

**Pennington Borough Council
Regular Meeting – October 4, 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, Marciante, Mills and Semple in attendance.

Also present were Borough Administrator Eileen Heinzel, Public Works Superintendent Rick Smith, Chief Financial Officer Sandra Webb 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 bulletin board 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 2021-10.15 authorizing closing cost related to acquisition of property know as Block 1102, Lot 12.02 on the Pennington Borough Tax Map.

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 read the following Proclamation in summary:

PROCLAMATION

WHEREAS, Hopewell Borough, Hopewell Township and Pennington Borough worked together with Mercer County to plan for and hire contractors to address much needed repairs and upgrades to the Senior Center, long overdue and necessary for the continued use of the Pennington Senior Center on Reading Street until such time as a replacement facility is operational;

WHEREAS, the three municipalities worked together to develop a scope of work and to secure donations and funds to make repairs and upgrades to the Pennington Senior Center;

WHEREAS, in 2018, Wyckoff Roofing LLC of Hopewell, New Jersey was asked to provide a quote for replacing the roof on the Senior Center. Instead, they offered to donate the labor and materials to replace not only the roof, but also the windows and siding (donated by ABC siding);

WHEREAS, Mike and Jill Wyckoff founded Wyckoff Roofing in 2007 and have been working and giving back to the community ever since;

WHEREAS, The Senior Center is not the only project to which the Wyckoffs have donated their time and talent. Wyckoff Roofing replaced the roofing of the Hopewell Valley Hart's Corner Schoolhouse. They also volunteered to replace the roofing of the Johnson Ferry House – a significant Valley historical building;

WHEREAS, Mike Wyckoff is an army veteran and serves on the Executive Board of the Hopewell Valley Veterans Association;

WHEREAS, as a veteran, Mike Wyckoff was particularly interested in the Senior Center project, wanting to give back to the Greatest Generation;

WHEREAS, as long time Valley residents, the Wyckoffs have made many significant contributions to the residents of Hopewell Valley;

WHEREAS, this very generous donation saved the taxpayers of Hopewell Township, Hopewell Borough and Pennington Borough from having to fund these much needed repairs while improving conditions at the Senior Center;

NOW, THEREFORE, BE IT PROCLAIMED THAT, the Mayor and Council of the Borough of Pennington hereby express gratitude and appreciation to Wyckoff Roofing, LLC on this 4th day of October, 2021.

Mayor Davy announced that the Borough will be holding an Open House at the Senior Center on November 10th, 2021.

Mayor Davy announced that Morris Fabian will be presented with the New Jersey urban and Community Forestry Achievement Award.

Mayor Davy stated that deadline for submitting the funding plan for American Recovery Act funds has been extended to January.

Mayor Davy stated that he will be holding a meeting with residents of Burd Street on October 6th at 7:00pm to discuss parking and traffic concerns.

Mayor Davy announced that the East Welling Avenue Road Project is out for bid with a bid due date of November 4th. Mayor Davy announced that a resident meeting will be held on November 10th at 7:00pm to review the project prior to awarding the project at a Special Meeting to be held on November 15th. Mayor Davy stated that the Borough has a deadline of November 21st to award the project.

Mayor Davy stated that the Borough has received some e-mails from residents on Hale Street who are upset about the noise generated by residents playing Pickleball at the Senior Center. Mr. Davy stated that in response to a request in May from a resident asking to play Pickleball at the Senior Center, Borough Council agreed to allow the residents to play pickleball at the Senior Center. Mayor Davy stated that a day after the meeting some legal concerns were expressed and the approval was put on hold to explore the legal concerns. Mayor Davy stated that subsequently the prior Mayor sent an e-mail to say that residents could go ahead and play pickleball. Mayor Davy stated that along the way the approval for one court has somehow evolved to three courts and as of right now one of the courts has been removed based on the concerns expressed by the residents of Hale Street. Mayor Davy stated that additionally at some point the lights at the Senior Center were set to remain on so that pickleball could be played at night. Mayor Davy stated that residents along Hale Street have raised several concerns, one being that this activity was approved by Borough Council without prior notification to the residents in the area, they are concerned about incessant noise that is disrupting the quality of life that they have enjoyed over the years, and they are concerned about the congregation of people, the noise and the lights behind their homes. Mayor Davy stated that the people who are playing pickleball are enjoying the activity and the reason that this is on the agenda is that one it is disturbing to the neighbors but also that it has evolved to more than what was originally approved by Borough Council.

Mayor Davy stated that after hearing the discussion from residents, Borough Council will need to make some decisions regarding pickleball at the Senior Center.

Mr. Marciante stated that the residents who are playing pickleball are only using one court. Mr. Marciante stated that at the May meeting this was approved based on a request submitted by Ms. Venezia. Mr. Marciante stated that he recently found out that Mayor Lawver then put a hold on the approval because of concerns raised by the Borough Attorney. Mr. Marciante asked under a Borough form of Government does the Mayor have the right to override a Council discussion. Mr. Bliss stated that in the interest of public safety, the Mayor can, pending reconsideration and presentation of facts not previously considered. Mr. Bliss stated that morning after the meeting he called the Mayor with concerns, he visited the Senior Center and he voiced his concerns to the Mayor. Mr. Bliss stated that a resolution should have been acted on so that the approval and all conditions were on the record. Mr. Bliss stated that the letter originally submitted was to allow her family and residents of Reading Street to play. Mr. Bliss stated that he communicated to the Mayor in May and he voiced his concerns to others who agreed. Mr. Bliss stated that his understanding was that the project was on hold and apparently it has evolved.

Mayor Davy stated that he would like to hear from the residents. Mayor Davy asked anyone wishing to speak raise their hand and the Borough Administrator will allow you to speak.

Mr. Mohary of 111 Voorhees stated that pickleball is the fastest growing activity and neighboring towns have areas to play and this is a wonderful opportunity for Pennington Borough and maybe the Senior Center is not the right location, but Borough Council should come up with a solution.

Ms. Donna Popik of 313 Sked Street stated that she echoes Mr. Mohary's comments and she would like to encourage Borough Council to find an acceptable location for residents to play

pickleball.

Margarite Greener of 27 Yard Road stated that people are only playing from 9 to 10:30 in the morning and she does not think that noise is a factor, people are not congregating. Ms. Greener stated that she does not agree with concerns expressed by Mr. Bliss regarding safety. Ms. Greener stated that Hopewell Township has installed pickleball courts and basketball has a higher decibel level than pickleball. Ms. Greener stated that she would like this activity to continue at the Senior Center.

Mr. James Creegan of 316 Hale Street stated that his backyard abuts the Senior Center. Mr. Creegan stated that he would like Council to reconsider this decision. Mr. Creegan stated that the courts are used every morning, it is very loud, there is shouting and yelling and if Council is going to consider allowing pickleball in this or any other location in Pennington that they study this in more detail. Mr. Creegan stated that the noise level is significant and had disrupted the use of their backyard. Mr. Creegan stated that lights are an issue in the evening. Mr. Creegan stated that this should not have been approved without proper notification to the residents of the area. Mr. Creegan stated that there are safety issues concerning children in the parking lot which is used by seniors every day. Mr. Green stated that Borough has liability concerns to think about. Mr. Creegan asked that Council consider moving this activity to Kunkel Park as he is not opposed to pickleball he just doesn't want it played in his backyard.

Casey Upson of 320 Hale Street stated that as property owners they would like to see this moved to another location. Mr. Upson thanked Borough Council for allowing comments but stated that residents should have been notified last time this was discussed.

Mr. Kurt Pedersen stated that as a previous chair of Parks and Recreation this should have been referred to them for consideration and the community should have been involved in the decision.

Russell Myer of 397 Reading Street stated that Ms. Venezia approached them with the idea and though he is new to pickleball he really enjoys it. Mr. Myer stated that he is cognizant of the concerns but he does not think that noise is a big factor nor is it a nuisance. Mr. Myer stated that this has opened up the neighborhood and given the opportunity to meet new people.

Mr. Brian Hofacker of 19 W. Welling Avenue stated that he was happy to see the Senior Center being used and he is glad to have the lights for public safety reasons. Mr. Hofacker stated that noise is no different than the noise from a football game or the train going by. Mr. Hofacker stated that there are ways to make this work.

Mr. Ryan Fraser of 202 Burd Street spoke in support of finding a way to make this work.

Ms. Ellen Venezia stated that she was thankful to have the opportunity to play pickleball after suffering through the pandemic and being stuck inside. Ms. Venezia stated that she knew that pickleball would be a hit, it has brought people out of their homes and built new friendships. Ms. Venezia stated that people play for a couple hours in the morning but she does not see the negative impact. Ms. Venezia suggested talking about a compromise.

Ms. Jean Boyle of 116 Laning Avenue stated that she is in support of using the Senior Center, but a compromise needs to be reached.

Alaina Gomez Wagner of 318 Burd Street stated that she is in support of pickleball and she understands the concerns raised by residents in close proximity. Ms. Wagner supported the idea of working out a compromise on when, where and how pickleball could be played.

Mr. Robert Flynn of 318 Hale Street stated that statements about pickleball only being played for an hour or two is not true. Mr. Flynn stated that Reading Street recently had a block party and pickleball was going on all weekend. Mr. Flynn stated that it is a circus.

Ms. Missy Cappucci of 141 E. Delaware Avenue stated that he has played and it has been a great opportunity to meet people. Ms. Cappucci stated that there have been a couple of block parties and she is sure that a compromise could be reached.

Mr. James Creegan stated that he is not on a mission to squelch all noise, but pickleball is loud and moving it within the Senior property even to the cul-de-sac is not going to work.

Pat Totaro of 300 W. Upper Ferry Road stated that she is in support of pickleball, it promotes a

great sense of community. Ms. Totaro stated that she supports working out a compromise.

Laura Warren of East Welling Avenue stated that she backs up to Toll Gate School and sometimes it is noisy, but that is just part of the community. Ms. Warren stated that she is happy to see the Senior Center being used for something.

Mr. Jonathan Bowden thanked Borough Council for allowing residents to comment. Mr. Bowden stated that he is a member of Parks and Recreation and they have been actively looking into this for Kunkel Park, but it takes time. Mr. Bowden stated that the Senior Center is a great location for this and he is hopeful that a compromise can be reached.

Mayor Davy stated that Council has heard the comments from both sides and he would now like to hear comments from Council. Mayor Davy stated that there is a resolution on for later in the meeting that needs to be filled in. Mayor Davy stated that Council needs to decide how to proceed. Mayor Davy stated that the options are to affirm the decision made in May, affirm the decision with conditions, disallow use of the Senior Center, disallow only in the parking lot or disallow only in the cul-de-sac. Mayor Davy also stated that the decision should include the lights, sound barriers. Mayor Davy stated that another option would be to take a pause on this, engage in further conversations, compromise or find a new location.

Mrs. Chandler stated that she would like to see this remain at the Senior Center, but she understands that the residents of Hale Street are being negatively impacted but the sound. Mrs. Chandler stated that use of the cul-de-sac is not an option because it needs repaving. Mrs. Chandler agreed that there should be time restrictions, but there needs to be times for people who work and want to play.

Council had a lengthy discussion about the original approval in May and specific parameters on pickleball play, hours for play, and alternate locations. Council Members were in favor of finding an appropriate location for pickleball, but it was agreed that Hale Street was not the right location. Mr. Bliss suggested a special meeting of Council so that details could be ironed out and so that liability concerns could be addressed and everything could be formalized in a resolution. Mr. Gross stated that if noise is one of the issues, there are quiet balls that can be purchased. Mrs. Mills stated that a temporary proposal of times and a quieter ball should be part of the discussion. Mayor Davy stated that a pause is the best solution for now so that everyone calm down and the liability concerns raised by Mr. Bliss need to be addressed. Mr. Bliss stated that vehicles in a parking lot interacting with people playing pickleball is a problem. Mr. Gross stated that just to be safe, the Borough should reach out to the insurance carrier and once the insurance concerns are addressed then worry about the other details. Mr. Marciante stated that if pickle ball is not allowed then nothing should be allowed there, the basketball court should be removed, no one should be riding bikes or practicing driving and parking or any other activity. Mr. Bliss stated that Kunkel Park is designed for recreation activities but the senior center parking lot is not. Mr. Gross stated that the Borough has not sanctioned those other activities and it's Borough Councils responsibility to heed the advice of the Borough Attorney. Council ultimately decided to take a pause so that liability concerns could be addressed and the details could be worked out. Mayor Davy stated that community involvement is the right thing to do and he would meet with both parties separately and then together to try to reach a workable solution.

Mayor Davy asked Council to vote on a motion to institute a pause while we look into insurance concerns and meet with residents to come up with a workable solution. Mr. Gross questioned how Council can take action to pause something that was never approved as the May approval was to allow pickleball to be played in the cul-de-sac and not the parking lot. Mayor Davy revised the motion to disallow use of pickleball in the parking lot and pause use in the cul-de-sac until such time as insurance can be looked into and meetings with residents can be held to come up with a workable solution. Council Member Gnatt made a motion, second by Council Member Mills. After some discussion about timing for a decision, Council Member Gnatt amended the motion to include holding a meeting in two weeks, October 18th at 6:00 pm and pickleball is prohibited until then, second by Council Member Gross with all members present voting in favor with the exception of Mrs. Chandler and Mr. Marciante who voted no. Mayor Davy asked Mrs. Heinzl to contact the insurance carrier and he will reach out to residents on both sides to come to a workable solution.

Approval of Minutes

Council Member Gnatt made a motion to approve the minutes of the September 13, 2021 Regular meeting, second by Council Member Chandler with all members present voting in favor with the

exception of Mrs. Mills who abstained.

Committee Reports

Planning & Zoning / Open Space / Personnel – Ms. Gnatt stated that the Personnel Committee met and agreed to recommend Peter Buchanan as Electrical Sub-code Official and Phil Rosso as Construction Code Official. Ms. Gnatt stated that both of these candidates were recommended by the current Construction Official Tom Petto. The Personnel Committee agreed that they will be meeting on a monthly basis. Ms. Gnatt stated that they will be meeting on October 18th to discuss the draft report from Government Management Advisors.

Ms. Gnatt stated that Open Space will be meeting in October.

Public Works – Mr. Marciante reported that the tree planting on Burd Street is ongoing. Mr. Marciante stated that the Public Works crew has been practicing with the new garbage truck, American Properties has the new cans and there will be a test run on Thursday. Mr. Marciante stated that automated trash collection throughout the Borough will begin on November 1, 2021.

Finance / Board of Health – Mr. Gross reported that the Finance Committee held two meetings one with the community and one with the chairs of committees in an effort to start the budget process earlier this year. Mr. Gross reported that the Board of Health met on September 22nd. Mr. Gross stated that this was Stephanie Carey's last meeting as she will be retiring in October. Mr. Gross stated that Ms. Devangi Patel will be taking over as Health Officer. Mr. Gross gave some statistics on dog incidents and food license inspections.

Parks and Recreation / Shade Tree – Ms. Semple stated that Parks and Recreation has been working with Public Works on an equipment list and plan for Kunkel Park. Ms. Semple stated that Shade Tree will be meeting tomorrow.

Senior Advisory Board – Mr. Davy stated that ribbon cutting for improvements at the Senior Center is scheduled for November 10th.

Historic Preservation / Library – Mrs. Mills stated that Historic Preservation met, no current applications have been submitted. Mrs. Mills stated that the committee would like to have the Land Use Administrator position also include taking minutes for Historic Preservation. Mrs. Mills stated that Cara Hanson contacted the commission for a siding contractor who specializes in wood restoration. Mrs. Mills stated that the commission also discussed the idea of purchasing yard signs. Mrs. Mills stated that some updates have been added to the website.

Mrs. Mills stated that the library is open for walk in hours and curbside pickup is also still available. Mrs. Mills stated that a committee has been formed for the Big Read project and that will be underway soon. Mrs. Mills stated that Carol Olsen was introduced to the Board.

Public Safety/Economic Development/Environmental – Mrs. Chandler stated that Economic Development met and discussed the yard sale which was a great success. Mrs. Chandler stated that they will be working with the Pennington Business and Professional Association on the Holiday Walk for this year. Mrs. Chandler stated that Environmental Commission heard a presentation from the Watershed and that was segued to the library for a similar report.

Mrs. Chandler stated that Public Safety did not meet but they did review the Hazard Mitigation Plan and the Police Contract, both on the agenda later tonight.

Council Discussion

Hazard Mitigation Plan – Mrs. Heinzl stated that Betty Sterling, Rick Smith and Doug Pinelli all met to update the Hazard Mitigation Plan and Mercer County would like each municipality to approve the changes and ultimately the County will ask the Borough to approve the entire plan. Mrs. Chandler had some items that she asked be reviewed that the Borough answered no to. Mrs. Chandler stated that under other resources, the Watershed should be listed as a resource for the Borough. Mrs. Heinzl asked for a resolution to approve the plan. Mr. Bliss asked respectfully if this could be deferred to another meeting unless there is an emergency to get this done. Mr. Bliss cautioned Council from taking action on resolutions on the fly when they have not been properly listed on the agenda.

ORDINANCES FOR PUBLIC HEARING AND ADOPTION

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 open the Public Hearing on Ordinance 2021-13, second by Council Member Gross. There were no comments from the public. Mr. Bliss stated that when the Schragger’s appeared before the Planning Board for a sub-division of the property they own bordering the African American Cemetery, they represented that the lot would ultimately have a house on the property. Mr. Bliss stated that the Borough came along and offered to purchase the property for open space. Mr. Bliss explained that the original approval included two easements one for the driveway and one for the shed. Mr. Bliss stated that as part of the purchase of the property by the Borough, the easements needed to be amended to suit the new use of the property as open space and to relieve the Borough of any maintenance on the easements. Mr. Bliss summarized some amendments to the easements. Council Member Chandler made a motion to close the Public Hearing, second by Council Member Gross with all members present voting in favor with the exception of Council Member Gnatt and Mills who abstained. Council Member Chandler made a motion to approve Ordinance 2021-13, second by Council Member Semple with all members present voting in favor with the exception of Council Member Gnatt and Mills who abstained. .

NEW BUSINESS

**BOROUGH OF PENNINGTON
RESOLUTION #2021 – 10.1**

RESOLUTION AUTHORIZING REFUNDS

BE IT RESOLVED that a refund be issued from the Current Fund to Premier 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 Karin Eckerson, 12 Ingleside Avenue, Pennington, NJ 08534, for an overpayment of planning board application fees in the amount of \$500.00.

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			
Gross	X				Semple	S			

Council Member Chandler made a motion to approve Resolution 2021-10.1, second by Council Member Semple with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2021 – 10.2**

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 \$ 884,519.31 from the following accounts:

Current \$ 818,798.58

W/S Operating	\$ 36,110.10
General Capital	\$ 3,700.00
Animal Control Fund	\$ 6.00
Grant Fund	\$ 23,215.06
Developer’s Escrow	\$ 2,475.07
COAH Trust Fund	\$ 214.50
TOTAL	\$ 884,519.31

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			
Gross	X				Semple	X			

Council Member Chandler made a motion to approve Resolution 2021-10.2, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2021 – 10.3**

**RESOLUTION APPOINTING PHIL ROSSO AS CONSTRUCTION CODE OFFICIAL FOR THE
BOROUGH OF PENNINGTON**

WHEREAS, the Construction Code Official of the Borough of Pennington is the chief administrator of the Construction Code Enforcement Department of the Borough; and

WHEREAS, Thomas Petto has served in this position from October 19, 2020 to October 3, 2021 is stepping down for another opportunity; and

WHEREAS, Mayor and Council seek to appoint Philip Rosso to the position of Construction Code Official on a part-time basis; and

WHEREAS, Mr. Rosso has 36 years of experience in the construction industry and 15 years’ experience as a construction official and building sub-code official and is licensed by the New Jersey Department of Community Affairs as a Construction Official, Building Subcode Official, Building Inspector HHS, Fire Protection Inspector ICS, and Mechanical Inspector in accordance with the Uniform Construction Code Act and is otherwise qualified as a construction code official as required by law;

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

1. that Philip Rosso is hereby appointed Construction Code Official of the Borough of Pennington, on a part-time basis, effective October 4, 2021;
2. that the weekly hours of the Construction Code Official are hereby set at 6 hours per week;
3. that the rate of compensation of the Construction Code Official shall be consistent with the annual salary ordinance of the Borough;
4. that this appointment is for a term of four years from effective date, as provided by law.

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			
Gross	X				Semple	X			

Council Member Chandler made a motion to approve Resolution 2021-10.3, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2021-10.4**

**RESOLUTION APPOINTING PETER J. BUCHANAN AS
ELECTRICAL SUB-CODE OFFICIAL**

WHEREAS, Mayor and Council seek to appoint Peter J. Buchanan to the position of Electrical Sub-code Official on a part-time basis;

WHEREAS, Mr. Buchanan holds all licenses necessary or desirable for holding the position of Electric Sub-code Official and is otherwise qualified as an electrical inspector as required by law;

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

1. Peter J. Buchanan is hereby appointed Electrical Sub-Code Official of the Borough of Pennington, on a part-time basis, effective October 4, 2021;
2. Mr. Buchanan will be responsible for conducting electrical inspections as the Sub-code Official;
3. the weekly hours of the Electrical Sub-code Official are hereby set at 4 hours per week;
4. the rate of compensation of the Electrical Sub-code Official shall be \$41.76 per hour effective October 4, 2021 and thereafter as set forth in the annual salary ordinance of the Borough;
5. this appointment is for a term of four years from effective date, as provided by law.

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			
Gross	X				Semple	X			

Council Member Chandler made a motion to approve Resolution 2021-10.4, second by Council Member Mills with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2021 – 10.5**

**RESOLUTION AUTHORIZING PURCHASE OF FORTINET FORTIGATE FOR THE POLICE
DEPARTMENT FROM CDW-G THROUGH COOPERATIVE PRICING SYSTEM AGREEMENT
WITH THE MIDDLESEX REGIONAL EDUCATIONAL SERVICES COMMISSION
(65MCESCCPS)**

WHEREAS, the Police Chief has identified the need to upgrade the firewall in the Police Department; and

WHEREAS, the Borough has determined that the required equipment is available from CDW-G through the Middlesex Regional Educational Services Commission (65MCESCCPS); and

WHEREAS, Pennington Borough joined the Middlesex Regional Educational Services Commission by Resolution 2013-7.4 in July of 2013; and

WHEREAS, CDW-G located in Cherry Hill, New Jersey is an authorized dealer for the desired equipment and has provided the Borough with quote #MFZR924 for a Fortinet Fortigate 201E – UTM Bundle – Security Appliance with 5 year service as requested; and

WHEREAS, there is a need to acquire this equipment as soon as possible to ensure compliance with State Regulations; and

WHEREAS, the Public Safety Committee has recommended the purchase of this equipment as part of the 5-year Capital Plan for the Police Department; and

WHEREAS, the Chief Financial Officer has certified that funds are available for this purchase in the Administration budget line item C-04-21-010-000-201;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington that the aforesaid purchase of one (1) Fortinet Fortigate 201E-UTM Bundle Security Appliance for the Police Department is hereby authorized in an amount not to exceed \$13,244.16 as per quote MFZR924 dated July 8, 2021 from CDW-G.

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			
Gross	S				Semple	X			

Council Member Chandler made a motion to approve Resolution 2021-10.5, second by Council Member Gross with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2021-10.6**

**RESOLUTION AUTHORIZING PURCHASE OF FINGERPRINT EQUIPMENT UNDER STATE
CONTRACT FOR POLICE DEPARTMENT**

WHEREAS, the Pennington Borough Police Department has a need for fingerprint equipment;
and

WHEREAS, the Chief of Police has determined that the required equipment is available under the State Contract known as State of New Jersey Live Scan (Contract #: T3083); and

WHEREAS, the Chief of Police has obtained a quote for the required equipment from IDEMIA located at 5515 East La Palma Avenue, Suite 100, Anaheim, CA 92807; and

WHEREAS, IDEMIA is a qualified vendor under the aforesaid State Contract and its proposal is consistent with the State Contract; and

WHEREAS, the proposed purchase of fingerprint equipment from IDEMIA is subject to all the terms and conditions of the aforesaid State Contract; and

WHEREAS, a copy of the proposal from IDEMIA in the amount of \$28,258.00, is attached to this Resolution; and

WHEREAS, purchase of the fingerprint equipment on State Contract as proposed conforms with the Local Public Contracts Law and does not require further public bidding; and

WHEREAS, the Chief Financial Officer has certified that funds are available in the General Capital Account under Ordinance 2021-10;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington that the acquisition of fingerprint equipment for the Pennington Borough Police Department pursuant to the attached proposal from IDEMIA is hereby authorized, and the Borough Administrator and Borough Clerk are further authorized to execute such purchase orders and other documents as are needed to effectuate the purchase.

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	M			
Gross	X				Semple	X			

Council Member Chandler made a motion to approve Resolution 2021-10.6, second by Council Member Mills with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2021-10.7**

**RESOLUTION AUTHORIZING PURCHASE OF COMPUTER EQUIPMENT UNDER STATE
CONTRACT FOR POLICE DEPARTMENT**

WHEREAS, the Pennington Borough Police Department has a need for computers; and

WHEREAS, the Chief of Police has determined that the required computers are available under New Jersey State Contract State (#89980); and

WHEREAS, the Chief of Police has obtained a quote for the required equipment from Island Tech Services, New Jersey Office, 46 Fourth Street, Somerville, NJ 08876; and

WHEREAS, Island Tech Services is a qualified vendor under the aforesaid State Contract and its proposal is consistent with the State Contract; and

WHEREAS, the proposed purchase of computer equipment from Island Tech Services is subject to all the terms and conditions of the aforesaid State Contract; and

WHEREAS, a copy of the proposal from Island Tech Services in the amount of \$6,208.00, is attached to this Resolution; and

WHEREAS, purchase of the computer equipment on State Contract as proposed conforms with the Local Public Contracts Law and does not require further public bidding; and

WHEREAS, the Chief Financial Officer has certified that funds are available in the General Capital Account under Ordinance 2021-10;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington that the acquisition of computer for the Pennington Borough Police Department pursuant to the attached proposal from Island Tech Services is hereby authorized, and the Borough Administrator and Borough Clerk are further authorized to execute such purchase orders and other documents as are needed to effectuate the purchase.

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	M				Mills	X			
Gross	X				Semple	X			

Council Member Gnatt made a motion to approve Resolution 2021-10.7, second by Council Member Chandler with all members present voting favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2021 – 10.8**

**RESOLUTION AUTHORIZING THE BOROUGH OF PENNINGTON TO ENTER INTO A
COOPERATIVE PRICING AGREEMENT WITH NORTH JERSEY WASTEWATER
COOPERATIVE PRICING SYSTEM**

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 Borough of Pennington desires to become a member of the North Jersey Wastewater Cooperative Pricing System (NJWCPS) effective immediately and,

WHEREAS, The Passaic Valley Sewerage Commission (PVSC), hereafter referred to as the “Lead Agency” serves as the lead agency of the North Jersey Wastewater Cooperative Pricing System (NJWCPS); and has offered voluntary participation in a Cooperative Pricing System for the purchase of goods and services; and

WHEREAS, on October 4, 2021 the Borough Council of the Borough of Pennington, County of Mercer, State of New Jersey duly considered participation in this 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 substantially in the form attached to this Resolution.
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	X				Mills	S			
Gross	X				Semple	X			

Council Member Chandler made a motion to approve Resolution 2021-10.8, second by Council Member Mills with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2021 – 10.9**

**RESOLUTION IN SUPPORT OF THE APPLICATIONS AND EFFORTS OF MERCER COUNTY
PARK COMMISSION TO IMPLEMENT A COMMUNITY BASED DEER MANAGEMENT
PROGRAM ON COMMISSION PARKLAND IN HOPEWELL TOWNSHIP**

WHEREAS, the Mercer County Park Commission is applying to the New Jersey Division of Fish and Wildlife and the New Jersey Fish and Game Council for a Community Based Deer Management permit to allow alternative deer management methods in addition to traditional hunting for Baldpate Mountain and Mercer Meadows;

WHEREAS, the current deer density in Hopewell Township is 161 deer per square mile based upon nocturnal spotlight count surveys;

WHEREAS, regional biologists and ecologists recommend a deer density of 10 – 20 deer per square mile;

WHEREAS, the Park Commission has been managing deer populations at Baldpate Mountain since 1999 and 2011 at Mercer Meadows;

WHEREAS, the County and Township desire to continue deer management in Hopewell Township in order to reduce the size of the deer population to a manageable level;

WHEREAS, additional harvest methods and access are needed in addition to traditional hunting to meet the goal of reducing the deer population in the Hopewell Township region;

WHEREAS, the Park Commission is applying to the New Jersey Division of Fish and Wildlife and the New Jersey Fish and Game Council for a Community Based Deer Management permit to allow alternative deer management methods in addition to traditional hunting for Baldpate Mountain and Mercer Meadows;

NOW, THEREFORE BE IT RESOLVED that the Borough Council of the Borough of Pennington supports the application and efforts of Mercer County Park Commission to implement a Community Based Deer Management program on their parkland within Hopewell Township.

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			
Gross	S				Semple	X			

Council Member Chandler made a motion to approve Resolution 2021-10.9, second by Council Member Gross with all members present voting in favor with the exception of Ms. Gnatt who abstained.

**BOROUGH OF PENNINGTON
RESOLUTION 2021 – 10.10**

**RESOLUTION REQUESTING PERMISSION FOR THE DEDICATION BY RIDER FOR
OUTSIDE EMPLOYMENT OF OFF DUTY OFFICERS (PAID DETAIL) TRUST FUND (CFO
2000-14)**

WHEREAS, permission is required of the Director of the Division of Government Services for approval as a dedication by rider of revenues received by a county or municipality when the revenue is not subject to reasonably accurate estimates in advance; and

WHEREAS, CFO 2000-14 provides for receipt of Outside Employment of Off Duty Officers by the municipality to provide for the operating costs to administer this act; and

WHEREAS, N.J.S.A. 40A:4-39 provides that dedicated revenues anticipated from the Outside Employment of Off Duty Officers are hereby anticipated as revenue and are hereby appropriated for the purpose to which said revenue is dedicated by statute or other legal requirement;

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

1. The Governing Body does hereby request permission of the Director of the Division of Local Government Services to pay expenditures of the Outside Employment of Off Duty Officers Trust.
2. The Municipal Clerk of the Borough of Pennington is hereby directed to forward two certified copies of this Resolution to the Director of the Division of Local Government Services.

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			
Gross	X				Semple	X			

Council Member Chandler made a motion to approve Resolution 2021-10.10, second by Council Member Marciante with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2021 – 10.11**

**RESOLUTION APPOINTING THOMAS PETTO AS TEMPORARY FIRE SUBCODE OFFICIAL
AND APPOINTING PHIL ROSSO FIRE INSPECTOR**

WHEREAS, Thomas Petto is stepping down as Construction Official for the Borough of Pennington effective October 3, 2021, to be succeeded as Construction Official by Phil Rosso, effective October 4, 2021;

WHEREAS, Mr. Petto is also a licensed Fire Subcode Official and Fire Inspector and has served in those capacities for the Borough concurrently with his duties as Construction Official and with no additional compensation;

WHEREAS, Mr. Rosso is a licensed Fire Inspector and will serve that function concurrently with his duties as Construction Official beginning immediately, but he is waiting for receipt of licensure as a Fire Subcode Official and must defer assuming those responsibilities until the license is received, which is expected shortly;

WHEREAS, Mr. Petto has agreed to continue to perform the duties of Fire Subcode Official pending Mr. Rosso’s licensure to do so;

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

1. Thomas Petto is hereby appointed Fire Subcode Official effective October 4, 2021.
2. His weekly hours shall be as needed.
3. His rate of compensation shall be on an hourly basis consistent with the annual salary ordinance of the Borough.
4. His appointment is for a term of four years in accordance with law, with the understanding that he will be serving temporarily until succeeded by Mr. Rosso as explained above.
5. Phil Rosso is hereby appointed Fire Inspector, to serve in that role concurrently with his duties as Construction Official with no additional compensation.

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			
Gross	X				Semple	X			

Council Member Chandler made a motion to approve Resolution 2021-10.11, second by Council Member Marciante with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2021-10.12**

**RESOLUTION AUTHORIZING BLOCK PARTY ON OCTOBER 30, 2021 (RAIN DATE -
OCTOBER 31, 2021) AT 6 PM ON WALKING PURCHASE DRIVE**

WHEREAS, Michael and Sudi Southall have applied to the Borough of Pennington for permission to close the street known as Walking Purchase Drive in the Borough on October 30, 2021 (Rain Date - October 31) beginning at 6 PM for a block party for an estimated 20 to 30 people;

WHEREAS, Walking Purchase Drive in the area affected leads from N. Riding Drive to a cul de sac, and provides access to fewer than 10 residential properties, including that of the applicants;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that this application by Michael and Sudi Southall is approved subject to the following conditions:

1. The road closure on the dates and at the times indicated must be approved by the Pennington Borough Police Department and comply with its directives.
2. The application must be amended to include a time for ending the proposed road closure on the dates in question.
3. Each property owner affected by the closure shall be notified in writing substantially in advance of the closure.
4. There must be access for emergency vehicles at all times.
5. All local noise ordinances must be observed.
6. The hosts shall ensure compliance with all state and local regulations related to the Covid-19 Pandemic.

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			
Gross	X				Semple	X			

Council Member Chandler made a motion to approve Resolution 2021-10.12, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2021-10.13**

**RESOLUTION AUTHORIZING RETURN OF RESTORATION BOND OF AMERICAN
PROPERTIES AT PENNINGTON, LLC, AND REDUCTION OF ITS PERFORMANCE
GUARANTY FOR PARTIAL COMPLETION OF PHASE 1 AND PHASE 1A IMPROVEMENTS
FOR HERITAGE AT PENNINGTON**

WHEREAS, on July 13, 2016, American Properties at Pennington, LLC (“American Properties”), was granted approval by the Planning Board of the Borough of Pennington for Preliminary and Final Site work related to Phase I of Heritage at Pennington (VNHA 43324-201-71);

WHEREAS, pursuant to Borough ordinance adopted pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-1, et seq.), American Properties provided to the Borough of Pennington the Performance Bond #FP0023512 written by First Indemnity of America Insurance Company in the amount of \$3,009,249., together with cash in the amount of \$334,361 (hereafter referred to collectively as “Phase 1 Performance Guaranty”), guaranteeing full and faithful completion of on-tract improvements approved by the Planning Board for Phase 1 of the development, the amount of the Guaranty having been determined in accordance with the cost of improvements certified by the Borough Engineer;

WHEREAS, further pursuant to Borough ordinance and the Municipal Land Use Law, American Properties has also provided to the Borough of Pennington as Rider A to the Performance Bond #FP0023512 the additional bonded amount of \$391,820. together with cash in the amount of \$43, 536., (hereafter referred to collectively as “Phase 2 Performance Guaranty”), guaranteeing full and faithful completion of on-tract improvements approved by the Planning Board for Phase 1A of the development, the amount of the Guaranty having been determined in accordance with the cost of improvements certified by the Borough Engineer;

WHEREAS, further pursuant to Borough ordinance and the Municipal Land Use Law, in connection with a request by American Properties to move earth before obtaining approvals to build, American Properties provided to the Borough of Pennington Restoration Bond #FP0023335 written by First Indemnity of America Insurance Co. in the amount of \$284,980 together with cash in the amount of \$31,664 guaranteeing restoration of the site if approvals were not received, the amount of the Guaranty having been determined in accordance with the cost of improvements certified by the Borough Engineer

WHEREAS, pursuant to Borough Ordinance and N.J.S.A. 40:55D-53, a developer is entitled to reduction and partial release of a performance guaranty in proportion to the improvements completed and accepted by the municipality, provided the portion of the guaranty remaining in effect shall be sufficient to secure completion of the remaining improvements, and the municipality may insist upon retaining no less than 30 percent of the bond amount for this purpose regardless of percentage of completion;

WHEREAS, in accordance with Borough Council Resolution 2018-9.6 American Properties was three years ago granted reduction of its Phase 1 Performance Guaranty by 70 percent based on the representation by the Borough Engineer that 70 per cent of the improvements in Phase 1 had been completed, leaving 30% of the Guaranty remaining;

WHEREAS, American Properties now requests that the Phase 1 Performance Guaranty of 30% be further reduced to 10%; that its Phase 1A Guaranty, now at 100%, be also reduced to 10%; and that its Restoration bond be returned to it.

WHEREAS, American Properties further requests that the Borough retain the 10% cash, so that all the bonds can be released;

WHEREAS, the Borough Engineer represents that the Phase 1 and Phase 1A improvements are more than 90 % complete and that the performance guaranteed by the Restoration Bond has been satisfied;

WHEREAS, the Borough Engineer further advises that retention of the remaining cash posted by American Properties, totaling \$131,972.00 (plus accrued interest), is sufficient to secure completion of the remaining improvements without resort to insisting upon the minimum 30% guaranties to which the Borough is otherwise entitled;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington that, pursuant to the aforesaid recommendation of the Borough Engineer based on satisfactory partial completion of Phase I and Phase 1A improvements and satisfaction of the Restoration Bond, and the request of American Properties that all bonds be released in favor of retaining cash, the Borough Clerk is hereby authorized to release to American Properties the bonds securing Phase 1 and Phase 1A improvements as well as the Restoration Bond, while retaining all cash totaling \$131,972.00 (plus accrued interest).

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			
Gross	X				Semple	X			

Council Member Chandler made a motion to approve Resolution 2021-10.13, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2021-14**

No action was taken on Resolution 2021-14

Professional Reports

Mrs. Heinzl stated that she is working with Chief Pinelli on no smoking signs for Kunkel Park to also include Cannibis. Mrs. Heinzl stated that this may require an ordinance. Mrs. Chandler stated that Council can adopt an ordinance to ban consumption throughout the Borough.

Chief Pinelli thanked everyone for their efforts during the recent storm.
Mr. Bliss stated that the closing for the Open Space property discussed earlier is set for October 8th. Mr. Bliss stated that there is an item to address in Closed Session.

Mr. Smith stated that an early start for the automated garbage collection will also take place at Pennington Point. Mr. Smith stated that he is working with the County on a beaver dam that contributed quite a bit to the flooding during the recent storm.

Mrs. Webb had nothing to report.

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.

Cecile Vidican stated that she would like to keep something on the radar. Ms. Vidican stated that the Air

BNB on South Main Street is still there and there are still problems with noise, parties, cars and trash. Ms. Vidican stated that there are no workers living there during the week and they are seeing things that she and her children should not be seeing. Ms. Vidican stated that Chief Pinelli and the police department have been very helpful, but this is a continuing problem.

Mrs. Mills stated that she thought this had been taken care of and if it has not she would encourage Council to get on top of it.

Mr. Bliss stated that if this is a problem that cannot be solved in another way, an ordinance regulating Air BNB's would be the way to go. Mr. Bliss stated that last year Council felt that this could be dealt with as concerns were brought up.

Ms. Vidican stated that she has some suggestions on regulating Air BNB's. Mayor Davy stated that he will work on this.

Donna Popik stated that she finds it fascinating that this has been going on for a while and has not been put on pause like pickleball. Mayor Davy stated that this is different as this is not Borough owned property. Ms. Popik stated that she is well educated and she feels that this can't be zoned for this type of activity. Ms. Popik stated that she will be coming to future meetings and this will be on her radar.

Closed Session

AT, 10:25 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:

- Contract Negotiations – Police Contract
- Attorney Client – Contract Negotiations regarding Open Space purchase

Mayor Davy stated that it is likely that Council will come out of Closed Session and take action.

At 10:44 P.M. Council returned to open session.

Ordinances for Introduction

Mayor Davy read Ordinance 2021-14 by title.

BOROUGH OF PENNINGTON ORDINANCE 2021- 14

AN ORDINANCE OF THE BOROUGH OF PENNINGTON, COUNTY OF MERCER, STATE OF NEW JERSEY AUTHORIZING A COLLECTIVE BARGAINING AGREEMENT WITH PENNINGTON BOROUGH POLICE ASSOCIATION

WHEREAS, the Borough of Pennington and the Pennington Borough Police Association have negotiated the terms of a collective bargaining agreement for the years 2021, 2022, 2023 and 2024 ("Collective Bargaining Agreement Between the Borough of Pennington and the Pennington Borough Police Association, January 1, 2021 – December 31, 2024," or "Collective Bargaining Agreement"); and

WHEREAS, the Collective Bargaining Agreement establishes salaries and other conditions of employment; and

WHEREAS, a copy of the Collective Bargaining Agreement is available for inspection at the office of the Clerk in Borough Hall; and

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, County of Mercer, State of New Jersey, as follows:

1. The Collective Bargaining Agreement negotiated with the Pennington Borough Police Association for the years 2021, 2022, 2023 and 2024, 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 Borough Employee Personnel Manual, the terms and conditions of the Collective Bargaining Agreement shall be controlling.
3. The Mayor and Clerk are hereby authorized to sign and seal the said Agreement on behalf of the Borough.

- 4. This Ordinance shall take effect upon final passage and publication according to law, provided however that the terms set forth in said Agreement shall be in effect retroactively to January 1, 2021, except as otherwise specifically provided in the agreement.
- 5. All ordinances or portions thereof inconsistent herewith are hereby repealed.

Council Member Chandler made a motion to introduce Ordinance 2021-14, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2021-10.15**

**RESOLUTION AUTHORIZING DISBURSEMENT OF OPEN SPACE FUNDS FOR CERTAIN
CLOSING COSTS RELATING TO BOROUGH ACQUISITION OF LOT 12.02 IN BLOCK 1002
ON THE PENNINGTON BOROUGH TAX MAP**

WHEREAS, Pennington Borough is preparing to purchase the property known as Lot 12.02 in Block 1002 on the Pennington Borough Tax Map for dedication as Open Space;

WHEREAS, the Borough is represented in this matter by the firm of Mason Griffin & Pierson (Edwin W. Schmierer) as legal counsel, pursuant to Resolution 2021-6.13;

WHEREAS, the closing of title is scheduled for on or about October 8, 2021, or at such adjourned date as the parties may agree upon;

WHEREAS, legal counsel advises that the following additional expenditures are needed to complete the closing:

- 1. to American Title Insurance Company, for title insurance and services - \$1,275;
- 2. to the Mercer County Clerk, for recording fees - \$325;
- 3. to Seller, for tax adjustment as applicable - \$500;

TOTAL: \$2,100.00

WHEREAS, funds are available from the Borough Open Space Trust Fund for this purpose;

NOW, THEREFORE, BE IT RESOLVED, by Borough Council of the Borough of Pennington, that the Borough Clerk is hereby authorized to wire the sum of \$2,100. from the Borough Open Space Trust Fund to legal counsel at the firm of Mason Griffin & Pierson for payment of the closing costs indicated.

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			
Gross	X				Semple	X			

Council Member Chandler made a motion to approve Resolution 2021-10.15, second by Council Member Marciante with all members present voting in favor with the exception of Ms. Gnatt and Mrs. Mills who abstained.

At 10:53 P.M. with no further business to address Council Member Chandler made a motion to adjourn, second by Council Member Marciante.

Respectfully submitted,

Elizabeth Sterling
Borough Clerk