then there shall be no more registrations granted for that organization. Mr. Bliss was asked to rework the ordinance for the August meeting.

Mrs. Heinzl stated that Mr. Marciante wanted to have stickers available for sale in the Borough and right now this ordinance does not require a sticker on a window or door. Mr. Marciante stated that we are not requiring it. Mrs. Heinzl stated that if we are going to sell or give sticker away, there has to be a mechanism in the ordinance to do so. Mrs. Heinzl asked if the preference was to sell the stickers or give them out. Council Members were in favor of giving them out. Further discussion took place with regard to how to get the word out to residents. Mrs. Sterling stated that when a resident registers on the Borough Website, they will receive an e-mail confirmation that could include a note that stickers are available in Borough Hall.

Mr. Marciante and Mrs. Mills rescinded their motions.

**BOROUGH OF PENNINGTON
ORDINANCE 2018 -12**

**AN ORDINANCE CREATING A TOW AWAY ZONE
ON A PART OF GREEN AVENUE NEAR BROEMEL PLACE AND AMENDING CHAPTER 200-
10, PARKING PROHIBITED AT ALL TIMES**

WHEREAS, Borough Council seeks to establish a tow-away zone on Green Avenue in the Borough in the vicinity of Broemel Place to ensure that emergency vehicles making turns onto Green Avenue from Broemel Place or from Green Avenue onto Broemel Place will not be obstructed by illegally parked vehicles; and

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

1. Chapter 200-10 of the Code of the Borough of Pennington is amended as follows:

200-10 Parking prohibited at all times.

<u>Name of Street</u>	<u>Side</u>	<u>Location</u>
Green Avenue	East	From <u>a point 75 feet south of</u> Broemel Place north to West Franklin Avenue

2. Chapter 200 of the Code of the Borough of Pennington, concerning Vehicles and Traffic, is hereby amended by the creation of a new section 200-10.1, concerning Tow-Away Zones;

3. The new section 200-10.1 shall read as follows:

200-10.1 Tow-Away Zones

- (a) The following streets or parts thereof, on which parking is prohibited at all times pursuant to Section 200-10 of the Code, are hereby designated Tow-Away Zones:

<u>Name of Street</u>	<u>Side</u>	<u>Location</u>
<u>Green Avenue</u>	<u>East</u>	<u>From a point 75 feet south of Broemel Place north to Brookside Avenue</u>

(b) Any vehicle parked in a designated Tow-Away Zone shall be deemed a nuisance and a menace to the safe and proper regulation of traffic and any police officer may provide for the removal of that vehicle. The owner shall be responsible for the reasonable costs of removing the vehicle together with the costs of storage resulting from such removal.

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

Council Member Lawver made a motion to introduce Ordinance 2018-12, second by Council Member Marciante. Mr. Marciante stated that this ordinance came about because the Fire Department expressed concern about cars parked along Green Street making it difficult for fire trucks to make the turn onto Green Street. Upon a roll call vote all members present voted in favor of introduction.

Ordinances for Public Hearing and Adoption

Mayor Persichilli read Ordinance 2018-9 by title.

BOROUGH OF PENNINGTON ORDINANCE 2018-9

BOND ORDINANCE PROVIDING A SUPPLEMENTAL APPROPRIATION OF \$225,000 FOR PRELIMINARY PLANNING, ENVIRONMENTAL AND INVESTIGATIVE ANALYSIS AND ANY NECESSARY WORK OR IMPROVEMENTS IN CONNECTION WITH THE BOROUGH-OWNED LANDFILL AND ANY OTHER RELATED PROPERTIES FOR POTENTIAL REDEVELOPMENT PURPOSES IN AND BY THE BOROUGH OF PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY, AND AUTHORIZING THE ISSUANCE OF \$225,000 BONDS OR NOTES OF THE BOROUGH TO FINANCE THE COST THEREOF.

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section 1. The improvement described in Section 3(a) of this bond ordinance has heretofore been authorized to be undertaken by the Borough of Pennington, in the County of Mercer, New Jersey (the "Borough") as a general improvement. For the improvement or purpose described in Section 3(a), there is hereby appropriated the supplemental amount of \$225,000, such sum being in addition to the \$125,000 appropriated therefor by bond ordinance #2017-4 of the Borough, finally adopted March 6, 2017 (the "Original Bond Ordinance"), including a \$301,604 grant expected to be received from the State of New Jersey Economic Development Authority (the "State Grant"). No down payment is required pursuant to N.J.S.A. 40A:2-11(c) as the improvement or purpose referred to in Section 3(a) is being partially funded by the State Grant.

Section 2. In order to finance the additional cost of the improvement or purpose and in anticipation of receipt of the State Grant, negotiable bonds are hereby authorized to be issued in the principal amount of \$225,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvement heretofore authorized and the purpose for the financing of which the bonds are to be issued is preliminary planning, environmental and investigative analysis and any necessary work or improvements in connection with the Borough-owned landfill and any other related properties for potential redevelopment purposes, including all work and materials necessary therefor and incidental thereto, as described in the Original Bond Ordinance.

(b) The estimated maximum amount of bonds or bond anticipation notes to be issued for the improvement or purpose is \$350,000, including the \$125,000 authorized by the Original Bond Ordinance and the \$225,000 bonds or bond anticipation notes authorized herein.

(c) The estimated cost of the improvement or purpose is \$350,000, including the \$125,000 appropriated by the Original Bond Ordinance and the \$225,000 appropriated herein.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no bond anticipation note shall mature later than one year from its date, unless such bond anticipation notes mature at such later date in accordance with applicable law. The bond anticipation notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with bond anticipation notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the bond anticipation notes shall be conclusive evidence as to all such determinations. All bond

anticipation notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law or other applicable law. The chief financial officer is hereby authorized to sell part or all of the bond anticipation notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the bond anticipation notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained and the name of the purchaser.

Section 5. The Borough hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Borough is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3(a) of this bond ordinance is not a current expense. It is an improvement or purpose that the Borough may lawfully undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is 40 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$225,000, and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

(d) An aggregate amount not exceeding \$350,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement. Of this amount, \$125,000 was estimated for these items of expense in the Original Bond Ordinance and an additional \$225,000 is estimated therefor herein.

Section 7. The Borough hereby declares the intent of the Borough to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3(a) of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of Treasury Regulations.

Section 8. Any grant moneys received for the purpose described in Section 3(a) hereof shall be applied either to direct payment of the cost of the improvement or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

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

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

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

Council Member Lawver made a motion to open the Public Hearing on Ordinance 2018-9, second by Council Member Mills. Mr. Dan Pace of 9 Railroad Place asked what the \$225,000 would be spent on.

Mr. Lawver stated that a preliminary assessment has already been done on the landfill by a LSRP hired by the Borough. Mr. Lawver stated that the preliminary assessment came back relatively clean and the next step is to do a site investigation and that is basically what this money will be used for. Mr. Lawver stated that depending on what is found through the site investigation the next step would be a remedial investigation which lead to an action plan. Mr. Lawver stated that we expect the site work to be wrapped up by the end of 2018 and hopefully in 2019 the Borough will be in a position to market the property for redevelopment. Mr. Lawver stated that the bond ordinance will fund the site investigation and remedial investigation and the Borough has also applied for a grant from the State equal to the amount of the bond. Mr. Lawver stated that we don't anticipate having to borrow the funds but the ordinance gives the means to fund the investigations. Council Member Lawver made a motion to close the Public Hearing, second by Council Member Gnatt with all members present voting in favor. Council Member Lawver made a motion to adopt Ordinance 2018-9, second by Council Member Mills with all members present voting in favor.

Mayor Persichilli read Ordinance 2018-10 by title.

**BOROUGH OF PENNINGTON
ORDINANCE 2018 - 10**

**AN ORDINANCE BY THE BOROUGH OF PENNINGTON, COUNTY OF MERCER, STATE OF
NEW JERSEY AMENDING THE PENNINGTON CROSSROADS HISTORIC DISTRICT TO
INCLUDE THE PENNINGTON AFRICAN CEMETERY.**

WHEREAS, the Pennington African Cemetery (also referred to as the AME Cemetery) was included in the 1987 proposed Historic District and referenced in the Historic Preservation Plan section of the 1998 Pennington Borough Master Plan, and the March 30, 2010 Historic Preservation Master Plan Element identified the AME Cemetery as an additional potential site for inclusion in the Historic District; and

WHEREAS, the Pennington Borough Council adopted Ordinance No. 2011-8 on May 2, 2011 to implement the Historic Preservation Element of the Borough's Master Plan, to provide guidance to property owners in achieving preservation of historic resources, and to advance public purposes including the identification and designation of historic districts and historic sites to preserve their historic, architectural, cultural, archaeological, and aesthetic significance; and

WHEREAS, Ordinance No. 2011-8, codified as Chapter 119, entitled "Historic Preservation" in the "Code of the Borough of Pennington," provided for the designation of historic sites and districts in Section 119-4, and created the Pennington Crossroads Historic District in Section 119-4.D; and

WHEREAS, the Pennington African Cemetery Association requested that the Pennington African Cemetery, Block 1002, Lot 46, on the tax map of the Borough of Pennington, be included in the Pennington Crossroads District; and

WHEREAS, pursuant to Section 119-4.C(3) of the "Code of the Borough of Pennington," the Pennington Historic Preservation Commission and the Pennington Planning Board considered that request at a joint meeting on April 11, 2018, at which time a public hearing was held; and

WHEREAS, both the Historic Preservation Commission and the Planning Board voted unanimously to recommend to the Mayor and Council of the Borough of Pennington that the Pennington Crossroads Historic District be amended to include the Pennington African Cemetery, in accordance with Section 119-4.C(4); and

WHEREAS, the Council of the Borough of Pennington wishes to amend the Pennington Crossroads Historic District to include the Pennington African Cemetery, Block 1002, Lot 46.

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

1. The Pennington African Cemetery, Block 1002, Lot 46 on the tax map of the Borough of Pennington, be and hereby is designated an historic site and Section 119-4.D designating the Pennington Crossroads Historic District is hereby amended to include the Pennington African Cemetery, Block 1002, Lot 46.
2. The map delineating the boundaries of the Pennington Crossroads Historic District designated as Chapter 119, Attachment 1:1 is hereby amended to include the Pennington African Cemetery, Block 1002, Lot 46, and replaced with a new map attached hereto as Exhibit "A".
3. In the event any portion of this Ordinance is found to be invalid for any reason by a court of competent jurisdiction, such judgment shall be limited in its affect only to that portion of the Ordinance actually adjudged invalid and shall not be deemed to affect the operation of any other portion hereof.
4. This Ordinance shall take effect upon its passage and publication as provided for by law.

Council Member Mills made a motion to open the Public Hearing on Ordinance 2018-10, second by

Council Member Gnatt. There were no comments from the public. Council Member Lawver made a motion to close the Public Hearing, second by Council Member Mills with all members present voting in favor. Council member Marciante made a motion to adopt Ordinance 2018-10, second by Council Member Mills with all members present voting in favor.

New Business

**BOROUGH OF PENNINGTON
RESOLUTION #2018 – 7.1**

RESOLUTION AUTHORIZING REFUNDS

BE IT RESOLVED, that a refund in the amount of \$235.50 be issued to William Von Oehsen, 1612 Riggs Place NW, Washington, DC 20009, for refund of escrow account #12009.

BE IT RESOLVED, that a refund in the amount of \$642.50 be issued to Eugene V. Lorenzetti (Pennington Investments, LLC), 179 Matthew Circle, Richboro, PA 18954, for refund of escrow account #12004.

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				absent	Mills	X			

Council Member Lawver made a motion to approve Resolution 2018-7.1, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2018 – 7.2**

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 \$ 2,077,431.60 from the following accounts:

Current	\$ 1,845,019.83
W/S Operating	\$ 39,181.72
General Capital	\$ 1,137.50
Water/Sewer Capital	\$ 187,356.40
Developers Escrow	\$ 4,672.15
Other Trust Fund	\$ 64.00
TOTAL	\$ 2,077,431.60

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				Absent	Mills	S			

Council Member Marciante made a motion to approve Resolution 2018-7.2, second by Council Member Mills with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2018-7.3**

**RESOLUTION AUTHORIZING THE HIRING OF KEITH MICHAEL YASUNAS AS
PROBATIONARY POLICE OFFICER IN THE PENNINGTON POLICE DEPARTMENT**

WHEREAS, the Borough of Pennington has a need for a qualified person to fill the position of Police Officer in the Pennington Police Department; and

WHEREAS, the Oral Interview Board established by the Public Safety Director interviewed 11 applicants; and

WHEREAS, the Oral Interview Board made a recommendation to the Public Safety Committee to hire Keith Michael Yasunas; and

WHEREAS, the Public Safety Committee has recommended the hiring of Keith Michael Yasunas for this position; and

WHEREAS, the recommended hiring of Keith Michael Yasunas is contingent upon successfully passing both a medical and psychological exam;

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

1. the hiring of Keith Michael Yasunas as Probationary Police Officer in the Pennington Police Department is hereby approved;
2. Mr. Yasunas' salary and other terms and conditions of employment shall be governed by the contract between the Borough and the Pennington Borough Police Association;
3. Mr. Yasunas' start date shall be determined by the Public Safety Director.

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				absent	Mills	S			

Council Member Marciante made a motion to approve Resolution 2018-7.3, second by Council Member Mills with all members present voting in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION 2018 – 7.4**

**RESOLUTION AUTHORIZING CHANGE ORDER
 NO. 2 REQUESTING AN EXTENSION OF THE TIME FOR COMPLETION FOR THE EAST
 CURLIS AND WEIDEL WATER UPGRADE PROJECT**

WHEREAS, the contract allows for sixty (60) days from the Notice to Proceed to complete the project; and

WHEREAS, during the construction of the project, the construction schedule was impacted by several days of inclement weather, an unmarked utility found in the path of the water main and difficulty excavating the trench; and

WHEREAS, Change Order No. 1 an extension of thirty-two (32) days to complete the project, with a new date of completion of June 15, 2018 was approved by Resolution 2018-6.6 on June 4, 2018; and

WHEREAS, Change Order No 2 requests an additional seventeen (17) days to allow for transfer of the water service for the Toll Gate Grammar School until after the school year is over; and

WHEREAS, Van Note Harvey Associates has recommended a certain Change Order No. 2 with regard to the Contract between the Borough of Pennington and John Garcia Construction Company, Inc. for the project known as Replacement and Upgrade of Water Distribution System along East Curlis Avenue and Weidel Drive (VNH Project #: 43327-520-52) ;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington that the aforesaid Change Order No. 2 further adjusting the completion date by an additional seventeen days to July 2, 2018 under the contract with John Garcia Construction Company, Inc. is hereby approved.

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				absent	Mills	X			

Council Member Lawver made a motion to approve Resolution 2018-7.4, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2018 – 7.5**

**RESOLUTION AUTHORIZING PAYMENT REQUEST NO. 3 TO
JOHN GARCIA CONSTRUCTION COMPANY, INC. FOR WORK COMPLETED ON THE EAST
CURLIS AVENUE AND WEIDEL DRIVE WATER SYSTEM UPGRADES PROJECT**

WHEREAS, John Garcia Construction Company, Inc. has completed work pursuant to the contract for the East Curlis Avenue and Weidel Drive Water System Upgrades Project (Van Note Harvey Associates Project No: 43327-520-52); and

WHEREAS, Van Note Harvey Associates has reviewed John Garcia Construction Company, Inc.'s attached application for payment and recommends payment of same pursuant to the Contractor's Request for Payment No. 3 in the amount of \$35,189.34 less 2% retainage in the amount of \$703.79; and

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

WHEREAS, funds are available under Ordinance 2016-5 subject to compliance with NJEIT disbursement requirements;

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that payment to John Garcia Construction Company, Inc. in the net amount of \$34,485.55 pursuant to payment request No.3 is hereby authorized subject to submission of acceptable certified payrolls for the time period covered under the payment request application.

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				absent	Mills	S			

Council Member Lawver made a motion to approve Resolution 2018-7.5, second by Council Member Mills with all member present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2018 – 7.6**

**RESOLUTION AUTHORIZING CHANGE ORDER
NO. 2 (FINAL) TO ADJUST QUANTITIES AS NECESSARY FOR COMPLETION OF THE
IMPROVEMENTS TO KING GEORGE ROAD PROJECT**

WHEREAS, Van Note Harvey Associates has recommended a certain Change Order No. 2 (Final) with regard to the Contract between the Borough of Pennington and Glen G. Hale, Inc., trading as Hale Built of Flemington, New Jersey for the project known as Improvements to King George Road (VNH #: 43325-520-52) ;

WHEREAS, Change Order No. 2 would adjust the contract quantities as necessary for completion of the project; and

WHEREAS, the net proposed adjustment would decrease the Contract by \$27,738.43; and

WHEREAS, the Chief Financial Officer has certified that no funds are needed for this change order request;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington that the aforesaid Change Order No. 2 adjusting the contract quantities as necessary for completion of the project under the contract with Glen G. Hale, Inc. is hereby approved.

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				Absent	Mills	M			

Council Member Mills made a motion to approve Resolution 2018-7.6, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2018 – 7.7**

**RESOLUTION AUTHORIZING PAYMENT REQUEST NO. 5 (FINAL) TO
GLEN G. HALE, d.b.a. HALE BUILT FOR WORK COMPLETED ON THE IMPROVEMENTS TO
KING GEORGE ROAD PROJECT**

WHEREAS, Glen G. Hale, d.b.a. Hale Built has completed work pursuant to the contract for the Improvements to King George Road Project (VNHA File #: 43325-520-52); and

WHEREAS, Van Note Harvey Associates has reviewed Hale Built’s attached application for payment and recommends payment of same pursuant to the Contractor’s Request for Payment No. 5 in the amount of \$2,250.56; and

WHEREAS, this represents final payment under the contract; and

WHEREAS, funds are available in Account #: G-02-44-959-000-250;

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that payment to Hale Built in the amount of \$2,250.56 pursuant to payment request No.5 is hereby authorized, upon receipt of fully executed documents and certified payrolls.

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	S			
Griffiths				Absent	Mills	X			

Council Member Lawver made a motion to approve Resolution 2018-7.7, second by Council Member Marciante. Mr. Marciante asked if once the payment is made the “Bump Ahead” signs could be removed. After a short discussion, Council Members agreed that the signs should come down. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2018 – 7.8**

**RESOLUTION AUTHORIZING CHANGE ORDER
NO. 2 (FINAL) TO ADJUST QUANTITIES AS NECESSARY FOR COMPLETION OF THE
IMPROVEMENTS TO PARK AVENUE PROJECT**

WHEREAS, Van Note Harvey Associates has recommended a certain Change Order No. 2 (Final) with regard to the Contract between the Borough of Pennington and Glen G. Hale, Inc., trading as Hale Built of Flemington, New Jersey for the project known as Improvements to King George Road (VNH #: 43326-520-52) ;

WHEREAS, Change Order No. 2 would adjust the contract quantities as necessary for completion of the project; and

WHEREAS, the net proposed adjustment would decrease the Contract by \$22,716.17; and

WHEREAS, the Chief Financial Officer has certified that no funds are needed for this change order request;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington that the aforesaid Change Order No. 2 adjusting the contract quantities as necessary for completion of the project under the contract with Glen G. Hale, Inc. is hereby approved.

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				Absent	Mills	M			

Council Member Mills made a motion to approve Resolution 2018-7.8, second by Council Member Lawver with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2018 – 7.9**

**RESOLUTION AUTHORIZING PAYMENT REQUEST NO. 5 (FINAL) TO
GLEN G. HALE, d.b.a. HALE BUILT FOR WORK COMPLETED ON THE IMPROVEMENTS TO
PARK AVENUE PROJECT**

WHEREAS, Glen G. Hale, d.b.a. Hale Built has completed work pursuant to the contract for the Improvements to King George Road Project (VNHA File #: 43326-520-52); and

WHEREAS, Van Note Harvey Associates has reviewed Hale Built’s attached application for payment and recommends payment of same pursuant to the Contractor’s Request for Payment No. 5 in the amount of \$3,045.52; and

WHEREAS, this represents final payment under the contract; and

WHEREAS, funds are available in Account #: G-02-44-959-000-250;

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that payment to Hale Built in the amount of \$3,045.52 pursuant to payment request No.5 is hereby authorized, upon receipt of fully executed documents and certified payrolls.

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	M				Marciante	X			
Griffiths				Absent	Mills	X			

Council Member Gnatt made a motion to approve Resolution 2018-7.9, second by Council Member Lawver with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2018 – 7.10**

**RESOLUTION AUTHORIZING HERITAGE AT PENNINGTON DEVELOPER’S
AGREEMENT AMENDMENT**

WHEREAS, American Property at Pennington, LLC (hereinafter referred to as the “Developer”) entered into a Developer’s Agreement with the Borough of Pennington (hereinafter referred to as the “Borough”) on April 28, 2017, as a condition of their Pennington Borough Planning Board approval for the development of Block 102, Lot 1, Pennington Borough Tax Map (hereinafter referred to as the “Property”) said development commonly known as “Heritage at Pennington”; and

WHEREAS, construction is currently underway on the Property; and

WHEREAS, the Developer has consulted with the Borough engineer with regard to the engineering revisions to the approved plan; and

WHEREAS, the Developer and the Borough Engineer have agreed to said revision to the aforementioned Developer’s Agreement and to the execution of the First Amendment to the Borough of Pennington – American Properties at Pennington, LLC Developer’s Agreement; and

WHEREAS, the Pennington Borough Council has reviewed and wishes to approve said Amendment setting forth various revisions to aforementioned Developer’s Agreement.

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

1. The Mayor and Clerk are hereby authorized and directed to execute the First Amendment to the April 28, 2017 Developer’s Agreement between the Borough of Pennington and American Properties of Pennington, LLC. The First Amendment hereby authorized is on file in the Office of the Borough Clerk and may be inspected during regular office hours.
2. A certified true copy of this resolution shall be furnished upon its adoption to the following:

Pennington Borough Planning Board Secretary Mary Mistretta, Brandon Fetzer, PE and Rick Smith, Borough of Pennington, Greg Kanter, American Properties, LLC and to Frank J. Petrino, Esq., American Properties attorney.

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				Absent	Mills	M			

Council Member Mills made a motion to approve Resolution 2018-7.10, second by Council Member Lawver. Mrs. Heinzl explained what is being changed in the Developer's Agreement. Mrs. Heinzl stated that American Properties wanted to install the infrastructure for Phase II now and Van Note Harvey did not have concerns about that. Mrs. Heinzl stated that the developer's agreement required that Phase I would still be standalone even if Phase II was never built will still be preserved. Mrs. Heinzl stated that the second change is that that the sub-division plan is going to be a condominium plan and not fee simple lots. Mrs. Heinzl stated that the West Franklin Sidewalk that was originally designed along the northerly side of West Franklin will now be located on the Southerly side to intersect with the Shoppes of Pennington sidewalk. Mrs. Heinzl stated that the last thing was the TWA permit which will now include all revisions that have been approved throughout the project so that they will be in one place as part of the Developer's Agreement. Mrs. Heinzl stated that last change is to include the actual date of the plans. Mr. Lawver stated that if American Properties is installing infrastructure that to him means sanitary sewer, water lines, storm sewers, fire lines and possibly fire suppression pits and they are asking to do that now instead of later. Mr. Lawver asked if in operating the water system will there be water infrastructure creating a stagnant situation. Mr. Smith stated not if they are dry pipes and they have to pass bacteria testing. Mr. Lawver stated that this agreement says only sanitary sewer so what he is really asking is what is being installed in terms of infrastructure. Mrs. Heinzl stated that she got an e-mail from Brandon Fetzer that outlined all of the changes. Mr. Lawver stated that does not matter because it is not reflected in the amended agreement. Mrs. Heinzl stated that Ed Schmierer's office put together the amended agreement based on what Mr. Fetzer put in his e-mail so this reflects what he has agreed to. Mr. Lawver stated that means that the only thing that they can put in right now is the sanitary sewer lines and if there is anything different than that they need to come back to Council. Mrs. Heinzl stated that the original Developer's Agreement has in it that American Properties will install everything necessary to make Phase I standalone when they install Phase II. Mr. Lawver stated that if there is infrastructure that is installed but not used it creates a stagnating situation and that can result in an unsanitary water system. Mr. Lawver stated that he just wants to make sure that there will not be any water pipes that get turned on and then just sit there. Mr. Smith stated that just to be clear, the Borough owns the Phase I pipes and we are full control so even if they put pipes in they would have no way to fill them and the Borough controls the valves that would allow that so it should not be a problem. Mr. Lawver stated that he is ok with American Properties putting in whatever infrastructure they can just so that it is understood that the Borough does not want to be responsible if there is a situation that causes a problem down the road. Mr. Lawver stated that he is sure that Van Note Harvey is well aware of the situation. Mrs. Heinzl stated that she pulled up the e-mail that was referred to. Mrs. Heinzl stated that the amendment is correct in just referring to sanitary sewer lines because that is the part that is contingent on the expansion of the Sewer Treatment Plant and then approving the next Phase of the development. Upon a roll call vote all members present voted in favor.

Professional Reports

Mr. Lawver asked about the aging HVAC system. Mr. Smith stated that there have been some problems but he has dealt with them.

Mrs. Heinzl stated that she has spoken to the architect for the Borough Hall renovation and she anticipates have a preliminary concept designs in July.

Mrs. Heinzl stated that the Request for Information Proposals went out and she has heard for one firm who indicated that they would be submitting a proposal but she has not heard from the other three.

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.

Mr. Dan Pace of 9 Railroad Place asked that the record reflect that he supports the inclusion of the African American Cemetery in the Historic District.

At 8:02pm, with no further business to come before the Borough, Council Member Lawver made a motion to adjourn the meeting, second by Council Member Gnatt.

Respectfully submitted,

Elizabeth Sterling
Borough Clerk