

**Pennington Borough Council
Regular Meeting – April 3, 2017**

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

Also present were Borough Administrator Eileen Heinzl, Public Works Superintendent Rick Smith, Public Safety Director Bill Meytrott, Health Officer Stephanie Carey, Planning Board Chairman Winn Thompson, Land Use Administrator Mary Mistretta 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.**

Mr. Daniel Pace of 9 Railroad Place stated that he is not speaking on an agenda item, but he would like to thank Mayor Persichilli and Borough Administrator Eileen Heinzl for sending a letter to Bonnie Watson-Coleman regarding his concerns with CSX and their rail line through town. Mr. Pace stated that he is still noticing when he walks the shifting of the railroad ties and Mr. Pace passed around a picture that he had taken the day before this meeting showing the railroad ties covered in mud. Mr. Pace stated that he called the Federal Railroad Administrator Inspector who had visited the site in the fall and he was told by the inspector that CSX is aware of the problem and they will make repairs. Mr. Pace stated that the inspector also indicated that CSX has reduced the speed of the trains but only from 50mph to 40mph. Mr. Pace stated that he wanted to keep Borough Council updated on the situation.

Mayor's Business

Mayor Persichilli read the following Proclamation regarding Arbor Day.

PROCLAMATION

WHEREAS, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and

WHEREAS, this holiday, called Arbor Day, was the first observed with the planting of more than a million trees in Nebraska, and

WHEREAS, Arbor Day is now observed throughout the nation and the world, and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife, and

WHEREAS, trees are renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and

WHEREAS, trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community, and

WHEREAS, trees, wherever they are planted, are a source of joy and spiritual renewal, and

WHEREAS, Pennington, N.J. has been recognized as Tree City USA by The National Arbor Day Foundation and desires to continue its tree-planting ways,

NOW, THEREFORE, I Anthony J. Persichilli, Mayor of the Borough of Pennington do hereby proclaim Friday, April 28th, 2017 as ARBOR DAY in Pennington, New Jersey, and I urge all citizens to support efforts to protect our trees and woodlands and to support our urban forestry program, and

FURTHER, I urge all citizens to plant trees to gladden the hearts and promote the well-being of present and future generations.

Mayor's Appointments

Mayor Persichilli announced the appointment of Terry S. Ward as a member of the Economic Development Commission for a 5 year term expiring December 31, 2021.

Approval of Minutes

Council Member Chandler made a motion to approve the minutes of the February 6, 2017 Regular Meeting, second by Council Member Mills with all members present voting in favor.

Council Member Lawver made a motion to approve the minutes of the March 6, 2017 Regular Meeting, second by Council Member Chandler with all members present voting in favor.

Council Member Chandler made a motion to approve the minutes of the March 20, 2017 Special Meeting, second by Council Member Gnatt with all members present voting in favor with the exception of Mr. Lawver and Mr. Marciante who abstained.

Presentations

Health Department

Mayor Persichilli invited Health Officer Stephanie Carey to come forward to make a presentation to Council. Mrs. Carey thanked Mayor and Council for the opportunity to speak on what has been going on with the Health Department for the year 2016. Mrs. Carey stated that today is the first day of National Public Health Week and she wanted to remind everyone that public health is a return on investment and public health is a way to a healthier community. Mrs. Carey stated that in 2016 we had an increase in activity in Pennington Borough. Mrs. Carey stated that there were 22 reportable disease investigations which is up from the prior year mostly due to lyme disease, food borne illnesses and travel related illnesses. Mrs. Carey stated that one of the reasons for the increase in lyme disease is that milder winters allow the ticks to survive over the winter so that there is a longer transmission season. Mrs. Carey stated that as physicians become more aware of the hazards of lyme disease and the long-term arthritis symptoms that it can cause, they are testing sooner before diagnosing arthritis. Mrs. Carey stated that thirty food establishments were inspected, twenty-six temporary food inspections associated with Pennington Day were done, and six schools and preschools were audited. Mrs. Carey stated that they responded to six public health nuisance inspections, issued thirty-five flu vaccinations, a dozen pets were given their rabies vaccine and one pool was inspected.

Mrs. Carey stated that they make it a point of doing Health Education and Promotion at Pennington Day and this year's theme will be increasing home and business owner's awareness on the issue of sewer line backups and the simple things that you can do to prevent it from happening. Mrs. Carey stated that they have a robust chronic disease self-management program working on the theory that it takes two or three years to become an overnight success and the program fills up very rapidly with more physicians and faith-based organizations referring their patients/members. Mrs. Carey stated that they continue to look for additional locations to hold both chronic disease self-management and diabetes self-management programs. Mrs. Carey stated that this program works, it reduces symptoms and it reduces health care costs.

Mrs. Carey reported that in 2016 they were involved in a couple of emergency exercises, one at the West Trenton Fire House for a point of distribution exercise to practice mass distribution of either medication or emergency supplies to the entire population. Mrs. Carey stated that they also participated in a regional exercise to set up an emergency shelter for medical needs individuals and they are working with the regional and statewide organizations to update Continuity of Operations Plans, Zika response plans, Isolation/Quarantine plans and Communications plans.

Mrs. Carey stated that the Health Department and in turn the Borough is a proud member of the Greater Mercer Public Health Partnership. Mrs. Carey stated that the partnership represents municipalities, hospitals and community organizations all across Mercer County and they are working on implementing the Community Health Improvement Plan. Mrs. Carey stated that a couple of things that are going on right now are Healthy Eating and Active Living including a workplace wellness summit that is coming up in April. Mrs. Carey stated that small and medium size businesses seeking to improve their employees wellness should attend the free seminar at the Robert Wood Johnson Fitness and Wellness Center to hear a panel discussion on how to adopt employee wellness.

Mrs. Carey stated that another event coming up takes advantage of the beautiful trails at the Stonybrook Watershed on May 21st featuring a 5K run and walk and there will be a variety of community health events being sponsored in connection with the Stonybrook Watershed festival.

Mrs. Carey stated that they are also working with school districts to adopt active recess policies, to encourage kids to participate in active play during recess. Mrs. Carey stated that research has shown that recess coaches increase kids activities which then clears the mind and has them ready to head back to class.

Mrs. Carey stated that lead has been in the news a lot in 2016 and the State of New Jersey is tightening lead safety standards which are reducing cases of children with lead poisoning. Mrs. Carey stated that this will increase the work load on investigating kids and getting them into appropriate treatment by a minimum of six hundred percent. Mrs. Carey stated that the good news is that the Governor's budget includes an additional \$10 million targeted to local health departments to increase staffing and to respond to the increased need. Mrs. Carey stated that they have already sent staff for lead investigation training.

Mr. Lawver asked what kind of follow up will there be in terms of feedback and source investigation. Mr. Lawver stated that the Borough runs its own water system and we know that there are some old service lines that have lead solder, so if the Health Department sees under these new standards an increased number of children from Pennington coming through is there some feedback given to the municipality to help identify and address issues that might be system wide. Mrs. Carey stated that when a child is identified as having elevated blood lead it triggers an environmental investigation and nurse case management investigation. Mrs. Carey stated that the nurse case manager deals with the child themselves including additional blood testing and education for the family on protecting the child going forward and providing nutritional information and follow up medical information to reduce blood lead levels. Mrs. Carey stated that the environmental investigation would identify lead paint in the house, identify lead dust within the house and identify lead water lines within the house and then going further to identify unusual things such as imported pottery, jewelry and certain imported spices and cosmetics that could contain lead. Mrs. Carey stated that it is currently a long process and the State is working towards speeding up the process so that lead cases can be identified and treated quicker.

Mrs. Carey stated that the Health Department focuses on being strategic with use of resources and they are focused on four primary priorities, Healthy Eating and Active Living, Prevention of Infectious and Chronic Disease, Mental Health and then the daily activities of regulatory enforcement including investigating complaints, building a sustainable operation that is a good steward of tax resources and in particular focusing on transparency, accountability and improving health outcomes. Mrs. Carey stated that they are working on getting Public Health Accreditation. Mrs. Carey stated that they hope to have all of their documentation uploaded this summer. Mrs. Carey stated that by the time the documentation is reviewed and they receive a site visit they hope to be accredited by 2018.

Mrs. Carey stated that with regard to Mental Health, they are offering a special Mental Health First Aid Training for first responders and a number of Pennington and Hopewell Police Department and Pennington First Aid Squad personnel will be participating on April 10th and April 24th.

Mrs. Carey stated that she would like to particularly thank Pennington Borough for the way that the community has embraced wellness with the Smoke Free Parks Ordinance, Complete Streets Policy and the walkability of the community. Mrs. Carey stated that these are the foundations that build community and build good health for everyone. Mrs. Carey encouraged Council Members to review the full report that she provided to them and which will be posted on the Borough website and available in the library.

Mr. Lawver stated that he represents Borough Council on the Senior Advisory Board and he thanked Montgomery Health Department for attending the most recent senior resource fair. Mr. Lawver asked if there are programs regarding age in place available and if there is a mechanism for the Health Department to play a part so that there is a more coordinated effort. Mrs. Carey stated that there are a large number of seniors in Pennington Borough and in particular seniors living alone. Mrs. Carey stated that there are better things that can be done to provide outreach to close any gaps and she would look forward to working towards improvement.

Mayor Persichilli thanked Mrs. Carey for her presentation.

Mrs. Carey stated that she would like to particularly thank the Pennington Borough Board of Health. Mrs. Carey recognized Mr. Steve Papenberg who was in the audience and who serves as Chairman of the Board of Health. Mrs. Carey stated that Mr. Papenberg is an inspiration and the Pennington Board of Health is made up of some amazing folks. Mrs. Carey stated that she just received word from the National Association of County and City Health Officials that a presentation proposal that features Pennington Borough Board of Health has been accepted and will be presented at their national conference in Pittsburgh in July.

Mr. Papenberg stated that he has received very positive feedback about the health services provided by Montgomery Township. Mr. Papenberg stated that we are definitely on the right track, there is a lot of energy and dedication and he commends the Montgomery Health Department for their hard work.

Green Team

Mayor Persichilli invited Joanne Held to come forward to make a presentation on behalf of the Green Team. Mrs. Held stated that she is a resident of 103 Laning Avenue and she is here in her capacity as a representative to the Hopewell Valley Green Team. Mrs. Held stated that 2016 was a great year for the Green Team. Mrs. Held stated that she and Eileen Heinzl worked on submitting an application to Sustainable Jersey to demonstrate that Pennington Borough is a sustainable community and after three tries she is happy to report that at the end of 2016 the Borough received certification at the Bronze Level. Mrs. Held asked Mayor Persichilli to hold up the plaque that was provided which has room for future certifications. Mrs. Held stated that recertification is every three years. Mrs. Held distributed Sustainable Jersey pins to Mayor and Council. Mrs. Held stated that she would like to thank Rick Smith for all of his help. Mrs. Heinzl stated that Betty Sterling also deserves thanks. Mrs. Heinzl stated that without the support staff they would not have been able to get this done.

Mrs. Held distributed a list of actions that they had to document in order to be certified. Mrs. Held stated that there were a lot of things on the list that we were already doing but some of the things Sustainable Jersey pushed a little harder for example, the Environmental Commission was meeting but nothing was really documented and now they recommended writing an annual report which they will continue to do. Mrs. Held stated that a site plan review process is now in place. Mrs. Held stated that the municipal carbon footprint

provided a way for them to establish a base line for what our municipal buildings and activities are releasing in terms of carbon dioxide and with this base line in a few years we can look back and see that we have improved lighting and other efforts and we will be able to compare and quantify these efforts. Mrs. Held stated that there some really fun and exciting things that they are doing and she was very proud to represent Pennington in this effort.

Mrs. Chandler asked if Mrs. Held would give an update on the Solar Challenge Program. Mrs. Held stated that Hopewell Township applied for the Sustainable Jersey Solar Challenge and as part of the challenge they received a small grant of about \$3,000 to do work to reach out to the community to tell them about the Solar Portal where people can go to get free bids on Solar panels for their homes, learn about different kinds of financing and they can feel confident that the people who are bidding on the project have been pre-approved and they can trust them. Mrs. Held stated that Hopewell Township invited the Borough to join them in this effort. Mrs. Held stated that the way success is measured is by how many contracts are signed in the time period from October to the end of May. Mrs. Held stated that currently our area has three contracts signed which is more than any of the other participants. Mrs. Held stated that the winner of the challenge gets a \$10,000 grant to do an energy related project. Mrs. Held stated that they are still working on getting the word out to the public, she dropped more flyers at the library and they will also be a big presence at the Mercer Green Fest.

Mayor Persichilli thanked Mrs. Held for her hard work.

Ordinances for Public Hearing and Adoption

Mayor Persichilli read Ordinance 2017-5 by title.

BOROUGH OF PENNINGTON ORDINANCE # 2017-5

AN ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK ING 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 \$88,745.37, said amount being \$76,067.46 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 Chandler made a motion to open the Public Hearing on Ordinance 2017-5, second by Council Member Lawver with all members present voting in favor. There were no comments from the public. Council Member Chandler made a motion to close the Public Hearing, second by Council Member Lawver with all members present voting in favor. Council Member Chandler made a motion to adopt Ordinance 2017-5, second by Council Member Lawver with all member present voting in favor.

Mayor Persichilli read Ordinance 2017-7 by title.

**BOROUGH OF PENNINGTON
ORDINANCE 2017-7**

BOND ORDINANCE PROVIDING A SUPPLEMENTAL APPROPRIATION OF \$22,000 FOR THE ACQUISITION OF A GENERATOR IN AND BY THE BOROUGH OF PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY, AND AUTHORIZING THE ISSUANCE OF \$20,500 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF 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 \$22,000, such sum being in addition to the \$85,000 appropriated therefor by Bond Ordinance #2016-3 of the Borough, finally adopted March 2, 2016 (the "Original Bond Ordinance"), which included a \$75,000 grant from the Federal Emergency Management Agency Hazard Mitigation Grant Program, and including the sum of \$1,500 as the additional down payment required by the Local Bond Law. The additional down payment is now available by virtue of provision for down payment or for capital improvement purposes in one or more previously adopted budgets.

Section 2. In order to finance the additional cost of the improvement or purpose not covered by application of the additional down payment, negotiable bonds are hereby authorized to be issued in the principal amount of \$20,500 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 the acquisition of a generator, as described in the Original Bond Ordinance, including engineering expenses and further including all related costs and expenditures necessary therefor and incidental thereto.

(b) The estimated maximum amount of bonds or bond anticipation notes to be issued for the improvement or purpose is \$101,250, including the \$80,750 authorized by the Original Bond Ordinance and the \$20,500 bonds or bond anticipation notes authorized herein.

(c) The estimated cost of the improvement or purpose is \$107,000, including the \$85,000 appropriated by the Original Bond Ordinance and the \$22,000 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. 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. 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 15 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 \$20,500, and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

(d) An aggregate amount not exceeding \$24,000 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, \$2,000 was estimated for these items of expense in the Original Bond Ordinance and an additional \$22,000 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 2017-7, second by Council Member Marciante. There were no comments from the public. Council Member Lawver made a motion to close the Public Hearing, second by Council Member Marciante with all members present voting in favor. Council Member Lawver made a motion to adopt Ordinance 2017-7, second by Council Member Marciante with all members present voting in favor.

Mayor Persichilli read Ordinance 2017-8 by title.

**BOROUGH OF PENNINGTON
ORDINANCE #2017 – 8**

**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 2017**

**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	\$ 51,226.88
Borough Clerk	\$ 41,737.10
Treasurer / Assistant Chief Financial Officer	\$ 71,309.48
Tax Collector	\$ 29,986.18
Utility Collector	\$ 29,986.18
Technical Assistant to Construction	\$ 11,659.17
Tax Assessor	\$ 12,734.50
Zoning Officer	\$ 8,617.76
Land Use Admin/Admin Asst.	\$ 50,227.45
Deputy Registrar	\$ 2,170.33
Supt. of Public Works	\$125,643.60
Judge of Municipal Court	\$ 12,107.43
Court Administrator	\$ 16,921.04
Prosecutor - (Flat Fee per Court Session)	\$ 300. 00
Public Defender – (Flat Fee per Court Session)	\$ 200.00
Public Safety Director	\$ 55,831.85
Construction Official	\$ 26,736.98
Plumbing Sub-Code	\$ 39.56 / hour
Fire Sub-Code	\$ 40.15 / hour
Electric Sub-Code	\$38.76 / 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 salary amount shown in Section a. for Supt. of Public Works is a maximum amount expected to be paid when the incumbent obtains all licensure required for management of water distribution and treatment and sanitary sewer collection. The present salary of \$85,680. shall be increased by increments of \$7,500. upon qualification for each of the following licenses, respectively: W-1, Water Distribution; T-1, Water Treatment; C-2, Sanitary Sewer Collection – Level 2; W-2, Water Distribution – Level 2; and T-2, Water Treatment – Level 2.
- e. The rate of compensation of each employee, paid on an hourly basis is as follows:

	Minimum	Maximum
Finance		
Municipal CFO(p/t)	\$ 25.00	\$ 80.60
 Police Department:		
Crossing Guards	\$ 15.00	\$ 26.00
Special Police	\$ 16.92 per hour	
 Part Time Employees – All Departments:		
Part Time or Temporary	\$ 8.00	\$ 21.00
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, 2017.

Council Member Marciante made a motion to open the Public Hearing on Ordinance 2017-8, second by Council Member Gnatt. There were no comments from the public. Council Member Gnatt made a motion to close the Public Hearing, second by Council Member Mills with all member present voting in favor. Council Member Lawver made a motion to adopt Ordinance 2017-8, second by Council Member Chandler with all members present voting in favor.

Mayor Persichilli read Ordinance 2017-9 by title.

**BOROUGH OF PENNINGTON
ORDINANCE NO. 2017 - 9**

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

WHEREAS, Borough Council seeks to amend certain of the fees set forth in Chapter 98 of the Code of the Borough of Pennington;

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

1. Section 98-34, concerning trash pickup, is amended as follows:

98-34. Trash pickup.

Fees for bulk household trash and additional non-bulk trash as required by §172-11 of this Code shall be:

* * * *

- A. Bulk trash stickers: one sticker per 40 pounds/~~3~~4 each.
- B. Non-bulk trash pickup in excess of two thirty-gallon trash containers on any one collection day: one sticker per container/~~3~~4 each. No container may exceed 40 pounds.

2. Subsections A and B of Section 98-35, concerning trash pickup for adjacent properties, is amended as follows:

98-35. Adjacent properties.

Fees for trash pickup for non-taxpayers who are adjacent property owners pursuant to Section 172-13 of this Code shall be:

- A. Per year for two thirty-gallon containers twice/week:~~350~~400. No container may exceed 40 pounds.
- B. Bulk trash stickers and stickers for pickup in excess of two thirty-gallon containers on any one collection day: one sticker per 40 pounds of bulk items and one sticker per excess container/~~3~~4 each. No container may exceed 40 pounds.

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

Council Member Chandler made a motion to open the Public Hearing on Ordinance 2017-9, second by Council Member Mills. There were no comments from the public. Council Member Chandler made a motion to close the Public Hearing, second by Council Member Marciante with all members present voting in favor. Council Member Chandler made a motion to adopt Ordinance 2017-9, second by Council Member Marciante with all members present voting in favor.

Committee Reports

Planning & Zoning / Open Space – Mrs. Gnatt stated that there is a Resolution on the agenda for an ANJEC grant application that was discussed at the last meeting. Mrs. Gnatt stated that the grant would fund a study for an arboretum behind the Tollgate School. Mrs. Gnatt stated that the Open Space Committee is on board with using Open Space Funds for the project.

Mrs. Gnatt stated the Developer's Agreement for American Properties is on the agenda later in the meeting and there are members of the audience that can answer questions that might come up.

Public Safety / Personnel – Mr. Marciante stated that the Pennington Fire Company took possession of a brand new 100 foot aerial tower truck today. Mr. Marciante stated that on April 28th Mr. Pauciuillo will become a full-fledged Officer upon completion of his training. Mr. Marciante stated that body cameras should be in effect in the next couple months. Mr. Marciante stated that nine summonses for not shoveling sidewalks were issued to residents two days after the snowstorm. Mr. Marciante stated that the Borough ordinance allows issuance of summonses after twenty-four hours but the department waited two days and still issued nine summonses. Mr. Marciante stated Hopewell Township has agreed to let the Pennington First Aid Squad charge a patient's insurance company for services and Pennington Borough will most likely be approached to do the same thing.

Public Works/ Library / Shade Tree / Senior Advisory – Mr. Lawver stated that the Public Works Committee met and discussed a number of things. Mr. Lawver stated that they are getting close to resolution of the grease trap issues. Mr. Lawver stated that a process is developing for the Borough Hall renovations with the first step being an RFP for an architect to do a survey of needs that will then be the basis for an RFP for design and specifications which will then lead to project costs. Mr. Lawver stated that Mercer County is going to pave Laning and Voorhees and the patch under the bridge on Broemel Place sometime in May or July. Mr. Lawver stated that a good conversation took place with the Borough Engineer regarding the design process for Curlis and Weidel. Mr. Lawver stated that a clear message is being sent regarding designing projects with economics in mind.

Mr. Lawver reported for Shade Tree that Arbor Day will be held on April 28th at the Tollgate School at 10:00am. Mr. Lawver stated that an RFP went out for tree removal and those bids are being rejected and the bids will be re-advertised.

Mr. Lawver stated that he attended a meeting with Mayor Persichilli, Mrs. Heinzl, Brian Hughes and other County representatives, Paul Pogozelski, Paul Anzano and Keven Kuchinski to discuss the Senior Center. Mr. Lawver stated that he thought that an agreement was reached to close the Senior Center at the end of this year and put time and energy and efforts into finding a temporary home for the senior lunch program. Mr. Lawver stated that several locations were discussed, some in town, some in the valley and some outside the valley. Mr. Lawver stated that he went on vacation and came back to an article in the Hopewell Valley News reporting that Hopewell Township is calling for the three municipalities to meet to find a solution to keep the Senior Center open beyond 2017. Mr. Lawver stated that he talked to Mayor Kuchinski again and stated that he would entertain keeping the building open, but we have to take care of the repair items that need to be taken care of and it is not fair to the users and it is not fair to the residents in the area if we try to do a penny-pinching slapstick job to keep it open. Mr. Lawver stated that as he sees it there are two ways to proceed, one is that the three municipalities come up with a ten year commitment to the building and we put in the funds to move forward with funds coming from the three municipalities and the lunch program and the other option is to dip into the grant money that is available and at the meeting it was agreed not to dip into the grant funds because the intent was to use those funds for the ultimate senior center. Mr. Lawver stated that if people are insistent on keeping the present building open, a grant may be a way to fund the repairs. Mr. Lawver stated that he is not in support of any short term solution and he will not support any solution that does not bring that building up to par.

Mayor Persichilli agreed that what Mr. Lawver reported was what was stated at the meeting with the County officials and the Mayors. Mayor Persichilli stated that this call for another meeting does not seem reasonable to him. Mayor Persichilli stated that he thought it was resolved, there were assignments to go out and do certain things and then come back together for another meeting. Mayor Persichilli stated that he does not see the value in getting the three governing bodies together with concerned citizens to talk about this. Mayor Persichilli stated that we have been talking about this for at least the entire time he has been on Council, thirteen years or more, and there has been no resolution. Mayor Persichilli stated that he will contact Mayor Kuchinski and find out what is going on.

Mr. Marciante asked Mrs. Heinzl if she has looked into use of the millings from Voorhees and Laning. Mr. Marciante stated that we should do that because someone might be able to use them. Mrs. Heinzl stated that she would look into it.

Parks and Recreation – Mrs. Mills stated that the Easter Egg Hunt will be held on April 15th at Kunkel Park. Mrs. Mills stated that playground mulch has been ordered to be delivered to Public Works. Mrs. Mills stated that Parks and Recreation would like to ask Public Works to pick up some of the larger plastic toys that have been left in the park. Mrs. Mills stated that a bike rack will be installed around April 8th or before and new grill pans are coming and they are looking into purchasing two trees to be planted near the sandbox area. Mrs. Mills stated that on May 6th, the flags will be installed around town and the names of

flag purchases will be displayed somewhere here at Borough Hall. Mrs. Mills stated that Volunteer Handbooks were distributed and the committee will be requesting some changes to the Pennington Borough webpage. Mrs. Mills stated that the Memorial Day concert will be The Jack Furlong Jazz Band. Mrs. Mills stated that a separate committee will be convening to discuss Memorial Day. Mrs. Mills stated that in addition to the Memorial Day concert, two summer concerts will be held, one on July 20th and one on August 17th.

Mrs. Mills reported that there were 50 attendees at the Library Revolutionary Tea which was subsidized by the NJ Council for the Humanities. Mrs. Mills stated that Build a Better World is the theme for the summer program this year and novelist postcards have been mailed. Mrs. Mills stated that a Book Bike Naming Contest is planned and the bike will be on display at Pennington Day.

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

Historic Preservation / Board of Health / Environmental / Economic Development – Mrs. Chandler stated that she had nothing more to add to Stephanie Carey’s report for the Board of Health.

Mrs. Chandler stated that the Environmental Commission met to discuss the movement forward on the Landfill.

Mrs. Chandler stated that she was unable to make the meeting of the Economic Development Commission. Mrs. Chandler stated that Terry Ward has joined the commission.

Mrs. Chandler stated that no applications were received by the Historic Preservation Commission.

2017 Budget – Public Hearing and Adoption

Council Member Chandler made a motion to open the Public Hearing on the 2017 Budget, second by Council Member Marciante. There were no comments from the public. Council Member Chandler made a motion to close the Public Hearing, second by Council Member Marciante with all members present voting in favor. Council Member Lawver made a motion to adopt the 2017 Budget, second by Council Member Chandler with all members present voting in favor.

New Business

**BOROUGH OF PENNINGTON
RESOLUTION #2017 – 4.1**

RESOLUTION AUTHORIZING REFUNDS

BE IT RESOLVED, that a refund be issued to Michelle Schiano-Moriello, 1 Vannoy Avenue, Pennington, NJ 08534 for Planning Board escrow account P15-006 in the amount of \$236.25.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2017-4.1, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2017 – 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 \$ 392,254.86 from the following accounts:

Current	\$ 315,449.09
W/S Operating	\$ 53,217.55
Developers Escrow	\$ 10,599.43

Grant Fund	\$ 972.59
Animal Control Fund	\$ 16.20
Other Trust Fund	\$ 12,000.00
TOTAL	\$ 392,254.86

Record of Council Vote on Passage

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

Council Member Lawver made a motion to approve Resolution 2017-4.2, second by Council Member Marciante with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2017- 4.3**

**RESOLUTION AUTHORIZING HIRING OF CONFIDENTIAL
ASSISTANT FOR SUPERINTENDENT OF PUBLIC WORKS**

WHEREAS, the Superintendent of Public Works is in need of a Confidential Assistant to support his administrative responsibilities relating to management of the Department;

WHEREAS, the duties of the Confidential Assistant will include a supportive role in handling confidential personnel matters and in preparing, maintaining and analyzing payroll and personnel records and related communications;

WHEREAS, the intent of this Resolution is to create the position of Confidential Assistant to the Superintendent of Public Works and to approve the hiring of Gabrielle R. Canavera for this position;

WHEREAS, the job description for the proposed position is attached;

WHEREAS, Ms. Canavera will serve part time, 18 hours per week, at the rate of \$13 per hour, within the range indicated for part-time employees under the Borough salary ordinance;

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

1. Creation of the described position of Confidential Assistant to the Superintendent of Public Works is hereby authorized.
2. Hiring of Gabrielle R. Canavera to fill the position of Confidential Assistant is further authorized, subject to a starting date to be mutually agreed upon.
3. The Borough Administrator is authorized to take such additional steps as may be required to effect the creation of this position and the hiring of Ms. Canavera.

Record of Council Vote on Passage

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

Council Member Marciante made a motion to approve Resolution 2017-4.3, second by Council Member Lawver. Mr. Lawver stated that this has been a long time coming and probably should have been done many years ago. Mr. Lawver stated that he thinks that this will really help the operation of the department. Mr. Lawver stated that this appointment has been cleared by the Union Steward as well as the Teamster Representative and they are in support of this as well. Upon a roll call vote all members present voted in favor. Mrs. Heinzl recognized Ms. Canavera who was in the audience and stated that Garbrielle interviewed for this position when it was going to be an internship and she was eager and willing to do the work as an unpaid intern. Mrs. Heinzl stated that as we went through the process we recognized that this is work that the Borough really needs to have done. Mayor and Council welcomed Ms. Canavera.

**BOROUGH OF PENNINGTON
 RESOLUTION #2017-4.4**

**RESOLUTION AUTHORIZING APPLICATION FOR 2017 ANJEC OPEN SPACE STEWARDSHIP
 GRANT AND EXECUTION OF GRANT AGREEMENT**

WHEREAS, ANJEC provides small grants to local environmental commissions to fund commission projects for open space preservation, maintenance, restoration and education; and

WHEREAS, the Environmental Commission seeks to advance the stewardship of the wooded area on the Toll Gate Grammar school grounds that has become overgrown with weeds, invasive species and diseased ash trees by applying for funding to hire an arborist to develop a plan for an arboretum that will feature native trees; and

WHEREAS, the Environmental Commission proposes to collaborate with the Open Space Committee, the Shade Tree Committee and the local elementary school to develop an arboretum which will help raise the profile of the Environmental Commission and encourage public participation in the stewardship of open space; and

WHEREAS, local environmental commission members and volunteers must provide and track 80 hours of labor toward the qualifying project;

WHEREAS, eligible applicants are New Jersey environmental commissions established by ordinance;

WHEREAS, the Borough, on behalf of the Pennington Borough Environmental Commission seeks to apply to ANJEC for a 2017 grant in the amount of \$1,500.00 for the purpose of funding a study of the woods behind the Toll Gate School to determine the viability of creating an arboretum there;

WHEREAS, Borough Council supports the proposed project and directs the Borough Administrator to work with the Environmental Commission to submit an appropriate application on behalf of the Commission;

NOW, THEREFORE, BE IT RESOLVED, that the Borough Administrator and the Mayor are authorized as follows:

1. to work with the Environmental Commission to make application for the described grant on behalf of the Commission.
2. if awarded the grant, to execute such grant agreement as may be required by ANJEC, providing for a grant in the amount of \$1,500, subject to review and approval by the Borough Attorney;
3. to execute such amendments to the grant agreement as recommended by ANJEC and the Commission provided the amendments do not materially increase the Borough's obligations.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2017-4.4, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION #2017 – 4.5**

**RESOLUTION AUTHORIZING A PROFESSIONAL
 SERVICES AGREEMENT WITH CORPORATE ENVIRONMENTAL SERVICES (CES) FOR THE
 COMPLETION OF THE 2016 RIGHT TO KNOW SURVEY**

WHEREAS, the Borough Council of the Borough of Pennington seeks to retain the services of CES Environmental, Inc.(CES), licensed engineers, to assist the Borough in completion of the 2016 Right To Know Survey;

WHEREAS, a copy of the CES proposal, dated February 7, 2017, is annexed to this resolution;

WHEREAS, the contemplated services include inventory of areas that contain hazardous chemicals, completion of the 2016 Right to Know Survey for each area, transmission of 2016 Right to Know Survey hard or electronic copies to local emergency planning organizations as required (as per 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, CES 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, CES has agreed to perform these services for an amount not to exceed \$2,200.00;

WHEREAS, CES has Professional Liability Insurance in an amount satisfactory to the Borough;

WHEREAS, the Chief Financial Officer has certified that funds for the proposed services are available in Account #:7-01-26-310-000-260;

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 CES to ensure performance of these services at the cost of not to exceed \$2,200.00, subject as to form by the Borough Attorney.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2017-4.5, second by Council Member Marciante with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2017-4.6**

RESOLUTION REJECTING ALL BIDS FOR TREE REMOVAL AND STUMP GRINDING SERVICES AND DIRECTING THAT THE SPECIFICATIONS FOR THE PROJECT BE MODIFIED AND THE PROJECT BE RE-ADVERTISED FOR BIDS

WHEREAS, the Borough of Pennington seeks to contract with a qualified tree-removal service for removal of designated trees in the public right-of-way on municipal roads, to the extent of available funds;

WHEREAS, on March 22, 2017, the Borough invited tree-removal contractors to bid for this project, by means of sealed bids to be submitted to the Borough Clerk by March 22, 2017;

WHEREAS, the specifications for bidding required, among other things, that the bidder establish a minimum of 5 years' experience performing tree removal services for New Jersey municipalities and supply references from at least 3 municipalities demonstrating proficiency in removal of shade trees in proximity to sidewalks, traffic, overhead wires and underground utilities;

WHEREAS, on March 22, 2017 four bids had been received and were opened, but the lowest bidder and the next lowest bidder, respectively, failed to provide evidence satisfying the 5-year experience requirement and, on advice of legal counsel, must be eliminated from competition as not responsive;

WHEREAS, the other two bidders, which upon further investigation by the Borough using the information provided may or may not satisfy the 5-year municipal-experience requirement, submitted bids substantially in excess of cost estimates for the project;

WHEREAS, the documents received from the four bidders are available for inspection in the Office of the Borough Clerk;

WHEREAS, in the interest of increasing competition for the project, Borough Council seeks to modify the bidding specifications to eliminate the 5-year municipal-experience requirement while retaining the requirement that the bidder supply the described references from at least 3 municipalities;

WHEREAS, in the circumstances, the Local Public Contracts Law, N.J.S.A. 40A:11-13.2, authorizes the Borough to reject all bids and re-advertise;

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

1. the bids failing to establish 5 years of municipal experience are declared non-responsive;
2. the remaining two bids are substantially in excess of cost estimates and are therefore not accepted; and
3. the Administrator is directed to revise the specifications for the project and re-advertise for bids, in the manner described and as otherwise reasonably likely to improve competition for the project by qualified contractors.

Record of Council Vote on Passage

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

Council Member Mills made a motion to approve Resolution 2017-4.6, second by Council Member Gnatt. Mr. Marciante asked if there was a no sub-contractor clause in the bid specs and Mr. Bliss responded that there was. Mrs. Chandler asked if we asking for any municipal experience since the five year municipal experience requirement is being removed. Mr. Bliss stated that we will be requiring three municipal references. Upon a roll call vote all members present voted in favor.

Mayor Persichilli asked Council to consider Resolutions 2017-4.7 and 2017-4.8 concerning outdoor dining together under one vote.

**BOROUGH OF PENNINGTON
RESOLUTION 2017 – 4.7**

**RESOLUTION GRANTING CONDITIONAL AUTHORIZATION FOR EMILY’S CAFE TO
MAINTAIN A TEMPORARY OUTDOOR DINING AREA IN THE PUBLIC RIGHT- OF- WAY IN
2017**

WHEREAS, Emily Matticoli is the principal owner of Emily’s Café and Catering, LLC, a restaurant known as Emily’s Café located at 9 N. Main Street in the Borough of Pennington;

WHEREAS, Ms. Matticoli and Emily’s Café and Catering, LLC, have applied to Borough Council for permission to place movable tables and chairs on the sidewalk immediately adjacent to the restaurant, in particular, 3 tables and up to 6 chairs on the Main Street side of the restaurant, as shown in the attached sketch;

WHEREAS, Borough Council finds that the availability of outdoor dining contributes to the vitality of the Town Center and is consistent with the pedestrian-friendly environment envisioned for this area;

WHEREAS, Borough Council determines that approval of the proposed outdoor dining area for Emily’s Cafe, on a temporary and conditional basis as set forth further below, is in the public interest;

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

1. Emily Matticoli and Emily’s Café and Catering, LLC, are hereby granted permission to locate 3 tables and up to 6 chairs on the sidewalk immediately adjacent to the restaurant provided the following conditions are met:

- A. The tables and chairs shall be arranged as shown on the attached sketch.
- B. The outdoor dining area and affected sidewalk shall at all times be kept clean and free of litter and in compliance with all applicable health regulations.
- C. The outdoor dining area shall not obstruct pedestrian circulation on the sidewalk.
- D. Operation of the outdoor dining area shall comply with the Borough Noise Ordinance, as set forth in Chapter 133 of the Borough Code.
- E. The outdoor dining area may be used only during the operating hours of the restaurant. When the restaurant is not open, all tables and chairs shall be removed from the sidewalk.
- F. The outdoor dining area shall not obstruct access to upstairs apartments or Kriegner Travel Services.
- G. Emily Matticoli and Emily’s Café and Catering, LLC, shall indemnify and hold harmless the Borough of Pennington and its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorney fees, arising out of the operation of the outdoor

dining area approved by this resolution.

H. Emily Matticoli and Emily’s Café and Catering, LLC, shall at all times have on file with the Borough Clerk a current Certificate of Insurance which certifies that:

(1) the obligation to indemnify and hold harmless the Borough as provided above is insured by an insurance carrier authorized to do business in the State of New Jersey;

(2) the Borough of Pennington and its agents and employees are named as additional insureds under this insurance with respect to claims, damages, losses and expenses arising out of operation of the outdoor dining area; and

(3) the insurance in effect provides (a) at least \$1,000,000. of incurred liability coverage under each of the following types of coverage: general liability; premises liability; products and completed operations liability; personal and advertising injury liability; (b) property liability coverage in the amount of \$50,000.; (c) medical expense coverage in the amount of \$5,000.; (d) workers compensation coverage with the limits required by statute; and (e) employer’s liability coverage in the amount of \$500,000. per person/per occurrence.

(4) the Borough will be given 10 days’ written notice of any cancellation of this insurance.

I. The outdoor dining area complies with all applicable requirements of Section 215-94 of the Borough Code which regulates out door dining areas otherwise permitted by the Code.

2. The conditional authorization for outdoor dining granted by this resolution may be revoked by the Borough at any time, with or without notice to Emily Matticoli or Emily’s Café and Catering, LLC. This conditional authorization also shall be subject to such additional or amended conditions as Borough Council may deem appropriate at any time.

3. This conditional authorization shall in any event expire on December 31, 2017.

Record of Council Vote on Passage

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

**BOROUGH OF PENNINGTON
RESOLUTION 2017 – 4.8**

**RESOLUTION GRANTING CONDITIONAL AUTHORIZATION FOR VITO’S PIZZA TO
MAINTAIN A TEMPORARY OUTDOOR
DINING AREA IN THE PUBLIC RIGHT- OF- WAY IN 2017**

WHEREAS, Egnazio (Nat) Casano is the owner of Vito’s Pizza, a restaurant located at 2 N. Main Street on the corner of North Main Street and West Delaware Avenue in the Borough of Pennington;

WHEREAS, Mr. Casano has applied to Borough Council for permission to place movable tables and chairs on the sidewalk immediately adjacent to the restaurant, in particular, 4 tables and 16 chairs on the Main Street side of the restaurant and 2 tables and 8 chairs on the Delaware Avenue side of the restaurant, as shown in the attached sketch;

WHEREAS, Borough Council finds that the availability of outdoor dining contributes to the vitality of the Town Center and is consistent with the pedestrian-friendly environment envisioned for this area;

WHEREAS, Borough Council determines that approval of the proposed outdoor dining area for Vito’s Pizza, on a temporary and conditional basis as set forth further below, is in the public interest;

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

1. Vito’s Pizza is hereby granted permission to locate up to 6 tables and 24 chairs on the sidewalk immediately adjacent to the restaurant provided the following conditions are met;

A. The tables and chairs shall be arranged as shown on the attached sketch with no more than 4 tables and 16 chairs on the Main Street side of the restaurant and no more than 2 tables and 8 chairs on the Delaware side of the restaurant.

B. The outdoor dining area and affected sidewalk shall at all times be kept clean and free of litter and in compliance with all applicable health regulations.

C. The outdoor dining area shall not obstruct pedestrian circulation on the sidewalk.

D. Operation of the outdoor dining area shall comply with the Borough Noise Ordinance, as set forth in Chapter 133 of the Borough Code.

E. The outdoor dining area may be used only during the operating hours of the restaurant. When the restaurant is not open, all tables and chairs shall be removed from the sidewalk.

F. Egnazio Casano and Vito's Pizza shall indemnify and hold harmless the Borough of Pennington and its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorney fees, arising out of the operation of the outdoor dining area approved by this resolution.

G. The outdoor dining area approved by this resolution shall not operate until Mr. Casano and Vito's Pizza has filed with the Borough Clerk a current Certificate of Insurance which certifies that:

(1) the obligation to indemnify and hold harmless the Borough as provided above is insured by an insurance carrier authorized to do business in the State of New Jersey;

(2) the Borough of Pennington and its agents and employees are named as additional insureds under this insurance with respect to claims, damages, losses and expenses arising out of operation of the outdoor dining area; and

(3) the insurance in effect provides (a) at least \$1,000,000. of incurred liability coverage under each of the following types of coverage: general liability; premises liability; products and completed operations liability; personal and advertising injury liability; (b) property liability coverage in the amount of \$50,000.; (c) medical expense coverage in the amount of \$5,000.; (d) workers compensation coverage with the limits required by statute; and (e) employer's liability coverage in the amount of \$500,000. per person/per occurrence.

(4) the Borough will be given 10 days' written notice of any cancellation of this insurance.

H. The outdoor dining area complies with all applicable requirements of Section 215-94 of the Borough Code which regulates outdoor dining areas otherwise permitted by the Code.

2. The conditional authorization for outdoor dining granted by this resolution may be revoked by the Borough at any time, with or without notice to Mr. Casano or Vito's Pizza. This conditional authorization also shall be subject to such additional or amended conditions as Borough Council may deem appropriate at any time.

3. This conditional authorization shall in any event expire on December 31, 2017.

Record of Council Vote on Passage

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

Council Member Marciante made a motion to approve Resolution 2017-4.7 and 2017-4.8, second by Council Member Gnatt. Mrs. Chandler stated that she asks the question every year, but why do we do these resolutions. Mr. Bliss stated that the alternative is an ordinance. Mr. Bliss stated that other towns have ordinances that list detailed criteria and that also require permits. Mrs. Chandler asked if it would be more business friendly to have an ordinance so that they could just do it each year. Mr. Lawver stated that they would still have to provide the required insurance certificate but he doesn't think that a sketch is necessary each year. Mr. Bliss stated that the ordinance itself would be regulatory and in a way this is a simple solution. Mayor Persichilli stated that the restaurants that have done this understand the requirements. Mr. Bliss stated that having a sketch serves as a constraint so that the applicant knows what they are permitted to put out. Mrs. Sterling stated that neither of these businesses has a problem with the process. Mrs. Chandler stated that she just wants to make sure that we are not requiring our businesses to jump through unnecessary hoops and if everyone else is in agreement that this is the easiest way then that is fine. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2017 - 4.9**

**RESOLUTION AUTHORIZING
HERITAGE AT PENNINGTON DEVELOPER'S AGREEMENT**

WHEREAS, American Properties at Pennington, LLC received approval from the Pennington Borough Planning Board on June 8, 2016 for the construction of a development known as Heritage at Pennington for the construction of an 80-unit mixed residential development on property commonly known as 105 West Franklin Avenue and designated on the Pennington Borough Tax Map as Block 102, Lot 1; and

WHEREAS, said land use approvals were memorialized by resolution dated July 13, 2016 and an Amended Resolution dated February 8, 2017; and

WHEREAS, said approvals require that American Properties at Pennington, LLC, enter into a Developer’s Agreement with the Borough of Pennington to insure compliance with all of the terms and conditions of the development approval; and

WHEREAS, the parties wish to satisfy this condition of approval.

NOW, THEREFORE, be it resolved by the Pennington Borough Council as follows:

1. The Mayor and Clerk of the Borough of Pennington are hereby authorized and directed to enter into the Heritage at Pennington Developer’s Agreement. Said agreement 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 American Properties at Pennington, LLC, 517 Route 1 South, Suite 1200, Iselin, New Jersey 08830 as well as to the following Pennington Borough Staff: Engineer, Attorney, Administrator, Planning Board Secretary, Sewer and Water Engineer, Zoning Officer, Construction Official and Fire Official.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2017-2.9, second by Council Member Gnatt. Mayor Persichilli stated that this has been a long process and once this resolution is approved hopefully we will see some activity. Mr. Lawver thanked the Planning Board for their work on this application which was not an easy one. Mr. Lawver also thanked Walter Bliss and all of the Professionals, Engineers who were involved. Mr. Lawver stated that it was a real team effort and he appreciates all of the work that was done. Mr. Bliss stated that he wanted to make sure that Mayor and Council were looking at the correct document. Mr. Bliss stated that paragraph O was revised today and is different than what was provided in the packages that went out on Friday. Mrs. Sterling stated that Mayor and Council were provided with new agreements tonight. Upon a roll call vote all members present voted in favor.

Council Discussion

Mayor Persichilli asked if anyone had items that they would like discussed.

There were none.

Professional Reports

Mrs. Heinzl stated that she had an out-of-towner who came into the office to complain about a ticket that she received on Green Street. Mrs. Heinzl stated that this person asked if the Borough could make an exception to the parking restrictions when there is an event. Mrs. Heinzl stated that she and Mr. Meytrott looked at the Ordinance and remembered that there was a time when the Borough went through an exhaustive study of parking rules. Mrs. Heinzl stated that there is a mechanism for the Borough to waive parking restrictions for special events on both North and South Main Street, but on Green Street it is a two hour parking area and there is no mechanism to waive the restrictions. Mrs. Heinzl stated that she explained this and also explained that the businesses are concerned with having cars parked for long periods of time because that discourages people from shopping in town. Mrs. Heinzl stated that she promised that she would raise this with Borough Council. Mrs. Heinzl stated that this person was in town on the day of the day long Science Fair at the Pennington School. Mrs. Chandler stated that the Pennington School did not approach the Borough and ask for any considerations for the event. Mrs. Heinzl stated that this person stated that the Pennington School had set up various parking areas that she was aware of. Mrs. Heinzl asked if she had gone back to the Pennington School and raised this as an issue and she said that she did not. Mrs. Chandler stated that she found out late about this event, but had the Pennington School approached the Borough to request extended parking she thinks Council would have been open to the idea. Mr. Lawver stated that in order to do that Council would have to put a mechanism in place which is what was done for Main Street in consideration of funerals and church services. Mr. Lawver stated that he is fine with making a change to the ordinance to put a mechanism in place but it still would require them to come to the Borough to make a request. Mr. Marciante stated that he is of a different opinion. Mr. Marciante stated that the reason that the ordinance was put into place was because of safety concerns. Mr. Marciante stated that the parking on Burd Street narrows the road and it is already very tight. Mr. Marciante stated that with a large event and cars coming and going it would jeopardize people’s lives. Mrs. Chandler stated that Council can view things on a street by street basis and maybe some streets do not lend themselves for an exemption but there needs to be a mechanism in place so that Council can make that determination. Mayor Persichilli stated that he remembers from the last meeting he had with the Pennington School that they were thinking about a solution for temporary parking. Mr. Winn Thompson stated that the school has a commitment to construct more parking as part of their approval. Mrs. Chandler stated that Council is missing the point, that this is not a

Pennington School issue; this is for any situation such as a funeral or a wedding. Some discussion took place regarding parking on Burd Street. Mr. Lawver stated that this discussion is not about changing the parking restrictions on Burd Street it is about whether Council wants to provide a mechanism beyond Main Street where there are timed limitations on parking, where organizations can apply to have the time limitations waived for special events.

Mayor Persichilli stated that he will have a conversation with the Pennington School and for this concern that Mrs. Heinzl raised, we can respond to this person that we are talking to the Pennington School about their events and their parking. Mr. Meytrott stated that parking discussion should also include the Pennington Business and Professional Association because they are the ones who originally came to Council and wanted limitations on parking. Mrs. Chandler stated that this is not about changing the parking; this is about one-time special events. Mr. Meytrott stated that one time an exception was made and there were a number of people in the PBPA that were very upset that the exception was granted. Mr. Lawver stated this is now four or five years later. Mr. Meytrott stated that over the past four years or so he has probably gotten two or three requests. Mrs. Chandler stated that the Pennington School just had an event that brought 1,000 people into town and that is a business boom. Mr. Meytrott stated that it all depends on what business you have as to whether you are going to get customers from these different events or not. Mr. Meytrott stated that he would be willing to attend the next PBPA meeting and let them know that this is an issue that is being discussed. Mrs. Chandler stated that she would also bring it up at the Economic Development meeting.

Mr. Smith stated that Council has his report but he also wanted to let Council know that he appreciates all of the resources and support that he has received. Mr. Smith stated that the help is timely as his department is picking up in terms of seasonal work. Mr. Smith also stated that he and Borough Clerk Betty Sterling have added another hat to their arsenals by recently becoming certified as Clean Communities Coordinators.

Public Comment Period

Mayor Persichilli asked that anyone wishing to speak to Council 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 Closed Session Minutes (for content but not for release)

Council Member Chandler made a motion to approve the January 9, 2017 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.

At 8:12pm with no further business to come before Council the meeting was adjourned.

Respectfully submitted,

Elizabeth Sterling
Borough Clerk