

**Pennington Borough Council  
Regular Meeting – September 13, 2021**

Mayor Davy 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, Gross, Gnatt, Marcianti and Semple in attendance. Ms. Semple arrived after the roll call. Council Member Mills was absent.

Also present were Borough Administrator Eileen Heinzel, Public Works Superintendent Rick Smith, Borough Health Officer Stephanie Carey and Borough Attorney Walter Bliss.

Mayor Davy 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.

Mayor Davy announced that the agenda has been amended to add Resolution 2021-9.10 authorizing an amendment to the agreement with Scorpion Deer Management.

**Open to the Public – Agenda Items Only**

Mayor Davy 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 raise your hand and when the Borough Administrator acknowledges your name and address for the record. Please limit comments to the Governing Body to a maximum of 3 minutes.**

There were no comments from the public.

**Mayor's Business**

Mayor Davy announced the following resignations:  
Sarah van Den Bosch Kelly from Parks and Recreation and  
Diane Zompa as Mayor's representative to the Library Board

Mayor Davy stated that he has put forward a Budget Process Plan that was included in the Council packages. Mayor Davy stated that this plan will provide for much more community involvement pre-budget. Mayor Davy announced that two budget meetings will be held in September, the first with Committee Chairs and the second with members of the community. Mayor Davy stated that we will continue to follow the typical budget process that we have used, except that we will be holding Council work sessions to review budget requests prior to forwarding to the finance committee. Mayor Davy stated that this will allow for more involvement and a more thorough review of the budget. Mayor Davy stated that the meeting with Committee Chairs will be held on September 22, 2021 and the meeting with the community will be held on September 29, 2021, both at 7:00 pm.

Mayor Davy stated that residents of Burd Street have brought concerns to Council about parking right up to the edge of driveways on the parking side of Burd Street. Mayor Davy stated that he and the Public Safety Committee will be holding a meeting in early October with residents of Burd Street to discuss parking on Burd Street between Welling and Ingleside Ave.

**Mayor's Appointment (with Council Approval)**

Mayor Davy recommended the appointment of Carol Olsen as Mayor's representative to the Library Board to fill the unexpired ending December 31, 2021. Mayor Davy introduced Ms. Olsen and asked if she would like to say a few words. Ms. Olsen spoke briefly and thanked Council for the opportunity to serve in this position. Council Member Chandler made a motion to approve the appointment, second by Council Member Gnatt with all members present voting in favor.

**Proclamations**

Mayor Davy announced the following proclamation:

**PROCLAMATION OF MAYOR AND COUNCIL RECOGNIZING AND HONORING  
JOSEPH LAWVER**

**WHEREAS;** Joseph Lawver served as a Member of the Common Council, Borough of Pennington from December 27, 2004 through June 7, 2011, when he moved with his family to Canada; and

**WHEREAS;** upon the family's return to New Jersey in 2011, Joseph Lawver was selected by the Common Council to fill a council vacancy; and

**WHEREAS;** Joseph Lawver was then selected by the council to serve as Mayor, upon the retirement of Mayor Tony Persichilli in 2017; and

**WHEREAS;** Joseph Lawver has given countless hours of valuable service to the Borough of Pennington as Mayor, Council Member, Council Liaison to the Finance Committee, the Public Works Committee, the Economic Development Commission and the Sidewalk Committee to name just a few; and

**WHEREAS;** throughout his tenure on Council, Joseph Lawver has been responsive to the citizens of Pennington, their concerns and their interests; and

**WHEREAS;** Joseph Lawver has volunteered countless hours of his time to the Pennington Public Library; and

**WHEREAS;** Joseph Lawver was a founding member and volunteer for the Hopewell Valley Mobile Food Pantry that was established during the pandemic; and

**WHEREAS,** Joseph Lawver has worked tirelessly for the betterment of the Pennington community at large; and

**WHEREAS,** the Borough of Pennington highly respects those who never cease in their efforts to make their community a better place to live.

**NOW, THEREFORE, BE IT PROCLAIMED THAT,** the Mayor and Council of the Borough of Pennington hereby express gratitude and appreciation to Mr. Lawver on this 13th day of September, 2021.

Mayor Davy announced the following proclamation:

#### **PROCLAMATION**

**WHEREAS;** having served honorably since 2011 as Health Officer, dedicated to the good health of the residents, businesses, elected officials, employees of Pennington Borough, Stephanie Carey leaves our community healthier and safer upon her retirement on October 31, 2021; and

**WHEREAS;** Stephanie Carey's decades of public service started with her work as a forester in the Angeles National Forest where she gained first-hand experience in emergency response and the Incident Command System in fighting California wildfires; and

**WHEREAS;** Stephanie Carey, educated in natural resource management at Cook College, Rutgers University and public health from the University of Medicine and Dentistry of New Jersey, has worked as a Registered Environmental Health Specialist in Franklin Township, NJ and since 2004 has distinguished herself as the Health Officer for Montgomery Township, New Jersey which oversees Health Department functions for Pennington Borough; and

**WHEREAS;** Stephanie Carey has honorably served as a past President of the New Jersey Association of County and City Health Officials and past President of the Greater Somerset Public Health Partnership as well as has been an Adjunct Professor at City University of New York; and

**WHEREAS;** Stephanie Carey is well-known among her peers for her expertise in environmental risk communication, public health quality improvement, emergency preparedness, hazardous materials response; and mass vaccination best practices; and

**WHEREAS;** Stephanie Carey has calmly and expertly navigated our community through the COVID-19 pandemic, the most devastating pandemic the world has known since the 1918 influenza pandemic, providing constant communication and guidance to our residents, elected and appointed officials, employees, and local businesses, through an ever-changing landscape; and

**WHEREAS;** as Health Officer, Stephanie Carey has kept our citizens healthy through: public health education; clinics for COVID-19, flu, and rabies; monitoring reportable diseases; inspecting retail food establishments; building capacity to meet lead poisoning prevention standards; conducting school and preschool immunization audits; responding to animal nuisance complaints; providing public presentations on important public health issues such as healthy habits for preschoolers and anti-idling campaigns to address asthma and air pollution; engaging parents and community leaders on vaping and tobacco; brought on a vulnerable populations coordinator; and

**WHEREAS;** Stephanie Carey served as a member of the Greater Mercer Public Health Partnership since 2011 to facilitate the Community Health Needs Assessment data collection and developing measures of success through the Community Health Improvement Plan; and

**WHEREAS;** Stephanie Carey has distinguished the Montgomery Township Health Department (and the municipalities it serves) as only one of five New Jersey Health Departments that have received National Public Health Accreditation; and

**WHEREAS:** Stephanie Carey's steady management of Health Department operations and communication and coordination with the Pennington Board of Health has served as a model of leadership and professionalism for all

who have had the privilege to work with her; and

**WHEREAS**, Stephanie Carey's dedication to her role as Health Officer, has earned her the respect and deep appreciation of her many colleagues, constituents, and officials at all levels of government who will miss her deeply.

**NOW THEREFORE BE IT PROCLAIMED** that the Mayor and Council of the Borough of Pennington, recognize and honor the long and distinguished service and many accomplishments of Stephanie Carey and extend to her the best wishes of a grateful community on this 13<sup>th</sup> day of September 2021.

Mayor Davy thanked Stephanie for a job well done and congratulated her on her retirement. Mrs. Chandler stated that she had the privilege of working with Stephanie and she thanked her for her work and congratulated her on her retirement.

Stephanie thanked Mayor and Council and the Board of Health particularly Steve Papenberg, Toni Lewis and Marjorie Kaplan for all of their help. Stephanie stated that she is leaving behind a more robust and engaged Health Department. Stephanie stated that Devanji Patel will be assuming her duties as Health Officer and there will be no interruption in services. Marjorie Kaplan, member of the Board of Health stated that the community does not realize how much Stephanie does for the Borough. Mayor Davy stated that just today he received notice of upcoming vaccination clinics. Stephanie stated that September 22, 2021 there will be a clinic at Borough Hall from 4 to 6pm.

Betty Sterling held up a framed Proclamation and Borough jacket which we will get over to Stephanie at the clinic.

### **Approval of Minutes**

Council Member Chandler made a motion to approve the minutes of the August 2, 2021 Regular meeting, second by Council Member Gnatt with all members present voting in favor.

Council Member Chandler made a motion to approve the minutes of the August 9, 2021 Special Meeting, second by Council Member Gnatt with all members present voting in favor.

Council Member Chandler made a motion to approve the minutes of the August 16, 2021 Special Meeting, second by Council Member Gnatt with all members present voting in favor with the exception of Ms. Semple who abstained.

Council Member Chandler made a motion to approve the minutes of the East Welling Avenue meeting with residents, second by Council Member Gnatt.

### **Committee Reports**

**Planning & Zoning / Open Space / Personnel** – Ms. Gnatt stated that there is a resolution on for later in the meeting of use of Open Space funds for Kunkel Park and Mr. Marciante will be making a report later.

Ms. Gnatt stated that the Personnel Committee has been interviewing for the positions of Construction Official and Electric Sub-code Official. Ms. Gnatt stated that Greg Fehrenbech of Government Management Advisors is in the process of completing the administrative and organizational review.

**Public Safety/Economic Development/Environmental** – Mrs. Chandler reported that Public Safety and Environmental did not meet in August. Mrs. Chandler stated that Economic Development did not meet but they are working on the Borough Wide Yard Sale for October 2<sup>nd</sup> with a rain date for Sunday, October 3<sup>rd</sup>. Mrs. Chandler stated that Economic Development is providing a truck from the Salvation Army to collect items that are left at the curb. Mrs. Chandler stated that information is posted on the website and a banner is in the works.

**Public Works** – Mr. Marciante reported that the Public Works Committee was assigned the oversight of the Parks and Recreation plan for Kunkel Park. Mr. Marciante stated that after reviewing the plan a joint meeting took place and the recommendation is to spend \$30,632 out of the Open Space Fund for the following items:

- Demolition of Basketball Court to be done by the Borough
- Replace all wooden benches and tables
- Replace swing frame but keep seats
- New four seat omni-spin
- New two seat seesaw
- Replace bucket seats
- Recycled border panels with stakes to contain mulch

Mr. Marciante stated that all equipment will meet required safety standards. Mr. Marciante stated that there is additional work that will need to be done such as replacing the basketball court with a pickle ball layout, replacement of sidewalks to the equipment, concrete pad for a shed that is proposed and tree work to be done by others. Discussion took place regarding the tree work. Mayor Davy requested that

quotes be submitted for consideration at the October meeting.

Mr. Marciante stated that the new trash ordinance requires that non-property tax payers pay for trash pickup. Mr. Marciante stated that this applies to the Pennington School and churches in Pennington. Mr. Marciante stated that the cost is \$400 per year and this is a fair price for garbage collection. Mr. Gross asked if this applies to the multiple properties owned by the Pennington School and would it be \$400 per property. Mrs. Chandler stated that this is not a free service and non-property tax properties should have to pay for the service. Mayor Davy asked if Council Members were on board with this because it is a change from past practice. Mr. Gross asked if these properties know that this is coming. Mayor Davy stated that a letter will be going out to advise the affected properties.

Mr. Marciante thanked the members of the Public Works and Police Departments for their hard work during Hurricane Ida.

**Finance / Board of Health** – Mr. Gross stated that the Finance Committee did not meet. Mr. Gross stated that Board of Health held a Special Meeting to discuss the Cannabis Ordinance but it would have been nice if the Board of Health had been consulted earlier in the process.

**Historic Preservation / Library** – No report – Mrs. Mills absent.

**Parks and Recreation / Shade Tree** – Ms. Semple asked if there were representatives from Parks and Recreation at the joint meeting that Mr. Marciante mentioned. Mr. Marciante stated that there were three members from Parks and Recreation. Ms. Semple stated that Parks and Recreation held a concert on September 2<sup>nd</sup>.

Ms. Semple stated that Shade Tree meets tomorrow. Ms. Semple stated that Mrs. Heinzel sent an e-mail stating that more information is needed for the grant application and is that something that Shade Tree should be discussing at their meeting? Mrs. Heinzel stated that she has not received a supplemental e-mail yet.

Mr. Gross asked about Trail Day and why it is held on a Thursday and not on a weekend. Discussion took place about changing the date to a weekend.

**Senior Advisory Board** – No report for Senior Advisory. Mayor Davy stated that the Senior Picnic is scheduled for September 17<sup>th</sup> at 3:00pm.

### **Council Discussion**

**Request for Generator on Borough Easement** – Mayor Davy stated that a request was made by Dino Spadaccini owner of Old Mill Square on Delaware Avenue. Mayor Davy stated that Mr. Spadaccini is in attendance. Mr. Spadaccini stated that there are a couple of issues going on with his property. Mr. Spadaccini stated that Old Mill Square is the absolute low point for water and once again they suffered damages due to water in the basement, in some spots up to 50 inches of water. Mr. Spadaccini stated that they submitted a permit for a generator previously and they were trying to keep it out of the easement and fortunately the generator has not been installed in the proposed location because it would have been washed out. Mr. Spadaccini stated that the property basically becomes a basin and even though the pumps kept running there was no place for the water to go. Mr. Spadaccini stated that they would like to install a generator on the easement because to put it where they were originally going to put it would be foolish as that is the lowest point of the property. Mr. Spadaccini stated that the other part of the request is for a fence to enclose a dumpster area. Mr. Spadaccini briefly explained the property layout including the easement area. Mr. Spadaccini stated that he understands that installation of these items on the easement is at his risk on the chance that the Borough would have to access the easement. Mr. Spadaccini stated that the stormwater issue seems to be getting worse and that is a big concern for him and this location. Mr. Spadaccini asked if the regular basin inspections are being done at this location as required by stormwater regulations. Some discussion took place with regard to the location of the basin. Mr. Marciante asked how high the generator will be in case this flooding happens again. Mr. Spadaccini stated that he has looked into it and it can be at least three feet off the ground and if that is not high enough he has bigger problems. Mrs. Chandler asked for clarification on where the generator will be located.

Mr. Marciante asked that Mr. Smith comment on whether he is okay with this proposal. Mayor Davy read the conditions that are indicated in the resolution later in the meeting.

Mr. Smith stated that he visited the site and though it is referred to as a drainage easement on the map, it is actually a water line easement that feeds a fire hydrant up on Route 31. Mr. Smith stated that while the conditions are good if the generator is fed by natural gas and there is an urgent need to access the water line, there is not going to be a lot of time to shut off the gas or maneuver around them. Mr. Smith stated that his concern is having to work in close proximity to a gas line. Mr. Smith stated that there is a history involving the fire hydrant that he does not think was ever resolved. Mr. Smith stated that the hydrant is actually situated in the easement and he would like that to be captured if anything is done with the easement. Mr. Smith stated that he would like to work very closely on the location of the generator. Mr. Spadaccini had no problem with that. Mr. Spadaccini asked if the hydrant is on his property and if it

is he is happy to grant the easement, but if it is not he has no control of that. Mayor Davy stated that the resolution should be amended to require that the exact location be subject to review and approval by the Superintendent of Public Works and make the grant of easement contingent on possible extension to the fire hydrant.

Mr. Smith stated that with regard to the concern expressed by Mr. Spadaccini related to stormwater, he is working on some things regarding the flooding and he has been in contact with various entities concerning the flooding that takes place in town and he has some clues that it may all be related to a beaver dam in Stonybrook. Mr. Smith stated that Stonybrook is lower today than it has been in three to five years.

Mayor Davy stated that the Zoning Officer has indicated that this would not need to go before the Planning and Zoning Board, but it would require a zoning permit.

Mr. Bliss reviewed and amended the conditions of the resolution for Mr. Spadaccini's benefit.

### **ORDINANCES FOR INTRODUCTION**

Mayor Davy read Ordinance 2021-13 by title.

#### **BOROUGH OF PENNINGTON ORDINANCE NO. 2021-13**

#### **ORDINANCE ACCEPTING AMENDED GRANT OF EASEMENT BY PENNINGTON AFRICAN CEMETERY ASSOCIATION, LOT 46 IN BLOCK 1002, TO THE BOROUGH OF PENNINGTON FOR ACCESS TO OPEN SPACE LOT 12.02 IN BLOCK 1002 AS WELL AS PUBLIC ACCESS BETWEEN SOUTH MAIN STREET AND THE PENNINGTON AFRICAN CEMETERY**

**WHEREAS**, John D. Schragger and Michelle L. Schragger ("Schraggers") are the owners of property in the Borough of Pennington known as 417 South Main Street and heretofore designated on the tax records of the Borough as Lot 12 in Block 1002 ("Schragger Property");

**WHEREAS**, the Pennington African Cemetery Association ("PACA") is the owner of property in the Borough of Pennington designated on the tax records of the Borough of Pennington as Lot 46 in Block 1002 ("PACA Property"), which adjoins the Schragger Property in the rear and includes a 15' wide driveway running to South Main Street along and adjoining the Schragger Property on the north;

**WHEREAS**, the Pennington Borough Planning Board has approved a subdivision of the Schragger Property, with variances, creating Lots 12.01 in Block 1002 fronting on South Main Street and Lot 12.02 in Block 1002 without frontage on the street but adjoining the PACA Property and driveway (Resolution of Memorialization of Application No. P16-002, June 8, 2016);

**WHEREAS**, the subdivision of the Schragger Property contemplated construction of a house on Lot 12.02 and approval of the subdivision by the Planning Board included conditions of approval based on that assumption;

**WHEREAS**, one such condition of approval required the Schraggers to obtain from PACA a driveway easement providing ingress and egress access from South Main Street to the proposed new Lot 12.02 as well as public access from South Main Street to the Cemetery;

**WHEREAS**, by Ordinance No. 2019-14, Borough Council accepted a grant of easement to the Borough of Pennington for Public Right-Of-Way Access between South Main Street and the Cemetery in accordance with the easement document annexed to the Ordinance entitled Driveway and Shed Easements;

**WHEREAS**, the Driveway and Shed Easements as agreed upon included the Schraggers as parties and imposed on them as the owners of the two new lots various conditions pertaining to driveway improvements and maintenance as well as the granting of an easement to PACA for construction of a parking/turnaround area and a shed at the rear of Lot 12.02 adjoining the Cemetery;

**WHEREAS**, the Driveway and Shed Easements is dated November 1, 2019 and was recorded March 3, 2020 in the Mercer County Clerk's Office in Deed Book 6398, Page 1307;

**WHEREAS**, the Borough of Pennington now proposes to purchase as open space new Lot 12.02 in Block 1002, and the purchase is now under contract of sale between the Borough and the Schraggers, subject however to negotiation of revised driveway easement satisfactory to PACA;

**WHEREAS**, PACA, the Schraggers and the Borough have now agreed upon an Amended Driveway and Shed Easements that grants separate driveway easements to Schragger and the Borough with reference to their respective lots; relieves all parties of obligations to construct, modify or maintain the driveway or any parking/turnaround area or shed except as specifically undertaken by the Schraggers; permits but does not require the Schraggers to make certain improvements within their easement area at

their expense subject to compliance with specific conditions; ensures the continuation of the historic preservation easement on Lot 12.01, the environmental easement on Lot 12.02 and the parking/turnaround area and shed easement on Lot 12.02 previously created and granted; and reserves to PACA all rights to repair, improve or maintain the full length of the driveway at its discretion and expense;

**WHEREAS**, the Pennington Planning Board has amended its subdivision approval by removing requirements for a driveway easement that assumed the construction of a house on new Lot 12.02;

**WHEREAS**, a copy of the proposed Amended Driveway and Shed Easements is attached to this Ordinance and incorporated herein;

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

1. The attached Amended Driveway and Shed Easements granting the Borough of Pennington an easement for ingress and egress access to new Lot 12.02 in Block 1002, in addition to the public right-of-way access to the Cemetery previously granted, is hereby approved and accepted in accordance with its terms, subject only to Borough acquisition of title to new Lot 12.02.
2. The Mayor, with the attestation of the Borough Clerk, is authorized to execute the Amended Driveway and Shed Easements on behalf of the Borough and to take such steps as necessary to ensure its recording in the Office of the Mercer County Clerk in accordance with law.

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

Council Member Chandler made a motion to introduce Ordinance 2021-13, second by Council Member Marcianti. Mr. Bliss gave a brief overview of the history of the easement. Mr. Bliss stated that the original easement contemplated a house lot, this amended easement contemplates an Open Space lot. Mrs. Chandler asked who is responsible for the driveway. Mr. Bliss stated that under this easement no party has the obligation to maintain or improve the driveway except the Schragger's are responsible for ensuring the stability of the first fifty feet coming off Main Street and they are responsible for any damage caused by users from their property. Mr. Bliss stated that that the remaining driveway will remain in its current natural state. Mr. Bliss stated that all parties have the right, but not the obligation to clear snow off the driveway. Mrs. Heinzel stated that the Planning Board approved the amended easement but there was a lot of discussion about what would be done with the property. Mrs. Heinzel stated that she assured the Board that whether the use would be active or passive recreation would be discussed by Council. Mr. Bliss stated that the Borough has represented that the property would be available as active open space because the authorizing Resolution talks about joint programming with the African American Cemetery Association on historical, educational programming which implies the use of the property as active open space. Upon a roll call vote all members present voted in favor of Introduction of Ordinance 2021-13.

**ORDINANCES FOR PUBLIC HEARING AND ADOPTION**

Mayor Davy read Ordinance 2021-12 by title.

**BOROUGH OF PENNINGTON  
ORDINANCE NO. 2021 - 12**

**AN ORDINANCE OF THE BOROUGH OF PENNINGTON, COUNTY OF  
MERCER, STATE OF NEW JERSEY AUTHORIZING A COLLECTIVE  
BARGAINING AGREEMENT WITH INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS LOCAL NO. 35**

**WHEREAS**, the Borough of Pennington and the International Brotherhood of Teamsters Local No. 35 have negotiated the terms of a collective bargaining agreement effective **January 1, 2021** through **December 31, 2024** and renewable in accordance with its terms;

**WHEREAS**, the collective bargaining agreement establishes salaries and other conditions of employment;

**WHEREAS**, a copy of the collective bargaining agreement is available for inspection at the office of the Clerk in Borough Hall;

**WHEREAS**, the Borough desires to adopt this collective bargaining agreement and authorize the salary payments contained therein;

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

1. The collective bargaining agreement negotiated with the International Brotherhood of Teamsters Local No. 35 effective **January 1, 2021** through **December 31, 2024** and renewable in accordance with its terms, a copy of which is on file in the Office of the Borough Clerk, is hereby incorporated herein by reference and adopted by the Borough of Pennington.
2. In the event that the terms and conditions of the collective bargaining agreement are at variance with the Employee Manual of the Borough of Pennington, the terms and conditions of the collective bargaining agreement shall be controlling.
3. The Mayor and Borough Clerk are hereby authorized to sign and seal the said agreement on behalf of the Borough.
4. All ordinances or portions thereof inconsistent herewith are hereby repealed.
5. This Ordinance shall take effect upon final passage and publication according to law.

Council Member Marciante made a motion to open the Public Hearing on Ordinance 2021-12, second by Council Member Chandler. There were no comments from the public. Council Member Marciante made a motion to close the Public Hearing, second by Council Member Gross with all members present voting in favor. Council Member Marciante made a motion to adopt Ordinance 2021-12, second by Council Member Chandler with all members present voting in favor.

**NEW BUSINESS**

**BOROUGH OF PENNINGTON  
RESOLUTION #2021 – 9.1**

**RESOLUTION AUTHORIZING REFUNDS**

**BE IT RESOLVED** that a refund be issued from the Water/Sewer Operating Account to Surety Title, 11 Eves Drive, Suite 150, Marlton, NJ 08053, for overpayment of water/sewer fees on Account #: 424-0, 14 Academy Court in the amount of \$60.83.

**BE IT RESOLVED** that a refund be issued from the Current Fund to Ronnie O’Connor, 124 Woolsey Court, Pennington, NJ 08534 for refund of Kunkel Park fee in the amount of \$50.00.

**BE IT RESOLVED** that a refund be issued from the Developer’s Escrow Account to Si Mao Hai, 24 Oakridge Court, Princeton, NJ 08540, for escrow fees submitted for Planning Board application 21-009 which has been withdrawn, in the amount of \$1,000.07.

**BE IT RESOLVED** that a refund be issued from the Developer’s Escrow Account to Blackwell Memorial Home, 21 N. Main Street, Pennington, NJ 08534 for the balance of escrow fees submitted for Planning Board application 19-001 in the amount of \$71.00.

**Record of Council Vote on Passage**

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

Council Member Marciante made a motion to approve Resolution 2021-9.1, second by Council Member Chandler with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2021 – 9.2**

**RESOLUTION AUTHORIZING PAYMENT OF BILLS**

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

**NOW, THEREFORE BE IT RESOLVED**, by the Mayor and Council of the Borough of Pennington that the bills be paid on audit and approval of the Mayor, the Appropriate Council Member and the Treasurer in the amount of \$ 1,307,722.96 from the following accounts:

Current \$ 1,149,369.14

W/S Operating	\$ 29,329.22
General Capital	\$ 24,751.90
Other Trust Fund	\$ 398.00
Grant Fund	\$ 90,851.39
Developer’s Escrow	\$ 12,858.91
Open Space	\$ 156.00
Animal Control	\$ 8.40
TOTAL	\$ 1,307,722.96

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				absent
Gross	X				Semple	X			

Council Member Chandler made a motion to approve Resolution 2021-9.2, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2021 - 9.3**

**RESOLUTION AUTHORIZING ADVERTISEMENT FOR BIDS  
FOR IMPROVEMENTS TO EAST WELLING AVENUE – FY2020**

**WHEREAS**, the Borough of Pennington seeks to reconstruct East Welling Avenue including curbs, sidewalks, drainage and other roadway improvements from South Main Street to the eastern border of Pennington Borough under a FY 2020 Municipal Aid Grant; and

**WHEREAS**, the funds for the proposed project are being provided by the New Jersey Department of Transportation and the Borough of Pennington without special assessment of property owners;

**WHEREAS**, the Borough now seeks to advertise for bids for these projects as required by the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.;

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

The Borough Clerk is hereby authorized to take all actions necessary to advertise for and receive, in the manner provided by law, bids for construction of the aforesaid roadway improvements to East Welling Avenue in the Borough, pursuant to plans, specifications and bid documents prepared by the Borough Engineer.

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

Council Member Marciante made a motion to approve Resolution 2021-9.3, second by Council Member Chandler. Mrs. Chandler asked if this will include all the items discussed at the resident meeting. Mayor Davy stated that the bids will go out with the items that were discussed as add-alternates to the bid and they will likely not be awarded. Mayor Davy stated that there was not enough time for the Borough Engineer to revise the plans and specs before submitting them to the NJDOT for approval. Upon a roll call vote all members present voted in favor.



**BOROUGH OF PENNINGTON  
RESOLUTION NO. 2021 – 9.4**

**RESOLUTION CORRECTING THE TERM OF TAX ASSESSOR  
ALAINA WYSOCKE AND AMENDING RESOLUTION 2021-8.3**

**WHEREAS**, Marianne Busher resigned from the position of Tax Assessor of the Borough of Pennington effective August 16, 2021, and effective on that date Alaina Wysocke was appointed for what was believed to be the remainder of Ms. Busher’s unexpired term;

**WHEREAS**, the Borough has now been advised by the New Jersey Division of Taxation that Ms. Busher’s tenured status meant that she did not have an unexpired term and therefore the term established for Ms. Wysocke should be adjusted, to provide that she shall serve initially from August 16, 2021 to June 30, 2022 and then for a four-year term from July 1, 2022 through June 30, 2026;

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Pennington, that Resolution 2021-8.3 is hereby amended to adjust the term of Tax Assessor Alaina Wysocke to provide that she shall serve initially from August 16, 2021 to June 30, 2022 and then for a four-year term from July 1, 2022 through June 30, 2026; and

**BE IT FURTHER RESOLVED** that all other provisions of Resolution 2021-8.3 shall remain 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	X			
Gnatt	S				Mills				absent
Gross	X				Semple	X			

Council Member Chandler made a motion to approve Resolution 2021-9.4, second by Council Member Gnatt. Mr. Bliss stated that NJ Division of Taxation notified the Borough that we had incorrectly computed the start of Ms. Wysocke’s term and so this will correct the error. Mr. Bliss stated that we had incorrectly appointed Ms. Wysoke to fill Mrs. Busher’s unexpired term, but since Mrs. Busher had tenure there was no unexpired term to fill. Mr. Bliss stated that Ms. Wysoke should have been appointed to December 31, 2021 and in January she will be appointed to her own four year term going forward and if appointed after that initial term she would then be tenured. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2021-9.5**

**RESOLUTION AUTHORIZING PROFESSIONAL SERVICES AGREEMENT WITH NEW  
JERSEY ANALYTICAL LABORATORIES FOR THE PERIOD JULY 1, 2021  
TO DECEMBER 31, 2021**

**WHEREAS**, on March 1, 2021, Borough Council approved Resolution 2021-3.13 authorizing a professional services agreement with New Jersey Analytical Laboratories for the period of January 1, 2021 to June 30, 2021; and

**WHEREAS**, the Borough of Pennington requires professional services for routine sampling, analysis and consulting services related to operation of the Borough’s potable water system;

**WHEREAS**, New Jersey Analytical Laboratories, having its office at 812 Silvia Street, Ewing, NJ 08628, is a laboratory licensed by the New Jersey Department of Environmental Protection and is able to provide the professional services required;

**WHEREAS**, New Jersey Analytical Laboratories has submitted a proposal for the work dated February 11, 2021 for a contract price of \$2,730.00 per month;

**WHEREAS**, Borough Council accepted this monthly rate but elected to limit the contract term to six (6) months from January 1, 2021 to June 30, 2021 requiring total payments of up to \$16,380.00 invoiced at \$2,730.00 per month; and

**WHEREAS**, the Licensed Water Operator has recommended that we continue these services with NJ Analytical Laboratories for the remaining six (6) months from July 1, 2021 to December 31, 2021 requiring payments of up to \$16,380.00 invoiced at \$2,730.00 per month; and

**WHEREAS**, the work shall include all routine laboratory sampling and analysis as set forth in the proposal, a copy of which is attached;

**WHEREAS**, the aforesaid proposal also provides that if additional sampling and analysis services are required by the New Jersey Department of Environmental Protection (NJDEP) they shall be invoiced

separately;

**WHEREAS**, a condition of any agreement must include a requirement that New Jersey Analytical Laboratories shall file all analytical reports with the appropriate regulatory agency within the time prescribed by law and shall be responsible for any untimely filings, including all fines and penalties;

**WHEREAS**, before the agreement may be effective, New Jersey Analytical Laboratories shall supply proof of general and contract liability insurance and professional liability insurance with minimum limits of \$1,000,000 respectively, naming the Borough of Pennington as an additional insured;

**WHEREAS**, approval of this contract complies with the Code of the Borough of Pennington as well as, N.J.S.A. 19:44A-20.5, effective January 1, 2006, which prohibit the award of certain professional services contracts to any person or business entity which makes reportable contributions to local political or candidate committees representing members of the governing body;

**WHEREAS**, such political contributions are permitted by the statute only if the municipality has elected to award the contract through a competitive process involving a publicly advertised request for proposals and a review process based on written procedures and criteria prescribed in advance by the governing body or as otherwise provided by law;

**WHEREAS**, Borough Council awards this contract without resort to such a process because the appointee has made no such political contribution and shall be prohibited from making any such contribution during the term of the contract;

**WHEREAS**, this contract is being awarded as a professional services contract in compliance with the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq., without advertising for proposals or competitive bidding;

**WHEREAS**, New Jersey Analytical Laboratories has completed and submitted a sworn Business Entity Disclosure Certification which certifies that the firm has not made and shall not make any political contribution prohibited by the relevant provisions of either statute or the Borough Code concerning pay-to-play;

**WHEREAS**, New Jersey Analytical Laboratories shall comply with requirements for Anti-Discrimination and Affirmative Action as set forth in the annexed Exhibit A;

**WHEREAS**, the Chief Financial Officer of the Borough has certified that funds are available for the purpose of this contract in the Water/Sewer Operating Budget – Account #: 1-05-55-501-000-256;

**WHEREAS**, the Local Public Contracts Law requires that a resolution authorizing an award of contract for professional services without competitive bid be publicly advertised following adoption;

**NOW, THEREFORE, BE IT RESOLVED**, by Borough Council of the Borough of Pennington, that the Borough Administrator is hereby authorized to issue an appropriate purchase order and accept as a binding contract the attached proposal by New Jersey Analytical Laboratories dated February 11, 2021 for a contract price not to exceed \$16,380.00 for a period of six months from July 1, 2021 to December 31, 2021, provided such agreement shall be further subject to such amendments for supplemental services required by NJDEP as may hereafter be agreed upon, and provided further that such agreement shall state explicitly that New Jersey Analytical Laboratories shall indemnify and hold harmless the Borough from all negligent acts and omissions in connection with performance of the agreement by New Jersey Analytical Laboratories, including but not limited to the timely filing of all analytical reports required by law.

**BE IT FURTHER RESOLVED**, that a copy of this resolution shall be published in the official newspaper as required by law.

**Record of Council Vote on Passage**

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

Council Member Marciante made a motion to approve Resolution 2021-9.5, second by Council Member Chandler. Mrs. Chandler asked what this company will be doing. Mr. Smith stated that they do all the testing for the drinking water. Mr. Smith explained that there were some problems with the lab so initially NJ Analytical was only appointed for six months, but the issues have been corrected so this will take us to the end of the year. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2021 – 9.6**

**RESOLUTION AUTHORIZING AGREEMENT BETWEEN  
BOROUGH OF PENNINGTON AND OLD MILL SQUARE, LLC PERMITTING GENERATOR  
AND TRASH ENCLOSURE TO BE WITHIN WATER EASEMENT AT  
147 WEST DELAWARE AVENUE, LOT 13, BLOCK 206**

**WHEREAS**, Old Mill Square, LLC (“Old Mill”) is the owner of the real property known as 147 West Delaware Avenue, also known as Block 206, Lot 13 on the Borough Tax Map (“Property”);

**WHEREAS**, a water owned by the Borough of Pennington (“Borough”) runs along the rear or northerly side of the Property as shown on the attached plan of survey and Tax Map (misabeled “Drainage Easement”);

**WHEREAS**, Old Mill wishes to install a generator within the bounds of the Easement adjacent to the rear of Old Mill’s one-story commercial building on the Property in the general area shown on the attached plan of survey, with the understanding that the exact location is to be determined by the professional installer of the generator and the final location is to be no less than two (2) feet from the building and no less than five (5) feet from any opening, window, door, ventilation pipe or the like;

**WHEREAS**, Old Mill seeks to locate a generator within the Easement as described in order to locate it on the highest ground available, to protect the Property and its tenants from future storm water problems demonstrated most recently during the storm on September 1, 2021;

**WHEREAS**, Old Mill also wishes to install an additional trash enclosure in the same Easement, this time at the edge of the adjoining gas station property to the west, on the other side of the drive aisle leading to the former TD Bank site and immediately adjacent to the trash enclosure presently located on the gas station property, as shown on the attached plan of survey;

**WHEREAS**, the proposals have been reviewed by the Borough Zoning Officer who has determined that no further approval by the Planning and Zoning Board is required;

**WHEREAS**, the Superintendent of Public Works has reviewed the proposal and has no objection to the installation of the generator or the additional trash enclosure within the Easement subject to the conditions further set forth below;

**WHEREAS**, Borough Council intends by this Resolution to approve the Old Mill’s requests subject to the Superintendent’s final approval and the terms and conditions set forth below; and

**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 an agreement on behalf of the Borough of Pennington granting permission to Old Mill Square, LLC to install and maintain the proposed generator and proposed trash enclosure/dumpster within the Easement as substantially described in the annexed plan, subject to the following conditions:

1. The generator and trash enclosure/dumpster will be designed, installed and located to avoid obstruction of flowing water and to ensure access to the Easement, subject to the approval of the Superintendent of Public Works;
2. If for any reason in its judgment the Borough must remove the generator or trash enclosure/dumpster or the Borough otherwise damages the generator or trash enclosure/dumpster in connection with accessing or using the easement, the Borough shall not be responsible for replacing, repairing or rebuilding either the generator or the trash enclosure/dumpster or both as applicable;
3. The Borough shall be held harmless by Old Mill Square LLC from all costs and other liabilities (including reasonable attorney’s fees) arising from the presence of the generator or trash enclosure/dumpster in the Easement.
4. Old Mill agrees to consult with the Borough to extend Easement to fire hydrant on Route 31.
5. This Agreement shall be personal to Old Mill Square LLC and shall not be transferable by them, shall be revocable at will by the Borough, shall not run with the land and shall not be recorded.

**Record of Council Vote on Passage**

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

Council Member Marciante made a motion to approve Resolution 2021-9.6, second by Council Member Chandler. Mr. Bliss read the changes to the Resolution discussed earlier in the meeting into the record. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2021-9.7**

**RESOLUTION AUTHORIZING EXPENDITURES FROM OPEN SPACE FUND TO PURCHASE  
EQUIPMENT TO ASSIST THE REDEVELOPMENT OF KUNKEL PARK  
AS ACTIVE OPEN SPACE IN THE BOROUGH OF PENNINGTON**

**WHEREAS**, on the recommendation of the Parks and Recreation Committee in collaboration with Borough Council’s Public Works Committee, Borough Council seeks to make improvements to Kunkel Park to enhance its enjoyment by Borough residents as active open space;

**WHEREAS**, as an initial step toward this goal, the Committees have recommended purchase of picnic tables, benches, swings and other playground equipment as described in the annexed proposal by General Recreation, Inc.;

**WHEREAS**, the described park furniture and equipment are available from General Recreation under New Jersey State Contract #16-FLEET-00130 at the quoted total cost of \$30,631.20 including shipping;

**WHEREAS**, Pennington’s Open Space Trust Fund has been created in accordance with N.J.S.A. 40:12-15.7, which authorizes use of such funds for development and maintenance of lands acquired for recreation purposes, as determined by the governing body of the municipality;

**WHEREAS**, the funds are available in the Open Space Trust Fund for this purpose;

**NOW, THEREFORE, BE IT RESOLVED**, by Borough Council of the Borough of Pennington, that the Borough Administrator is hereby authorized to issue a purchase order in an amount not to exceed \$31,000 and to take such additional steps as necessary to acquire the park furniture and equipment described and quoted in the attached proposal of General Recreation, Inc. under State Contract #16-FLEET-00130.

**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				absent
Gross	X				Semple	X			

Council Member Chandler made a motion to approve Resolution 2021-9.7, second by Council Member Gnatt. Mr. Gross stated that he looked at the Open Space ordinance and he is questioning if this is an approved use for Open Space funds. Mr. Gross stated that while he is in support of the upgrades to Kunkel Park he questions whether this expenditure is in the spirit of what this tax was intended for. Mr. Bliss stated that he is relying on Section 30-c, Use of Funds which provides that use of the funds may be used as directed by Borough Council to acquire, develop and maintain ... and in this would qualify as maintenance. Mr. Bliss stated that there are other references to what the funds “may” be used for but that is up to the discretion of Council and does not limit the use of funds. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2021 – 9.8**

**RESOLUTION AUTHORIZING THE BOROUGH OF PENNINGTON TO ENTER INTO A  
COOPERATIVE PRICING AGREEMENT WITH THE HUNTERDON COUNTY  
EDUCATIONAL SERVICES COMMISSION**

**WHEREAS**, N.J.S.A. 40A:11-11(5) authorizes contracting units to establish a Cooperative Pricing System and to enter into Cooperative Pricing Agreements for its administration; and

**WHEREAS**, the Hunterdon County Educational Services Commission, hereafter referred to as the “Lead Agency” has offered voluntary participation in a Cooperative Pricing System for the purchase of goods and services; and

**WHEREAS**, on September 13, 2021 the Borough Council of the Borough of Pennington, County of Mercer, State of New Jersey duly considered participation in a Cooperative Pricing System for the provision and performance of goods and services;

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

that:

1. This Resolution shall be known and may be cited as the Cooperative Pricing Resolution of the Borough of Pennington.
2. Pursuant to the provisions of N.J.S.A. 40A:11-11(5), the Borough Administrator is hereby authorized to enter into a Cooperative Pricing Agreement with the Lead Agency.
3. The Lead Agency shall be responsible for complying with the provisions of the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) and all provision of the revised statutes of the State of New Jersey.
4. This resolution shall take effect immediately upon passage.

**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				absent
Gross	X				Semple	X			

Council Member Chandler made a motion to approve Resolution 2021-9.8, second by Council Member Gnatt. Mayor Davy briefly explained how these types of agreements work. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2012-9.9**

**RESOLUTION AUTHORIZING USE OF POLICE VEHICLES  
AND OFFICERS IN MOVIE SHOOT BY MESH FILMS, LLC**

**WHEREAS**, Mesh Films, LLC has requested permission to have police vehicles and officers in a scene of a movie shoot in Pennington on October 15 and 16, 2021, in the parking lot of the Pennington Quality Market as authorized by the realty company managing the property;

**WHEREAS**, the responsible individual for Mesh Films is Adrian Perez, a native of Pennington, who has made this request of Borough Council, described the proposed use, and included a copy of the movie script for review by Council;

**WHEREAS**, the shoot would take place on two nights, October 15 and 16, 2021, starting at approximately 6 pm and continue into the overnight because the scene takes place well into the night;

**WHEREAS**, the police vehicles and officers would be in the background to create the feeling of a police presence on the scene of a crime, but the police are not featured in the film and neither the Pennington name nor the officers themselves will be identifiable in a shot, as described in the script;

**WHEREAS**, before the shoot, Mesh Films will present a Certificate of Liability Insurance confirming that it carries liability insurance in coverages and amounts required by the Borough Administrator to protect the interests of the Borough;

**WHEREAS**, the shoot will be without compensation to the Borough except as may be payable as private duty pay for individual officers;

**WHEREAS**, Chief Douglas Pinelli does not object to the involvement of the Pennington Police Department as described;

**NOW, THEREFORE, BE IT RESOLVED**, by Borough Council of the Borough of Pennington, that Mesh Films, LLC is hereby granted authorization to use Pennington Borough Police vehicles and engage Borough Police officers on the limited basis described above subject to the following conditions: (a) the identity of the police officers and the Pennington name shall not be determinable; (b) Pennington Police officers shall receive private-duty pay from the movie company as required by their labor agreement; (c) Mesh Films LLC shall maintain the required insurance and present a satisfactory certificate of liability insurance as described above; (d) involvement of Pennington Police and vehicles shall be subject to the general supervision of the Chief of Police; and (e) Borough Council reserves the right to have one or more designated representatives view the footage of the shoot in question.

**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				absent
Gross	X				Semple	X			

Council Member Chandler made a motion to approve Resolution 2021-9.9, second by Council Member Gnatt. Mr. Bliss stated that this was brought to him by Chief Pinelli. Mr. Bliss stated that he spoke to Adrian Perez of Mesh Films and essentially this is a movie short that will be filmed at the Pennington

Market which in the movie is the scene of a crime. Mr. Bliss explained the Pennington Police vehicles and officers will be in the background with no identifying markings visible. Mr. Bliss stated that there will be flashing lights, up to two police cars and two officers who will not be identified facially. Mr. Bliss stated that the shoot is scheduled late at night on October 15 and 16. Mr. Bliss stated that Mr. Perez has provided the Borough with a script and he would urge that the Borough read and approve the script and he would suggest that there be a condition of approval. Mr. Bliss stated that another scene in the movie will be a fire scene in Hopewell Township and the fire company has agreed to participate in the movie. Mr. Bliss stated that the Resolution prepared can be amended and at some point it seems that if we are going to use Borough property for a commercial use and it is important that Council approve of the context in which Pennington Borough equipment is being used and for that reason, review of the script by someone would be helpful. Mr. Bliss reviewed the conditions of the resolution which include that officers will be paid as per contract under the paid detail provision, that Mesh Films will provide a Certificate of Insurance and that Pennington Borough reserves the right to view the footage of the shoot. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2021-9.10**

**RESOLUTION AMENDING TERMS OF CONTRACT WITH BRIAN  
KUBIN, D/B/A SCORPION OUTDOORS FOR CONTINUATION OF  
DEER MANAGEMENT PROGRAM**

**WHEREAS**, by the authority of Resolution 2021-8.5, the Borough has entered into a contract with Brian Kubin, d/b/a Scorpion Outdoors to continue Council's program to control the population of deer in Pennington Borough;

**WHEREAS**, a copy of Resolution 2021-8.5 is attached to this amendatory resolution;

**WHEREAS**, a copy of the agreement ("Agreement") entered into between the Borough and Scorpion Outdoors effective September 8, 2021 is also attached;

**WHEREAS**, it has been determined that Scorpion Outdoors is a sole proprietorship wholly owned by Brian Kubin d/b/a Scorpion Outdoors and the Agreement reflects that fact;

**WHEREAS**, in the course of implementing the Agreement it has also been discovered that certain provisions must be amended to ensure proper disposal of harvested deer;

**WHEREAS**, Resolution 2021-8.5 (in the fifth recital) and the Agreement (at Section 3(c) on page 3) now provide that the cost of disposing of harvested deer shall be a reimbursable expense payable to Scorpion Outdoors in the event harvested deer cannot be donated in Pennsylvania without charge;

**WHEREAS**, the reimbursable cost provided for in Resolution 2021-8.5 and the Agreement is \$75 per deer payable to Hunters Helping the Hungry;

**WHEREAS**, it is has now been determined that harvested deer cannot be donated in Pennsylvania without charge and a reimbursable cost must be incurred, although by using a private vendor that charge can be reduced to \$50 per harvested deer;

**WHEREAS**, Council seeks to amend the contract to retain the Pennsylvania option in the event circumstances change but provide for a reimbursable amount of up to \$50 per harvested deer to an appropriate vendor;

**WHEREAS**, the likelihood that the no-cost option will not be available during the term of the Agreement requires also that the total amount of authorized funds for the Agreement be amended from \$8,000. to \$10,500, representing the added cost of disposing of 50 harvested deer at \$50;

**WHEREAS**, the total not-to-exceed amount of \$10,500 represents a maximum fee of 50 deer @ \$150 (\$7,500) plus up to 50 harvested deer at \$50 (\$2,500) plus up to \$500 for the cost of bait as may be needed;

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

1. The pertinent language of Section 3 on page 3 of the Agreement is amended to read as follows:
  3. Fees for services and related costs will be charged as follows: \* \* \*  
(c) in the event donations of harvested deer cannot be made in Pennsylvania, which by previous experience can be accomplished without charge, a charge of \$50 per harvested deer for disposal by an appropriate non-profit organization or commercial vendor.

- 2. Resolution 2021-8.5 shall be amended to reflect that the authorized contract is to be with Brian Kubin d/b/a/ Scorpion Outdoors, to change the fifth recital of that Resolution to be consistent with the above quoted language, and to increase the total authorized cost of the contract in condition 3 on page 3 of Resolution 2021-8.5 to read as follows;
- 3. The total cost of the contract shall not exceed \$10,500.00, inclusive of all reimbursable expenses, to be drawn from the Borough Open Space Fund.
- 3. All provisions of the Agreement and Resolution 2021-8.5 not inconsistent with these amendments shall remain 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				absent
Gross	X				Semple	X			

Council Member Chandler made a motion to approve Resolution 2021-9.10, second by Council Member Marciante. Mayor Davy explained that this amendment is needed because of rules that Pennsylvania has put into place that deer killed in New Jersey can no longer be disposed of in Pennsylvania. Mayor Davy stated that this amendment allows for disposal here in New Jersey. Mr. Bliss stated that the principal reason that the amendment is needed is that the original agreement limited expenditures to \$8,000. Mr. Bliss stated that assuming the maximum of fifty deer at \$50.00 each for disposal that would be an additional \$2,500. Mr. Bliss stated that this resolution authorizes the additional expenditure. Upon a roll call vote all members present voting in favor.

Professional Reports

There were no further comments from Professionals other than Mr. Smith recognized the efforts of Morris Fabian and Officer Novin Thomas during the recent storm.

Public Comment

Mayor Davy asked anyone wishing to address Council to please raise your hand so the Borough Administrator can acknowledge you. Please 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.

Closed Session

AT, 8:37 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:

- Police Pay Issue – Daryl Burroughs

At 8:43 P.M. with no further business to address Council Member Chandler made a motion to adjourn, second by Council Member Gnatt.

Respectfully submitted,

Elizabeth Sterling  
Borough Clerk