

**Pennington Borough Council
Regular Meeting – April 1, 2019**

Mayor Lawver called the Regular Meeting of the Borough Council to order at 7:03 pm. Borough Clerk Betty Sterling called the roll with Mayor Lawver and Council Members Chandler, Griffiths, Mills and Semple in attendance. Mrs. Gnatt and Mr. Marciante were absent.

Also present were Borough Administrator Eileen Heinzl, Public Works Superintendent Rick Smith, Public Safety Director Bill Meytrott, Chief Financial Officer Sandra Webb, Health Officer Stephanie Carey and Borough Attorney Walter Bliss.

Mayor Lawver 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 Lawver asked everyone to stand for the Flag Salute.

Mayor Lawver announced that the Teamsters item listed for Closed Session has been removed from the agenda.

Open to the Public – Agenda Items Only

Mayor Lawver read the following statement.

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

There were no comments from the public.

Mayor's Business

Mayor Lawver invited Mr. Ross Hart to come forward. Mr. Lawver read the following proclamation and presented it to Mr. Hart.

**Proclamation by the Mayor
and Borough Council
of Pennington, New Jersey**

WHEREAS; the Mayor and Council of the Borough of Pennington would like to recognize Hart's Cyclery; and

WHEREAS; Ross Hart opened "Hart's Cyclery", a bicycle shop in Pennington Borough, New Jersey, in 1988 as a Schwinn store and;

WHEREAS; over the years Hart's Cyclery expanded its business into a full service bicycle shop, bringing in new lines of the finest bicycle brands in the world, evolving the business in order to keep up with the advances and evolution of the sport of cycling, while maintaining a family friendly and personalized experience for all customers of every ability; and

WHEREAS; the mission of Hart's Cyclery is to ensure that every purchase is an enjoyable experience and that all customers are assured of trusted and reliable advice and service; and

WHEREAS; developing these long term relationships and serving generations of customers in Pennington Borough and the greater Hopewell Valley area is an invaluable community service and vital to the business fabric of the Borough; and

WHEREAS; Hart's Cyclery serves and supports the health and wellbeing of the community by sponsoring group ride events and offering links to area bike trails and maps; and

WHEREAS; Pennington Borough would like to recognize Owner Ross Hart, Manager Oscar Estrada on the 30th Anniversary of the establishment of Hart's Cyclery;

NOW, THEREFORE, BE IT PROCLAIMED THAT, the Mayor and Council of the Borough of Pennington hereby congratulates Hart's Cyclery on the occasion of their 30th Anniversary year and invites all residents to join them in recognizing Hart's Cyclery and in thanking them for their economic and civic contributions to our community.

Mr. Lawver summarized the following proclamation.

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, Joseph Lawver, Mayor of the Borough of Pennington do hereby proclaim Friday, April 26th, 2019 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.

Appointments

Mayor Lawver announced the following appointment.

- Jason Meyer will serve on the Open Space Committee as the representative from Economic Development for a term expiring 12/31/2021.

Mayor's Appointments (with Council Approval)

Mayor Lawver announced the following appointments.

Parks and Recreation

- Heather Driscoll for a term ending December 31, 2021.
- Sara Vanden Bosch for a term ending December 31, 2021

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

Presentations

Mayor Lawver invited Health Officer, Stephanie Carey to come forward for a presentation on the Board of Health. Mayor Lawver also recognized Steve Papenberg, Chairman of the Board of Health who was in attendance. Mrs. Carey thanked current liaison to the Board of Health, Glen Griffiths and former liaison Kit Chandler for all of their hard work. Mrs. Carey stated that Mrs. Chandler was instrumental in getting the Anti-Idling programs off the ground. Mrs. Carey stated that Environmental Commission and the School District are going to be gathering data to see if community education is effective in reducing idling and air pollution around the school drop-off and pick-up zones.

Mrs. Carey stated that she is here tonight to present the annual report. Mrs. Carey stated that it is important that all of the shared services partners get fully briefed on what their health departments are doing for the community and also to give a summary of that data that is being provided to the State of New Jersey as part of the statutory requirements.

Mrs. Carey stated that this is the best possible time to give this presentation because today is the first day of National Public Health Month sponsored by the American Public Health Association and it focuses on wellness in the community, violence prevention and mitigating the impacts of climate change.

Mrs. Carey stated that some key accomplishments for 2018 include launch of e-cigarette vendor licensing and enforcement. Mrs. Carey stated that last year Borough Council thought it was important to start a licensing program to increase accountability of vendors who are selling electronic smoking devices to young people and to increase enforcement so that young people under the age of 21 do not have access to

these addictive products. Mrs. Carey stated that the funds that are raised from licensing and enforcement actions can be targeted to prevention programs in the schools. Mrs. Carey stated that they have been working with the Municipal Alliance to get vaping education into the schools and out to the parents. Mrs. Carey stated that e-cigarettes are addicting, they are not just fruit flavored water. Mrs. Carey stated that they are looking at revitalizing youth nicotine education programs to help prevent a lifetime of nicotine addiction.

Mrs. Carey stated that they received a Public Health Nursing Capacity Building Grant from the Center for Sharing Public Health Services, a program supported by the Robert Wood Johnson Foundation, and that funding was used to build nursing capacity across the shared services partners and it allows them to do more granular monitoring of immunization rates in the schools. Mrs. Carey stated that measles and mumps outbreaks are happening across New Jersey and across the region. Mrs. Carey stated that this position also gives them the ability to build community wellness programs and for prompt investigation of communicable disease.

Mrs. Carey stated that the Health Department is proudly in the final stages of receiving National Accreditation. Mrs. Carey stated that a site visit was held last July and over 40 partners took time out of their day to join with the Health Department to show the site visitors about the programs and the initiatives that have been launched for community health improvement, health assessment and addressing unmet needs in the community. Mrs. Carey stated that they received a list of follow up actions that they are working on throughout 2019 with the intention of becoming fully accredited by the end of the year. Mrs. Carey stated that not only will they be one of the first Health Departments to become Nationally Accredited, but they will be one of the smallest Health Departments nationwide to become accredited. Mrs. Carey thanked the Boards of Health for their support and stated that there is some exceptional talent on the Boards of Health.

Mrs. Carey stated that the Pennington Board of Health continues to show their commitment to community health specifically assuming leadership in the Greater Mercer Public Health Partnership through their Community Health Assessment and Community Health Improvement Planning that benefits not just Pennington Borough and the Hopewell Valley, but carries benefits across the entire County. Mrs. Carey stated that Steve Papenberg is president this year.

Mrs. Carey reviewed some of the statistics for 2018, including investigation of reportable diseases, inspection of food establishments, schools and nursing homes, inspection of temporary food permits, preschool audits, flu vaccines and rabies vaccinations and investigation of nuisance complaints.

Mrs. Carey stated that the Health Department is taking a look at some of their disease data, in particular Lyme disease, as the rates increased to an all-time high, almost double what it was in 2012. Mrs. Carey stated that wetter winters and warmer temperatures, deer populations and more outdoor activities are contributing factors in the risk for exposure. Mrs. Carey stated that they are encouraging people to “Fight the Bite”, wear insect repellent, cover arms and legs when outdoors and keep grass cut short.

Mrs. Carey stated that they have done some data analysis of retail food inspections including what drives quality issues in retail food establishments. Mrs. Carey stated that the most common cause of failing an inspection is equipment failure and they are working pro-actively with business owners to have a replacement schedule in place. Mrs. Carey stated that the most common consumer complaint is getting sick from eating at an establishment or seeing employees not washing their hands.

Mrs. Carey stated that new signage has been developed related to e-cigarettes. Mayor Lawver asked if flavored e-cigarettes have been removed from shelves. Mrs. Carey stated that has not happened yet, there are proposals at the Federal level but they are not adopted yet.

Mrs. Carey stated that the Countywide plan is focused on listening so that plans are responsive and the next three years will include a focus on vision zero, that no pedestrian, bicyclist or motorist should die from unsafe road conditions. Mrs. Carey stated that they are focusing on keeping senior citizens engaged in their communities and engaged with other people to improve mental health and increase access to physical activity.

Mrs. Carey thanked Toni Lewis of the Pennington Board of Health for being a great community coach and helping them learn about some of the underlying factors that make our neighborhoods healthier.

Mrs. Carey asked if anyone had any questions. Mrs. Chandler asked if Pennington still only has one vendor selling e-cigarettes. Mrs. Carey responded yes and that they have had all of their regulatory inspections but they have not launched their “buyer” inspections yet.

Mr. Griffiths recommended posting information regarding ticks and Lyme Disease on the trails in Pennington. Mr. Griffiths stated that people should be made aware that pets can be carriers of ticks so residents should be advised of products available to mitigate tick exposure. Mr. Griffiths stated that the Board of Health discussed support of legislative efforts to tighten the definitions of who is exempt from vaccinations. Mr. Griffiths suggested that Council might want to consider taking action as well. Mrs. Carey stated that the school district has a very high rate of vaccination but there are certain private schools where more unvaccinated children are present and there have been outbreaks of vaccination preventable diseases.

Mayor Lawver thanked Mrs. Carey for her report and stated that the Borough is very happy with the services that are provided under the shared services agreement.

Committee Reports

Planning & Zoning / Open Space / Personnel – No report.

Public Safety /Economic Development / Environmental – Mrs. Chandler stated that No Idling signs have been posted around Tollgate School and prior to the installation some surveying took place to document idling prior to the signs and surveying will continue now that the signs are posted.

Mrs. Chandler stated that Council Members received Mr. Meytrott's report and she did not have anything further to report.

Mrs. Chandler stated the Economic Development met but there was nothing new to report.

Mrs. Chandler stated that the Environmental commission will be making a presentation at the May meeting and she would like to make Council aware of some items that the Environmental Commission is working on. Mrs. Chandler stated that the Environmental Commission is looking at some possible ordinances for consideration. Mrs. Chandler stated that the first would be a "solar friendly" ordinance which would require applications for solar installations easier for residents. Mrs. Chandler stated that the next is a "wind friendly" ordinance which will be a little more difficult because of height requirements for wind energy. Mrs. Chandler stated that along the same lines of energy initiatives is an "electric car friendly" ordinance to make the process easier for installation of electric car stations either publicly or privately owned. Mrs. Chandler stated that additionally they will be presenting the idea of a ban on plastic bags ordinance that would ban plastic bags in the Borough of Pennington. Mrs. Chandler stated that there are not many vendors in town that are using plastic bags and they will be taking a bigger look at this issue. Mrs. Chandler stated that finally she would like the Environmental Commission and the Borough to consider a "tree protection" ordinance. Mrs. Chandler stated that the Borough has an ordinance for trees in the public right of way, but she would like Council to consider an ordinance that might protect trees on private property. Mrs. Chandler asked Council members to consider this idea and the Environmental Commission will be presenting more information when they come to the May meeting.

Mrs. Mills asked if the plastic bag ordinance would also take into account plastic straws. Mrs. Chandler stated that the Environmental Commission did not discuss plastic straws but she would bring that to the commission at their next meeting. Mrs. Chandler stated that New Jersey is looking into a ban on plastic bags at the State level, but one of the reasons that California was able to pass their ban at the State level was because towns had already done it.

Public Works – Mr. Marciante was not in attendance, but Mayor Lawver reported that the Borough received notification of a grant from the DOT for \$618,000 to Burd Street Phase 3.

Finance / Board of Health – Mr. Griffiths stated that he will have comments later about the budget introduction. Mr. Griffiths stated that the finance committee accomplished in two weeks what used to take four months. Mr. Griffiths stated that thanks to the wisdom of the golden dome, the deadlines have been accelerated and the supply of critical information needed to complete the budget has been delayed, which compresses our decision process to two weeks. Mr. Griffiths thanked the committee, Betty Sterling and Sandy Webb for their hard work on the budget.

Historic Preservation / Library – Mrs. Mills had no report for Historic Preservation. Mrs. Mills reported that the Library was busy with festivities revolving around the Big Read program. Mrs. Mills stated that from what she is hearing the events went well.

Mrs. Chandler stated that with regard to Historic Preservation, the house at 63 North Main is moving right along and come spring the work should be completed.

Parks and Recreation / Shade Tree – Ms. Semple stated that she is still trying to catch up with the Parks and Recreation meetings. Ms. Semple stated that the Shade Tree group is working on a tri-fold brochure and promotional materials for Pennington Day and other events. Ms. Semple stated that Arbor Day will be held April 26th at 10:00 am.

Senior Advisory Board – Mayor Lawver stated that he was unable to attend the last Senior Advisory Board meeting so he had no report. Mayor Lawver stated that they are in search of a member from the community to serve as representative to the Senior Advisory Board for Pennington Borough.

Ordinances for Introduction

Mayor Lawver read Ordinance 2019-3 by title.

BOROUGH OF PENNINGTON ORDINANCE # 2019-3

AN ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO

ESTABLISH A CAP BANK IN ACCORDANCE WITH N.J.S.A. 40A: 4-45.14 IN THE BOROUGH OF PENNINGTON, NEW JERSEY

WHEREAS, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 2.5% 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 2019 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 2019 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 \$96,342.19, said amount being \$27,526.34 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, and that the CY 2019 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 introduce Ordinance 2019-3, second by Council Member Griffiths. Mr. Griffiths stated that given the budget that is being introduced, we lost 6 points on the cap bank which will make budgets going forward even more critically sensitive to cap limits. Upon a roll call vote all members present voted in favor.

Mayor Lawver read Ordinance 2019-4 by title.

**BOROUGH OF PENNINGTON
ORDINANCE 2019 - 4**

BOND ORDINANCE PROVIDING FOR THE PAVING OF EGLANTINE AVENUE IN AND BY THE BOROUGH OF PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY, APPROPRIATING \$63,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$59,850 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 is hereby 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 sum of \$63,000, including the sum of \$3,150 as the down payment required by the Local Bond Law. The 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 cost of the improvement or purpose not covered by application of the down payment, negotiable bonds are hereby authorized to be issued in the principal amount of \$59,850 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 hereby authorized and the purpose for the financing of which the bonds are to be issued is the paving of Eglantine Avenue, including all work and materials 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 as stated in Section 2 hereof.

(c) The estimated cost of the improvement or purpose is equal to the amount of the appropriation herein made therefor.

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 are permitted to 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 10 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 \$59,850, and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.
- (d) An aggregate amount not exceeding \$3,000 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.

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 the 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 Chandler made a motion to introduce Ordinance 2019-4, second by Council Member Griffiths. Mr. Griffiths stated that capital numbers are moving faster than he can keep track of. Mr. Griffiths stated that the finance committee originally budgeted \$45,000 as a line item in the budget for this project. Mr. Griffiths questioned why this ordinance is \$63,000 and when will we identify a real number for this work. Mayor Lawver stated that is work that will be done by Mercer County so we will have the amount when we get the invoice for the asphalt. Mr. Griffiths stated that we estimated \$45,000 so how did it become \$59,000? Mrs. Heinzel stated that after speaking with Mercer County the request for work included extending the paving to include the portion of Lewisbrook that is in the Borough. Mrs. Heinzel stated that the County is also paving Ingleside, but that is a County road so we are not paying for that. Mr. Griffiths stated that answered his questions. Upon a roll call vote all members present voted in favor.

Mayor Lawver read Ordinance 2019-5 by title.

**BOROUGH OF PENNINGTON
ORDINANCE 2019 - 5**

**BOND ORDINANCE PROVIDING FOR VARIOUS ROAD IMPROVEMENTS IN AND BY THE
BOROUGH OF PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY,
APPROPRIATING \$1,813,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,813,000
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 several improvements described in Section 3 of this bond ordinance are hereby respectively authorized to be undertaken by the Borough of Pennington, in the County of Mercer, New Jersey (the "Borough") as general improvements. For the several improvements or purposes described in Section 3, there are hereby appropriated the respective sums of money therein stated as the appropriation made for each improvement or purpose, such sums amounting in the aggregate to \$1,813,000, including a grant expected to be received in the amount of \$345,000 from the State of New Jersey Department of Transportation for the purpose described in Section 3(a) and a grant expected to be received in the amount of \$693,900 from the State of New Jersey Department of Transportation for the purpose described in Section 3(b) (collectively, the "State Grants"). Pursuant to N.J.S.A. 40A:2-11(c), no down payment is provided for the costs of the improvements since the projects described in Section 3 hereof are being funded by the New Jersey Infrastructure Bank and the State Grants referred to above.

Section 2. In order to finance the cost of the several improvements or purposes and in anticipation of receipt of the State Grants, negotiable bonds are hereby authorized to be issued in the principal amount of \$1,813,000 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. The several improvements hereby authorized and the several purposes for which the bonds are to be issued, the estimated cost of each improvement and the appropriation therefor, the estimated maximum amount of bonds or notes to be issued for each improvement and the period of usefulness of each improvement are as follows:

<u>Purpose</u>	<u>Appropriation & Estimated Cost</u>	<u>Estimated Maximum Amount of Bonds & Notes</u>	<u>Period of Usefulness</u>
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a) Burd Street reconstruction, including all work and materials necessary therefor and incidental thereto.	\$793,500 (includes a grant expected to be received from the State of New Jersey Department of Transportation in the amount of \$345,000)	\$793,500	10 years
b) Abey Drive/Kings Court reconstruction, including all work and materials necessary therefor and incidental thereto.	<u>\$1,019,500</u> (includes a grant expected to be received from the State of New Jersey Department of Transportation in the amount of \$693,900)	<u>\$1,019,500</u>	10 years
Total:	<u>\$1,813,000</u>	<u>\$1,813,000</u>	

The excess of the appropriation made for each of the improvements or purposes aforesaid over the estimated maximum amount of bonds or notes to be issued therefor, as above stated, is the amount of the down payment for each purpose.

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 are permitted to 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 improvements or purposes described in Section 3 of this bond ordinance are not current expenses. They are all improvements or purposes that the Borough may lawfully undertake as general improvements, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.
- (b) The average period of usefulness, computed on the basis of the respective amounts of obligations authorized for each purpose and the reasonable life thereof within the limitations of the Local Bond Law, is 10 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 \$1,813,000, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

- (d) An aggregate amount not exceeding \$89,000 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 purposes or improvements.

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 or improvements described in Section 3 of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of the Treasury Regulations.

Section 8. Any grant moneys received for the purposes or improvements described in Section 3 hereof shall be applied either to direct payment of the cost of the improvements 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 Griffiths made a motion to introduce Ordinance 2019-5, second by Council Member Chandler. Mr. Griffiths asked about Burd Street Phase 3 and if the grant funds will be sufficient. Mayor Lawver stated that Burd Street Phase 1 completes improvement to the Cyrus Lodge, Phase 2 will be from the Cyrus Lodge down to Curlis Avenue and that will be done this year in late summer or early fall, Phase 3 grant was just awarded. Mr. Griffiths asked what the estimated cost for Phase 3 was. Mrs. Sterling stated that she did not have the information at hand but would provide it to Mr. Griffiths. Mr. Griffiths stated that these projects mentioned essentially wipe out all debt service accumulated now and in 2020 and there will be no more mill and overlay funds for work to be performed by the County in the near future without raising taxes. Mayor Lawver stated that he understands that but he would like to know why grant funds are included in the bond ordinance amounts. Mrs. Webb stated that they have to be included in the bond ordinance because that gives the Borough the authority to spend it, but we will not be issuing debt for the grant amounts. Mr. Griffiths stated that withstanding he has included the grant funds in his projections and the Borough is out of funds in the capital budget and every project going forward will affect the tax rate and we have a five percent cap bank left. Upon a roll call vote all members present voted in favor.

Ordinances for Public Hearing And Adoption

Mayor Lawver read Ordinance 2019-2 by title.

BOROUGH OF PENNINGTON ORDINANCE 2019 -2

ORDINANCE GRANTING STORM DRAINAGE EASEMENT TO COUNTY OF MERCER ON BOROUGH LAND KNOWN AS BLOCK 206, LOTS 5 AND 12, IN THE BOROUGH OF PENNINGTON

WHEREAS, Cugino's Pennington, LLC, d/b/a Cugino's Italian Market ("Applicant") has received Pennington Planning Board approval of Amended Preliminary and Final Site Plan, Bulk Variances and Waiver Requests (Application No. P16-005) for additional improvements to the existing commercial structure which Applicant occupies for a restaurant and catering business at 147 West Delaware Avenue in Pennington, designated Block 206, Lot 13 on the Pennington Borough Tax Map ("Property");

WHEREAS, the owner of the Property is Old Mill Square, LLC, a New Jersey limited liability company, whose address is 98 Franklin Corner Road, Lawrenceville, New Jersey 08648 ("Owner");

WHEREAS, a condition of the approvals, as memorialized by Revised Planning Board Resolution

of Memorialization adopted on January 10, 2018, requires that Applicant shall prepare an easement plan to address stormwater management on the Property in accordance with a certain plan of easements;

WHEREAS, the plan of easements for the Property includes a storm drainage easement granted by Owner to the County of Mercer on the Property itself, and a storm drainage easement dedicated by the Borough of Pennington to the County of Mercer on the adjoining land known as Block 206, Lots 5 and 12 (“Borough Property”);

WHEREAS, the purpose of the easement to be granted by the Borough on the Borough’s Property is to allow the County to use the easement for storm drainage and to access the pipe on the Borough Property for maintenance, repairs and replacement;

WHEREAS, Applicant’s plan of easements, including the easement to be granted by the Borough, is shown on a plan prepared by Hopewell Valley Engineering, P.C. entitled “Mercer County Drainage Easements in Tax Block 206, Lots 5, 12 and 13 Situated in Pennington Borough, Mercer County, NJ,” Scale 1”=10’ dated October 5, 2017, last revised January 11, 2018 (“Plan”);

WHEREAS, under the Planning Board approval the proposed easements to the County of Mercer must be administratively reviewed and approved by the Borough Engineer;

WHEREAS, the proposed Storm Drainage Easement to be granted by the Borough on the Borough Property (“Borough Storm Drainage Easement”) has been reviewed and approved by the Borough Engineer and is attached to this Ordinance and incorporated herein by reference;

WHEREAS, the Borough Storm Drainage Easement includes as exhibits a metes and bounds description of the Easement Area prepared by Hopewell Valley Engineering, PC (Exhibit A), a reduced copy of the Plan prepared by Hopewell Valley Engineering, PC (Exhibit B) and a letter from the Planning Director of the Mercer County Planning Board dated September 21, 2017 reflecting conditional approval of Applicant’s site plan and related easements (Exhibit C);

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Pennington, that the Mayor, with the attestation of the Borough Clerk, is hereby authorized to execute the attached Storm Drainage Easement and to take such further actions and to execute such further documents as needed to effectuate grant of the described easement by the Borough of Pennington to the County of Mercer on a portion of Block 206, Lots 5 and 12; and

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

Council Member Chandler made a motion to open the Public Hearing on Ordinance 2019-2, second by Council Member Mills. There were no comments from the public. Council Member Chandler made a motion to close the Public Hearing on Ordinance 2019-2, second by Council Member Mills with all members present voting in favor. Council Member Chandler made a motion to adopt Ordinance 2019-2, second by Council Member Griffiths with all members present voting in favor.

2019 Budget Introduction

BOROUGH OF PENNINGTON RESOLUTION #2019 – 4.4

RESOLUTION AUTHORIZING A SELF-EXAMINATION OF THE 2019 MUNICIPAL BUDGET OF THE MAYOR AND COUNCIL OF THE BOROUGH OF PENNINGTON

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

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

WHEREAS, pursuant to N.J.A.C. 5:30-7-2 through 7-5, the Borough of Pennington has been declared eligible to participate in the program by the Division of Local Government Services, and the Chief Financial Officer of the Borough has determined that the local government meets the necessary conditions to participate in the program for the 2019 budget year.

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

1. That with reference to the following items, the amounts have been calculated pursuant to law and appropriated as such in the budget:

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

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

Record of Council Vote on Passage									
COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	M				Marciante				absent
Gnatt				absent	Mills	X			
Griffiths	S				Semple	X			

Council Member Chandler made a motion to approve Resolution 2019-4.4, second by Council Member Griffiths with all members present voting in favor.

BOROUGH OF PENNINGTON
RESOLUTION #2019 – 4.16
RESOLUTION TO INTRODUCE BUDGET FOR 2019

Section 1.

Municipal Budget of the Borough of Pennington, County of Mercer for the Fiscal Year 2019.

BE IT RESOLVED, that the attached statement of revenues and appropriations shall constitute the Municipal Budget for the year 2019;

BE IT FURTHER RESOLVED, that said Budget be published in The Hopewell Valley News in the issue of April 5, 2019.

The Governing Body of the Borough of Pennington does hereby approve the attached as the Budget for the year 2019.

Notice is hereby given that the Budget and Tax Resolution was approved by the Borough Council of the Borough of Pennington, County of Mercer, on April 1, 2019. A hearing on the Budget and Tax Resolution will be held at the Borough Hall, on May 6, 2019 at 7:00 pm at which time and place objections to said Budget and Tax Resolution for the year 2019 may be presented by taxpayers or other interested persons.

Record of Council Vote on Passage									
COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	S				Marciante				absent
Gnatt				absent	Mills	X			
Griffiths	M				Semple	X			

Council Member Griffiths made a motion to approve Resolution 2019-4.16, second by Council Member Chandler. Mr. Griffiths stated that the old saying “pay now or pay later” applies to this budget. Mr. Griffiths stated that in 2017 and 2018, Borough Council decided to pay later by deferring some expenses and using

surplus to pay for them. Mr. Griffiths stated that in 2019 we are paying now what was avoided for two years. Mr. Griffiths stated that the cumulative tax impact is just under six percent. Mr. Griffiths stated that the 2019 tax increase enables \$3.5 million in road repairs with no tax impact for 2019. Mr. Griffiths stated that the analysis of 2018 versus 2019 shows miscellaneous revenues down \$224,000 which traces to a decline in available surplus. Mr. Griffiths briefly described the trend in available surplus over the past years. Mr. Griffiths stated that one of the key impacts on revenue was decline in construction code fees generated in 2018 for Heritage at Pennington. Mr. Griffiths stated that aggregate property valuations covered some of the decline in revenue. Mr. Griffiths stated that operating expenses decreased which reflects vigilant management of expense lines by employees and he thanked everyone for their management of expenses. Mr. Griffiths stated that some additions to the budget include part-time administration support for the Police Department, and increased hours for administration in Public Works. Mr. Griffiths stated that the tax impact being introduced is an increase of 5.75% which tracks to the CPI over the past three years which was 5.8%. Mr. Griffiths stated that the budget preserves the available debt service amount of \$200,000. Mr. Griffiths stated that Mrs. Chandler asked about alternatives to a tax increase. Mr. Griffiths stated that the Borough could not raise taxes for several years if we reduce the available debt service and use the \$200,000 to defer tax rate increases over the next several years however that would be playing “whack a mole” with capital expenses because we have committed and planned capital expense. Mr. Griffiths stated that those expenses alone would require 15.3% tax rate increases over 2020 through 2022, again pay now or pay later. Mr. Griffiths stated that going forward every one million dollars in unplanned street repair, say mill and overlay, would require an incremental tax increase of 3.1%. Mr. Griffiths stated that he has pages and pages of notes on capital impacts but is changes frequently. Mr. Griffiths stated that total spent will be \$3.9 million which is not debt because it is partly subsidized by grants and I-Bank financing but there will be no tax impact for the \$3.9 million past 2019 though that might change depending on Burd Street Phase 3. Mr. Griffiths stated that we are at the finish line with capital expense projections. Mr. Griffiths stated that taxes may still increase for other operating expenses so this is not a no tax increase promise for coming years it is just a no tax increase related to capital expenses as they stand now. Mr. Griffiths stated that out of the \$3.9 million authorized debt we will incur debt of \$2.2 million though again that may change depending on Burd Street Phase 3. Mr. Griffiths stated that we really need to get an understanding of road projects going forward because we can’t manage budget when we don’t have the numbers. Mr. Griffiths stated that we will repair 1.5 miles of Borough owned roads and we have a building renovation that is a big unknown that he has estimated at \$350,000 but he has heard estimates of much more than that. Mr. Griffiths stated that another capital expense that is being discussed is automated garbage trucks and related bins but that would be a 2021 expense so hopefully we can keep that in mind going forward so that it will not have an impact on taxes. Mr. Griffiths briefly reviewed his assumptions with regard to capital and what would happen if other projects are added in the next couple of years. Mr. Griffiths stated that future projections indicate that revenues should stabilize or improve, American Properties Phase 1 and Phase 2 will generate additional recurring revenue and one time revenue in the year that permits are issued and we still have the liquor license revenue in trust to be realized when the license is officially issued. Mr. Griffiths stated that the landfill redevelopment is on the horizon. Mr. Griffiths stated again that the employees are doing an incredible job managing expenses.

Mr. Griffiths stated that the 2019 Water/Sewer Utility is in good shape and there are no salient issues or rate hikes pending.

Mr. Griffiths thanked Sandy Webb, Betty Sterling, Eileen Heinzl, Bob Morrison and the Finance Committee along with department heads and employees for managing funds with serious fiduciary responsibility.

Mr. Griffiths cautioned Council to think about where funds are going to come from before committing to projects and we need to look further into mill and overlay of roads as opposed to total reconstruction. Some discussion took place regarding the differences between mill and overlay and reconstruction, the life span of both options and the upcoming projects / grant awards.

Upon a roll call vote all members present voted in favor of introduction of the budget.

New Business

**BOROUGH OF PENNINGTON
RESOLUTION #2019 – 4.1**

RESOLUTION AUTHORIZING REFUNDS

BE IT RESOLVED, that a refund be issued from the Current Fund to Walter F. Allen, 80 Burd Street, Pennington, NJ 08534, for refund of overpayment of 2019 second quarter taxes, Block 502, Lot 5, also known as 80 Burd Street, in the amount of \$434.01.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2019-4.1, second by Council Member Mills with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2019 – 4.2**

AUTHORIZING PAYMENT OF BILLS

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

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Pennington that the bills be paid on audit and approval of the Mayor, the Appropriate Council Member and the Treasurer in the amount of \$ 1,191,442.73 from the following accounts:

Current	\$ 1,006,569.89
W/S Operating	\$ 129,726.30
Grant Fund	\$ 75.00
Developer’s Escrow	\$ 3,456.48
General Capital	\$ 27,335.50
Water/Sewer Capital	\$ 23,902.56
COAH Trust Fund	\$ 377.00
TOTAL	\$ 1,191,442.73

Record of Council Vote on Passage									
COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	S				Marciante				absent
Gnatt				absent	Mills	M			
Griffiths	X				Semple	X			

Council Member Mills made a motion to approve Resolution 2019-4.2, second by Council Member Chandler with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2019–4.3**

**RESOLUTION AUTHORIZING AMENDMENTS TO THE
2019 TEMPORARY BUDGET**

WHEREAS, the 2019 Budget for the Borough of Pennington has not been adopted; and

WHEREAS, additional funds are necessary to meet various obligations of the Borough of Pennington;

NOW, THEREFORE, BE IT RESOLVED, that the following additional appropriations be made in the 2019 Temporary Budget for the Current Account.

Administration	Salaries	\$5,000.00
Municipal Clerk	Salaries	\$5,000.00
Planning Board	Salaries	\$3,000.00
Construction	Salaries	\$5,000.00
Group Insurance	Other Expense	\$30,000.00
Streets	Salaries	\$20,000.00
Trash	Salaries	\$10,000.00
Trash	Other Expense	\$20,000.00
Police	Salaries	\$40,000.00
Library	Salaries	\$10,000.00
Library	Other Expense	\$30,000.00
Social Security	Other Expense	\$10,000.00
Municipal Court	Salaries	\$10,000.00
Municipal Court	Other Expense	\$2,000.00
Total		\$200,000.00

BE IT FURTHER RESOLVED, that the following additional funds be appropriated for the 2019 Temporary Budget for the Water and Sewer Fund:

Water	Salaries	\$40,000.00
Sewer	Other Expense	\$5,000.00

SBRSA – Treatment Costs	Other Expense	\$80,000.00
Group Insurance	Other Expense	\$25,000.00
Social Security	Other Expense	\$2,000.00
TOTAL		\$152,000.00

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2019-4.3, second by Council Member Griffiths with all members present voting in favor.

Mayor Lawver stated that Council will consider Resolutions 2019-4.5, 2019-4.6 and 2019-4.7 as a consent agenda. Council Member Mills made a motion to approve Resolution 2019-4.5, Resolution 2019-4.6 and 2019-4.7, second by Council Member Chandler. Some discussion took place with regard to the rates being charged. Mr. Griffiths suggested review of the fee ordinance. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2019 – 4.5**

RESOLUTION AUTHORIZING LIEN AND TAX AGAINST ABUTTING LAND FOR COSTS OF CLEARING SNOW AND ICE FROM SIDEWALKS, AT THE CORNER OF 25 ROUTE 31 SOUTH AND WEST DELAWARE AVENUE, BLOCK 502, LOT 1 ON THE BOROUGH TAX MAP, PURSUANT TO ARTICLE I, SECTION 177-3 OF THE PENNINGTON BOROUGH CODE

WHEREAS, pursuant to Section 177-1 of the Code of the Borough of Pennington, the owners of lands abutting or bordering upon the sidewalks of the public streets in the Borough must clear all snow and ice from the sidewalks abutting their lands within 12 hours of daylight after the same shall be formed or fall thereon;

WHEREAS, pursuant to Section 177-2 of the Code, if an owner fails to remove snow and ice as required, the Department of Public Works is authorized to remove or remediate the snow and ice in the owner’s stead;

WHEREAS, pursuant to Section 177-3 of the Code, the costs incurred by the Borough in performing the owner’s obligation shall be certified to the Mayor and Council of the Borough, and if such costs are found by them to be reasonable, they shall cause such costs to be charged against the abutting lands and the amounts so charged shall become a lien and tax upon the land and be added to and become a part of the taxes next to be levied and assessed thereon;

WHEREAS, on March 5, 2019 the owner of Block 502, Lot 1 on the Borough Tax Map, Montpen SC, LLC. had failed to remove snow and ice from the abutting sidewalk as required by the Borough Code;

WHEREAS, on March 5, 2019 the Department of Public Works cleared the snow and ice from this sidewalk and incurred costs totaling \$335.00 as set forth in the attached certification by Richard Smith, Superintendent of Public Works;

WHEREAS, the computation of charges in the annexed certification is based on the rates set forth in Chapter 98 of the Borough Code, and Mayor and Council find same to be reasonable;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the aforesaid amount of \$335.00 shall be charged against Block 502, Lot 1 and shall become a lien and tax thereon and be added to and become part of the taxes next to be levied and assessed against such property, pursuant to Section 177-3 of the Pennington Borough Code.

Record of Council Vote on Passage

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

**BOROUGH OF PENNINGTON
RESOLUTION 2019 – 4.6**

RESOLUTION AUTHORIZING LIEN AND TAX AGAINST ABUTTING LAND FOR COSTS OF CLEARING SNOW AND ICE FROM SIDEWALKS, 142 WEST DELAWARE AVENUE, BLOCK 502, LOT 2 ON THE BOROUGH TAX MAP, PURSUANT TO ARTICLE I, SECTION 177-3 OF THE PENNINGTON BOROUGH CODE

WHEREAS, pursuant to Section 177-1 of the Code of the Borough of Pennington, the owners of lands abutting or bordering upon the sidewalks of the public streets in the Borough must clear all snow and ice from the sidewalks abutting their lands within 12 hours of daylight after the same shall be formed or fall thereon;

WHEREAS, pursuant to Section 177-2 of the Code, if an owner fails to remove snow and ice as required, the Department of Public Works is authorized to remove or remediate the snow and ice in the owner’s stead;

WHEREAS, pursuant to Section 177-3 of the Code, the costs incurred by the Borough in performing the owner’s obligation shall be certified to the Mayor and Council of the Borough, and if such costs are found by them to be reasonable, they shall cause such costs to be charged against the abutting lands and the amounts so charged shall become a lien and tax upon the land and be added to and become a part of the taxes next to be levied and assessed thereon;

WHEREAS, on March 5, 2019 the owner of Block 502, Lot 2 on the Borough Tax Map, Michael and Mindy Levin, had failed to remove snow and ice from the abutting sidewalk as required by the Borough Code;

WHEREAS, on March 5, 2019 the Department of Public Works cleared the snow and ice from this sidewalk and incurred costs totaling \$335.00 as set forth in the attached certification by Richard Smith, Superintendent of Public Works;

WHEREAS, the computation of charges in the annexed certification is based on the rates set forth in Chapter 98 of the Borough Code, and Mayor and Council find same to be reasonable;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the aforesaid amount of \$335.00 shall be charged against Block 502, Lot 2 and shall become a lien and tax thereon and be added to and become part of the taxes next to be levied and assessed against such property, pursuant to Section 177-3 of the Pennington Borough Code.

Record of Council Vote on Passage									
COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	S				Marciante				absent
Gnatt				absent	Mills	M			
Griffiths	X				Semple	X			

**BOROUGH OF PENNINGTON
RESOLUTION 2019 – 4.7**

**RESOLUTION AUTHORIZING THE CHARGING OF COSTS FOR
CLEARING SNOW AND ICE FROM SIDEWALKS ON PROPERTY OWNED BY CSX
TRANSPORTATION PURSUANT TO ARTICLE I, SECTION 177-3 OF THE PENNINGTON
BOROUGH CODE**

WHEREAS, pursuant to Section 177-1 of the Code of the Borough of Pennington, the owners of lands abutting or bordering upon the sidewalks of the public streets in the Borough must clear all snow and ice from the sidewalks abutting their lands within 12 hours of daylight after the same shall be formed or fall thereon;

WHEREAS, pursuant to Section 177-2 of the Code, if an owner fails to remove snow and ice as required, the Department of Public Works is authorized to remove or remediate the snow and ice in the owner’s stead;

WHEREAS, pursuant to Section 177-3 of the Code, the costs incurred by the Borough in performing the owner’s obligation shall be certified to the Mayor and Council of the Borough, and if such costs are found by them to be reasonable, they shall cause such costs to be charged against the abutting lands and when appropriate, the amounts so charged shall become a lien and tax upon the land and be added to and become a part of the taxes next to be levied and assessed thereon;

WHEREAS, on March 5, 2019 CSX Transportation failed to remove snow and ice from the sidewalks on the West Delaware Avenue Bridge as required by the Borough Code;

WHEREAS, on March 5, 2019 the Department of Public Works cleared the snow and ice from these sidewalks and incurred costs totaling \$335.00 as set forth in the attached certifications by Richard Smith, Superintendent of Public Works;

WHEREAS, the computation of charges in the annexed certification is based on the rates set forth in Chapter 98 of the Borough Code, and Mayor and Council find same to be reasonable;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the aforesaid amount of \$335.00 shall be charged to CSX Transportation and the Administrator with the advice of Borough Counsel shall take such steps as reasonably necessary to collect this amount.

Record of Council Vote on Passage									
COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	S				Marciante				absent
Gnatt				absent	Mills	M			
Griffiths	X				Semple	X			

**BOROUGH OF PENNINGTON
RESOLUTION 2019 – 4.8**

**A RESOLUTION ACCEPTING A GRANT FROM THE HAZARDOUS DISCHARGE SITE
REMEDATION FUND PUBLIC ENTITY PROGRAM THROUGH THE NEW JERSEY
ECONOMIC DEVELOPMENT AUTHORITY AND THE NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

WHEREAS, the Borough of Pennington has applied for and has been awarded a grant in the amount of up to \$301,604 from the Hazardous Discharge Site Remediation Fund Municipal Grant Program through the New Jersey Department of Environmental Protection and the New Jersey Economic Development Authority for Preliminary Assessment and Remedial Investigation of the Pennington Borough Sanitary Landfill property;

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Borough of Pennington that the above referenced grant is hereby accepted and the Mayor is hereby authorized to execute grant documents as an authorized representative thereunder, as the representative for the Borough of Pennington.

BE IT FURTHER RESOLVED that a realistic opportunity exists that the Project Site will be developed or redeveloped within a three-year period from the completion of the remediation.

BE IT FURTHER RESOLVED that a certified copy of this Resolution be forwarded to the New Jersey Economic Development Authority.

Record of Council Vote on Passage									
COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	M				Marciante				absent
Gnatt				absent	Mills	X			
Griffiths	S				Semple	X			

Council Member Chandler made a motion to approve Resolution 2019-4.8, second by Council Member Griffiths with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2019 – 4.9**

**RESOLUTION REQUESTING EXTENSION OF AWARD
DATE FROM THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR
RECONSTRUCTION OF BURD STREET UNDER THE NJDOT - FY2017 MUNICIPAL AID
PROGRAM**

WHEREAS, the New Jersey Department of Transportation (NJDOT) awarded funding for the 2017 fiscal year to the Borough of Pennington for a project consisting of reconstruction of Burd Street in the amount of \$345,000.00; and

WHEREAS, the NJDOT has advised that the construction contract must be awarded within 24 months from the date of the execution of the grant agreement, which will be May 17, 2019, and that failure to award a construction contract by that date would jeopardize the use of State funds on this project; and

WHEREAS, the Borough has been working on securing the required permits, finalizing the design and preparing to advertise for bids and award a contract; and

WHEREAS, the Borough has submitted an application for supplemental financing for this project to the New Jersey Infrastructure Bank’s (“I-Bank”) NJTIB Department, which partners with the NJDOT to jointly administer low cost loans for transportation projects, and the NJTIB program requires that to be eligible for this supplemental funding the project not be advertised pending determination of fund availability; and

WHEREAS, the NJTIB funding pools are determined on a quarterly basis and the next round of funds is anticipated to be allocated in early April; and

WHEREAS, in addition, a second road reconstruction project is planned in the Borough on East Curlis Avenue, (which is near the Burd Street project area), and Weidel Drive that is anticipated to begin on or about April 22nd and the Borough prefers to schedule construction of this project prior to construction on Burd Street in order to minimize traffic detours and disruption; and

WHEREAS, the Borough plans to complete the Burd Street project during the summer of 2019;
and

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington that for the foregoing reasons, the Borough Council requests from the New Jersey Department of Transportation a six-month extension, to November 17, 2019, for award of construction contract for the above described Burd Street project.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2019-4.9, second by Council Member Griffiths with all members present voting in favor.

Mayor Lawver stated that Council would consider Resolutions 2019-4.10 and 2019-4.11 as a consent agenda. Council Member Mills made a motion to approve Resolution 2019-4.10 and Resolution 2019-4.11, second by Council Member Griffiths with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2019 – 4.10**

**RESOLUTION GRANTING CONDITIONAL AUTHORIZATION FOR EMILY’S CAFE TO
MAINTAIN A TEMPORARY OUTDOOR DINING AREA IN THE PUBLIC RIGHT- OF- WAY IN
2019**

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, 2019.

Record of Council Vote on Passage									
COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	X				Marciante				absent
Gnatt				absent	Mills	M			
Griffiths	S				Semple	X			

**BOROUGH OF PENNINGTON
RESOLUTION 2019 – 4.11**

**RESOLUTION GRANTING CONDITIONAL AUTHORIZATION FOR VITO’S PIZZA TO
MAINTAIN A TEMPORARY OUTDOOR
DINING AREA IN THE PUBLIC RIGHT- OF- WAY IN 2019**

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 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 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, 2019.

Record of Council Vote on Passage									
COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	X				Marciante				absent
Gnatt				absent	Mills	M			
Griffiths	S				Semple	X			

**BOROUGH OF PENNINGTON
RESOLUTION #2019 – 4.12**

**RESOLUTION AUTHORIZING A PROFESSIONAL
SERVICES AGREEMENT WITH PARS ENVIRONMENTAL INCORPORATED FOR THE
COMPLETION OF THE 2018 RIGHT TO KNOW SURVEY**

WHEREAS, the Borough Council of the Borough of Pennington seeks to retain the services of PARS Environmental, Inc., licensed engineers, to assist the Borough in completion of the 2018 Right To Know Survey;

WHEREAS, a copy of the PARS proposal, dated February 1, 2019, is annexed to this resolution;

WHEREAS, the contemplated services include inventory of areas that contain hazardous chemicals, completion of the 2018 Right to Know Survey for each area, together with update of the Written Hazard Communications Plan (Tasks 1 and 2 in attached proposal);

WHEREAS, the areas inventoried for hazardous chemicals will include:

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

- 5. Well House 6
- 6. Well House 7
- 7. Well House 8 & 9

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

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

WHEREAS, the attached PARS proposal includes additional tasks (“Additional Tasks”) which may be optional, namely tasks ,3, 3a, 4 and 4a, as described on pages 2,3 and 4 priced on page 5 of the proposal;

WHEREAS, Borough Council wishes to authorize the Borough Administrator and the Borough Clerk, as appropriate, to obtain the performance of such of the Additional Tasks as may be legally required;

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

Record of Council Vote on Passage									
COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	S				Marciante				absent
Gnatt				absent	Mills	X			
Griffiths	M				Semple	X			

Council Member Griffiths made a motion to approve Resolution 2019-4.12, second by Council Member Chandler with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2019 - 4.13**

**RESOLUTION AUTHORIZING VOLUNTARY REGISTRATION OF SECURITY CAMERA BY
PENNINGTON PROPERTY OWNERS**

WHEREAS, police investigation of thefts and other crimes committed on or near private property in the Borough is frequently assisted by the presence of security cameras on the property;

WHEREAS, as an aid to investigations of this kind it would be helpful to have property owners register the presence and location of such cameras with the Pennington Borough Police, provided such registration is strictly voluntary and at no cost to the property owner;

NOW, THEREFORE, BE IT RESOLVED, by Borough Council of the Borough of Pennington, that the Pennington Borough Police Department is hereby authorized to initiate such voluntary registration of security cameras by extending an invitation to all property owners to so register; and by taking such additional steps as reasonably necessary to collect the requested information for as long as the property owner agrees to provide it, to monitor the information to ensure that it is current, and to keep the information secure for use exclusively in connection with investigative work in which the registered camera(s) may be of assistance; and

BE IT FURTHER RESOLVED that the Police Department shall take care to advise property owners that the information requested is to be provided on a strictly voluntary basis with no cost or fee assessed to the property owner.

Record of Council Vote on Passage									
COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	X				Marciante				absent
Gnatt				absent	Mills	S			
Griffiths	M				Semple	X			

Council Member Griffiths made a motion to approve Resolution 2019-4.13, second by Council Member Mills with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2019 - 4.14**

**RESOLUTION AUTHORIZING REMOVAL OF SHADE TREE IN THE PUBLIC RIGHT-OF-WAY
PURSUANT TO CHAPTER 13, ARTICLE 1 OF THE BOROUGH CODE**

WHEREAS, the property owner at 317 Burd Street, also known as Block 704, Lot 7, in the Borough of Pennington, has requested removal of a tree in the public right of way adjoining that property, because it is uplifting the sidewalk and dropping dead branches and is a hazard to the public;

WHEREAS, the Superintendent of Public Works has identified and inspected the tree and its location and determined that the tree is a hazard to both the traffic right-of-way and the sidewalk right-of-way, that it has in fact been damaged by traffic as the result of growth overhanging the street, and that it should be removed;

WHEREAS, the tree and its location have also been inspected by the Shade Tree Committee and the proposed removal is recommended by the Committee;

WHEREAS, pursuant to Chapter 13, Article 1 of the Code of the Borough of Pennington, at Section 13-5, the Shade Tree Committee may recommend to Borough Council the removal of trees in the public right of way after weighing, among other factors, the safety of the public, the condition or health of the tree, the appropriateness of the location of the tree and the immediacy of the need for action;

WHEREAS, pursuant to Section 13-6 of the Code, the removal of trees in the public right-of-way shall be paid for by the Borough provided the work is (1) included in the annual budget for the Shade Tree Committee approved by Borough Council, (2) authorized by separate action of Borough Council in its sole discretion even when budgeted, and (3) conducted by the Department of Public Works or a contractor retained by the Borough in conformance with the Local Public Contracts Law;

WHEREAS, the Superintendent of Public Works has reported that removal of the tree is beyond the capabilities of Borough-owned equipment and the work must be contracted out;

WHEREAS, funds needed for the estimated cost of the work are available in the Grant Fund – Urban Community Forestry Grant;

WHEREAS, Borough Council finds and determines that removal of the identified tree is appropriate and is a proper expense of the Borough in accordance with the Borough Code;

NOW, THEREFORE, BE IT RESOLVED, by Borough Council of the Borough of Pennington, that the Borough Administrator, in consultation with the Superintendent of Public Works, is hereby authorized to take such steps as may be necessary to ensure removal of the tree in the public right-of-way adjacent to 317 Burd Street as identified above, including retention of an appropriate contractor to perform the work in accordance with the Local Public Contracts Law and applicable safety and legal requirements.

Record of Council Vote on Passage									
COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Chandler	M				Marciante				absent
Gnatt				absent	Mills	S			
Griffiths	X				Semple	X			

Council Member Chandler made a motion to approve Resolution 2019-4.14, second by Council Member Mills. Some discussion took place with regard to why the tree is being taken down. Upon a roll call vote all members present voted in favor.

Professional Reports

Mr. Bliss reminded Council of a Closed Session.

Public Comment

Mayor Lawver asked that anyone wishing to speak to Council please come forward and state your name and address for the record and please limit comments to the Governing Body to a maximum of 3 minutes.

Closed Session

AT, 8:09 PM, BE IT RESOLVED, that Mayor and Council shall hereby convene in closed session for the purposes of discussing a subject or subjects permitted to be discussed in closed session by the Open Public Meetings Act, to wit:

- Proposed License Agreement – Cugino’s

AT, 8:16 PM, Mayor and Council returned to open session.

**BOROUGH OF PENNINGTON
RESOLUTION 2019-4.15**

**RESOLUTION AUTHORIZING AGREEMENT FOR USE OF BOROUGH LAND AS A
CONSTRUCTION STAGING AREA BY CUGINO’S HOLDING, LLC**

WHEREAS, CUGINO’S PENNINGTON, LLC, a New Jersey Limited Liability Company t/a CUGINO’S ITALIAN MARKET, and CUGINO’S HOLDING, LLC, a New Jersey Limited Liability Company t/a GRACE AT CUGINO’S, (together “Cugino’s) has received site plan and related approvals by the Pennington Planning Board for expansion and construction of improvements relating to their restaurant at 147 Delaware Avenue in Pennington, located on Lot 13 in Block 206 on the Tax Map of the Borough of Pennington;

WHEREAS, the Borough of Pennington owns vacant property known at Lots 5 and 12 in Block 206 on the Tax Map partially adjacent to the location of Cugino’s contemplated construction;

WHEREAS, Cugino’s seeks to enter into a short-term agreement with the Borough permitting Cugino’s to use a portion of the Borough’s property as a construction staging area during construction;

WHEREAS, Cugino’s represents that the area delineated as the authorized construction area will be used exclusively as a construction entrance, to store topsoil and construction materials needed for the proposed site and building improvements, and to park machinery needed for the project during the day and overnight;

WHEREAS, the Borough, as an accommodation to Cugino’s, is willing to authorize use of its land for the stated purpose in accordance with a short-term agreement substantially in the form annexed to this resolution (“Agreement”);

WHEREAS, the proposed Agreement provides among other things that the use is wholly temporary and limited to the time it is actually needed for construction, that Cugino’s assumes full responsibility for protecting the Borough’s property and will also hold harmless the Borough from all liabilities relating to the use, that upon termination of the use Cugino’s will promptly restore the Borough’s property to its condition preceding the use, and that Cugino’s complies in all other respects with the provisions of the Agreement;

WHEREAS, the nominal consideration for the Agreement is \$1,000, to offset the anticipated costs incurred by the Borough in connection with preparation and execution of the Agreement;

WHEREAS, the Agreement requires Cugino’s to post a performance bond to ensure removal of all temporary improvements and restoration of the site, but the amount of the bond is yet to be determined because it requires a pending estimation of the costs of removal of the improvements and restoration of the site;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Mayor, with the attestation of the Clerk, is hereby authorized to enter into the attached Agreement on behalf of the Borough, subject to such amendments as to form, submission of corporate information, and determination of amount of required Performance Bond as recommended 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				Marciante				absent
Gnatt				absent	Mills	X			
Griffiths	S				Semple	X			

Council Member Chandler made a motion to approve Resolution 2019-4.15, second by Council Member Griffiths. Mr. Bliss asked to read into the record an amendment to the agreement. Mr. Bliss stated that a new Section 2.4 will be added to read “this agreement shall be subject to immediate termination if such termination is necessary to comply with the order of any State or other supervening regulatory agency or authority”. Upon a roll call vote all members present voted in favor.

With no further business to come before Council, Mrs. Chandler made a motion to adjourn, second by Council Member Mills.

Respectfully submitted,

Elizabeth Sterling
Borough Clerk