

Pennington Borough Council
Regular Meeting – September 7, 2020

Mayor Lawver called the Regular Meeting of the Borough Council to order at 7:02 pm. The meeting was held on Zoom due to the COVID19 pandemic. Borough Clerk Betty Sterling called the roll with Council Members Chandler, Griffiths, Marciante, Mills and Semple in attendance. Mrs. Gnatt logged in after the roll call.

Also present were Borough Administrator Eileen Heinzl, Public Works Superintendent Rick Smith, Chief Financial Officer Sandy Webb, Police Chief Pinelli 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 door at Borough Hall and on the Borough web-site according to the regulations of the Open Public Meetings Act.

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. Mayor Lawver requested that in consideration of others, all members of the public mute their computers and raise a hand for comments.**

There were no comments from the public.

Approval of Minutes

Council Member Chandler made a motion to approve the minutes of the August 3, 2020 regular Council Meeting, second by Council Member Gnatt.

Committee Reports

Planning & Zoning / Open Space / Personnel – Mrs. Gnatt stated that the Planning Board did not meet and she had no report for Open Space. Mrs. Gnatt stated that interviews were held for the newly created position of Senior Crew Member in the Department of Public Works. Mrs. Gnatt stated that she along with Rick Smith and Eileen Heinzl interviewed two candidates from Public Works, Dave Stout and Ken Smith. Mrs. Gnatt stated that both candidates were very impressive, but Dave Stout was the more experienced candidate. Mrs. Gnatt stated that Mr. Smith has recommended Dave Stout to fill the position of Senior Crew Member. Mrs. Gnatt stated with regard to the Foreman position, there was only one candidate, Morris Fabian who was brought in for an interview. Mr. Smith has recommended that Mr. Fabian be promoted to Foreman. Mrs. Gnatt explained that both positions were posted in the Department of Public Works.

Mrs. Gnatt reported that the Police and Court Ad-hoc committee has met four times since July to discuss the structure of the Police Department and the Standard Operations Procedures. Mrs. Gnatt reported that at the third meeting there was a presentation by the Rodger's Group for consulting services to assist the Pennington Police Department in developing a customized Policy and Procedure Manual and assistance in obtaining NJ Police Accreditation. Mayor Lawver asked that Mrs. Gnatt wait to finalize her report at a later meeting when the full committee will be asked to make a presentation to Council.

Mr. Marciante asked why he as the head of the Public Works Committee was not aware of the new appointments before tonight.

Public Safety /Economic Development / Environmental – Mrs. Chandler stated she missed the Economic Development meeting but she understands that they are moving forward with the "Get Lit" program to put lights out on eight lamps on Main Street. Mrs. Chandler reported that the intern appointed to work on the Environmental Resource Inventory is making great progress.

Mrs. Chandler reported that the Green Team is sponsoring a Styrofoam collection event on September 12th at Hopewell Borough.

Mrs. Chandler stated that Public Safety met and they were supposed to hear a presentation from the Rodger's Group, but it was cancelled. Mrs. Chandler stated that there are two resolutions on for discussion later in the meeting to hire two new police officers. Mrs. Chandler reported that one of the current officers is likely going to be leaving for a new opportunity. Mrs. Chandler stated in preparation for that the second officer is being appointed. Mrs. Chandler stated that an interview process took place and these are the two officers that are being recommended for hiring. Mrs. Chandler stated that they continue to look at the Capital needs of the Department and she will report on that further at another time.

Public Works – Mr. Marciante reported that next weekend Mercer County will hold its annual Recycle Day at the Dempster Fire Center. Mr. Marciante stated that the Public Works Committee did not meet in August. Mr. Marciante stated that twice a week garbage collection has resumed and in October, the Department will resume leaf collection.

Finance – Mr. Griffiths stated that the Finance Committee did not meet but the Bond Sale took place with very favorable results.

Mr. Griffiths stated that regarding Board of Health, there is a resolution on for later in the meeting but later in the meeting there will be a resolution on for consideration related to the bond sale.

Mr. Griffiths stated that for Board of Health, the Deer Management resolution will be considered later in the meeting. Mr. Griffiths reported that the next meeting of the Board of Health will be September 20th.

Historic Preservation / Library – Mrs. Mills stated that she had no report for Historic Preservation, there was no meeting in August.

Mrs. Mills stated that the Library continues with their phased opening of the library.

Parks and Recreation / Shade Tree – Ms. Semple stated that Shade Tree will be meeting tomorrow night. Ms. Semple stated that thirty-four trees were planted last year and the tree inventory is underway.

Ms. Semple stated that there is a question on the agenda for tomorrow regarding the Arboretum and also Kunkel Park upgrades. Mrs. Heinzel reported that she will reach out to the School District to find out where they are with approval from the State Department of Education. Mayor Lawver stated that he asked Brett Margulis to come up with a plan for improvements to Kunkel Park and he is still waiting for that report. Mayor Lawver stated that he has heard that Parks and Recreation are anxious for the parks to reopen and there was supposed to be a reopening event with a concert, but he has not heard any more about that either.

Mrs. Heinzel stated that signs are up and posted in the parks and the playgrounds are open. Mrs. Heinzel stated that she sent an e-mail to Brett Margulis regarding the reopening event. Mrs. Heinzel stated that Public Works needs time to do some work at the parks, cleaning up, mulching etc. Mrs. Heinzel stated that she has not heard back from Brett Margulis. Mayor Lawver stated that there was discussion about registering and maintaining the social distancing regulations and he thinks that would also be a good idea for any event that is planned.

Ms. Semple stated that she would reach out to Brett Margulis regarding the concert/movie night event.

Senior Advisory Board – Mayor Lawver stated that the Senior Advisory Board did not meet and he had no report. .

COUNCIL DISCUSSION

Energy Aggregation Auction – Mayor Lawver apologized to everyone who has spent time on this. Mayor Lawver stated that this has turned into a lot of wasted time with nothing to show for it. Mayor Lawver stated that an auction was held and the bids received were higher than what PSE&G is offering. Mayor Lawver stated that there will be a resolution later in the meeting giving the Mayor the ability to authorize re-bid if the time comes where they can go out to bid again. Mayor Lawver apologized for bringing this to Council as it has turned out to be a huge effort and has not gotten the Borough anything in return. Mayor Lawver asked Mr. Bliss and Mrs. Heinzel if they had any comments. Mr. Bliss stated that he does not disagree at all with the Mayors comments but if the opportunity comes up it is worth another shot. Mr. Bliss stated that Hopewell Township had success with this process for JCP&L customers.

ORDINANCES FOR PUBLIC HEARING AND ADOPTION

Mayor Lawver read Ordinance 2020-14 by title.

BOROUGH OF PENNINGTON ORDINANCE 2020 - 14

ORDINANCE AUTHORIZING EMPLOYMENT AGREEMENT WITH DOUGLAS M. PINELLI AS CHIEF OF POLICE

WHEREAS, by Resolution 2020-5.10, adopted on May 4, 2020, Borough Council appointed Douglas M. Pinelli the Chief of Police of Pennington Borough, on an interim basis, subject to entering into a mutually satisfactory employment agreement;

WHEREAS, the parties have now agreed upon the terms and conditions of Chief Pinelli's employment in the form of the attached Agreement, which shall satisfy the condition of his interim

appointment and effect his regular appointment as Chief of Police;

WHEREAS, Chief Pinelli has been employed as a uniformed officer of the Pennington Police Department since 2004 and at the time of his interim appointment was First Sergeant of the Department;

WHEREAS, Chief Pinelli shall serve as Chief of Police on a probationary basis for one year from the date of his interim appointment, subject to return to his former title;

NOW, THEREFORE, BE IT ORDAINED, by Borough Council of the Borough of Pennington, that the Mayor, with the attestation of the Borough Clerk, is hereby authorized to enter into the attached Agreement with Douglas M. Pinelli on behalf of the Borough.

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

Council Member Chandler made a motion to open the Public Hearing on Ordinance 2020-14, second by Council Member Semple. There were no comments from the public. Council Member Chandler made a motion to close the Public Hearing, second by Council Member Marciante with all members present voting in favor. Council Member Chandler made a motion to adopt Ordinance 2020-14, second by Council Member Marciante. Mayor Lawver stated that he would like to apologize for the time that it has taken to get to this point and he would like to say that Chief Pinelli is doing a great job and he appreciates the leadership that he has undertaken. Mayor Lawver stated that the Department has advanced a lot in a very short time. Upon a roll call vote all members present voted in favor.

NEW BUSINESS

**BOROUGH OF PENNINGTON
RESOLUTION #2020 – 9.1**

RESOLUTION AUTHORIZING REFUNDS

BE IT RESOLVED that a refund be issued from the COAH Trust Fund to Beth English and Steven Barnes (3417 S. Justin Court, Bloomington, IN 47401) for an overpayment of COAH Fees due for work completed at 105 West Welling Avenue, Block 705, Lot 22 in the amount of \$24.27.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2020-9.1, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2020 – 9.2**

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 \$ 3,945,347.67 from the following accounts:

Current	\$ 1,230,613.80
W/S Operating	\$ 863,096.88
Animal Control Fund	\$ 2,607.46
Grant	\$ 2,342.52
General Capital	\$ 1,843,061.70
Developer’s Escrow	\$ 3,023.10
Other Trust	\$ 563.21

Open Space Trust	\$	39.00
TOTAL	\$	3,945,347.67

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

Council Member Chandler made a motion to approve Resolution 2020-9.2, second by Council Member Griffiths. Mayor Lawver and Council Member Marciante had questions on a bills on the list. Upon a roll call vote all members present voted in favor.

Mayor Lawver asked for a consent agenda on Resolutions 2020-9.3 and 2020-9.4.

**BOROUGH OF PENNINGTON
RESOLUTION 2020 - 9.3**

**RESOLUTION APPOINTING MORRIS FABIAN TO THE POSITION OF FOREMAN IN THE
PENNINGTON DEPARTMENT OF PUBLIC WORKS**

WHEREAS, Ordinance 2020-11, effective July 10, 2020, created the position of Foreman as part of a restructuring of the Department of Public Works;

WHEREAS, the purpose of the restructuring and creation of this title is to strengthen the Department’s management of the rapidly changing demands of regular operations, maintain a standard quality of work with less need for direct intervention by the Superintendent on a day to day basis, and streamline communications within the Department, especially critical during emergency events;

WHEREAS, the Foreman will be the second highest ranking person in the Department, able to perform all of the duties and responsibilities of the Superintendent of Public Works and all essential duties, functions and responsibilities required for the six key functions of the Department: Water, Sewer, Sanitation, Roads, Buildings and Grounds, and Parks and Recreation;

WHEREAS, among the duties further set forth in the Ordinance, the Foreman will coordinate with the Superintendent in recommending job assignments and resolving troubleshooting issues and conflicts and will assist in organizing daily tasks and the methods in which tasks are to be performed;

WHEREAS, the Foreman shall assume such of the responsibilities of the Superintendent as delegated by the Superintendent;

WHEREAS, after adoption of Ordinance 2020-11, the Borough established a review board, consisting of Council Member Deborah Gnatt, Chair of the Personnel Committee, Eileen Heinzl, Business Administrator and Rick Smith, Superintendent of Public Works, to manage and make recommendations for filling the position;

WHEREAS, in consultation with the review board and with their concurrence, the Superintendent has recommended Morris Fabian as able to satisfy all requirements of the new position of Foreman as stated in substantial part in Ordinance 2020-11;

WHEREAS, Morris Fabian is currently the Department’s Assistant Foreman with 23 years of service in the Department;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that Morris Fabian is hereby appointed to the position of Foreman, effective immediately, subject to final determination of his compensation and related terms and conditions of employment.

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

Council Member Mills made a motion to approve Resolutions 2020-9.3 and 2020-9.4, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2020 - 9.4**

**RESOLUTION APPOINTING DAVID STOUT TO THE POSITION OF SENIOR CREW MEMBER
IN THE PENNINGTON DEPARTMENT OF PUBLIC WORKS**

WHEREAS, Ordinance 2020-11, effective July 10, 2020, created the position of Senior Crew Member as part of a restructuring of the Department of Public Works;

WHEREAS, the purpose of the restructuring and creation of this title is to strengthen the Department’s management of the rapidly changing demands of regular operations, maintain a standard quality of work with less need for direct intervention by the Superintendent on a day to day basis, and streamline communications within the Department, especially critical during emergency events;

WHEREAS, the Senior Crew Member must be able to perform such duties and responsibilities of the Superintendent of Public Works as may be delegated and, under the general supervision of the Superintendent or the Foreman, must have the ability to perform the essential duties, functions and responsibilities required for the six key functions of the Department: Water, Sewer, Sanitation, Roads, Buildings and Grounds, and Parks and Recreation;

WHEREAS, among the duties further set forth in the Ordinance, the Senior Crew Member must be able to guide and advise crew members and other workers assigned to a task until the task is completed, and must perform quality control and inspection of the work to ensure it is completed to the standards set by the Superintendent;

WHEREAS, the Senior Crew Member shall assume such of the responsibilities of Foreman as delegated by the Superintendent;

WHEREAS, after adoption of Ordinance 2020-11, the Borough established a review board, consisting of Council Member Deborah Gnatt, Chair of the Personnel Committee, Eileen Heinzl, Business Administrator and Rick Smith, Superintendent of Public Works, to manage and make recommendations for filling the position;

WHEREAS, applications for the position were considered and applicants interviewed by the review board, leading to the recommendation by the Superintendent, with concurrence by the review board, that David Stout is able to satisfy all requirements of the new position, as described in substantial part in Ordinance 2020-11;

WHEREAS, David Stout is currently Public Works Operations Coordinator with 20 years of service to the Department;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that David Stout is hereby appointed to the position of Senior Crew Member in the Department of Public Works, effective immediately, subject to final determination of his compensation and related terms and conditions of employment.

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

Council Member Mills made a motion to approve Resolutions 2020-9.3 and 2020-9.4, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2020-9.5**

**RESOLUTION AUTHORIZING LEASE OF OFFICE SPACE
DURING RENOVATION PROJECT**

WHEREAS, Borough Council has determined that it will be necessary to relocate the Borough’s municipal offices during impending construction of renovations to Borough Hall;

WHEREAS, the Borough has identified 2,200 square feet in an office building owned by Graywacke LLC (“Graywacke”) at 19 Brookside Avenue in Pennington suitable for this purpose;

WHEREAS, the space will be available commencing on September 15, 2020 for a term of six (6) months at net rent of \$2,000. per month ending on March 31, 2021, with an option to renew for an additional six months at net rent of \$2,500 per month;

WHEREAS, the proposed form of Lease is attached to this Resolution (“Lease”);

WHEREAS, the Chief Financial Officer of the Borough has certified that the funds needed for undertaking this obligation are available in Account No. 0-01-26-30-000-277 (Borough Property – Building Maintenance);

NOW, THEREFORE, BE IT RESOLVED, by Borough Council of the Borough of Pennington, that the Mayor, with the attestation of the Borough Clerk, is hereby authorized to enter into a lease agreement with Graywacke LLC consistent with the terms described above and in substantially the same form as the attached Lease, subject only to final approval as to form by the Borough Attorney.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2020-9.5, second by Council Member Mills with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2020 - 9.6**

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

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

WHEREAS, twelve candidates were interviewed during a first round of interviews conducted via Zoom on August 27, 2020, the Zoom panel consisting of Chief of Police Douglas Pinelli, Officer Michael Rodriguez and Administrator Eileen Heinzl;

WHEREAS, five candidates were selected from that pool and invited to interview in person with the Oral Interview Board, consisting of Chief Pinelli, the Administrator, a Police Chief from a nearby municipality, and a local school official;

WHEREAS, interviews were conducted on September 3, 2020, and the Oral Interview Board has now recommended to the Public Safety Committee and Borough Council that Michael Crincoli be hired for the position;

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

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

1. the hiring of Michael Crincoli as Probationary Police Officer in the Pennington Police Department is hereby approved;
2. Michael Crincoli’s salary and other terms and conditions of employment shall be governed by the contract between the Borough and the Pennington Borough Police Association;
3. Michael Crincoli’s start date shall be determined by the Chief of Police.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2020-9.6, second by Council Member Gnatt. Mayor Lawver asked why the hiring of two officers. Mayor Lawver stated one would be a sixth officer and one would be to replace a current officer who might be leaving but is this asking for authorization to hire two officers now or hold off on one in case Officer Rodriguez leaves. Mrs. Chandler stated that answer is yes because the process takes time. Mayor Lawver stated that he is concerned with authorizing for the second hire without knowing for sure that Officer Rodriguez is leaving and then we would have an extra officer which is not in the current budget. Chief Pinelli stated that ultimately they would like the department to be at six officers. Chief Pinelli stated that if Officer Rodriguez leaves he faces the challenge of training two officers. Chief Pinelli stated that he has the proper manpower now to train two officers, but if Officer

Rodriguez leaves he would be down to three officers having to train two new officers and that will be a challenge. Chief Pinelli stated that hiring two would allow Officer Rodriguez to help with training prior to leaving and hopefully get both officers on the road by January. Mrs. Chandler asked what the status is on Officer Rodriguez. Chief Pinelli stated that he does not know at this time, it depends how quickly the other agency moves on hiring, there is the potential that he will leave within the month. Chief Pinelli stated that the other agency is hiring three now and another two by the end of the year. Chief Pinelli stated that these two candidates are fully trained officers, one has worked for the past year and the other is just out of the academy. Mr. Griffiths commented on the budget impacts related to overtime for this budget year and next year. Mr. Griffiths stated that the ideal staff for the Police Department is 5.5. Officers to eliminate overtime costs. Mr. Griffiths stated that it is more prudent to hire two officers at this time. Mr. Griffiths stated that if there are less than five officers, the overtime costs will continue. Mrs. Chandler stated that the structure of the Department is also being developed and the plan is to ultimately have six officers, two sergeants with two officers working under each sergeant, but there is still work to be done on that. Mrs. Chandler stated that they have made huge strides over the past few months but it takes time. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2020-9.7**

**RESOLUTION AUTHORIZING THE HIRING OF ERIC TOMKINS AS PROBATIONARY
POLICE OFFICER IN THE PENNINGTON POLICE DEPARTMENT**

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

WHEREAS, twelve candidates were interviewed during a first round of interviews conducted via Zoom on August 27, 2020, the Zoom panel consisting of Chief of Police Douglas Pinelli, Officer Michael Rodriguez and Administrator Eileen Heinzl;

WHEREAS, five candidates were selected from that pool and invited to interview in person with the Oral Interview Board, consisting of Chief Pinelli, the Administrator, a Police Chief from a nearby municipality, and a local school official;

WHEREAS, interviews were conducted on September 3, 2020, and the Oral Interview Board has now recommended to the Public Safety Committee and Borough Council that Eric Tomkins be hired for the position;

WHEREAS, the recommended hiring of Eric Tomkins is contingent upon successfully passing both a medical and psychological exam;

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

1. the hiring of Eric Tomkins as Probationary Police Officer in the Pennington Police Department is hereby approved;
2. Eric Tomkins' salary and other terms and conditions of employment shall be governed by the contract between the Borough and the Pennington Borough Police Association;
3. Eric Tomkins's start date shall be determined by the Chief of Police.

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

Council Member Chandler made a motion to approve Resolution 2020-9.7, second by Council Member Semple with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2020-9.8**

**RESOLUTION AUTHORIZING MAYOR TO EXERCISE DISCRETION IN EXECUTING
AGREEMENT FOR PROVISION OF ELECTRICITY GENERATION SUPPLY SERVICES FOR
RESIDENTIAL GOVERNMENT ENERGY AGGREGATION**

WHEREAS, pursuant to Ordinance 2019-9 adopted by Borough Council on October 7, 2019, the Borough publicly declared its intent to commence a government energy aggregation program ("GEA Program");

WHEREAS, the Borough has begun the process of effectuating the Program by entering into or authorizing the following agreements:

1. Agreement between Borough of Pennington and the energy agents and consultants Concord Energy Group, Inc. d/b/a Concord Energy Services (“CES”) and Commercial Utility Consultants, Inc., d/b/a Commercial Utility Consultants (“CUS”);
2. Electric Company Aggregation Agreement with PSE&G;
3. Cooperative Pricing Agreement with Hunterdon Area Energy Cooperative (HAEC);

WHEREAS, in the Agreement with CES/CUC, it is provided in pertinent part:

1. In the event the Borough can be involved in a new bid process through HAEC, CES/CUS will so advise the Borough and the Borough will receive reasonable notice of the contents of the proposed RFP.
2. The Borough will be committed to the bid process unless it notifies CES/CUC in writing 15 days prior to the bid release date that it does not wish to participate.
3. On the day of the energy auction, upon receipt of the bid pricing, the Borough may accept or reject the bid provided it does so on the day the bid pricing is received. CES/CUC will provide timely comparisons of pertinent rates to assist the Borough in evaluating the bid pricing.

WHEREAS, if the Borough wishes to accept the bid pricing it will be required to enter into an agreement with the successful third-party energy supplier within 24 hours of receipt of the bid;

WHEREAS, the form of the third-party supplier agreement, entitled “Agreement For Provision of Electricity Generation Supply Services for Residential Government Aggregation” (“Third-Party Supplier Agreement”) is attached to this Resolution;

WHEREAS, in light of the short turnaround times, effective participation in the bidding process requires exercise of discretion on the part of Borough Administration as to whether or not to accept the bid pricing and enter into the Third-Party Supplier Agreement without specific prior approval by Borough Council;

WHEREAS, the purpose of this Resolution is to authorize the Mayor to participate in the bidding process on behalf of the Borough, and to further authorize the Mayor, with the advice of CES/CUC, to exercise his discretion to enter into an applicable Third-Party Supplier Agreement on behalf of the Borough when the bid prices received are lower than the rates then paid by Borough ratepayers and in the Mayor’s judgment are in the best interests of Borough ratepayers, subject to their right to opt-out;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington that the Mayor, with the attestation of the Borough Clerk, is hereby authorized to enter into a Third-Party Supplier Agreement on behalf of the Borough without prior approval by Borough Council provided:

1. prior approval by Council is not practicable at the time bidding is received;
2. the bid rates which are the subject of the Third-Party Supplier Agreement are lower than the rates then paid by Borough ratepayers;
3. acceptance of the bid pricing is recommended by CES/CUC; and
4. in the Mayor’s judgment, acceptance of the bid pricing is in the best interests of Borough ratepayers, price and other factors considered, subject to the right of the ratepayers to opt-out.

Record of Council Vote on Passage

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

Council Member Griffiths made a motion to approve Resolution 2020-9.8, second by Council Member Chandler. Mr. Bliss asked for a minor typographical correction. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2020 - 9.9**

**RESOLUTION AUTHORIZING AMERICAN PROPERTIES’ HERITAGE AT PENNINGTON-
PHASE 2 TO CONNECT SIX SPECIFIED UNITS TO THE SEWER SYSTEM BEFORE
EXPANSION OF PENNINGTON TREATMENT PLANT IS COMPLETE, IN ACCORDANCE
WITH SBRSA APPROVAL**

WHEREAS, the Stony Brook Regional Sewerage Authority (SBRSA) approved the Treatment Works Application for Heritage at Pennington –Phase 2 (HAP) on September 23, 2019, subject to the condition that HAP not connect to the Pennington Wastewater Treatment Plant until the upgrade and expansion of that plant is complete;

WHEREAS, HAP’s Phase 2 development is a thirty-six (36) unit development with a total allocated flow of 10,200 gallons per day;

WHEREAS, SBRSA at a meeting held June 22, 2020, previously approved HAP’s request to allow connection of the following five (5) properties and same were then approved by the Borough of Pennington by Resolution 2020-7.12:

- 22 Tucker Way
- 24 Tucker Way
- 26 Tucker Way
- 28 Tucker Way
- 30 Tucker Way

WHEREAS, upgrade and expansion of the Pennington Wastewater Treatment Plant is still ongoing and not yet complete, but at the meeting of the Board of SBRSA on August 24, 2020, the Board approved HAP’s request nonetheless to allow connection of the following additional six (6) properties to the Pennington sewer system:

- 32 Tucker Way
- 34 Tucker Way
- 36 Tucker Way
- 10B Cannon Drive
- 12B Cannon Drive
- 14B Cannon Drive.

WHEREAS, the reasons for urgency relate to pending closings on these properties and the need for contract purchasers to close in time to meet mortgage commitment requirements;

WHEREAS, this Resolution authorizing sewer connections for the above additional six units will permit HAP to satisfy that aspect of its applications for Certificates of Occupancy for those units;

WHEREAS, the SBRSA’s authorization is limited to the additional six unit with the condition that 32, 34, and 36 Tucker have a connection date no sooner than September 15, 2020 and that 10B, 12B and 14B Cannon Drive have a connection date no sooner than September 30, 2020 (“Conditions”);

WHEREAS, approval of these connections by Pennington Borough shall be subject to the following additional conditions (“Additional Conditions”):

1. All of the authorized connections must be inspected and approved by the Pennington Borough Engineer at the time they are actually made.
2. Inspection by the Borough notwithstanding, any damage to the sewer system or the sewerage treatment process caused by a defective connection shall be the sole responsibility of Heritage at Pennington or its successor in interest.
3. The authorization of connections for the affected units are not intended to imply approval of Certificates of Occupancy for these units. The authorizations, when they translate into approved connections, relate only to satisfying CO criteria pertaining to sewer connection.
4. Phase 2 of Heritage at Pennington is still an active construction site and the connections, the larger collection system and the sewerage treatment process itself are exposed to these hazards. Heritage at Pennington shall be responsible to Pennington Borough and its ratepayers for all damage caused by construction-related activity.
5. The authorization of the six additional connections does not require Pennington to accept the entire sewer system for Phase 2 or any part of it upon the completion of construction. Rather, these authorizations permit the Borough to accept the portions of the Phase 2 Sanitary Sewer System required for connection of the 6 approved connections.

NOW, THEREFORE, BE IT RESOLVED, by Borough Council of the Borough of Pennington, that in accordance with the aforesaid authorization by the Stony Brook Regional Sewerage Authority, connections to the Pennington sewer system are hereby authorized for the following **six additional** units in Phase 2 of Heritage at Pennington: 32 Tucker Way, 34 Tucker Way, 36 Tucker Way, 10B Cannon Drive, 12B Cannon Drive and 14B Cannon Drive, subject to the Conditions and Additional Conditions by SBRSA and Pennington, respectively, as set forth in the above recitals.

Record of Council Vote on Passage

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

Council Member Mills made a motion to approve Resolution 2020-9.9, second by Council Member Griffiths with all members present voting in favor.

Mayor Lawver asked for a consent agenda for Resolutions 2020-9.10 and 2020-9.11.

BOROUGH OF PENNINGTON
RESOLUTION 2020-9.10

**RESOLUTION APPROVING APPLICATION FOR TEMPORARY
USE OF OUTDOOR SPACE BY CaRu ENTERTAINMENT LLC**

WHEREAS, CaRu Entertainment LLC, located at 21 Route 31 North, Suite B -3, Pennington, with permission from the property owner, has submitted to the Borough an Application for Temporary Use of Outdoor Space seeking to host outdoor group dance classes under two tents in the north part of the parking lot for its complex;

WHEREAS, classes would be hosted from October 4 through November 25, 2020, Monday through Friday, from 3:00 PM to 7:30 PM;

WHEREAS, the segment of the parking lot proposed to be used is not a throughway for vehicle traffic and consists of approximately 1,696 square feet in two sections of 36’ x 24’ and 26’ x 32’, respectively;

WHEREAS, both tents will be 20’ x 30’ with no walls;

WHEREAS, lighting for the tents will be subject to the jurisdiction of the Borough Electrical Code Official;

WHEREAS, CaRu Entertainment LLC has applied for a fire permit and agrees to comply with the applicable requirements of the Fire Code as well as any specific conditions imposed by the Fire Official who will inspect and issue a permit once the tents are erected;

WHEREAS, during the current Covid emergency the Borough has been permitting use of outdoor space on a temporary basis without site plan approval subject to approval by the Fire Official and any other conditions that may be required for public safety and access;

WHEREAS, Borough Council accepts applicant’s representation that use of outdoor space as proposed will continue to keep its business operational and permit it to retain staff members while also providing an important physical and artistic outlet for our community;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington that the application of CaRu Entertainment LLC for Temporary Use of Outdoor Space as described above is hereby approved, subject to such conditions pertaining to public safety as may be imposed by the Fire Official and others with jurisdiction.

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

Council Member Marciante made a motion to approve Resolutions 2020-9.10 and 2020-9.11, second by Council Member Griffiths with all members present voting in favor.

BOROUGH OF PENNINGTON
RESOLUTION 2020-9.11

**RESOLUTION APPROVING APPLICATION FOR TEMPORARY
USE OF OUTDOOR SPACE BY PENNINGTON SCHOOL**

WHEREAS, The Pennington School has submitted to the Borough an Application for Temporary Use of Outdoor Space, seeking to erect nine 30’ x 40’ tents on school property for classroom and dining hall seating in order to socially distance students due to Covid-19 for the duration of the fall semester;

WHEREAS, the tents will be flame retardant, framed with sidewalls and have HVAC and lighting, including emergency exit lighting, as well as an outdoor speaker system to provide emergency notifications;

WHEREAS, six of the tents will be situated on O’Hanlon Green and three tents will be between the

school library and Stanton;

WHEREAS, the Borough Electrical Code Official has reviewed the School’s plans and will continue to have jurisdiction;

WHEREAS, Pennington School has applied for a fire permit and agrees to comply with the applicable requirements of the Fire Code as well as any specific conditions imposed by the Fire Official who will inspect and issue a permit once the tents are erected;

WHEREAS, during the current Covid emergency the Borough has been permitting use of outdoor space on a temporary basis without site plan approval subject to approval by the Fire Official and any other conditions that may be required for public safety and access;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington that the application of The Pennington School for Temporary Use of Outdoor Space as described above is hereby approved, subject to such conditions pertaining to public safety as may be imposed by the Fire Official and others with jurisdiction.

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

Council Member Marciante made a motion to approve Resolutions 2020-9.10 and 2020-911, second by Council Member Griffiths with all members present voting in favor.

Mayor Lawver asked for a consent agenda on Resolutions 2020-9.12 and 2020-9.13.

**BOROUGH OF PENNINGTON
RESOLUTION 2020 - 9.12**

**RESOLUTION AMENDING RESOLUTION 8.16 REJECTING BID
RECEIVED FROM EMY SOLUTIONS LLC AS A RESULT OF HEARING**

WHEREAS, on August 25, 2020, Borough Council adopted Resolution 8.16 rejecting the bid of EMY Solutions LLC (“EMY”) for the project known as Renovations to Pennington Borough Hall (VNHA #43829-200-71);

WHEREAS, Borough Council now seeks to amend Resolution 8.16, nunc pro tunc, for the sole purpose of correcting the procedural history contained in the recitals of that Resolution;

WHEREAS, a copy of Resolution 8.16 is attached to this Resolution and incorporated herein by reference;

WHEREAS, the need for revision of the procedural history stems from the fact that the hearing before Council on August 25, 2020, which was intended to address the responsibility of EMY as a plumbing and electrical contractor, was predicated on the representation by EMY in its bid that it would not use plumbing or electrical subcontractors for the project but would do that work itself;

WHEREAS, at the hearing EMY appeared through legal counsel Matthew J. Alkon of Lavin Associates, and their president, and stated that its prior representation that it would not use plumbing or electrical subcontractors was mistaken, and it wished to provide the names of its subcontractors at the hearing and as set forth in a letter dated that day from EMY’s counsel to the Borough Attorney;

WHEREAS, these representations by EMY made the need for a responsibility hearing and the adoption of related findings moot, because EMY’s failure to list the intended subcontractors in its bid required the bid to be rejected as non-responsive;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that Resolution 8.16 rejecting the bid of EMY Solutions, LLC for Renovations to Pennington Borough Hall is hereby amended, nunc pro tunc, with respect to certain of its recitals as follows:

1. The ninth recital or “Whereas clause” is amended to read: “WHEREAS, on this date as scheduled, Borough Council has held a public online hearing and EMY has been asked to answer the questions raised;”
2. The tenth recital or “Whereas clause” is deleted in its entirety;
3. The fourteenth and final recital or “Whereas clause” is amended to read: “WHEREAS” adoption of this conclusion makes addressing resolution of issues raised in the Levy Letter Brief concerning EMY’s Statement of Ownership unnecessary;” and

BE IT FURTHER RESOLVED that all other language in Resolution 8.16 and its recitals and conclusions shall remain unchanged and in full force and effect.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolutions 2020-9.12 and 2020-9.13, second by Council Member Marciante. Mr. Bliss asked that only members present at the August 25th meeting vote on these resolutions. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2020 - 9.13**

**RESOLUTION AMENDING RESOLUTION 8.18 AWARDING CONTRACT FOR BOROUGH
HALL RENOVATIONS TO LEVY CONSTRUCTION COMPANY**

WHEREAS, on August 25, 2020, Borough Council adopted Resolution 8.18 awarding to Levy Construction Company the contract for the project known as Renovations to Pennington Borough Hall (VNHA #43829-200-71);

WHEREAS, Borough Council now seeks to amend Resolution 8.18, nunc pro tunc, for the sole purpose of correcting the procedural history contained in the recitals of that Resolution;

WHEREAS, a copy of Resolution 8.18 is attached to this Resolution and incorporated herein by reference;

WHEREAS, the need for revision of the procedural history stems from the fact that the hearing before Council on August 25, 2020, which was intended to address the responsibility of low bidder EMY Solutions, LLC (EMY) as a plumbing and electrical contractor, was predicated on the representation by EMY in its bid that it would not use plumbing or electrical subcontractors for the project but would do that work itself;

WHEREAS, at the hearing EMY appeared through legal counsel Matthew J. Alkon of Lavin Associates, and their president, and stated that its prior representation that it would not use plumbing or electrical subcontractors was mistaken, and it wished to provide the names of its subcontractors at the hearing and as set forth in a letter dated that day from EMY’s counsel to the Borough Attorney;

WHEREAS, these representations by EMY made the need for a responsibility hearing and the adoption of related findings moot, because EMY’s failure to list the intended subcontractors in its bid required the bid to be rejected as non-responsive;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that Resolution 8.18 awarding the contract for Borough Hall Renovations to Levy Construction Company is hereby amended, nunc pro tunc, with respect to a recital concerning procedural history, as follows:

The fifth recital or “Whereas clause” is amended to read: “WHEREAS, in Resolution 2020-8.16, following a hearing on this date, Borough Council has rejected this bid by EMY as non-responsive, for failing to identify the plumbing and electrical subcontractors it intends to use on the project;”

BE IT FURTHER RESOLVED that all other language in Resolution 8.18 and its recitals and conclusions shall remain unchanged and in full force and effect.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolutions 2020-9.12 and 2020-9.13, second by Council Member Marciante. Mr. Bliss asked that only members present at the August 25th meeting vote on these resolutions. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2020 – 9.14**

**RESOLUTION AUTHORIZING THE MAYOR TO SIGN A MEMORANDUM OF
UNDERSTANDING BETWEEN THE OFFICE OF THE MERCER COUNTY PROSECUTOR AND
THE BOROUGH OF PENNINGTON**

WHEREAS, the Mercer County Prosecutor, (the “Prosecutor”) is the chief law enforcement officer for the County of Mercer, and is responsible to provide for, maintain, and ensure the orderly administration of the law enforcement function of each of the local law enforcement agencies within the County of Mercer; and

WHEREAS, the Prosecutor is further responsible for ensuring that each local law enforcement agency complies with all policies and directives promulgated by the Office of the Attorney General of the State of New Jersey (the “Attorney General”) and the Prosecutor; and

WHEREAS, the Borough of Pennington (“Borough”) is a municipal corporation of the State of New Jersey, situate in Mercer County; and

WHEREAS, the Borough is governed by the Mayor and Council, which also serves as the Appropriate Authority responsible for oversight of the police function within the Borough, pursuant to N.J.S.A. 40A:14-118 and Borough Code Section 46.6; and

WHEREAS, after more than two decades of distinguished service, Public Safety Director, William Meytrott tendered his resignation effective May 1, 2020; and

WHEREAS, by Resolution 2020-5.10, Borough Council, after careful consideration appointed Sergeant First Class Douglas Pinelli as Chief of Police; and

WHEREAS, in his position as Sergeant First Class, Chief Pinelli served as the Internal Affairs Officer for the Pennington Police Department; and

WHEREAS, there are currently no other officers who have been trained in Internal Affairs and Chief Pinelli who is the Officer In Charge, can no longer serve as the Internal Affairs Officer; and

WHEREAS, the Prosecutor has appointed Lieutenant Bryan Cottrell, a sworn officer of the Prosecutor’s investigative staff to serve as a Monitor to oversee the Borough’s Internal Affairs function until such time as the Prosecutor determines, in his discretion, that the Internal Affairs function can be handled by other Borough officers;

NOW, THEREFORE BE IT RESOLVED that the parties to this Memorandum of Understanding agree as follows:

1. The Prosecutor and the Borough hereby agree to establish a Monitor for the Pennington Borough Police Department.
2. The term of the agreement shall remain in full force and effect from the last date of signing until the Prosecutor terminates the terms and conditions of the Memorandum of Understanding.
3. During the monitoring period, the parties shall cooperate fully with each other.
4. The Borough shall not incur any costs associated with the assignment of a Monitor by the Prosecutor, regardless of the duration of the Memorandum.
5. The Prosecutor reserves his statutory right to supersede the then-existing chain of command of the Pennington Police Department.

BE IT FURTHER RESOLVED, that the Mayor with the attestation of the Borough Clerk is hereby authorized to sign the Memorandum of Understanding between the Mercer County Prosecutors Office and the Borough of Pennington.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2020-9.14, second by Council Member Mills. Mrs. Chandler stated that she was surprised that this did not come before the Public Safety Committee. Chief Pinelli stated that prior to becoming Chief he was the Internal Affairs Officer, but in his capacity as Chief he can no longer serve as Internal Affairs Officer and other Officers in the Department need to receive training. Chief Pinelli stated that once Pennington has a trained Officer, this agreement will

no longer be needed. Chief Pinelli stated that he is in the process of registering Officer Thomas and Officer Burroughs for the training. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2020 - 9.15
(formerly Resolution 2020-8.16)**

**RESOLUTION AUTHORIZING CONTRACT WITH MIKE BELLAUS AND BRIAN KUBIN, D/B/A
SCORPION OUTDOORS DEER MANAGEMENT FOR IMPLEMENTATION OF A DEER
MANAGEMENT PROGRAM**

WHEREAS, Borough Council by Resolution 2020-8.14 has authorized the expenditure of up to \$7,500 from the Borough Open Space Trust Fund for a program of deer management designed to control the population of deer in Pennington Borough, which is up to ten times the sustainable level for deer in this community;

WHEREAS, Borough Council has selected to implement such a program two professional deer management hunters, Mike Bellaus and Brian Kubin, doing business in Hopewell Township as Scorpion Outdoors Deer Management (hereafter “Scorpion Outdoors”);

WHEREAS, attached to this Resolution are copies of a Proposal by Scorpion Outdoors presented to Pennington in June 2020 describing their methodology and terms of engagement (16 pages);

WHEREAS, services will include a pre-season site survey to designate hunting locations, the establishment of bait stations, camera monitoring, hunting sessions, deer harvest, deer removal and deer donation, among a range of additional activities as described in the attached Proposal;

WHEREAS, the Proposal includes background information on Mr. Bellaus and Mr. Kubin which is supplemented in additional information also attached to this Resolution (3 pages);

WHEREAS, as further contained in the Proposal, Scorpion Outdoors will charge for its services as follows: (1) \$150 for each deer harvested, which will cover all activities leading up to the deer harvest, such that unless deer are harvested, there will be no charge for these activities; (2) the cost of bait, including whole shelled corn at approximately \$9 to \$10 for a 50-lb bag and molasses coated corn costing about \$10 to \$11 per bag, with a minimum of two bags of bait per season; and (3) in the event donations of harvested deer cannot be made in Pennsylvania, which by previous experience can be accomplished without charge, a charge of \$75 per deer for donating the deer in New Jersey through Hunters Helping the Hungry;

WHEREAS, Scorpion Outdoors will be responsible for all record keeping of harvested deer in compliance with State law and will submit monthly invoices to the Borough;

WHEREAS, Mr. Bellaus and Mr. Kubin represent that they and Scorpion Outdoors possesses all necessary licenses for the activity they propose, they will provide copies of these licenses to the Borough so that they may be kept on file, and they will keep all such licenses in effect for the duration of their contract with the Borough;

WHEREAS, Mr. Bellaus, Mr. Kubin and Scorpion Outdoors will supply the Borough with proof of liability insurance with coverage limits of \$1,000,000 per occurrence, \$2,000,000 aggregate, naming the Borough of Pennington as an additional insured;

WHEREAS, Scorpion Outdoors will indemnify and hold harmless the Borough of Pennington for damage to person or property in connection with its contracted activities;

WHEREAS, the total cost of the contracted activities shall not exceed \$7,500 in the 2020-2021 hunting season, for which funds are available as set forth in Resolution 2020-8.14;

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

1. The Mayor and the Business Administrator are hereby authorized to enter such purchase orders as necessary to enter into a contract on behalf of the Borough with Mr. Bellaus and Mr. Kubin doing business as Scorpion Outdoors for performance of the services described in the attached Proposal, subject to (1) the terms described in the Proposal, which is incorporated herein by reference, and (2) the conditions described in the recitals to this Resolution.
2. The duration of the contract shall not exceed one (1) year, with hunting activity limited to the 2020-21 hunting season.
3. The total cost of the contract shall not exceed \$7,500, inclusive of all reimbursable expenses.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2020-9.15, second by Council Member Marciante. Mr. Bliss stated that this resolution was carried over from the last meeting as there were insurance concerns to be resolved and those issues have been taken care of. Mr. Marciante brought up some concerns regarding locations for hunting. Mr. Marciante stated that he spoke to an expert on this from Princeton University who recommended getting data on the locations of deer. Mrs. Chandler stated that a drone survey was done earlier in the year and she would agree that after this first hunt it would be a good idea to conduct another drone survey to see if the hunt is helping with the deer problem. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2020 - 9.16**

**RESOLUTION GRANTING FURTHER APPLICATION BY CUGINO’S HOLDING LLC FOR
ADDITIONAL TIME TO SATISFY CONDITIONS FOR ISSUANCE OF LIQUOR LICENSE
UNDER RESOLUTIONS 2016-9.8 AND 2017-3.4 AND CORRESPONDING EXTENSION OF USE
OF BOROUGH PROPERTY UNDER USE AGREEMENT**

WHEREAS, Borough Council, under Resolution 2016-9.8, authorized the public sale of a new plenary retail consumption license to the highest qualified bidder, subject to conditions;

WHEREAS, Resolution 2016-9.8 and the Notice to Accept Bids provided in particular that the license shall be issued only for use in a restaurant as defined in N.J.S.A. 33:1-1 which, among other things, will begin operation under the license within twenty-four months of the resolution granting the license, unless such period is extended by resolution of the Pennington Borough Council, by the Director of the Division of Alcoholic Beverage Control or otherwise as permitted or required by law;

WHEREAS, Cugino’s Holding LLC (“Cugino’s”) was the successful bidder for the license, for the sum of \$175,000, and under Resolution 2017-3.4, adopted March 6, 2017, was awarded the license subject to satisfaction of all specified requirements for issuance of the license;

WHEREAS, further pursuant to Resolution 2017-3.4, Cugino’s paid the bid price and certain fees into escrow pending satisfaction of all specified requirements for issuance of the license;

WHEREAS, Cugino’s intends that the license shall be used for its restaurant at 147 West Delaware Avenue in Pennington which as of August 10, 2016, memorialized by Planning Board Resolution adopted on November 9, 2016, was the subject of Preliminary and Final Site Plan and related Planning Board approvals for expansion and additional improvements;

WHEREAS, amendments to Cugino’s original development application resulted in amended Planning Board approvals as of June 14, 2017, designated Amended Preliminary and Final Site Plan, etc., memorialized by Resolution adopted November 8, 2017 and a Revised Resolution adopted January 10, 2018;

WHEREAS, as of March 2019, Cugino’s restaurant had not begun operations under the license within the required twenty-four month period in satisfaction of that condition under Resolution 2016-9.8 and the Notice to Accept Bids, and it applied to Borough Council for an extension of time to complete construction for the reasons set forth in the correspondence from attorney Robert Friberg dated February 28, 2019;

WHEREAS, as set forth in the Friberg letter, after the adoption of Resolution 2017-3.4 Cugino’s negotiated and executed a new Lease Agreement with the owner of the Old Mill Square Shopping Center to accommodate construction and occupancy of the expanded restaurant premises, and further, applied for and secured full financing for the construction of the new space and closed on that loan on November 30, 2018;

WHEREAS, as further represented in the Friberg letter, after receiving municipal approvals, the applicant obtained outside agency approvals and worked toward completing compliance with the conditions of the Planning Board approval resolution, except the approval of the Mercer County Planning Board proved to be much more cumbersome than anticipated as a result of the relocation of the storm sewer and the numerous design proposals it required prior to obtaining approval, which was not finalized until late 2018;

WHEREAS, Cugino’s had submitted plans to the Borough Construction Office for permit review but that review had not then begun because resolution compliance had not yet been completed;

WHEREAS, the Borough and Cugino’s were also discussing an agreement which would permit Cugino’s to use adjoining Borough property during construction and the discussion had not yet produced an agreement;

WHEREAS, the Friberg letter further represented that construction of the expanded facility was expected to take 6 to 8 months from the time of commencement, and an extension of time of 18 months was requested “out of an abundance of caution;”

WHEREAS, by Resolution 2019-3.7, adopted March 4, 2019, Borough Council granted this request for an extension of time to complete construction but only for a period of eight months, without prejudice to request additional time if needed;

WHEREAS, the eight-month extension of time was due to expire in November 2019 and construction was not yet complete, and as set forth in the letter of Robert Friberg dated October 31, 2019, Cugino’s therefore applied to Borough Council for an extension of the 24-month requirement for an additional eight months;

WHEREAS, Cugino’s agreed to update its license application and to make such additional applications and obtain such additional approvals as required by law to be issued a license upon completion of construction, as further required by Resolution 2017-3.4;

WHEREAS, that request for extension of time was predicated on the condition of the public sale of the license pursuant to Resolutions 2016-9.8 and 2017-3.4 and the Notice to Accept Bids that compliance must precede issuance of a license;

WHEREAS, in addition, on May 16, 2019, Cugino’s and the Borough entered into a Use Agreement (also sometimes referred to as a License Agreement) by which Cugino’s was permitted to use a designated area of Borough property adjacent to the Cugino’s premises as a construction staging area during construction, for a period of six months from the date of issuance of construction permit;

WHEREAS, Cugino’s received its permit and began construction in July 2019 and the term of the Use Agreement was set to expire in January 2020;

WHEREAS, the Friberg letter of October 31, 2019 also requested an extension of the term of the Use Agreement to coincide with the additional eight months needed to complete construction, which would therefore extend the end of the term to July 2020;

WHEREAS, by Resolution 2019-11.7, Borough Council granted an extension of time for completing construction and being ready to commence operations under Resolutions 2016-9.8 and 2017-3.4 and granted a corresponding extension of the term of the Use Agreement through and including July 2020;

WHEREAS, as of July 2, 2020, both construction and the processing of Cugino’s liquor license application were not complete but completion of both was imminent;

WHEREAS, by letter of attorney Martin J. Jennings, Jr. dated July 2, 2020, Cugino’s therefore requested a further extension of time for satisfaction of conditions for the issuance of Liquor License under Resolutions 2016-9.8 and 2017-3.4 and a corresponding extension of the Use Agreement in order to complete construction;

WHEREAS, by Resolution 2020-7.10, Borough Council granted this extension through September 2020;

WHEREAS, by letter of attorney Martin Jennings dated September 4, 2020, Cugino’s has again requested an extension of time to obtain construction approvals and to satisfy the conditions for issuance of Liquor License under Resolutions 2016-9.8 and 2017-3.4 and a corresponding extension of the Use Agreement in order to complete construction;

WHEREAS, Cugino’s has made substantial progress in these matters and is very close to establishing a hearing date for issuance of the License; ;

WHEREAS, Borough Council understands the difficulties of completing this project during the COVID-19 pandemic;

WHEREAS, the requested extension should run through October to permit either final action or further assessment by Council at the October meeting;

WHEREAS, as cited in its previous resolutions, Council envisions that the ongoing construction and anticipated opening of the Cugino’s restaurant will produce an asset to the community; and it determines that the public interest will be served by granting the requested extensions, which are believed to be made in good faith and not the result of a lack of diligence on Cugino’s part;

NOW, THEREFORE, BE IT RESOLVED, by Borough Council of the Borough of Pennington, that the application of Cugino’s Holding LLC seeking an extension of time for completing construction and its related liquor license application to be ready to commence operations under Resolutions 2016-9.8 and 2017-3.4 is hereby granted to and including October 2020; and

BE IT FURTHER RESOLVED, that the requested extension of the term of the Use Agreement between Cugino’s and the Borough to coincide with the completion of construction is hereby also granted.

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

Council Member Marciante made a motion to approve Resolution 2020-9.16, second by Council Member Gnatt with all members present voting in favor.

BOROUGH OF PENNINGTON
RESOLUTION 2020 – 9.17

RESOLUTION AUTHORIZING ACQUISITION OF POLICE VEHICLE
UNDER STATE CONTRACT

WHEREAS, there is a need for a new vehicle for the Police Department; and

WHEREAS, the vehicle sought to be purchased is a 2021 Police Interceptor Utility, with all-wheel drive, appropriately equipped for the intended police purposes; and

WHEREAS, this vehicle is available under New Jersey State Contract No. 20-FLEET-01189 from Cherry Hill Winner Ford for a total price of \$66,103.00; and

WHEREAS, acquisition of the vehicle can be financed through Ford Credit for three payments over three years; and

WHEREAS, this purchase under State Contract does not require advertising for public bids;

WHEREAS, the funds needed to pay for the vehicle are available in Account No. 0-01-25-240-000-277;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that acquisition of the described police vehicle pursuant to the attached quotations, for a sum not to exceed \$66,103.00 is hereby authorized, subject to all terms and conditions applicable to New Jersey State Contract No. 20-FLEET-01189 and all other applicable State contracts.

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

Council Member Chandler made a motion to approve Resolution 2020-9.17, second by Council Member Griffiths. Chief Pinelli stated that he is hoping to get this vehicle which is a 2020, but there may not be any available so this might change to a 2021 vehicle. Chief Pinelli stated that this vehicle will be a hybrid vehicle and the cost seems high because with this vehicle he has included all of the equipment which is usually purchased outside of the lease. Upon a roll call vote all members present voted in favor.

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.

There were no comments from the public.

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

Respectfully submitted,

Elizabeth Sterling
Borough Clerk