

**Pennington Borough Council  
Regular Meeting – April 4, 2022**

Mayor Davy called the Regular Meeting of the Borough Council to order at 7:00 pm. The meeting was held via Zoom due to the COVID19 pandemic. Borough Clerk Betty Sterling called the roll with Council Members Chandler, Gnatt, Gross, Marciante, and Stern in attendance.

Also present were Public Works Superintendent Rick Smith, Police Chief Doug Pinelli, Sergeant Novin Thomas, 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 door at Borough Hall and on the Borough web-site according to the regulations of the Open Public Meetings Act.

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

Mayor 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 stated that at a budget work session of Borough Council, a discussion took place with regard to continuing to hold Council meetings via Zoom for the time being in order to maximize public participation in meetings. Mayor Davy stated that it is also interesting to note that COVID numbers are increasing so at this time Council will continue to meet via Zoom. Mayor Davy asked for Council input on continuing to meet on Zoom. Council Members agreed to stay on Zoom. Ms. Stern stated that she continues to look into options for holding hybrid meetings. Mrs. Chandler asked if committee meetings will remain on Zoom and if so Council should be aware of the burden that places on the Borough Clerk who has to start the zoom meetings. A discussion took place about looking into options for others to start meetings. Ms. Sterling stated that she is working with Josh Dill our IT person on some options for holding more than one meeting at a time and also the option for having alternate hosts. Ms. Sterling stated that if the intent is to stay on zoom then she will continue to work with IT on some options.

Mayor Davy read the following Proclamation:

**PROCLAMATION**

**WHEREAS**, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and

**WHEREAS**, this holiday, called Arbor Day, was the first observed with the planting of more than a million trees in Nebraska, and

**WHEREAS**, Arbor Day is now observed throughout the nation and the world, and

**WHEREAS**, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife, and

**WHEREAS**, trees are renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and

**WHEREAS**, trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community, and

**WHEREAS**, trees, wherever they are planted, are a source of joy and spiritual renewal, and

**WHEREAS**, Pennington, N.J. has been recognized as Tree City USA by The National Arbor Day Foundation and desires to continue its tree-planting ways,

**NOW, THEREFORE**, I, James Davy, Mayor of the Borough of Pennington do hereby proclaim Friday, April 29th, 2022 as ARBOR DAY in Pennington, New Jersey, and I urge all citizens to support efforts to protect our trees and woodlands and to support our urban forestry program, and

**FURTHER**, I urge all citizens to plant trees to gladden the hearts and promote the well-being of present and future generations.

**Approval of Minutes**

Council Member Chandler made a motion to approve the minutes from a Special Meeting held February 18, 2022, second by Council Member Gross with all members present voting in favor.

Council Member Gross made a motion to approve the minutes of the Regular Council Meeting, March 7, 2022, second by Council Member Chandler with all members present voting in favor.

Council Member Chandler made a motion to approve the minutes of the Budget Work Session held March 15, 2022, second by Council Member Gnatt with all members present voting in favor with the exception of Ms. Gnatt who abstained.

Council Member Chandler made a motion to approve the minutes of the Budget Work Session held March 22, 2022, second by Council Member Angarone with all members present voting in favor.

**Ordinances for Introduction**

Mayor Davy read Ordinance 2022-2 by title.

**BOROUGH OF PENNINGTON  
ORDINANCE # 2022 - 2**

**AN ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS  
AND TO ESTABLISH A CAP BANK IN ACCORDANCE WITH N.J.S.A. 40A: 4-45.14 IN  
THE BOROUGH OF PENNINGTON, NEW JERSEY**

**WHEREAS**, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 2.5% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

**WHEREAS**, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

**WHEREAS**, the Mayor and Council of the Borough of Pennington, Mercer County hereby determines that it is advisable and necessary to increase its CY 2022 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

**NOW THEREFORE BE IT ORDAINED**, by the Mayor and Council of the Borough of Pennington, in the County of Mercer, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2022 budget year, the final appropriations of the Borough of Pennington shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5 %, amounting to a total increase of \$102,470.06, said amount being \$29,277.16 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, and that the CY 2022 municipal budget for the Borough of Pennington be approved and adopted in accordance with this ordinance; and,

**BE IT FURTHER ORDAINED**, that the Mayor and Council of the Borough of Pennington hereby determines that any amount authorized herein above that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

**BE IT FURTHER ORDAINED**, that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

**BE IT FURTHER ORDAINED**, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

**BE IT FURTHER ORDAINED** that a certified copy of this ordinance upon adoption, with the recorded vote included thereon be filed with said Director within 5 days after such adoption.

Council Member Chandler made a motion to introduce Ordinance 2022-2, second by Council Member Gnatt with all members present voting in favor.

Mayor Davy read Ordinance 2022-3 by title.

**BOROUGH OF PENNINGTON  
ORDINANCE #2022 – 3**

**AN ORDINANCE TO PROVIDE FOR AND DETERMINE THE RATE OF  
COMPENSATION OF OFFICERS AND EMPLOYEES OF THE BOROUGH OF  
PENNINGTON, COUNTY OF MERCER, STATE OF NEW JERSEY  
FOR THE YEAR 2022**

**BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF PENNINGTON AS FOLLOWS:**

**SECTION I: EMPLOYMENT POSITIONS/ANNUAL COMPENSATION**

- a. The following officer and employee designations are hereby confirmed; and the rate of compensation of each such officer and employee, whose compensation shall be on an annual basis, is as follows:

|  |                          |
|--|--------------------------|
| Borough Administrator  | \$88,204.86-\$100,000.00 |
|  |                          |
| Administrative Intern (part time)                              | \$35.00/hour             |
|  |                          |
| Borough Clerk  | \$46,080.04              |
| Assistant CFO  | \$78,729.52              |
| Utility Collector  | \$31,835.48              |
|  |                          |
| Chief Financial Officer (part time)                            | \$88.98/hour             |
| Tax Collector (part time)                                      | \$88.98/hour             |
|  |                          |
| Technical Assistant to Construction (part time)                | \$26.53//hour            |
|  |                          |
| Tax Assessor (part time)                                       | \$14,059.59              |
|  |                          |
| Zoning Officer (part time)                                     | \$9,514.46               |
|  |                          |
| Land Use Admin/Admin Asst.                                     | \$55,000.00              |
|  |                          |
| Deputy Registrar   | \$175.00 / month         |
|  |                          |
| Supt. of Public Works  | \$89,034.93              |
| Licensed Water Operator  | \$49,682.45              |
|  |                          |
| Assistant to Superintendent of Public Works                    | \$41,000.00              |
|  |                          |
| Foreman  | \$78,668.75              |
|  |                          |
| Judge of Municipal Court                                       | \$13,367.29              |
|  |                          |
| Court Administrator (part time)                                | \$18,570.69              |
|  |                          |
| Prosecutor - (Flat Rate per Court Session/per resolution)      | \$ 300.00                |
| Public Defender – (Flat Rate per Court Session/per resolution) | \$ 200.00                |
|  |                          |
| Court Officer – (Flat Rate per Court Session)                  | \$76.50                  |
|  |                          |
| Chief of Police (yearly clothing allowance \$1,500)            | \$120,912.50             |
|  |                          |
| Administrative Assistant – Police Department                   | \$15.61/hour             |
|  |                          |
| Construction Official  | \$29,082.87              |
| Plumbing Sub-Code  | \$51.25/ hour            |
| Fire Sub-Code  | \$43.68/ hour            |
| Electric Sub-Code  | \$42.80/ hour            |
|  |                          |

- a. One person may serve in more than one office or position of employment as listed in Section a hereof. The hourly rates for Plumbing Sub-Code and Fire Sub-Code assume these functions are performed by separate people. A person hired to serve in a dual capacity as both Plumbing Sub-code and Fire Sub-code official shall be compensated at the rate of \$51.25 per hour whether the work in question is in one or both capacities.
- b. The amounts shown in Section a. hereof are the maximum amounts to be paid. However, at the discretion of Borough Council, lesser amounts can be paid.
- c. The rate of compensation of each employee paid on an hourly basis is as follows:

|   | Minimum            | Maximum   |
|---|--------------------|-----------|
| <b>Police Department:</b>                     |                    |           |
| Crossing Guards                               | \$ 15.00           | \$ 26.53  |
| Special Police                                | \$ 17.00 per hour  |           |
| <b>Part Time Employees – All Departments:</b> |                    |           |
| Part Time or Temporary                        | \$ 8.00            | \$ 25.00  |
| Part Time/Temporary/Licensed                  | up to a maximum of | \$ 100.00 |

**SECTION II: Employee/Personnel Manual.**

The terms and conditions of employment as set forth in the Borough Employee or Personnel Manual, as the same may exist and change from time to time, are hereby incorporated herein by reference. The Personnel Manual does not create a contract of employment and except for employees who are tenured; no contract of employment other than “at will” has been expressed or implied. The policies, rules and benefits described in the Manual are subject to change at the sole discretion of the Borough Council at any time.

**SECTION III:**

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed.

**SECTION IV:**

Terms and Conditions of employment for Police and Public Works employees are specified in the respective labor agreements.

**SECTION V:**

This ordinance shall take effect upon final adoption and publication according to law, but the salaries herein provided for shall be retroactive to January 1, 2022 if appropriate.

Council Member Chandler made a motion to introduce Ordinance 2022-3, second by Council Member Gantt with all members present voting in favor.

Mayor Davy read Ordinance 2022-4 by title.

**BOROUGH OF PENNINGTON  
COUNTY OF MERCER**

**ORDINANCE NO. 2022 - 4**

**AN ORDINANCE INCREASING RATES CHARGED BY THE PENNINGTON  
BOROUGH WATER AND SEWER UTILITY, AND AMENDING THE CODE OF  
THE BOROUGH OF PENNINGTON**

**WHEREAS**, the Pennington Borough Water and Sewer Utility continues to incur increased costs;

**WHEREAS**, Borough Council of the Borough of Pennington has determined that as a result of these increased costs the rates charged by the Utility for water and sewer services must be increased and the rates must be further differentiated for customers based on amount of usage;

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

1. **Section 98-41 of the Code, concerning base and usage charges for water and sewer customers, is hereby amended as follows (with language in brackets deleted, new language underlined and percentage changes indicated in parenthesis):**

A. There are hereby established the following quarterly charges for water customers:

| Meter Size (inches) | Base Charge [4,000] <u>2,000</u> Gallons or less | First Excess Usage Block Charge [4001] <u>2,001</u> -20,000 Gallons (per 1,000 Gallons) | Second Excess Usage Block Charge 20,001-60,000 Gallons (per 1,000 Gallons) | Third Excess Usage Block Charge 60,001-200,000 Gallons (per 1,000 Gallons) | Fourth Excess Usage Block Charge More than 200,000 Gallons |
|---------------------|--|---|--|--|--|
| Less than 1         | [\$31.16] <u>\$49.86</u>                         | \$7.34  | \$8.74   | \$9.59   | \$11.22  |

|   |                              |        |        |        |         |
|---|------------------------------|--------|--------|--------|---------|
| 1 | [47.57] <u>\$76.11</u>       | \$7.34 | \$8.74 | \$9.59 | \$11.22 |
| 2 | [\$135.90] <u>\$217.44</u>   | \$7.34 | \$8.74 | \$9.59 | \$11.22 |
| 3 | [\$303.17] <u>\$485.07</u>   | \$7.34 | \$8.74 | \$9.59 | \$11.22 |
| 4 | [\$445.56] <u>\$668.34</u>   | \$7.34 | \$8.74 | \$9.59 | \$11.22 |
| 6 | [\$832.55] <u>\$1,332.08</u> | \$7.34 | \$8.74 | \$9.59 | \$11.22 |

NOTE: Usage charges are per one-thousand-gallon increments, or portion thereof.

B. There are hereby established the following quarterly charges for sewer customers:

| Base Charge<br>[4,000] <u>2,000</u><br>Gallons or Less | First Excess<br>Usage Block<br>Charge<br>[4,001] <u>2,001</u> -<br>20,000 Gallons<br>(per 1,000<br>Gallons) | Second Excess<br>Usage Block<br>Charge<br>20,001-60,000<br>Gallons (per 1,000<br>Gallons) | Third Excess<br>Usage Block<br>Charge<br>60,001-200,000<br>Gallons (per 1,000<br>Gallons) | Fourth Excess<br>Usage Block<br>Charge<br>More than<br>200,000 Gallons<br>(per 1,000<br>Gallons) |
|--|---|---|---|--|
| [\$35.36] <u>\$56.58</u>                               | \$8.03  | \$9.64  | \$10.35   | \$11.14  |

NOTE: Usage charges are per one-thousand-gallon increment, or portion thereof.

C. The minimum quarterly base charge for multiunit residential or multiunit commercial or a combination thereof serviced through a single water meter shall be determined by the product of the number of units by the minimum quarterly base charge of a one-inch meter, regardless of the size of the meter(s) that feeds the units.

D. Sewage or other wastes containing unduly high concentrations of other substances which add to the operating costs of the sewage treatment works will be subject to a surcharge to be determined by the Borough on the basis of the character and volume for such sewage and wastes. Where, in the opinion of the Borough, sewage and other wastes of a deleterious character adversely affect the treatment processes, the Borough reserves the right to require that such sewage and wastes be treated by the contributor to remove or neutralize the objectionable substances before discharge into the sewers.

E. Base and usage charges shall be due on January 31, April 30, July 31, and October 31 [except in 2017 the billing date for the first quarter water/sewer bills is extended to April 3, 2017, and the due date for the first quarter water/sewer bills is extended to May 1, 2017].

F. Premises introducing water into a permanent private pool may be allowed a reduction in the charge of sewer usage in an amount equal to the volume of water introduced into the pool. This will require the installation and rental of a temporary meter in conformance with the Borough Code.

3. This ordinance shall take effect upon its passage and publication as provided by law.

Council Member Chandler made a motion to introduce Ordinance 2022-4, second by Council Member Stern. Ms. Chandler asked if Rick Smith was happy with this ordinance. Mr. Smith stated that it is needed and he was part of the conversation and he is good with the ordinance. Upon a roll call vote all members present voted in favor.

Mayor Davy read Ordinance 2022-5 by title.

**BOROUGH OF PENNINGTON  
ORDINANCE 2022 - 5**

**BOND ORDINANCE PROVIDING FOR IMPROVEMENTS TO WEST FRANKLIN AVENUE AND KNOWLES STREET IN AND BY THE BOROUGH OF PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY, APPROPRIATING \$715,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$715,000 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF.**

**BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:**

Section 1. The improvement described in Section 3(a) of this bond ordinance is hereby authorized to be undertaken by the Borough of Pennington, in the County of Mercer, New Jersey (the "Borough") as a general improvement. For the improvement or purpose described in Section 3(a), there is hereby appropriated the sum of \$715,000, including a \$515,000 grant expected to be received from the New Jersey Department of Transportation (the "Grant"). Pursuant to N.J.S.A 40A:2-11(c), no down payment is

provided as all or a portion of the cost of the improvement is to be funded from the above-referenced Grant.

Section 2. In order to finance the cost of the improvement or purpose and in anticipation of the receipt of the Grant, negotiable bonds are hereby authorized to be issued in the principal amount of \$715,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued is improvements to West Franklin Avenue and Knowles Street, including resurfacing, reconstruction and drainage and further including all work and materials necessary therefor and incidental thereto.

(b) The estimated maximum amount of bonds or bond anticipation notes to be issued for the improvement or purpose is as stated in Section 2 hereof.

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

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no bond anticipation note shall mature later than one year from its date, unless such bond anticipation notes are permitted to mature at such later date in accordance with applicable law. The bond anticipation notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with bond anticipation notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the bond anticipation notes shall be conclusive evidence as to all such determinations. All bond anticipation notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law or other applicable law. The chief financial officer is hereby authorized to sell part or all of the bond anticipation notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the bond anticipation notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained and the name of the purchaser.

Section 5. The Borough hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Borough is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3(a) of this bond ordinance is not a current expense. It is an improvement or purpose that the Borough may lawfully undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is 10 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$715,000, and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

(d) An aggregate amount not exceeding \$200,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement.

Section 7. The Borough hereby declares the intent of the Borough to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3(a) of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of the Treasury Regulations.

Section 8. Any grant moneys received for the purpose described in Section 3(a) hereof shall be applied either to direct payment of the cost of the improvement or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized but not issued hereunder shall be

reduced to the extent that such funds are so used.

Section 9. The chief financial officer of the Borough is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 10. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

Council Member Marciante made a motion to introduce Ordinance 2022-5, second by Council Member Gnatt with all members present voting in favor.

Mayor Davy read Ordinance 2022-6 by title.

**BOROUGH OF PENNINGTON  
ORDINANCE 2022 -6**

**BOND ORDINANCE PROVIDING FOR THE ACQUISITION OF VEHICLES AND EQUIPMENT  
IN AND BY THE BOROUGH OF PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY,  
APPROPRIATING \$150,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$142,500  
BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF.**

**BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF  
PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY (not less than two-thirds of all  
members thereof affirmatively concurring) AS FOLLOWS:**

Section 1. The several improvements described in Section 3 of this bond ordinance are hereby respectively authorized to be undertaken by the Borough of Pennington, in the County of Mercer, New Jersey (the "Borough") as general improvements. For the several improvements or purposes described in Section 3, there are hereby appropriated the respective sums of money therein stated as the appropriation made for each improvement or purpose, such sums amounting in the aggregate to \$150,000, and further including the aggregate sum of \$7,500 as the several down payments for the improvements or purposes required by the Local Bond Law. The down payments have been made available by virtue of provision for down payment or for capital improvement purposes in one or more previously adopted budgets.

Section 2. In order to finance the cost of the several improvements or purposes not covered by application of the several down payments, negotiable bonds are hereby authorized to be issued in the principal amount of \$142,500 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. The several improvements hereby authorized and the several purposes for which the bonds are to be issued, the estimated cost of each improvement and the appropriation therefor, the estimated maximum amount of bonds or notes to be issued for each improvement and the period of usefulness of each improvement are as follows:

| <u>Purpose</u>   | <u>Appropriation &amp;<br/>Estimated Cost</u> | <u>Estimated<br/>Maximum Amount<br/>of<br/>Bonds &amp; Notes</u> | <u>Period of<br/>Usefulness</u> |
|--|---|--|---------------------------------|
| a) Acquisition of a sport utility vehicle for the police department, including all related costs and expenditures necessary therefor and incidental thereto. | \$69,000                                      | \$65,550   | 5 years                         |

|   |                  |                  |          |
|---|------------------|------------------|----------|
| b) Acquisition of a sport utility vehicle for the Department of Public Works, including all related costs and expenditures necessary therefor and incidental thereto. | \$69,000         | \$65,550         | 5 years  |
| c) Acquisition of a landscape trailer, including all related costs and expenditures necessary therefor and incidental thereto.  | <u>\$12,000</u>  | <u>\$11,400</u>  | 15 years |
| <b>Total</b>  | <u>\$150,000</u> | <u>\$142,500</u> |          |

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

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no bond anticipation note shall mature later than one year from its date, unless such bond anticipation notes are permitted to mature at such later date in accordance with applicable law. The bond anticipation notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with bond anticipation notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the bond anticipation notes shall be conclusive evidence as to all such determinations. All bond anticipation notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law or other applicable law. The chief financial officer is hereby authorized to sell part or all of the bond anticipation notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the bond anticipation notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained and the name of the purchaser.

Section 5. The Borough hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Borough is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

- (a) The improvements or purposes described in Section 3 of this bond ordinance are not current expenses. They are all improvements or purposes that the Borough may lawfully undertake as general improvements, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.
- (b) The average period of usefulness, computed on the basis of the respective amounts of obligations authorized for each purpose and the reasonable life thereof within the limitations of the Local Bond Law, is 5.80 years.
- (c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$142,500, and the obligations authorized herein will be within all debt limitations prescribed by that Law.
- (d) An aggregate amount not exceeding \$10,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purposes or improvements.

Section 7. The Borough hereby declares the intent of the Borough to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes or improvements described in Section 3 of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of the Treasury Regulations.

Section 8. Any grant moneys received for the purposes or improvements described in



Section 3 hereof shall be applied either to direct payment of the cost of the improvements or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 9. The chief financial officer of the Borough is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 10. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

Council Member Gross made a motion to introduce Ordinance 2022-6, second by Council Member Gnatt with all members present voting in favor.

Mayor Davy read Ordinance 2022-7 by title.

**BOROUGH OF PENNINGTON  
ORDINANCE 2022 - 7**

**ORDINANCE AMENDING SECTION 6(d) OF BOND ORDINANCE NUMBERED 2021-4 OF THE  
BOROUGH OF PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY, FINALLY  
ADOPTED MAY 3, 2021, IN ORDER TO CHANGE THE SECTION 20 COSTS OF THE PROECT.**

**BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF  
PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY** (not less than two-thirds of all  
members thereof affirmatively concurring), AS FOLLOWS:

Section One. Section 6(d) of Bond Ordinance numbered 2021-4 of the Borough of Pennington, in the County of Mercer, New Jersey (the "Borough"), finally adopted May 3, 2021, is hereby amended to change the Section 20 costs of the project to read as follows:

"(d) An aggregate amount not exceeding \$200,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement."

Section Two. The Borough hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Borough is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section Three. This ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

Council Member Chandler made a motion to introduce Ordinance 2022-7, second by Council Member Marciante with all members present voting in favor.

Mayor Davy read Ordinance 2022-8 by title.

**BOROUGH OF PENNINGTON  
ORDINANCE NO. 2022- 8**

**AN ORDINANCE REGULATNG SHORT-TERM RENTALS  
OF RESIDENTIAL PROPERTIES AND AMENDING THE CODE  
OF THE BOROUGH OF PENNINGTON**

**BE IT ORDAINED** by the Borough Council of the Borough of Pennington that the Code of the Borough of Pennington is hereby amended by the addition of the following new chapter under General Legislation regulating short-term rentals of residential properties in the Borough and providing for enforcement and penalties, as follows:

I. Findings.

- A. The rental of residential dwellings for short-term occupancy is a community concern due to the potential for increased traffic, noise, litter, sanitation issues, high occupant turnover, and increased density in residential neighborhoods;
- B. The number of individuals occupying short-term rentals has the potential to exceed standards for the design capacity of such structures and to cause health and safety risks for the occupants, neighbors, and nearby properties;
- C. The Borough is authorized by N.J.S.A. 40:52-1(d) to license and regulate by ordinance furnished and unfurnished rented housing or living units and all other places and buildings used for occupancy, sleeping and lodging purposes;
- D. The Borough is authorized by N.J.S.A. 40:52-1(n) to license and regulate by ordinance the rental of real property for a term of less than 175 consecutive days for residential purposes by a person having a permanent place of residence elsewhere; and
- E. The Borough is further authorized pursuant to N.J.S.A. 40:48-2.12a to regulate by ordinance buildings and structures and their use and occupancy to prevent and abate conditions harmful to the health and safety of the occupants of these buildings and structures and the general public.

II. Definitions.

- A. *Rental* shall mean the exchange of any legally recognized form of consideration including a promise or benefit, a quid-pro-quo, rent, fees, or other form of payment or thing of value for the use, occupancy or control of a dwelling unit.
- B. *Dwelling unit* shall mean any structure, or portion thereof, whether furnished or unfurnished, which is occupied in whole or in part, or intended, arranged or designed to be occupied, for sleeping, dwelling, cooking, gathering and/or entertaining, as a residential occupancy, by one or more persons. This definition includes a house, an apartment, condominium, building, co-operative, converted space, or portions thereof, that is used or offered or made available for use for accommodations, lodging, cooking, sleeping, gathering and/or entertaining of occupant(s) and/or guest(s).
- C. *Occupant* shall mean any individual using, inhabiting, living, gathering, entertaining, being present as a guest, or sleeping in a dwelling unit, or portion thereof, or having other permission or possessory right(s) within a dwelling unit.
- D. *Owner* shall mean a Person who (1) by legally recorded Deed holds title to a property proposed for Short-Term Rental pursuant to this ordinance, and (2) shall be available to communicate with Borough authorities, in person or by Designated Representative, concerning the condition or use of the Short-Term Rental Property and related complaints, seven days per week and twenty-four hours per day during any such Short-Term Rental.
- E. *Owner's Designated Representative* means a person designated by the Owner who, in the Owner's absence, (1) shall have the Owner's authorization to take all actions necessary to effect Owner's compliance with the requirements of this ordinance and applicable laws, including but not limited to responding to complaints and resolving violations, and (2) shall be available to communicate with Borough authorities concerning the condition or use of the Short-Term Rental Property and related complaints, seven days per week and twenty-four hours per day during any such Short-Term Rental. The Owner's Designated Representative shall have a principal residence or principal place of business in Mercer County.
- F. *Person* shall mean an individual, firm, corporation, association, partnership, limited liability company, association, entity, and any person(s) and/or entity(ies) acting in concert or any combination therewith.
- G. *Primary Occupant* shall mean the Occupant who signs the agreement for the Short-Term Rental on behalf of all Occupants and assumes responsibility as host.
- H. *Principal Residence* means the residence (1) in which a person spends the majority of their non-working time, (2) which is the center of their domestic life, and (3) whose address is identified on their driver's license or State identification card as being their legal address.

- I. *Short-Term Rental* means Rental of a residential Dwelling Unit for up to 174 consecutive days by a person or persons having a Principal Residence elsewhere.
- J. *Short-Term Rental Property* means a residential Dwelling Unit which is advertised, held out or otherwise made available or used for Short Term Rentals. A Short-Term Rental Property shall not include a hotel or motel.
- K. *Short-Term Rental Permit* means a one-year renewable permit obtained from the Borough authorizing use of a Short-Term Rental Property for one or more Permitted Short-Term Rentals subject to compliance with the terms, conditions and requirements of this ordinance and other applicable laws.
- L. *Permitted Short-Term Rental* is a Short-Term Rental for no fewer than five consecutive days, provided the Rental is authorized by a Short-Term Rental Permit and the duration of the Rental does not exceed ninety consecutive days or a cumulative total of ninety days in a single calendar year.

### III. Prohibitions; Restricted Authorization of Short-Term Rentals

- A. Short-Term Rentals are prohibited in the Borough of Pennington unless the Rental qualifies as a Permitted Short-Term Rental.
- B. Ownership and operation of a Short-Term Rental Property is prohibited in the Borough unless the property and the use and occupancy of it comply with all applicable requirements of this ordinance and other local, state and federal laws. A Short-Term Rental Permit shall be required for each Short-Term Rental Property even if multiple Short-Term Rental Properties, as in a duplex or otherwise, have common ownership.
- C. The Owner and the Owner's Designated Representative shall ensure the availability of one of them seven days per week and twenty-four hours per day during any Permitted Short-Term Rental, for the purpose of communicating with Borough authorities concerning the condition or use of the Short-Term Rental Property and related complaints. It shall be a violation of this ordinance if neither the Owner nor the Owner's Designated Representative responds to a Borough communication within two (2) hours.
- D. All Short-Term Rentals shall be effected by a written agreement between the Owner and the Primary Occupant identifying the dates and duration of the Rental and each of the people to occupy the property during the Rental. Copies of such agreements shall be subject to inspection upon request by the Borough.

### IV. Short-Term Rental Permit, Application Fee

- A. Before renting or advertising for rent any Short-Term Rental, in addition to any zoning or land use approvals required by law, the Owner(s) of a Short-Term Rental Property shall obtain a Short-Term Rental Permit by application to the Borough Clerk.
- B. An application fee of \$250 shall accompany the application for the Permit, which shall be non-refundable if denied. Fees for required inspections and re-inspections shall be payable separately to the inspecting agency with jurisdiction.
- C. The Short-Term Rental Permit, if granted, shall be valid for a period of one year from the date of issuance.
- D. Before a Short-Term Rental permit may be issued, the Owner of the Short-Term Rental Property shall be current with all tax and sewer charges, have resolved all code violations, closed all open construction permits and paid all fines and penalties relating to the property.
- E. The person offering a property for Short-Term Rental must be the Owner of the property. A tenant of the property may not apply for a Short-Term Rental Permit, nor shall the property or any portion of it be sub-leased by the tenant on a short-term basis or otherwise operated as a Short-Term-Rental Property by the tenant.
- F. A Short-Term Rental Permit shall be renewed annually upon application to the Borough Clerk subject to the same procedures, requirements and fees as the initial application process.
- G. A Short-Term Rental Permit shall expire automatically upon revocation or a change of ownership of the Short-Term Rental Property. If the affected property is thereafter to be used again as a Short-Term Rental Property, a new application shall be required subject to the same procedures, requirements and fees as the initial application process.

V. Application Process for Short-Term Rental Permit; Inspections

- A. Applicants for a Short-Term Rental Permit shall submit, initially and for each renewal, an application to the Borough Clerk on such forms as may be required by the Clerk. The Clerk shall approve or deny the application with the assistance of such other departments or individuals as she deems appropriate. The application shall be submitted under oath. Each such application shall include:
1. The address of the property proposed to be used as a Short-Term Rental Property together with a photograph and description of the property, with specific reference to the spaces and facilities to be rented or used by Occupants, including bedrooms, kitchen, bathroom facilities and parking spaces.
  2. The name, address, telephone number and email address of the Person or Persons who are Owner(s) of record of the Short-Term Rental Property for which a Permit is sought. If such Owner is not a natural person, the application must include and identify the names of all partners, officers and/or directors of any such entity, and the personal contact information, including address and telephone numbers for each of them.
  3. The name, address, telephone number and email address of the Owner's Designated Representative.
  4. A written calculation and explanation of maximum permitted occupancy under the restrictions in this ordinance.
  5. The number and location of all parking spaces available to the proposed Short-Term Rental Property, including the number of legal off-street parking spaces and on-street parking spaces directly adjacent to the property. The owner shall certify that best efforts will be made to avoid and/or mitigate shortage of parking and safety and circulation issues for residents in the surrounding neighborhood resulting from vehicles generated by any Short-Term Rental.
  6. The Owner's agreement to make best efforts to ensure that use of the premises by short-term renters and Occupants will not disrupt the neighborhood and will not interfere with the rights of neighboring property owners to the quiet enjoyment of their properties.
  7. The Owner's sworn acknowledgment that they have received a copy of this ordinance, reviewed it and understand its requirements, also certifying under oath that all information provided in the permit application is accurate.
  8. A copy of the form of written agreement to be used in renting the property. Any such agreement shall be suitable for signing by the Owner and the Primary Occupant and shall contain a provision, as a condition of validity, promising that all Occupants under the agreement shall comply with applicable local, state and federal laws, rules and regulations.
  9. A copy of the 8.5 x 11" placard to be placed on the inside surface of the front door of the Short-Term Rental Property as required by this ordinance.
  10. Any other information that this Ordinance requires an Owner provide to the Borough in connection with an application for a Short-Term Rental Permit.
  11. The Clerk or her designee shall have the authority to obtain additional information from the Owner or amend the permit application to require additional information, as necessary, to achieve the objectives of this ordinance.
- B. Every application for a Short-Term Rental Permit shall require a fire-safety inspection and such further inspections as may be undertaken by agencies having jurisdiction. Failure to abate any outstanding violations prior to occupancy shall result in denial or revocation of the Permit.
- C. Attached to and concurrent with submission of the Permit application, the Owner shall provide:
1. proof of general liability insurance in a minimum amount of \$1,000,000; and
  2. written certification by the Owner's Designated Representative that they agree to perform all of the duties of the Owner's Designated Representative specified in this ordinance.

VI. Issuance of Permit and Appeal Procedure

- A. Once a complete application and fees are submitted, the Clerk shall ensure the conduct of such investigations and inspections as warranted to confirm the applicant's compliance and the compliance of the property with this ordinance and all applicable local, state and federal laws, rules and regulations.
- B. The Clerk shall thereafter issue or cause to be issued the Short-Term Rental Permit or deny it in writing with a statement of reasons. Each Short-Term Rental Permit shall be assigned an identifying number.
- C. If denied, the applicant shall have ten (10) business days to appeal in writing to Borough Council by filing the appeal with the Borough Clerk describing the basis for appeal. Within thirty (30) days thereafter, unless the time is extended in writing by mutual agreement of the parties, Borough Council or its designee will hear and decide the matter. If the appeal is not decided within the thirty days and any agreed upon extension, it shall be deemed denied.
- D. If granted, the owner shall publish the identifying number of the Short-Term Rental Permit in every print, digital or internet advertisement and any real estate agency listing or multiple listing service advertising the property for Permitted Short-Term Rental.

#### VII. Short-Term Rental Operational Requirements

- A. Owners shall (1) maintain a ledger for all Permitted Short-Term Rentals recording for each such Rental the name(s) and address(es) of all Occupants and the dates and duration of the Rental; and (2) retain the ledger and copies of all related rental agreements for at least two years. These documents shall be subject to inspection by the Borough upon request.
- B. All Permitted Short-Term Rentals and Short-Term Rental Properties shall comply at all times with applicable rules, regulations and ordinances of the Borough of Pennington and the State of New Jersey. Failure to so comply shall be grounds for revocation of the Short-Term Rental Permit.
- C. All Permitted Short-Term Rentals and Short-Term Rental Properties shall comply with the following occupancy limitations:
  - 1. Total occupancy shall be restricted to no more than one (1) Occupant for the first 150 square feet of habitable floor space and one (1) additional Occupant for every additional 100 square feet of habitable floor space, as further defined below.
  - 2. Every room occupied for sleeping purposes by one Occupant shall contain at least 70 square feet of habitable floor space, and every room occupied for sleeping purposes by more than one Occupant shall contain at least 50 square feet of habitable floor area per Occupant.
  - 3. Habitable floor space means floor space having a ceiling height of at least five feet in a room in which at least half the floor area has a ceiling height of no less than seven feet.
  - 4. A room located in whole or in part below the level of the ground may be used for sleeping purposes provided the walls and floors in contact with the earth have been damp-proofed in accordance with State standards and all other requirements in these occupancy restrictions are satisfied.
- D. The Primary Occupant executing the agreement for the Permitted Short-Term Rental must be over the age of twenty-one (21) and be the party who will actually occupy the property and be responsible as a host. .
- E. Both the Primary Occupant and the Owner of the Short-Term Rental Property shall be responsible for ensuring that Occupants comply with applicable provisions of this ordinance and all other laws pertaining to use and occupancy of the property. Compliance with applicable laws shall include but not be limited to compliance with ordinances and other laws regulating noise and nuisance conduct.
- F. Any Occupant, Owner or Owner's Designated Representative violating this ordinance or other applicable laws shall be subject to prosecution in a court of competent jurisdiction.
- G. A Short-Term Rental Property shall be limited to a single Permitted Short-Term Rental at a time.
- H. The owner of a Short-Term Rental Property shall not install signs, lawn signs, mailbox signs or any other advertising or mechanism on the property identifying the property as available for Short-Term Rental.

- I. In the event any complaint is received by the Borough Clerk, the Borough Police Department or other agency having jurisdiction concerning the use or occupancy of the Short-Term Rental Property or alleged violation of applicable laws and regulations by the Occupants, the Owner or the Owner's Designated Representative shall be responsible for taking action required to resolve the complaint. The response to all complaints shall be coordinated through the Borough Clerk.
- J. Whenever the Short-Term Rental Property has Occupants, the Owner or the Owner's Designated Representative shall be available twenty-four hours per day and seven days per week for the purpose of responding to complaints regarding the condition, maintenance or operation of the property, the conduct of Occupants or excessive noise or the presence of a nuisance. The required response time shall be two (2) hours or less. The failure of both the Owner and the Owner's Designated Representative to respond within this time shall constitute a violation of this ordinance and be subject to the penalties and other remedies provided in this ordinance.
- K. The Owner of the Short-Term Rental Property shall post and keep current an 8.5 x 11" placard at eye level on the inside surface of the front door of the property, providing the following information:
  - 1. Name and phone number of the Owner.
  - 2. Name and phone number of the Owner's Designated Representative;
  - 3. Phone numbers for the Pennington Borough Police Department and Borough Clerk;
  - 4. Maximum number of permitted Occupants.
  - 5. Trash and Recycling Pick-up Day and all applicable rules and regulations regarding trash disposal and recycling;
  - 6. Rules concerning parking;
  - 7. Notification that an Occupant, as well as the Owner and Owner's Designated Representative, shall be subject to prosecution for violations of Borough ordinances and applicable laws.

VIII. Enforcement; Violations and Penalties.

- A. The provisions of this ordinance shall be enforced by the Borough Police Department, the Zoning Officer, the Health Officer, the Construction Code Official, the Fire Official and the Borough Administration as appropriate for their jurisdiction,
  - B. Any person violating any provision of this Ordinance shall, upon notice, immediately cease and desist the conduct or condition which is the reason for the violation.
  - C. Any substantiated violation of this Ordinance that has continued for three days after notice to the Owner and the Owner's Designated Representative shall require administrative suspension of the Short-Term Rental Permit pending a final adjudication of the merits, which may include revocation of the Permit.
  - D. Violations of this Ordinance, without regard to knowledge or intent, shall be subject to a civil penalty up to \$2,000. Each day the violation has continued shall constitute a separate violation.
  - E. The fines and/or penalties for violation of this ordinance shall be in addition to any and all remedies available under applicable laws and this ordinance, including but not limited to revocation of the Short-Term Rental Permit and/or actions for injunctive relief in a court of competent jurisdiction. Judicial relief may include payment of the Borough's reasonable attorneys' fees and other fees and costs.
  - F. The penalties and other remedies prescribed in this ordinance shall be cumulative and not mutually exclusive.
- IX. The provisions of this Ordinance shall be in addition to and not in substitution for all zoning, planning, land use and building code regulations otherwise applicable.
- X. This Ordinance shall be construed in a manner consistent with State and Federal laws. If any provision of this Ordinance is declared to be invalid or unconstitutional by a court of competent jurisdiction, such declaration shall not affect the validity of the remaining provisions of the Ordinance.
- XI. This Ordinance shall take effect upon final passage and publication as provided by law.

Council Member Chandler made a motion to introduce Ordinance 2022-8, second by Council Member Gross. Mr. Bliss reviewed the changes to the ordinance that were discussed at the last meeting. Upon a

roll call vote all members present voted in favor.

**Budget Introduction**

**BOROUGH OF PENNINGTON  
RESOLUTION 2022 – 4.4**

**RESOLUTION AUTHORIZING A SELF-EXAMINATION OF THE  
2022 MUNICIPAL BUDGET OF THE MAYOR AND COUNCIL OF  
THE BOROUGH OF PENNINGTON**

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

**WHEREAS**, pursuant to N.J.A.C 5:30-7.2 through 5:30-7.5 the Borough of Pennington has been declared eligible to participate in the program by the Division of Local Government Services, and the Chief Financial Officer has determined that the Borough of Pennington meets the necessary conditions to participate in the program for the year 2022;

**NOW THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Pennington that, in accordance with N.J.A.C. 5:30-7.6a &b, and based upon the Chief Financial Officers certification, the Borough of Pennington has found the budget has met the following requirements:

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

- Payment of interest and debt redemption charges;
- Deferred charges and statutory expenditures;
- Cash deficit of preceding year;
- Reserve for uncollected taxes;
- Other reserves and non-disbursement items; and
- Any inclusions of amount required for school purposes.

That the provision relating to limitation of increases of appropriations, pursuant to N.J.S.A. 40A:4-45.2 and appropriations for exceptions to limits on appropriations found at N.J.S.A. 40A:-4-45.3 et seq. are fully met.

That the budget is in such form, arrangement, and content as required by the Local Budget Law and N.J.A.C. 5:30-4 and 5:30-5.

That pursuant to the Local Budget Law:

- All estimates of revenue are reasonable, accurate and correctly stated;
- Items of appropriation are properly set forth; and
- In itemization, form, arrangement, and content, the budget will permit the exercise of the comptroller function within the municipality.

The budget and associated amendments have been introduced and publicly advertised, in accordance with the relevant provisions of the Local Budget Law, except that failure to meet the deadlines of N.J.S.A. 40A:4-5 shall not prevent such certification.

That all other applicable statutory requirements have been fulfilled.

**BE IT FURTHER RESOLVED** that a copy of this resolution be forwarded 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. |
|------------|-----|-----|------|------|------------|-----|-----|------|------|
| Angarone   | X   |     |      |      | Gross      | S   |     |      |      |
| Chandler   | M   |     |      |      | Marciante  | X   |     |      |      |
| Gnatt      | X   |     |      |      | Mills      | X   |     |      |      |

Council Member Chandler made a motion to approve Resolution 2022-4.4, second by Council Member Gross. Mrs. Chandler stated that she would like to thank Mayor Davy for the new Budget process, the work sessions were very helpful and informative. Ms. Angarone agreed. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2022 – 4.5**

**AUTHORIZING COMPLIANCE WITH THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION’S ENFORCEMENT GUIDANCE ON THE CONSIDERATION OF ARREST AND CONVICTION RECORDS IN EMPLOYMENT DECISIONS UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964**

**WHEREAS**, N.J.S.A. 40A:4-5 as amended by P.L. 2017, c. 183 requires the governing body of each municipality and county to certify that their local unit’s hiring practices comply with the United States Equal Employment Opportunity Commission’s “Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964” as amended, 42 U.S.C. 2000e et seq., (April 25, 2012) before submitting its approved annual budget to the Division of Local Government Services in the New Jersey Department of Community Affairs; and

**WHEREAS**, the members of the governing body have familiarized themselves with the contents of the above-referenced enforcement guidance and with their local unit’s hiring practices as they pertain to the consideration of an individual’s criminal history, as evidenced by the group affidavit form of the governing body attached hereto.

**NOW, THEREFORE, BE IT RESOLVED**, that the Borough Council of Pennington, hereby states that it has complied with N.J.S.A. 40A:4-5, as amended by P.L. 2017, c. 183, by certifying that the local unit’s hiring practices comply with the above-referenced enforcement guidance and hereby directs the Clerk to cause to be maintained and available for inspection a certified copy of this resolution that the required affidavit to show evidence of said compliance.

**Record of Council Vote on Passage**

| COUNCILMAN | AYE | NAY | N.V. | A.B. | COUNCILMAN | AYE | NAY | N.V. | A.B. |
|------------|-----|-----|------|------|------------|-----|-----|------|------|
| Angarone   | X   |     |      |      | Gross      | X   |     |      |      |
| Chandler   | M   |     |      |      | Marciante  | X   |     |      |      |
| Gnatt      | S   |     |      |      | Stern      | X   |     |      |      |

Mayor Davy asked Chief Financial Officer, Sandra Webb to explain the resolution. Ms. Webb stated that this comes up every year when the budget is introduced and it is also required with most Federal Grants and when filing for the ARP funding. Ms. Webb stated that the policy is part of the Borough Personnel Manual. Council Member Chandler made a motion to approve Resolution 2022-4.5, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION #2022 – 4.6**

**RESOLUTION TO INTRODUCE BUDGET FOR 2022**

Section 1.

Municipal Budget of the Borough of Pennington, County of Mercer for the Fiscal Year 2022.

**BE IT RESOLVED**, that the attached statement of revenues and appropriations shall constitute the Municipal Budget for the year 2022;

**BE IT FURTHER RESOLVED**,that said Budget be published in The Hopewell Valley News in the issue of April 16, 2022.

The Governing Body of the Borough of Pennington does hereby approve the attached as the Budget for the year 2022.

Notice is hereby given that the Budget and Tax Resolution was approved by the Borough Council of the Borough of Pennington, County of Mercer, on April 4, 2022. A hearing on the Budget and Tax Resolution will be held on May 2, 2022 at 7:00 pm at which time and place objections to said Budget and Tax Resolution for the year 2022 may be presented by taxpayers or other interested persons.

**Record of Council Vote on Passage**

| COUNCILMAN | AYE | NAY | N.V. | A.B. | COUNCILMAN | AYE | NAY | N.V. | A.B. |
|------------|-----|-----|------|------|------------|-----|-----|------|------|
| Angarone   | X   |     |      |      | Gross      | X   |     |      |      |
| Chandler   | M   |     |      |      | Marciante  | X   |     |      |      |
| Gnatt      | S   |     |      |      | Stern      | X   |     |      |      |

Council Member Chandler made a motion to approve Resolution 2022-4.6, second by Council Member Gnatt. Mayor Davy asked Mr. Gross to give a brief summary of the 2022 budget. Mr. Gross stated that this budget provides for \$4.1 million as compared to last year \$4.5 million which included a NJDOT grant project. Mr. Gross stated that this year the grant project is being handled through the Capital Fund. Mr. Gross reviewed some highlights in the budget including increases in legal, police salaries, pension costs,



health benefits, software updates and master plan funds. Mr. Gross stated that we are using 60% of surplus and this budget includes a 1 cent tax increase which will amount to about \$59.00 for each taxpayer. Mr. Gross stated that the capital budget includes the purchase of a supervisor vehicle for the police department and a supervisor vehicle for public works, a landscape trailer and engineering costs for road projects.

Mr. Gross stated that the water/sewer budget totals \$1.4 million slightly lower than last year. Mr. Gross stated that decrease can be directly attributed to a decrease in debt service. Mr. Gross stated that to address a decline in revenues coupled with increased costs for providing water to customers, the finance committee recommended a rate increase and a change in the minimum usage from 4,000 to 2,000 gallons. Mr. Gross stated that the minimum charge for sewer will also be increased.

Mr. Gross stated that there are allocations in each budget for expenditures under the American Recovery Act funding for infrastructure and security measures at Borough buildings.

Mr. Marciante stated that the budget work sessions were very helpful and helped him understand the reasons for the tax increase.

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

### **Committee Reports**

**Planning & Zoning / Parks & Recreation/ Personnel** – Ms. Gnatt stated that Planning Board last month was cancelled. Ms. Gnatt stated that she is trying to work out the Parks and Recreation schedule because they meet on the same night as Planning Board.

**Public Safety /Economic Development / Environmental** – Mrs. Chandler stated that she would like to add that she is also chairing the Arboretum Committee which consists of representatives from Public Safety, Shade Tree, Open Space as well as a resident from Curlis Avenue and a resident from East Welling Avenue. Mrs. Chandler stated that there were also other Borough residents that attended the meeting. Mrs. Chandler stated that the deer management committee should get together to discuss how the season went this year including both Mercer County and the Borough's deer management company.

Mrs. Chandler stated that Public Safety met and focused on budget and road safety within the Borough, specifically stop signs, road crossings, crosswalks and speed humps.

Mrs. Chandler stated that Environmental Commission met and there are Resolutions on the agenda for later tonight.

Mrs. Chandler stated that Economic Development met and both of their items, Short Term Rentals and EV Chargers are on the agenda tonight.

Mayor Davy stated that with regard to Public Safety, he had a call from a local attorney who asked that Council reconsider the crosswalk at the intersection of Baldwin and East Welling. Mayor Davy stated that it was represented to him that the sidewalk is fine. Mayor Davy asked if Public Safety would add that to their list of items to take a look at.

Mr. Marciante asked what committee is responsible for addressing maintenance of sidewalks in town. Mr. Marciante stated that there are a number of sidewalks that need attention and he is noticing more and more people walking in the streets because of uneven sidewalks. Mrs. Chandler stated that in the past this has been under Public Works. Mr. Smith stated that in the past the Borough Administrator would instruct Public Works to take an inventory of sidewalks that meet the parameters for repairs, a list was generated and letters would be mailed to residents. Mr. Marciante asked that this effort be brought back because there are a lot of sidewalks that need repair.

**Public Works** – Mr. Marciante reported that lead service lines are the main focus for Public Works right now. Mr. Marciante reported that Kunkel Park improvements will be starting soon. Mr. Marciante stated that he has contacted Parks and Recreation to discuss Sked Street Park but he has not heard back from them. Mr. Smith stated that last week he met with the contractor for Kunkel Park and he is waiting for them to let him know when construction will start but it could be soon.

**Finance & Technology / Board of Health** – Mr. Gross reported that the Board of Health has not met since the last meeting. Mr. Gross reported that multiple meetings were held related to the budget which was introduced earlier. Mr. Gross stated that a separate meeting was held to discuss technology related items and there are a couple of things budgeted this year that will provide better efficiency. Mr. Gross stated that Mayor Davy asked that the committee look at the finance charges for on-line payments and the committee found that we are in line with other municipalities. Mr. Gross stated that there are some features on Edmunds that will be activated that will provide better access for the public. Mr. Gross stated that Betty has activated the e-subscribe feature on the website and that will be useful in getting information out to residents. Ms. Stern stated that she would encourage everyone to pass the word and sign up for e-subscribe notices.

**Historic Preservation / Library** – Ms. Angarone stated that Historic Preservation met, but it was the

same time as a budget meeting so she was unable to attend. Ms. Angarone stated that the Library is continuing programming related to “The Big Read”.

**Open Space/ Shade Tree** – Ms. Stern stated that Shade Tree did not meet since the last meeting but she would like to recognize the efforts of Rick Smith and Moe Fabian related to Arbor Day which will be held at Toll Gate School on April 29<sup>th</sup>.

Ms. Stern reported that Open Space did meet and discussed ways to improve some of the information that is shared about what the Committee does and they are working on a list of FAQ;s for the website. Ms. Stern stated that they also talked about ways to monitor properties that they are interested in and also the criteria that they use to identify properties in the area that are of interest.

**Senior Advisory Board** – Mr. Davy had no report.

**COUNCIL DISCUSSION**

Mrs. Chandler asked that Mike Pisauro of the Watershed Institute be admitted to the meeting to assist with discussion of a resolution in support of the ability of municipalities to adopt regulations to protect public health, safety and welfare from threats of flooding. Mr. Pisauro explained that this issue is something that he has been working on for about a year. Mr. Pisauro stated that residential site improvement standards are not strong enough and that the Stormwater Management should not be limited. Mr. Pisauro stated that the Clean Water Act tells us that we need to take the maximum steps for protecting drinking water. Mr. Pisauro stated that flooding should not affect residential areas and Stormwater Management should be regulated by municipalities to better protect residents. Mr. Pisauro stated that they are asking municipalities to pass resolutions in support because currently there are conflicts with the Land Use Law and municipalities should have the ability to make stormwater regulations more stringent. Ms. Chandler stated that the reason that we are doing this is that some municipalities have tried to pass more stringent regulations and builders have sued stating that municipal regulations are stricter than the State. Mr. Pisauro stated that there was a suit in Haddonfield and the ruling was for the builders, but that is part of the reason for this resolution for either a regulatory fix or a legislative fix. Mr. Pisauro stated that the ordinances in place now do not control the volume of stormwater. Mayor Davy stated that if Council is in agreement, a resolution will be on the agenda for the May meeting.

**Grant – EV Chargers for Publicly Accessible Fast Charging Stations** – Mrs. Chandler stated that this came from the Environmental Commission and Economic Development has also reviewed the idea to have two charging stations in the Borough parking lot for charging electric vehicles. Mrs. Chandler stated that we have had our intern, Mona look into this. Ms. Chandler stated that this would add two more stations in Pennington as there are already two at Howe Commons. Ms. Chandler stated that the EDC likes this idea because electric cars identify charging stations and they feel that this would bring people into town. Council discussed the idea and were in favor of the grant. Mayor Davy stated that it might be good to convene a committee to look at this. Mrs. Sterling stated that the process is very involved and there are several things that need to be in place in order to apply for the grant by the deadline of May 13<sup>th</sup>. Mrs. Sterling stated that both she and Mona watched the video on the DEP website and Mona drafted the bullet points that were included in the package. Mrs. Sterling stated that the DEP grant only covers the equipment and so the resolution also authorizes application to PSE&G for the electric hookup. Mrs. Sterling stated that it might be a good idea for someone who is better informed about this to assist them with submission of this grant. Mrs. Chandler stated that she would check with Environmental to see if there is anyone who would be interested in helping out.

**NEW BUSINESS**

**BOROUGH OF PENNINGTON  
RESOLUTION #2022 – 4.1**

**RESOLUTION AUTHORIZING REFUNDS**

**BE IT RESOLVED** that a refund be issued from the Current Fund to Walter Stephen Mahle, 151 East Delaware Avenue, Pennington, NJ 08534 for an application fee paid in 2021 for an appeal to the Planning Board that was resolved prior to the meeting in the amount of \$200.00.

**Record of Council Vote on Passage**

| COUNCILMAN | AYE | NAY | N.V. | A.B. | COUNCILMAN | AYE | NAY | N.V. | A.B. |
|------------|-----|-----|------|------|------------|-----|-----|------|------|
| Angarone   | X   |     |      |      | Gross      | S   |     |      |      |
| Chandler   | X   |     |      |      | Marciante  | M   |     |      |      |
| Gnatt      | X   |     |      |      | Stern      | X   |     |      |      |

Council Member Marciante made a motion to approve Resolution 2022-4.1, second by Council Member Gross with all members present voting in favor.

BOROUGH OF PENNINGTON  
RESOLUTION 2022 – 4.2

AUTHORIZING PAYMENT OF BILLS

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

**NOW, THEREFORE BE IT RESOLVED**, by the Mayor and Council of the Borough of Pennington that the bills be paid on audit and approval of the Mayor, the Appropriate Council Member and the Treasurer in the amount of \$ 1,677,089.66 from the following accounts:

|                     |                 |
|---------------------|-----------------|
| Current             | \$ 1,586,698.97 |
| W/S Operating       | \$ 34,517.01    |
| Grant Fund          | \$ 25,456.72    |
| Animal Control Fund | \$ 46.80        |
| Other Trust Fund    | \$ 7,600.00     |
| General Capital     | \$ 18,754.14    |
| Developer’s Escrow  | \$ 4,016.02     |
| TOTAL               | \$ 1,677,089.66 |

Record of Council Vote on Passage

| COUNCILMAN | AYE | NAY | N.V. | A.B. | COUNCILMAN | AYE | NAY | N.V. | A.B. |
|------------|-----|-----|------|------|------------|-----|-----|------|------|
| Angarone   | S   |     |      |      | Gross      | X   |     |      |      |
| Chandler   | X   |     |      |      | Marciante  | X   |     |      |      |
| Gnatt      | M   |     |      |      | Stern      | X   |     |      |      |

Council Member Gnatt made a motion to approve Resolution 2022-4.2, second by Council Member Chandler. Mr. Marciante questioned a couple of bills on the bill list. Upon a roll call vote all members present voting in favor.

BOROUGH OF PENNINGTON  
RESOLUTION #2022–4.3

RESOLUTION AUTHORIZING AMENDMENTS TO THE  
2022 TEMPORARY BUDGET

**WHEREAS**, the 2022 Budget for the Borough of Pennington has not been adopted; and

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

**NOW, THEREFORE, BE IT RESOLVED**, that the following additional appropriations be made in the 2022 Temporary Budget for the Current Account.

|                          |               |             |
|--------------------------|---------------|-------------|
| Administration           | Other Expense | \$10,000.00 |
| Municipal Clerk          | Other Expense | \$5,000.00  |
| Financial Administration | Other Expense | \$5,000.00  |
| Legal                    | Other Expense | \$30,000.00 |
| Planning Board           | Other Expense | \$6,000.00  |
| Public Defender          | Other Expense | \$4,200.00  |
| Group Insurance          | Other Expense | \$20,000.00 |
| Police                   | Salaries      | \$20,000.00 |
| Police                   | Other Expense | \$30,000.00 |
| Streets                  | Salaries      | \$50,000.00 |
| Streets                  | Other Expense | \$20,000.00 |
| Borough Property         | Other Expense | \$10,000.00 |
| Shade Tree               | Other Expense | \$7,000.00  |
| Library                  | Salaries      | \$20,000.00 |
| Library                  | Other Expense | \$15,000.00 |
| Telephone                | Other Expense | \$2,500.00  |
| Gas (Natural/Propane)    | Other Expense | \$3,000.00  |
| Gas, Fuel, Lubricants    | Other Expense | \$5,000.00  |
| Social Security          | Other Expense | \$15,000.00 |
| American Recovery Act    | Other Expense | \$38,256.82 |

|       |  |              |
|-------|--|--------------|
|       |  |              |
| Total |  | \$315,956.82 |

**BE IT FURTHER RESOLVED**, that the following additional funds be appropriated for the 2022 Temporary Budget for the Water and Sewer Fund:

|                       |               |              |
|-----------------------|---------------|--------------|
| Water                 | Other Expense | \$50,000.00  |
| Sewer                 | Other Expense | \$20,000.00  |
| Group Insurance       | Other Expense | \$20,000.00  |
| Social Security       | Other Expense | \$5,000.00   |
| American Recovery Act | Other Expense | \$96,556.47  |
|                       |               |              |
| TOTAL                 |               | \$191,556.47 |

**Record of Council Vote on Passage**

| COUNCILMAN | AYE | NAY | N.V. | A.B. | COUNCILMAN | AYE | NAY | N.V. | A.B. |
|------------|-----|-----|------|------|------------|-----|-----|------|------|
| Angarone   | X   |     |      |      | Gross      | X   |     |      |      |
| Chandler   | X   |     |      |      | Marciante  | M   |     |      |      |
| Gnatt      | X   |     |      |      | Stern      | S   |     |      |      |

Council Member Marciante made a motion to approve Resolution 2022-4.3, second by Council Member Stern with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2022 – 4.7**

**RESOLUTION ENDORCING VISION ZERO TO ACHIEVE ZERO TRAFFIC DEATHS AND  
SERIOUS INJURIES ON NEW JERSEY STREETS AND HIGHWAYS**

**WHEREAS**, traffic crashes are among the leading cause of deaths and injuries in the world and the United States; and

**WHEREAS**, traffic crashes in New Jersey have resulted in 3634 fatalities between 2016 and 2021; and

**WHEREAS**, 33% of these fatalities were pedestrians and bicyclists, almost twice the national average; and

**WHEREAS**, death and injury on our streets is unacceptable and serious crashes are preventable; and

**WHEREAS**, traffic deaths and serious injuries in the United States have disproportionately impacted people of color, low-income households, older adults and youth, people with disabilities, people with limited English proficiency, and households with limited vehicle access; and

**WHEREAS**, streets and transportation systems have traditionally been designed primarily for maximum vehicular capacity and mobility, rather than the safe accommodation of all modes and users; and

**WHEREAS**, Vision Zero provides a framework for reducing traffic deaths and serious injuries to zero, while increasing safe, healthy, equitable mobility for all; and

**WHEREAS**, Vision Zero focuses on safety as a primary objective for our transportation systems; and

**WHEREAS**, Pennington Borough has shown a commitment to creating safe and accessible streets for people of all ages and abilities, by adopting a Complete Streets policy on June 2, 2014 in order to ultimately achieve a network of roadways that may safely accommodate pedestrians, bicyclists, public transit, and motorized vehicles and their passengers, with special priority given to bicyclist and pedestrian safety; and

**WHEREAS**, Vision Zero encourages municipalities to adopt achievable goals to prevent traffic related severe injuries and fatalities based on the following fundamental Vision Zero principles:

1. Deaths and severe injuries caused by traffic deaths are preventable;
2. Human life and health should be prioritized in all transportation systems and in all aspects of transportation planning;
3. Human error is inevitable and transportation systems should be forgiving;
4. Transportation planning should focus on systems-level changes above influencing individual behavior; and
5. Speed is the single most important factor is crash severity

**NOW THEREFORE BE IT RESOLVED** that Pennington Borough adopts the goal of Vision Zero that no loss of life due to traffic crashes is acceptable;

**BE IT FURTHER RESOLVED** that Pennington Borough will establish a Vision Zero Task Force, which will include members of various Borough Departments and community organizations, to create a Vision Zero Action Plan tailored for Pennington.

**BE IT FURTHER RESOLVED** that the Vision Zero Action Plan will use data and best practices to outline concrete steps in planning, engineering, policy, enforcement, and education to reach Vision Zero goals.

Mrs. Chandler stated that she was unclear what this resolution means. After a brief discussion, Resolution 2022-4.7 was referred to the Public Safety Committee for further consideration, no action was taken.

**BOROUGH OF PENNINGTON  
RESOLUTION 2022-4.8**

**RESOLUTION AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT FOR LEGAL REPRESENTATION IN LITIGATION OPPOSING LONG-TERM TAX EXEMPTION GRANTED BY HOPEWELL TOWNSHIP FOR RESIDENTIAL DEVELOPMENT BY US HOME AT HOPEWELL PARC RENEWAL LLC**

**WHEREAS**, by Resolution 2022-3.14, Borough Council authorized the Mayor to retain legal services to commence suit in opposition to the long-term tax exemption granted by Hopewell Township for residential development by US Home at Hopewell Parc Renewal LLC;

**WHEREAS**, Mayor Davy together with the Mayor of Hopewell Borough have since engaged Joseph C. Tauriello, P.C., 221 Witherspoon Street, Princeton, New Jersey 08542 and Walter R. Bliss, Jr., Esquire, 321 W. State Street, Trenton, New Jersey 08618, to represent the Boroughs jointly, with Mr. Tauriello serving as lead attorney and Mr. Bliss providing support as needed;

**WHEREAS**, these services began on March 8, 2022 and resulted in the filing of a Complaint in Lieu of Prerogative Writ in Mercer County Superior Court, Law Division, on March 17, 2022, captioned Hopewell Borough, Pennington Borough, Paul Anzano and James Davy v. Hopewell Township, Courtney-Peters Manning, Michael Ruger, Davit Chait, Kevin Kuchinski, Uma Purandare, US Home at Hopewell Parc Urban Renewal, LLC and U.S. Home Corporation d/b/a Lennar;

**WHEREAS**, the terms of the services to be provided by Mr. Tauriello and Mr. Bliss are described in the attached Professional Services Agreement, to be executed by Hopewell Borough and Pennington Borough jointly, with all fees and expenses shared 50/50;

**WHEREAS**, it is understood that total compensation and expenses due from the Borough of Pennington for its share under the agreement shall not exceed \$30,000. without the prior written approval of Pennington Borough Council or, if necessary on short notice, the Mayor of Pennington;

**WHEREAS**, the Chief Financial Officer of the Borough has certified that funds are available to pay for the Borough’s share under the attached agreement;

**NOW, THEREFOE, BE IT RESOLVED**, by Borough Council of the Borough of Pennington, that the attached Professional Services Agreement is hereby approved as of March 8, 2022, *nunc pro tunc*, and the Mayor, with the attestation of the Clerk, is hereby authorized to enter into the Agreement on behalf of the Borough, subject to like approval and execution by the Borough of Hopewell; and

**BE IT FURTHER RESOLVED**, that the retention of legal services by Mayor Davy in accordance with Resolution 2022-3.14, as described above, on the terms now described in the attached Professional Services Agreement, is also hereby ratified and approved.

**Record of Council Vote on Passage**

| COUNCILMAN | AYE | NAY | N.V. | A.B. | COUNCILMAN | AYE | NAY | N.V. | A.B. |
|------------|-----|-----|------|------|------------|-----|-----|------|------|
| Angarone   | X   |     |      |      | Gross      | X   |     |      |      |
| Chandler   | S   |     |      |      | Marciante  | M   |     |      |      |
| Gnatt      | X   |     |      |      | Stern      | X   |     |      |      |

Council Member Marciante made a motion to approve Resolution 2022-4.8, second by Council Member Chandler with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2022 – 4.9**

**RESOLUTION AUTHORIZING CONTRACT WITH EXCEL ENVIRONMENTAL FOR  
PRELIMINARY ASSESSMENT AND SOIL SAMPLING ON THE ARBORETUM (BLOCK  
1003/LOT 15.02)**

**WHEREAS**, Ordinance 2019.10 authorized the purchase of the property known as the Arboretum, Block 1003 / Lot 15.02 in the Borough of Pennington, consisting of approximately 2.8 acres of vacant land behind the Toll Gate Elementary School (“the Property”);

**WHEREAS**, the Property is intended to be preserved as open space as an Arboretum; and

**WHEREAS**, in order to ensure the environmental integrity of this public place and as a requirement for Green Acres funding, Borough Council now seeks to conduct a Preliminary Assessment (PA), including a review of all available historic documentation for the site, site inspection and soil sampling as needed;

**WHEREAS**, Excel Environmental Resources, Inc. of North Brunswick, New Jersey, has provided the attached proposal (“Proposal”) for the needed work, which will be conducted to meet the minimum requirements for a PA as specified in N.J.A.C. 7:26E, the Technical Requirements for Site Remediation, in order to satisfy the minimum due diligence requirements of the innocent purchaser defense as defined by N.J.S.A. 58:10-23.11g and as required by the State of New Jersey Green Acres Program for grant consideration;

**WHEREAS**, the work will be conducted on a time and materials basis and will not exceed the maximum cost of \$3,980.00, of which a substantial part depends on whether soil sampling will be required and its extent;

**WHEREAS**, the Proposal contains a detailed breakdown of costs by phase of the work;

**WHEREAS**, the Chief Financial Officer of the Borough certifies that there are sufficient funds in the Borough Open Space Fund for this purpose;

**NOW, THEREFORE, BE IT RESOLVED**, by Borough Council of the Borough of Pennington, that the Mayor with the attestation of the Borough Clerk is hereby authorized to enter into a contract on behalf of the Borough with Excel Environmental Resources, Inc. for performance of the work in accordance with the Proposal, including such soil sampling as may be required, for a total sum not to exceed \$3,980.00 payable from the Open Space Fund, subject only to approval of the Borough Attorney as to form.

**Record of Council Vote on Passage**

| COUNCILMAN | AYE | NAY | N.V. | A.B. | COUNCILMAN | AYE | NAY | N.V. | A.B. |
|------------|-----|-----|------|------|------------|-----|-----|------|------|
| Angarone   | M   |     |      |      | Gross      | X   |     |      |      |
| Chandler   | X   |     |      |      | Marciante  | X   |     |      |      |
| Gnatt      | S   |     |      |      | Stern      | X   |     |      |      |

Council Member Angarone made a motion to approve Resolution 2022-4.9, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2022 – 4.10**

**RESOLUTION AUTHORIZING ADDITIONAL FUNDS FOR PROFESSIONAL SERVICES BY  
MASON GRIFFIN & PIERSON AS SPECIAL COUNSEL TO THE BOROUGH IN CONNECTION  
WITH MINOR SUBDIVISION AND RELATED ACQUISITION OF PROPERTY FROM  
HOPEWELL VALLEY REGIONAL SCHOOL DISTRICT FOR ARBORETUM PROJECT**

**WHEREAS**, Borough Council approved Resolution 2019-9.5 authorizing Professional Services in the amount of \$5,500.00 by Mason, Griffin & Pierson as Special Counsel to the Borough in connection with minor subdivision and related acquisition of approximately 2.8 acres of land from the Hopewell Valley Regional School District representing a portion of Block 1003, Lot 15 (Proposed Lot 15.01) behind the Toll Gate School in the Borough of Pennington (Ordinance No. 2019-10) for the creation of Howe’s Arboretum; and

**WHEREAS**, Borough Council later approved Resolution 2021-6.12 authorizing payment of \$1,048.50 to Mason Griffin and Pierson for additional fees and closing costs in connection with acquisition of the Arboretum property;

**WHEREAS**, presently, in connection with the Borough’s application for Green Acres’ funding for the project, additional legal work will be required for preparation of deed revisions required by NJDEP, obtaining the approval of the revised deed by Green Acres, securing an updated title binder that includes Green Acres restrictions, and recording the revised deed;

**WHEREAS**, Edwin W. Schmierer, Esquire of Mason, Griffin & Pierson, the lead attorney in this matter, estimates that the additional work will require fees not to exceed \$2,500.00 and an additional reserve of \$500 for the expense of the updated title binder and recording of the new deed;

**WHEREAS**, Borough Council by Resolution 2019-9.5 retained Mason, Griffin & Pierson for this project with the understanding that any work exceeding the scope of work would require prior written approval by Borough Council;

**WHEREAS**, funds are available for these additional fees and costs in the Borough Open Space Fund;

**NOW, THEREFORE, BE IT RESOLVED**, by Borough Council of the Borough of Pennington, that the Borough Clerk is hereby authorized to issue a purchase order to Mason Griffin & Pierson (Edwin W. Schmierer) for the aforesaid additional work, fees and costs in the amount of \$3,000; and

**BE IT FURTHER RESOLVED**, that the funding for these services shall be drawn from the Borough Open Space Fund.

| Record of Council Vote on Passage |     |     |      |      |            |     |     |      |      |
|-----------------------------------|-----|-----|------|------|------------|-----|-----|------|------|
| COUNCILMAN                        | AYE | NAY | N.V. | A.B. | COUNCILMAN | AYE | NAY | N.V. | A.B. |
| Angarone                          | X   |     |      |      | Gross      | X   |     |      |      |
| Chandler                          | M   |     |      |      | Marciante  | X   |     |      |      |
| Gnatt                             | S   |     |      |      | Stern      | X   |     |      |      |

Council Member Chandler made a motion to approve Resolution 2022-4.10, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2022 – 4.11**

**RESOLUTION GRANTING CONDITIONAL AUTHORIZATION FOR VITO’S PIZZA TO  
MAINTAIN A TEMPORARY OUTDOOR  
DINING AREA IN THE PUBLIC RIGHT- OF- WAY IN 2022**

**WHEREAS**, Egnazio (Nat) Casano is the owner of Vito’s Pizza, a restaurant located at 2 N. Main Street on the corner of North Main Street and West Delaware Avenue in the Borough of Pennington;

**WHEREAS**, Mr. Casano has applied to Borough Council for permission to place movable tables and chairs on the sidewalk immediately adjacent to the restaurant, in particular, 4 tables and 16 chairs on the Main Street side of the restaurant and 2 tables and 8 chairs on the Delaware Avenue side of the restaurant, as shown in the attached sketch;

**WHEREAS**, Borough Council finds that the availability of outdoor dining contributes to the vitality of the Town Center and is consistent with the pedestrian-friendly environment envisioned for this area;

**WHEREAS**, Borough Council determines that approval of the proposed outdoor dining area for Vito’s Pizza, on a temporary and conditional basis as set forth further below, is in the public interest;

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

1. Vito’s Pizza is hereby granted permission to locate up to 6 tables and 24 chairs on the sidewalk immediately adjacent to the restaurant provided the following conditions are met;
  - A. The tables and chairs shall be arranged as shown on the attached sketch with no more than 4 tables and 16 chairs on the Main Street side of the restaurant and no more than 2 tables and 8 chairs on the Delaware side of the restaurant.
  - B. The outdoor dining area and affected sidewalk shall at all times be kept clean and free of litter and in compliance with all applicable health regulations.
  - C. The outdoor dining area shall not obstruct pedestrian circulation on the sidewalk.
  - D. Operation of the outdoor dining area shall comply with the Borough Noise Ordinance, as set forth in Chapter 133 of the Borough Code.
  - E. The outdoor dining area may be used only during the operating hours of the restaurant. When the restaurant is not open, all tables and chairs shall be removed from the sidewalk.
  - F. Owners must provide receptacles for collection of all garbage generated by outdoor diners and insure that these receptacles are emptied as frequently as needed to avoid overflow.

G. Egnazio Casano and Vito’s Pizza shall indemnify and hold harmless the Borough of Pennington and its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorney fees, arising out of the operation of the outdoor dining area approved by this resolution.

H. The outdoor dining area approved by this resolution shall not operate until Mr. Casano and Vito’s Pizza has filed with the Borough Clerk a current Certificate of Insurance which certifies that:

- (1) the obligation to indemnify and hold harmless the Borough as provided above is insured by an insurance carrier authorized to do business in the State of New Jersey;
- (2) the Borough of Pennington and its agents and employees are named as additional insureds under this insurance with respect to claims, damages, losses and expenses arising out of operation of the outdoor dining area; and
- (3) the insurance in effect provides (a) at least \$1,000,000. of incurred liability coverage under each of the following types of coverage: general liability; premises liability; products and completed operations liability; personal and advertising injury liability; (b) property liability coverage in the amount of \$50,000.; (c) medical expense coverage in the amount of \$5,000.; (d) workers compensation coverage with the limits required by statute; and (e) employer’s liability coverage in the amount of \$500,000. per person/per occurrence.
- (4) the Borough will be given 10 days’ written notice of any cancellation of this insurance.

- 1. The outdoor dining area complies with all applicable requirements of Section 215-94 of the Borough Code which regulates outdoor dining areas otherwise permitted by the Code.
- 2. The conditional authorization for outdoor dining granted by this resolution may be revoked by the Borough at any time, with or without notice to Mr. Casano or Vito’s Pizza. This conditional authorization also shall be subject to such additional or amended conditions as Borough Council may deem appropriate at any time.
- 3. This conditional authorization shall in any event expire on December 31, 2022.

| Record of Council Vote on Passage |     |     |      |      |            |     |     |      |      |
|-----------------------------------|-----|-----|------|------|------------|-----|-----|------|------|
| COUNCILMAN                        | AYE | NAY | N.V. | A.B. | COUNCILMAN | AYE | NAY | N.V. | A.B. |
| Angarone                          | X   |     |      |      | Gross      | X   |     |      |      |
| Chandler                          | X   |     |      |      | Marciante  | M   |     |      |      |
| Gnatt                             | X   |     |      |      | Stern      | S   |     |      |      |

Council Member Marciante made a motion to approve Resolution 2022-4.11, second by Council Member Stern. A brief discussion took place regarding the requirement that Vito’s provide receptacles for trash generated by the outdoor dining. Mr. Smith stated that the Borough owned garbage cans were moved across the street, but it only takes one pizza box to fill up the opening. Mr. Smith stated that it would be good if the restaurant were responsible for their own trash. Upon a roll call vote all members present voted in favor.

Mayor Davy stated if no one has an objection to Resolution 2022-4.12, 4.13, 4.14 or 4.15 then he would like to call for a consent agenda to approve these resolutions as they are all related to expenditures under the American Recovery Act Funding. Council Member Chandler made a motion to approve Resolutions 2022-4.12, 2022-4.13, 2022-4.14 and 2022-4.15, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2022 – 4.12**

**RESOLUTION AMENDING RESOLUTION 2021-12.8 AUTHORIZING PURCHASE OF NEPTUNE SOFTWARE FOR METER READING FROM RIO SUPPLY, INC. THROUGH COOPERATIVE PRICING SYSTEM AGREEMENT WITH THE NORTH JERSEY WASTEWATER COOPERATIVE PRICING SYSTEM**

**WHEREAS**, Resolution 2021-12.8 authorized the purchase of upgraded equipment used to read water meters in the Borough; and

**WHEREAS**, the Superintendent determined that the necessary equipment was available from Rio Supply, Inc. through the North Jersey Wastewater Cooperative Pricing System; and

**WHEREAS**, since the time of approval, the cost of this necessary equipment has increased due to expiration of a promotional discount and an increase in chip costs; and



**WHEREAS**, the equipment is available through the North Jersey Wastewater Cooperative Pricing System and Pennington Borough joined the North Jersey Wastewater Cooperative Pricing System by Resolution 2021-10.8 in October of 2021; and

**WHEREAS**, Rio Supply, Inc. located in Sicklerville, New Jersey is an authorized dealer for the desired equipment and has provided the Borough with revised quote #15516 dated March 23, 2022 for purchase of the equipment including set up and training through the North Jersey Wastewater Cooperative Pricing System; and

**WHEREAS**, the Borough has included this equipment in the plan for utilization of American Recovery Act funds; and

**WHEREAS**, the Chief Financial Officer has certified that funds are available for this purchase under the American Recovery Act;

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Pennington that the aforesaid purchase of equipment through the North Jersey Wastewater Cooperative Pricing System, including set up and training for the Public Works Department, is hereby authorized in an amount not to exceed \$13,290.00 as per revised quote #15516 dated March 23, 2022 from Rio Supply, Inc.

| Record of Council Vote on Passage |     |     |      |      |            |     |     |      |      |
|-----------------------------------|-----|-----|------|------|------------|-----|-----|------|------|
| COUNCILMAN                        | AYE | NAY | N.V. | A.B. | COUNCILMAN | AYE | NAY | N.V. | A.B. |
| Angarone                          | X   |     |      |      | Gross      | X   |     |      |      |
| Chandler                          | M   |     |      |      | Marciante  | X   |     |      |      |
| Gnatt                             | S   |     |      |      | Stern      | X   |     |      |      |

Council Member Chandler made a motion to approve Resolution 2022-4.12, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2022 – 4.13**

**RESOLUTION AUTHORIZING REPLACEMENT OF FLOW METERS FOR WELL 7 AND WELL 9 FROM RIO SUPPLY, INC. THROUGH COOPERATIVE PRICING SYSTEM AGREEMENT WITH THE NORTH JERSEY WASTEWATER COOPERATIVE PRICING SYSTEM**

**WHEREAS**, the Superintendent of Public Works has submitted a request to replace the flow meters at Well 7 and Well 9; and

**WHEREAS**, Borough Council has included the replacement of flow meters at well houses as part of their spending plan for American Recovery Act Funding; and

**WHEREAS**, the Superintendent has determined that the necessary equipment is available from Rio Supply, Inc. through the North Jersey Wastewater Cooperative Pricing System; and

**WHEREAS**, Pennington Borough joined the North Jersey Wastewater Cooperative Pricing System by Resolution 2021-10.8 in October of 2021; and

**WHEREAS**, Rio Supply, Inc. located in Sicklerville, New Jersey is an authorized dealer for the desired equipment and has provided the Borough with quote #15835 and quote #15836 dated March 9, 2022 for purchase of the equipment through the North Jersey Wastewater Cooperative Pricing System; and

**WHEREAS**, the Chief Financial Officer has certified that funds are available for this purchase under the American Recovery Act Funds;

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Pennington that the aforesaid purchase of flow meters for Well 7 and Well 9, from Rio Supply, Inc. through the North Jersey Wastewater Cooperative Pricing System, is hereby authorized in an amount not to exceed a total of \$12,229.50 as per quote #15835 and quote #15836 dated March 9, 2022.

| Record of Council Vote on Passage |     |     |      |      |            |     |     |      |      |
|-----------------------------------|-----|-----|------|------|------------|-----|-----|------|------|
| COUNCILMAN                        | AYE | NAY | N.V. | A.B. | COUNCILMAN | AYE | NAY | N.V. | A.B. |
| Angarone                          | X   |     |      |      | Gross      | X   |     |      |      |
| Chandler                          | M   |     |      |      | Marciante  | X   |     |      |      |
| Gnatt                             | S   |     |      |      | Stern      | X   |     |      |      |

Council Member Chandler made a motion to approve Resolution 2022-4.13, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2022 – 4.14**

**RESOLUTION AUTHORIZING PURCHASE OF INFLATABLE LIGHTS WITH GENERATOR  
FROM TIGER SUPPLIES, INC. UNDER STATE CONTRACT #GS-07F-01BA**

**WHEREAS**, the Superintendent of Public Works has submitted a request to purchase two (2) inflatable lights with generator; and

**WHEREAS**, this equipment would benefit both the public works department and the police department during public events and emergency situations; and

**WHEREAS**, Borough Council has included this equipment as part of their spending plan for American Recovery Act Funding; and

**WHEREAS**, the Superintendent has determined that the necessary equipment is available under State Contract GS-07F-01BA from Tiger Supplies, Inc. located at 64 Mountainview Boulevard, Wayne, New Jersey; and

**WHEREAS**, Tiger Supplies, Inc. has provided the Borough with quote #12070 dated February 2, 2022; and

**WHEREAS**, the Chief Financial Officer has certified that funds are available for this purchase under the American Recovery Act Funds;

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Pennington that the aforesaid purchase of inflatable lights under State Contract GS-07F-01BA is hereby authorized in an amount not to exceed \$10,932.92 as per quote #12070 dated February 28, 2022 from Tiger Supplies, Inc.

| Record of Council Vote on Passage |     |     |      |      |            |     |     |      |      |
|-----------------------------------|-----|-----|------|------|------------|-----|-----|------|------|
| COUNCILMAN                        | AYE | NAY | N.V. | A.B. | COUNCILMAN | AYE | NAY | N.V. | A.B. |
| Angarone                          | X   |     |      |      | Gross      | X   |     |      |      |
| Chandler                          | M   |     |      |      | Marciante  | X   |     |      |      |
| Gnatt                             | S   |     |      |      | Stern      | X   |     |      |      |

Council Member Chandler made a motion to approve Resolution 2022-4.14, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2022 – 4.15**

**RESOLUTION AUTHORIZING SECURITY UPGRADES TO BOROUGH BUILDINGS  
THROUGH COOPERATIVE PRICING SYSTEM AGREEMENT WITH THE HUNTERDON  
COUNTY EDUCATIONAL SERVICES COMMISSION**

**WHEREAS**, the Chief of Police and Superintendent of Public Works have identified the need for security upgrades to Borough buildings; and

**WHEREAS**, Borough Council has included these security upgrades as part of their spending plan for American Recovery Act Funding; and

**WHEREAS**, the Chief of Police and Superintendent have determined that the necessary security upgrades are available through Hogan Security Group, located at 1589 Reed Road, Unit 10, Pennington, NJ 08534 through the Hunterdon County Educational Services Commission; and

**WHEREAS**, Pennington Borough joined the Hunterdon Council Educational Services Commission by Resolution 2021-9.8 and approval was granted September 21, 2022; and

**WHEREAS**, Hogan Security Group is an authorized dealer for the desired equipment and has provided the Borough with quote #H2016121-5 dated March 11, 2022; and

**WHEREAS**, the Chief Financial Officer has certified that funds are available for this purchase under the American Recovery Act Funds;

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Pennington that the aforesaid security upgrades to Borough buildings through the Hunterdon County Educational Services Commission, is hereby authorized in an amount not to exceed \$65,618.45 as per quote

#H2016121-5 dated March 11, 2022 from Hogan Security Group.

| Record of Council Vote on Passage |     |     |      |      |            |     |     |      |      |
|-----------------------------------|-----|-----|------|------|------------|-----|-----|------|------|
| COUNCILMAN                        | AYE | NAY | N.V. | A.B. | COUNCILMAN | AYE | NAY | N.V. | A.B. |
| Angarone                          | X   |     |      |      | Gross      | X   |     |      |      |
| Chandler                          | M   |     |      |      | Marciante  | X   |     |      |      |
| Gnatt                             | S   |     |      |      | Stern      | X   |     |      |      |

Council Member Chandler made a motion to approve Resolution 2022-4.15, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2022 – 4.16**

**RESOLUTION GRANTING CONDITIONAL AUTHORIZATION FOR EMILY’S CAFE TO  
MAINTAIN A TEMPORARY OUTDOOR DINING AREA IN THE PUBLIC  
RIGHT- OF- WAY IN 2022**

**WHEREAS**, Emily Matticoli is the principal owner of Emily’s Café and Catering, LLC, a restaurant known as Emily’s Café located at 9 N. Main Street in the Borough of Pennington;

**WHEREAS**, Ms. Matticoli and Emily’s Café and Catering, LLC, have applied to Borough Council for permission to place movable tables and chairs on the sidewalk immediately adjacent to the restaurant, in particular, 3 tables and up to 6 chairs on the Main Street side of the restaurant, as shown in the attached sketch;

**WHEREAS**, Borough Council finds that the availability of outdoor dining contributes to the vitality of the Town Center and is consistent with the pedestrian-friendly environment envisioned for this area;

**WHEREAS**, Borough Council determines that approval of the proposed outdoor dining area for Emily’s Cafe, on a temporary and conditional basis as set forth further below, is in the public interest;

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

1. Emily Matticoli and Emily’s Café and Catering, LLC, are hereby granted permission to locate 3 tables and up to 6 chairs on the sidewalk immediately adjacent to the restaurant provided the following conditions are met:

- A. The tables and chairs shall be arranged as shown on the attached sketch.
- B. The outdoor dining area and affected sidewalk shall at all times be kept clean and free of litter and in compliance with all applicable health regulations.
- C. The outdoor dining area shall not obstruct pedestrian circulation on the sidewalk.
- D. Operation of the outdoor dining area shall comply with the Borough Noise Ordinance, as set forth in Chapter 133 of the Borough Code.
- E. The outdoor dining area may be used only during the operating hours of the restaurant. When the restaurant is not open, all tables and chairs shall be removed from the sidewalk.
- F. Owners must provide receptacles for collection of all garbage generated by outdoor diners and insure that these receptacles are emptied as frequently as needed to avoid overflow.
- G. The outdoor dining area shall not obstruct access to upstairs apartments or Kriegner Travel Services.
- H. Emily Matticoli and Emily’s Café and Catering, LLC, shall indemnify and hold harmless the Borough of Pennington and its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorney fees, arising out of the operation of the outdoor dining area approved by this resolution.
- I. Emily Matticoli and Emily’s Café and Catering, LLC, shall at all times have on file with the Borough Clerk a current Certificate of Insurance which certifies that:

- (1) the obligation to indemnify and hold harmless the Borough as provided above is insured by an insurance carrier authorized to do business in the State of New Jersey;
- (2) the Borough of Pennington and its agents and employees are named as additional insureds under this insurance with respect to claims, damages, losses and expenses arising out of operation of the outdoor dining area; and

- (3) the insurance in effect provides (a) at least \$1,000,000. of incurred liability coverage under each of the following types of coverage: general liability; premises liability; products and completed operations liability; personal and advertising injury liability; (b) property liability coverage in the amount of \$50,000.; (c) medical expense coverage in the amount of \$5,000.; (d) workers compensation coverage with the limits required by statute; and (e) employer’s liability coverage in the amount of \$500,000. per person/per occurrence.
- (4) the Borough will be given 10 days’ written notice of any cancellation of this insurance.

- I. The outdoor dining area complies with all applicable requirements of Section 215-94 of the Borough Code which regulates outdoor dining areas otherwise permitted by the Code.
2. The conditional authorization for outdoor dining granted by this resolution may be revoked by the Borough at any time, with or without notice to Emily Matticoli or Emily’s Café and Catering, LLC. This conditional authorization also shall be subject to such additional or amended conditions as Borough Council may deem appropriate at any time.
3. This conditional authorization shall in any event expire on December 31, 2022.

| Record of Council Vote on Passage |     |     |      |      |            |     |     |      |      |
|-----------------------------------|-----|-----|------|------|------------|-----|-----|------|------|
| COUNCILMAN                        | AYE | NAY | N.V. | A.B. | COUNCILMAN | AYE | NAY | N.V. | A.B. |
| Angarone                          | S   |     |      |      | Gross      | X   |     |      |      |
| Chandler                          | X   |     |      |      | Marciante  | M   |     |      |      |
| Gnatt                             | X   |     |      |      | Stern      | X   |     |      |      |

Council Member Marciante made a motion to approve Resolution 2022-4.16, second by Council Member Angarone with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2022 - 4.17**

**RESOLUTION AUTHORIZING RELEASE OF PERFORMANCE  
GUARANTEE FOR CUGINO’S PENNINGTON, LLC RELATED TO USE AGREEMENT WITH  
PENNINGTON BOROUGH FOR USE OF BOROUGH LAND AS A CONSTRUCTION STAGING  
AREA**

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

**WHEREAS**, the Use Agreement required Cugino’s to post a performance bond to ensure removal of all temporary improvements and restoration of the site; and

**WHEREAS**, construction of the restaurant is now complete and the owner of Cugino’s, now Boro, has requested release of the performance guarantee; and

**WHEREAS**, the Superintendent of Public Works has inspected the site to ensure compliance with the terms of the performance guarantee, that any temporary improvements are removed and that the site has been restored; and

**WHEREAS**, now that Cugino’s, now Boro, has completed construction, there is no longer a need to use the Borough owned property;

**WHEREAS**, the performance bond to be released was issued on behalf of Cugino’s Pennington, LLC by Western Surety Company dated May 16, 2019;

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Pennington, that release of the aforesaid performance guarantee is hereby approved, subject to written confirmation by the Superintendent of Public Works that the conditions stated above have been met to his satisfaction.

| Record of Council Vote on Passage |     |     |      |      |            |     |     |      |      |
|-----------------------------------|-----|-----|------|------|------------|-----|-----|------|------|
| COUNCILMAN                        | AYE | NAY | N.V. | A.B. | COUNCILMAN | AYE | NAY | N.V. | A.B. |
| Angarone                          | X   |     |      |      | Gross      | X   |     |      |      |
| Chandler                          | X   |     |      |      | Marciante  | S   |     |      |      |
| Gnatt                             | M   |     |      |      | Stern      | X   |     |      |      |

Council Member Gnatt made a motion to approve Resolution 2022-4.17, second by Council Member Marciante. Mrs. Chandler asked if anyone has looked to make sure that the Borough is satisfied that Cugino’s has complied with the conditions. Mr. Smith stated that he would take a final look tomorrow. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2022-4.18**

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

**WHEREAS**, The Cambridge School (Straube Center) has submitted to the Borough an Application for Temporary Use of Outdoor Space, seeking to erect 16’ by 32’ tent in the parking lot of the Straube Center for their spring musical performance from May 16, 2022 to May 23, 2022, in order to minimize the dangers of Covid-19; and

**WHEREAS**, the tent will have no walls and no heating or cooling and no extra lighting will be needed because the performances will be during daylight hours; and

**WHEREAS**, the Borough Construction Sub-code Official, Electrical Code Official and Zoning Officer have all reviewed the School’s plans and will continue to have jurisdiction;

**WHEREAS**, the Cambridge School has been in contact with Andy Fosina of the Hopewell Fire District who has inspected the site and indicated that he will ensure that all electric is on GFCI outlets; and

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

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

**Record of Council Vote on Passage**

| COUNCILMAN | AYE | NAY | N.V. | A.B. | COUNCILMAN | AYE | NAY | N.V. | A.B. |
|------------|-----|-----|------|------|------------|-----|-----|------|------|
| Angarone   | X   |     |      |      | Gross      | X   |     |      |      |
| Chandler   | X   |     |      |      | Marciante  | M   |     |      |      |
| Gnatt      | S   |     |      |      | Stern      | X   |     |      |      |

Council Member Marciante made a motion to approve Resolution 2022-4.18, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2022 – 4.19**

**RESOLUTION AUTHORIZING PURCHASE OF INGERSOLL RAND COMPRESSOR FROM  
FASTENAL COMPANY UNDER STATE CONTRACT M0002-19-FLEET-00565/00678**

**WHEREAS**, the Superintendent of Public Works has submitted a request to purchase an Ingersoll Rand Compressor; and

**WHEREAS**, this equipment will replace the current air compressor which is twenty (20) years old and has failed; and

**WHEREAS**, the Superintendent has determined that the equipment is available under State Contract M0002-19-Fleet-00565/00678 from Fastenal Company, located at 1875 N. Olden Avenue, Trenton, New Jersey; and

**WHEREAS**, Fastenal Company has provided the Borough with a price quotation dated February 25, 2022; and

**WHEREAS**, the Chief Financial Officer has certified that funds are available for this purchase in the Streets Budget – 2-01-26-290-000-225;

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Pennington that the aforesaid purchase of Ingersoll Rand Compressor under State Contract M0002-19-Fleet-00565/00678 is hereby authorized in an amount not to exceed \$3,379.99 as per quote dated February 25, 2022 from Fastenal Company.

**Record of Council Vote on Passage**

| COUNCILMAN | AYE | NAY | N.V. | A.B. | COUNCILMAN | AYE | NAY | N.V. | A.B. |
|------------|-----|-----|------|------|------------|-----|-----|------|------|
| Angarone   | X   |     |      |      | Gross      | X   |     |      |      |
| Chandler   | M   |     |      |      | Marciante  | S   |     |      |      |
| Gnatt      | X   |     |      |      | Stern      | X   |     |      |      |

Council Member Chandler made a motion to approve Resolution 2022-4.19, second by Council Member

Marciante with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2022 – 4.20**

**RESOLUTION AUTHORIZING THE SUBMISSION OF GRANT APPLICATIONS TO THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND PSE&G FOR PUBLICLY ACCESSIBLE EV FAST CHARGING STATIONS AND RELATED ELECTRIC WORK**

**WHEREAS**, the State of New Jersey, Department of Environmental Protection has announced that applications for publicly owned accessible EV charging stations are being accepted through May 13, 2022; and

**WHEREAS**, the Environmental Commission of the Borough of Pennington has requested that Borough Council consider submitting an application for such a grant;

**WHEREAS**, this grant would cover the equipment only and there are grant opportunities available through PSE&G for the electric work associated with this equipment;

**NOW, THEREFORE, BE IT RESOLVED**, that the Borough Clerk of the Borough of Pennington is hereby authorized to submit a grant application for publicly accessible EV charging stations; and .

**BE IT FURTHER RESOLVED**, that the Borough Clerk is also authorized to submit a grant application to PSE&G for the electric work associated with installation of the EV charging stations.

**Record of Council Vote on Passage**

| COUNCILMAN | AYE | NAY | N.V | A.B.    | COUNCILMAN | AYE | NAY | N.V. | A.B. |
|------------|-----|-----|-----|---------|------------|-----|-----|------|------|
| Angarone   |     |     |     | abstain | Gross      | X   |     |      |      |
| Chandler   | M   |     |     |         | Marciante  | X   |     |      |      |
| Gnatt      | X   |     |     |         | Stern      | S   |     |      |      |

Council Member Chandler made a motion to approve Resolution 2022-4.20, second by Council Member Stern with all members present voting in favor with the exception of Ms. Angarone who abstained.

**BOROUGH OF PENNINGTON  
RESOLUTION 2022 - 4.21**

**RESOLUTION AUTHORIZING CONTRACT TO JOIN  
COOPERATIVE PURCHASING PROGRAM WITH TEXAS-BASED  
“H-GAC” (HOUSTON-GALVESTON AREA COUNCIL)**

**WHEREAS**, pursuant to N.J.S.A. 52:34-6.2, New Jersey local governments are authorized to make purchases and contract for services through the use of nationally-recognized and accepted cooperative purchasing agreements that have been developed utilizing a competitive bidding process by another contracting unit within the State of New Jersey or within any other state when available, provided that use of the cooperative purchasing agreement shall result in cost savings;

**WHEREAS**, the Houston-Galveston Area Council (“H-GAC”) is a regional planning commission and political subdivision of the State of Texas authorized by Texas law to purchase goods and services;

**WHEREAS**, in conformance with Texas law, H-GAC has instituted a cooperative purchasing program under which it is empowered to contract with municipalities and other public entities and non-profits in Texas and any other state by which the municipal entity appoints H-GAC its purchasing agent for the purchase of certain products and services;

**WHEREAS**, the contracts for goods and services available through H-GAC have been awarded by a governmental entity through appropriate competitive bidding after being advertised as national cooperative contracts (or regional contracts that include New Jersey);

**WHEREAS**, cooperative purchases are made by the municipality through the H-GAC Cooperative Purchasing Program accessed through *HGACBuy.com* and submission of an executed purchase order in accordance with specifications and contract terms and pricing established by H-GAC and, when applicable legal requirements are satisfied, without public bidding under the New Jersey Public Contracts Law;

**WHEREAS**, Borough Council now seeks to enter into a contract with H-GAC by which it would make cooperative purchases through H-GAC when such purchases will effect cost savings and applicable legal requirements are satisfied;

**WHEREAS**, a specimen contract governing the relationship between the municipality and H-GAC is attached;

**NOW, THEREFORE, BE IT RESOLVED**, by Borough Council of the Borough of Pennington, that the Mayor, with the attestation of the Borough Clerk, is hereby authorized to enter into a contract for cooperative purchasing with the Houston-Galveston Area Council (H-GAC) substantially in the form annexed, subject to approval as to form by the Borough Attorney.

| Record of Council Vote on Passage |     |     |      |      |            |     |     |      |      |
|-----------------------------------|-----|-----|------|------|------------|-----|-----|------|------|
| COUNCILMAN                        | AYE | NAY | N.V. | A.B. | COUNCILMAN | AYE | NAY | N.V. | A.B. |
| Angarone                          | X   |     |      |      | Gross      | S   |     |      |      |
| Chandler                          | M   |     |      |      | Marciante  | X   |     |      |      |
| Gnatt                             | X   |     |      |      | Stern      | X   |     |      |      |

Council Member Chandler made a motion to approve Resolution 2022-4.21, second by Council Member Gross with all members present voting in favor.

**Professional Reports**

**Borough Attorney** – Mr. Bliss stated that he just wanted to alert Council that Chill Properties who own a property at the corner of Route 31 and West Franklin has filed a tax appeal.

**Chief Doug Pinelli** – Chief Pinelli had no report.

**Superintendent of Public Works** – Mr. Smith requested that everyone pass the word to neighbors and friends to contact Public Works to schedule an appointment for the lead line inventory. Mr. Smith stated that there are still a lot of unknowns. Mayor Davy stated that when the calls start to slow down, it might be time to send another letter to residents who have not responded. A discussion took place about using the e-subscribe list to get the word out again. Mr. Smith stated that he could see the e-subscribe notifications coming in handy for water notices.

**Borough Clerk** – Mrs. Sterling reminded Council Members to stop in and sign the affidavit for the Civil Rights Resolution.

**Chief Financial Officer** – Mrs. Webb had no report.

Mayor Davy thanked Betty and Sandy for their hard work in getting through the budget introduction. Mayor Davy stated that the hard work they put in made the process go very smoothly.

**Public Comment**

Mayor Davy asked that anyone wishing to speak, please raise your hand so the Borough Clerk 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.

Susan Perris of 41 East Welling Avenue stated that for months they have come before Council to request that Council save the trees on their property. Mrs. Perris stated that installation of a sidewalk will kill their trees. Mrs. Perris presented some ideas for sidewalk installation that will also save their trees. Mrs. Perris stated that they would also like Council to reconsider the proposed crosswalk as it is not necessary or justified.

Mr. Eli Perris of 41 East Welling Avenue stated that they are requesting that they get the same sidewalk and driveway apron as everyone else on the street. Mr. Perris stated that the current design does not provide for a driveway apron. Mr. Perris stated that they have requested that the Borough work with them to come up with a plan for the sidewalk that will also save their trees and be consistent with other properties. Mr. Perris stated that they have engaged an attorney and they are requesting a meeting with Borough officials to get this very important matter resolved.

Mayor Davy stated that the current proposed design allows for continued enjoyment of the trees. Mayor Davy stated that he spoke to the Perris’ attorney and he explained that the sidewalk would go in as designed and the attorney understood the Borough’s position and asked that the Borough reconsider the third crosswalk. Mayor Davy stated that he spoke to the Borough Engineer about that and he has referred the discussion to the Public Safety Committee for consideration. Mrs. Chandler stated that Public Safety will report back to Council once they have had a chance to discuss the crosswalk.

Mr. Stewart Warren was recognized but he had technological difficulties and could not be heard or seen by members of Council.

There were no other participants from the public asking to speak.

**Closed Session**

**AT, 8:33 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:

- Potential Litigation – Hopewell Township PILOT
- Potential Litigation – Jersey Meds

Council Member Marciante made a motion to convene in Closed Session, second by Council Member Gnatt with all members present voting in favor.

AT, 9:36 PM, Mayor and Council returned to open session and with no further business to come before Council the meeting was adjourned.

Respectfully submitted,

Elizabeth Sterling  
Borough Clerk