

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

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

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

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 Appointment (with Council Approval)

Mayor Lawver announced the appointment of Nancy Breland to the Senior Advisory Board for a two year appointment ending December 31, 2020. Mayor Lawver also announced that Planning Board Member Mark Blackwell will be representing the Planning Board on the Open Space Committee for an unexpired term ending December 31, 2019. Council Member Marciante made a motion to approve the appointments, second by Council Member Gnatt with all members present voting in favor.

Oath of Office

Mayor Lawver invited Officer Michael Rodriguez to come forward. Borough Attorney Walter Bliss administered the Oath of Office to Officer Rodriguez while his mother held the Bible.

Approval of Minutes

Council Member Marciante made a motion to approve the minutes of the May 6th, 2019 Regular Meeting, second by Council Member Mills with all members present voting in favor.

Committee Reports

Planning & Zoning / Open Space / Personnel – Mrs. Gnatt had no report for Open Space or Personnel. Mrs. Gnatt reported that the Planning Board met and heard an application from Umberto Nini regarding 30 West Delaware Avenue amending the minor sub-division from three lots to two. Mrs. Gnatt reported that Flagler Investment Holding presented a change of use plan for the Mercer Mutual Insurance building 10 Route 31 North to be used as a medical office for Neurological diseases. Mrs. Gnatt stated that a site plan waiver was granted.

Public Safety /Economic Development / Environmental – No report due to Mrs. Chandler's absence.

Public Works – Mr. Marciante reported that the Public Works Committee reviewed a draft of the priority of roads that need work. Mr. Marciante reported that the Burd Street bids will be rejected and the project will be scaled down to within the amount for the grant award. Mr. Marciante reported that the committee discussed the garbage truck and agreed to overhaul the engine. Mr. Marciante reported that the Borough will be applying to the NJDOT for a grant to repair East Welling Avenue. Mr. Marciante stated that the committee discussed garbage collection in general and there will be more to come on that. Mr. Marciante reminded everyone of once a week garbage collection for the months of July and August. Mr. Marciante stated that the streetscape project is moving along and he expects that the clock will be mounted as part of that project.

Mrs. Heinzl stated that Eglantine Avenue was paved today and the County will be paving Ingleside in the near future.

Finance / Board of Health – Mr. Griffiths reported that the Board of Health met and approved a resolution regarding vaccination exemptions and there is a similar resolution on the agenda for later in the meeting. Mr. Griffiths stated that the Board of Health is working on a youth project to determine

walkability in the community. Mr. Griffiths stated that he will be contacting the Police and Public Works Departments to coordinate that project.

Mr. Griffiths stated that the Finance Committee met and recommended the truncation of the Burd Street Road Project and the Abey Drive Road Project to fit within the grant awards. Mr. Griffiths stated that the Finance Committee continues to work with Sandy, Betty and Eileen on a longer term projection of debt and preservation of available debt service in 2020. Mr. Griffiths stated that right now we are in good shape with our debt service.

Historic Preservation / Library – Mrs. Mills stated that she had no report for Historic Preservation. Mrs. Mills reported that the library golf fund raiser was a success

Parks and Recreation / Shade Tree – Ms. Semple stated that she was unable to attend the Parks and Recreation meeting. Mayor Lawver reminded everyone of the July 4th races at the Pennington School.

Senior Advisory Board – Mayor Lawver stated that he had nothing to report for the Senior Advisory Board except watch for information about the Senior Picnic which will be held in September.

Ordinances for Introduction

Mayor Lawver announced the Ordinance 2019-8 is being pulled from the agenda. Mayor Lawver stated that the Environmental Commission has some comments and felt the Mrs. Chandler should be in attendance for this ordinance.

**BOROUGH OF PENNINGTON
ORDINANCE 2019-8**

AN ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF ORDINANCES, PENNINGTON BOROUGH, NEW JERSEY, CHAPTER 163, SITE PLAN REVIEW, DESIGN STANDARDS, AND SPECIFICALLY, SECTION 163-20-10, MAINTENANCE AND REPAIR, REQUIRING OWNES OF MAJOR DEVELOPMENTS TO SUBMIT AND ANNUALLY CERTIFY REGULAR MAINTENANCE AND REPAIR OF THRIE STORMWATER MANAGEMENT MEASURES.

Ordinances for Public Hearing and Adoption

Mayor Lawver read Ordinance 2019-7 by title.

**BOROUGH OF PENNINGTON
ORDINANCE #2019 – 7**

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 2019

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 – January 1, 2019 to June 30, 2019	\$53,296.43
July 1, 2019 to December 31, 2019	\$83,119.40
Borough Clerk	\$ 43,423.29
Assistant Chief Financial Officer	\$ 74,190.37
Tax Collector	\$83.86/ hour
Utility Collector - January 1, 2019 – June 30, 2019	\$55.50/ hour
July 1, 2019 – December 31, 2019	\$30,000.00
Technical Assistant to Construction – Jan 1, 2019 – March 4, 2019	\$55.50/ hour
March 4, 2019 – December 31, 2019	\$25.00/hour
Tax Assessor	\$13,248.98
Zoning Officer	\$ 8,965.90
Land Use Admin/Admin Asst.	\$ 52,256.64
Deputy Registrar	\$ 2,258.03

Supt. of Public Works	\$83,901.63
Licensed Water Operator	\$46,818.00
Assistant to Superintendent of Public Works January. 1 to June 30, 2019 July 1, 2019 –December 31, 2019	\$13.53/hour \$15.00/hour
Judge of Municipal Court	\$ 12,596.60
Court Administrator – January 1, 2019 to May 31, 2019 June 1, 2019 to December 2019	\$17,604.69 \$ 17,500.00
Acting Court Administrator	\$15,000.00
Prosecutor - (Flat Rate per Court Session/per resolution)	\$ 300. 00
Public Defender – (Flat Rate per Court Session/per resolution)	\$ 200.00
Court Officer – (Flat Rate per Court Session)	\$76.50
Public Safety Director	\$ 56,948.49
Administrative Assistant	\$15.00/hour
Construction Official	\$27,817.19
Plumbing Sub-Code	\$41.16/ hour
Fire Sub-Code	\$41.77/ hour
Electric Sub-Code	\$40.33/ hour

- b. One person may serve in more than one office or position of employment as listed in Section a hereof.
- c. The amounts shown in Section a. hereof are the maximum amounts to be paid, however, at the discretion of Borough Council, lesser amounts can be paid.
- d. The rate of compensation of each employee, paid on an hourly basis is as follows:

	Minimum	Maximum
Finance		
Municipal CFO(p/t)	\$ 25.00	\$ 83.86
Police Department:		
Crossing Guards	\$ 15.00	\$ 25.50
Special Police	\$ 16.92 per hour	
Part Time Employees – All Departments:		
Part Time or Temporary	\$ 8.00	\$ 25.00
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, 2019.

Council Member Griffiths made a motion to open the Public Hearing on Ordinance 2019-7, second by Council Member Gnatt. There were no comments from the public. Council Member Mills made a motion to close the Public Hearing, second by Council Member Griffiths with all members present voting in favor. Council Member Griffiths made a motion to adopt Ordinance 2019-7, second by Council Member Gnatt with all members present voting in favor.

NEW BUSINESS

**BOROUGH OF PENNINGTON
RESOLUTION #2019 – 7.1**

RESOLUTION AUTHORIZING REFUNDS

BE IT RESOLVED, that a refund be issued from the Current Fund to Michael Coleman Home for a Zoning Permit fee paid in error in the amount of \$25.00.

BE IT RESOLVED, that a refund be issued from the Developer’s Escrow Fund to Kristin & Tim McGeeney for the balance in escrow account 16-004 (Block 705 Lot 1 – 329 Sked Street) in the amount of \$317.50.

Record of Council Vote on Passage

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

Council Member Griffiths made a motion to approve Resolution 2019-7.1, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2019 – 7.2**

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 \$1,357,250.39 from the following accounts:

Current	\$1,103,475.41
W/S Operating	\$ 177,850.24
Grant Fund	\$ 2,222.25
Developer’s Escrow	\$ 9,539.52
General Capital	\$ 63,467.97
Other Trust Fund	\$ 695.00
TOTAL	\$1,357,250.39

Record of Council Vote on Passage

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

Council Member Griffiths made a motion to approve Resolution 2019-7.2, second by Council Member Mills. Mayor Lawver had questions on some of the bills on the bill list. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2019 - 7.3**

**RESOLUTION AUTHORIZING VAN NOTE-HARVEY ASSOCIATES TO REVIEW, APPROVE
AND SIGN AS APPROPRIATE THE APPLICATION OF AMERICAN PROPERTIES FOR
TREATMENT WORKS APPROVAL FOR PHASE TWO OF HERITAGE AT PENNINGTON**

WHEREAS, American Properties at Pennington LLC (“American Properties”) is the developer of Heritage at Pennington, which on June 8, 2016 received approval from the Pennington Borough Planning Board for construction of an 80-unit mixed residential development (“Development”) on Block 102, Lot 1 on

the Borough Tax Map, located at the intersection of West Franklin Avenue and Knowles Street and commonly known as 105 West Franklin Avenue in the Borough;

WHEREAS, on February 8, 2017, based on the limited availability of public sanitary sewer capacity through the Stony Brook Regional Sewerage Authority (“SBRSA”), the Planning Board formally approved a two-phase development plan, Phase 1 to consist of the construction of 44 units and Phase 2 to consist of 36 units, on the condition that no construction permits could be issued for the 36 units in Phase 2 until American Properties obtained Public Sanitary Sewer Approval from SBRSA and Treatment Works Approval (“TWA”) from the New Jersey Department of Environmental Protection (“NJDEP”) for the sewer flow from these units;

WHEREAS, all sanitary sewer mains for the Development as a whole were approved and constructed under American Properties’ Phase 1 Treatment Works Approval;

WHEREAS, American Properties now seeks Phase 2 Treatment Works Approval for the 10,200 gallons per day of anticipated sewer flow from the 36 units to be constructed in Phase 2;

WHEREAS, by letter dated June 18, 2019, of which a copy is annexed, American Properties has submitted to Van Note-Harvey Associates relevant documentation for review and endorsement of the Phase 2 TWA;

WHEREAS, the American Properties application documents require review and endorsement by the Borough of Pennington prior to submission to SBRSA and the New Jersey Department of Environmental Protection coupled with a Resolution of Borough Council authorizing signature by Van Note-Harvey Associates on its behalf;

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

- 1. Borough Engineer Norman Nelson and Van Note-Harvey Associates are hereby authorized to undertake review of the American Properties’ application documents and upon approval sign the required statement of consent and such other documents as may be necessary to effect Borough consent to American Properties’ application for Phase 2 Treatment Works Approval;
- 2. The Borough Clerk shall deliver a certified copy of this Resolution to Van Note-Harvey Associates for submission by them to SBRSA and NJDEP as appropriate.

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

Council Member Gnatt made a motion to approve Resolution 2019-7.3, second by Council Member Griffiths. Mr. Marciante asked why this is being done when the plant expansion is not even done. Mrs. Heinzl stated that American Properties just wants to apply for the permit, they are not ready to apply to Stonybrook. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2019 – 7.4**

**RESOLUTION IN SUPPORT OF LEGISLATION CLARIFYING EXEMPTIONS FROM
MANDATORY IMMUNIZATIONS FOR STUDENTS**

WHEREAS, the Pennington Borough Board of Health oversees delivery of public health service to the Borough; and

WHEREAS, the Pennington Borough Board of Health has held and continues to hold a position in support of vaccination; and

WHEREAS, on March 5, 2018 the Senate referred to the Senate Health, Human Services and Senior Citizens Committee for consideration Senate Bill No. 2173 clarifying statutory exemptions from mandatory immunizations for students; and

WHEREAS, on April 5, 2018 the Assembly Health and Senior Services Committee released from Committee Assembly Bill No 3818 for consideration by the full Assembly; and

WHEREAS, on January 31, 2019 Assembly Bill No. 3818 was amended eliminating all exemptions except medical exemptions from mandatory immunizations; and

WHEREAS, vaccines have made it possible to eradicate smallpox worldwide, saving approximately 5 million lives annually, and vaccines have drastically reduced the spread of potentially life-

threatening diseases such as diphteria, tetanus, measles, mumps and rubella; and

WHEREAS, the American Academy of Pediatrics recommends all states and the District of Columbia use their public health authority to eliminate nonmedical exemptions from immunizations requirements; and

WHEREAS, encouraging high vaccination rates in New Jersey protects our residents from contracting vaccine preventable diseases that are found in areas with low immunization rates; and

WHEREAS, the Pennington Borough Board of Health recognizes that a lack of vaccination can cause a true public health crises, and that there is no credible evidence to suggest that vaccines are not safe; and

WHEREAS, the New Jersey Department of Health reported that 12,410 religious exemptions were reported for the 2017-2018 school year, an increase of over 2,000 from the prior year; and

WHEREAS, the scientific evidence that vaccines are safe is overwhelming; and

WHEREAS, the proposed legislation does not preclude an exemption when valid medical contraindication is present; and

WHEREAS, the decrease in vaccination rates poses a serious risk to public health; and

WHEREAS, outbreaks of vaccine preventable diseases, such as measles, pertussis, and mumps, are on the rise, including recent outbreaks in New Jersey; and

WHEREAS, there is concern that vaccination rates have fallen below the recommended number to provide herd immunity to protect those who cannot be vaccinated;

NOW, THEREFORE, BE IT RESOLVED, that the Borough Council of the Borough of Pennington, County of Mercer, State of New Jersey fully supports the proposed amended legislation and urges the legislature to pass the bills promptly.

BE IT FURTHER RESOLVED, that upon passage by the New Jersey State Legislature the Pennington Borough Board of Health urges the Governor to sign the bill into law promptly.

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to the Office of the Governor of the State of New Jersey, the State Legislators representing the Borough of Pennington, the Speaker of the New Jersey General Assembly, the President of the New Jersey State Senate, and the Commissioner of the New Jersey Department of Health.

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

Council Member Griffiths made a motion to approve Resolution 2019-7.4, second by Council Member Mills. Mr. Griffiths briefly explained what this resolution is in support of. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2017-7.5**

RESOLUTION REJECTING ALL BIDS FOR BURD STREET RECONSTRUCTION BETWEEN O'HANLON AVENUE AND WEST CURLIS AVENUE AND DIRECTING RE-ADVERTISEMENT AFTER REVISION OF SCOPE

WHEREAS, the project known as Burd Street Reconstruction Between O'Hanlon Avenue and West Curlis Avenue in the Borough of Pennington has been the subject of advertising for competitive bids;

WHEREAS, four sets of plans and specifications were picked up by potential bidders in response to the advertisement and two contractors submitted bids, which were opened by the Borough Clerk on Wednesday, June 19, 2019;

WHEREAS, the bidding contractors submitted a Base Bid and a Base Bid with Alternate No. 1 Price, as instructed, but all of the bids by both contractors were substantially in excess of the Borough Engineer's estimates of costs for the work;

WHEREAS, Borough Council believes it is in the public interest to substantially revise the scope of work and specifications for reconstruction of Burd Street, and re-advertise for bids;

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

that in accordance with N.J.S.A. 40A:11-13.2, all bids are hereby rejected as substantially exceeding estimated costs and to permit a substantial revision of the scope of the work; and be it

FURTHER RESOLVED, that the Administrator is directed to have the specifications and scope of work for the reconstruction of Burd Street revised and then re-advertise for bids.

Record of Council Vote on Passage

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

Council Member Mills made a motion to approve Resolution 2019-7.5, second by Council Member Griffiths. Mr. Marciante stated that the bids were well over the budgeted amount for the project so the project will be scaled back and re advertised. Mr. Marciante stated that the Borough is also requesting an extension to November from the DOT.

**BOROUGH OF PENNINGTON
RESOLUTION 2019 – 7.6**

**RESOLUTION REQUESTING ADDITIONAL 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 would have been 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, by Resolution 2019-4.9 the Borough requested a six-month extension of the award date; and

WHEREAS, the New Jersey Department of Transportation granted the Borough an extension of two-months to July 17, 2019; and

WHEREAS, two bids were received at the bid opening on June 19, 2019 and those bids were reviewed by the Borough Engineer; and

WHEREAS, both of the bids received are substantially in excess of the Borough Engineer's estimates of costs for the work; and

WHEREAS, the Borough Council believes that it is in the public interest to substantially revise the scope of work and specifications for Burd Street and re-bid the project;

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 four-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				absent	Marciante	M			
Gnatt	X				Mills	S			
Griffiths	X				Semple	X			

Council Member Marciante made a motion to approve Resolution 2019-7.6, second by Council Member Mills with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2019 – 7.7**

**RESOLUTION AUTHORIZING SUBMISSION OF GRANT APPLICATION AND EXECUTION OF
GRANT AGREEMENT WITH THE NEW JERSEY DEPARTMENT OF
TRANSPORTATION FOR THE 2020 ROAD IMPROVEMENT PLAN PROJECT**

WHEREAS, Borough Council has determined that East Welling Avenue requires reconstruction;

WHEREAS, the project is designed to improve the condition of the roadway including resurfacing, reconstruction and upgrades to meet NJDOT Bicycle Safe Grate Standards and NJDEP Stormwater Regulations;

NOW THEREFORE BE IT RESOLVED, that the Borough Council of the Borough of Pennington, formally approves the grant application for the above stated project;

BE IT FURTHER RESOLVED, that the Borough Engineer is hereby authorized to submit an electronic grant application identified as MA-2020 - Pennington Borough – 00036 to the New Jersey Department of Transportation on behalf of the Borough of Pennington.

BE IT FURTHER RESOLVED, that the Mayor with the attestation of the Borough Clerk is hereby authorized to sign the grant agreement on behalf of the Borough of Pennington and that his signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

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

Council Member Griffiths made a motion to approve Resolution 2019-7.7, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2019 - 7.8**

RESOLUTION AUTHORIZING AMENDMENT OF CONTRACT WITH WATER RESOURCE MANAGEMENT TO INCLUDE PREPARATION OF A LEAD AND COPPER SAMPLING PLAN

WHEREAS, the Borough has entered into a contract with Water Resource Management to provide professional services as Water and Sewer Compliance Officer for the Borough in 2019, in accordance with a defined scope of work (Resolution 2019-2.4);

WHEREAS, upon recommendation of the Superintendent of Public Works and Borough Council’s Public Works Committee, the Borough now seeks to enlarge the scope of work of Water Resource Management to include preparation of a revised Lead and Copper Sampling Plan for the Borough, in compliance with applicable State and Federal regulations;

WHEREAS, Water Resource Management has presented a proposal dated February 15, 2019 for this and related work (“Proposal”), of which a copy is attached;

WHEREAS, the work described in the Proposal is to be completed for the not-to-exceed amount of \$4,200;

WHEREAS, the required funds are available in 9-05-55-501-000-260;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington that the Administrator is hereby authorized to enter into an amended contract with Water Resource Management to provide for the preparation of the contemplated Lead and Copper Sampling Plan and performance of related work as described in the annexed Proposal for a sum not to exceed \$4,200.

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

Council Member Griffiths made a motion to approve Resolution 2019-7.8, second by Council Member Mills. Mr. Smith reported as to why this is required. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2019-7.9**

RESOLUTION AUTHORIZING THE EMERGENCY OVERHAUL OF THE ENGINE FOR THE 2004 PETERBILT GARBAGE TRUCK

WHEREAS, the Superintendent of Public Works for the Borough of Pennington has identified an emergency circumstance as defined by N.J.S.A. 40A:11-6 involving the need to immediately perform a complete overhaul of the engine in the 2004 Peterbilt Garbage truck; and

WHEREAS, the above referenced provision of the New Jersey Local Public Contracts Law permits the award of a contract without competitive bidding (or competitive contracting) provided that an emergency affecting the public health, safety or welfare exists; and

WHEREAS, in accordance with the New Jersey Local Public Contracts Law the Superintendent has prepared and filed with the Borough Administrator written notification of the emergency as set forth in the attached memorandum from Rick Smith to Eileen Heinzl dated June 21, 2019; and

WHEREAS, Hunter Jersey Peterbilt, L.P. has provided a quote dated 6/10/2019 to perform a complete overhaul of the engine including an overhaul of the exhaust system in the amount of \$27,961.23; and

WHEREAS, the Borough Administrator finds that the foregoing constitutes an emergency affecting the public safety and welfare and necessitates the immediate overhaul of the engine in the 2004 Peterbilt Garbage truck pursuant to the New Jersey Local Public Contracts Law; and

WHEREAS, on June 19, 2019 the Public Works Committee addressed the matter and recommended that Borough Council fund the emergency engine overhaul and repair of exhaust system to a cost not to exceed \$30,000.00;

WHEREAS, the Public Works Superintendent has been in contact with Hunter Jersey Peterbilt, L.P. and requests that a purchase order be issued immediately in an amount not to exceed \$30,000.00 to cover the overhaul of the engine and additional repair of the exhaust system; and

WHEREAS, the Chief Financial Officer has certified that funds are available in the Public Works Trash and Streets budgets;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Pennington, County of Mercer, State of New Jersey that a purchase order be issued to Hunter Jersey Peterbilt, L.P. in the amount not to exceed \$30,000.00 as described above.

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

Council Member Marciante made a motion to approve Resolution 2019-7.9, second by Council Member Gnatt with all members present voting in favor.

Professional Reports

There were further reports from Professionals.

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.

Mr., Edmunds came forward to inquire as to whether the Public Safety Committee has had a chance to review the video from a police stop involving his son that he spoke to Council about at the last meeting. Mayor Lawver stated that he and the chair of the Public Safety Committee have both viewed the video and they are drafting a response that will be reviewed by the Borough Attorney and go out in the next week or so.

Mr. Marciante stated that he is concerned about what he is reading in the Hopewell Valley News regarding Bristol Meyers Squibb and why the Borough was not consulted. Mayor Lawver stated that the ordinance was before Hopewell Township Committee a week ago and it was approved. Mayor Lawver stated that he will be discussing with the Township why the Borough was not consulted prior to this getting so far in the process. Mayor Lawver stated that he attended the meeting of the Township Committee and he briefly described what the ordinance change means for the property and the Borough. Mayor Lawver stated that there will be increased tractor trailer traffic through Pennington Borough and we will have to be more vigilant about this going forward. Mayor Lawver stated that we need to keep in mind that it is in Pennington’s best interest to have the Bristol Myers property occupied.

Closed Session

AT, 7:45 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:

- License Agreement – Cugino’s
- Contract Negotiations – Teamsters

AT, 7:54 PM, Mayor and Council returned to open session

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

Council Member Semple made a motion to approve the May 6th, 2019 Closed Session Minutes for content but not for release, second by Council Member Mills with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2019 – 7.10**

**RESOLUTION AUTHORIZING AMENDMENT OF USE AGREEMENT BETWEEN THE
BOROUGH OF PENNINGTON AND CUGINO’S PENNINGTON LLC.**

WHEREAS, on May 16, 2019, Cugino’s Pennington LLC (“Cugino’s”) and the Borough of Pennington entered into a short-term agreement (hereafter “Use Agreement”) by which the Borough will permit Cugino’s to use a portion of Borough land as a construction staging area during construction of improvements to Cugino’s restaurant on adjoining land;

WHEREAS, a provision of the Use Agreement requires Cugino’s to obtain environmental impairment liability (pollution) insurance coverage with a minimum combined limit of liability of \$1,000,000 per occurrence and a \$2,000,000 annual aggregate, written on an occurrence form with a minimum 5-year sunset clause on coverage for completed operations (Section 6.1.F);

WHEREAS, a related provision of the Use Agreement further requires in pertinent part that the coverages obtained by Cugino’s under Section 6.1, including the environmental liability coverage, shall name The Borough of Pennington as “an additional insured;”

WHEREAS, following execution of the Use Agreement it was discovered that Cugino’s could not obtain the required environmental insurance under Subsection 6.1.F;

WHEREAS, in subsequent communications between the parties, however, it was determined that Cugino’s contractor, Geo Matrix Construction Corp (“Contractor”), is able to obtain pollution liability insurance;

WHEREAS, the parties now seek to amend the Use Agreement to clarify the obligations of Cugino’s and its Contractor with respect to environmental damage and to provide for coverage of Cugino’s and the Borough under the Contractor’s pollution liability coverage, appropriately endorsed making the Licensee and the Borough additional insureds, in lieu of the environmental coverage originally required of Cugino’s.

WHEREAS, the amendments to the Use Agreement delete Subsection 6.1.F and add new Sections 5.5, 5.6, 5.7 and 6.1.1, as set forth in the “Amendment to Use Agreement” attached to this Resolution;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the attached Amendment to Use Agreement is hereby approved and the Mayor, with the attestation of the Clerk, is hereby authorized to execute same on behalf of the Borough.

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

Council Member Gnatt made a motion to approve Resolution 2019-7.10, second by Council Member Griffiths with all members present voting in favor.

At 7:55 PM, with no further business to come before Council, Mr. Marciante made a motion to adjourn, second by Council Member Semple.

Respectfully submitted,

Elizabeth Sterling
Borough Clerk