

**Pennington Borough Council
Regular Meeting – March 7, 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, 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.

Mayor Davy called for a moment of silence for the people of Ukraine as a show of solidarity.

Mayor's Business

Mayor Davy stated that at this time Borough Council would like to take the opportunity to recognize the contributions that Eileen Heinzl has made to the Pennington community as a resident, as a community volunteer and Borough Administrator. Mayor Davy read the following Proclamation:

**PROCLAMATION OF MAYOR AND COUNCIL
RECOGNIZING AND HONORING EILEEN HEINZEL**

WHEREAS, Eileen Heinzl has been an invaluable member of the Pennington Borough community and municipal government; and,

WHEREAS, Eileen has served the Pennington Borough municipal government first as a member of Council and then as Borough Administrator, and,

WHEREAS, Eileen has provided extraordinary professional guidance and expertise in leading the Pennington Borough municipal government to many significant accomplishments such as:

1. Effecting improvements to the management of the Borough's water utility with the implementation of remote radio read meters;
2. Implementation of the Borough's new automated trash collection program;
3. Restructuring the chain of command structure for the Public Works department;
4. Instituting the Borough's tree grant management program, which contributes to Pennington's recognition as a Tree City USA community;
5. Supporting the Hopewell Valley Green Team's success in receiving Sustainable New Jersey's bronze status recognition;
6. Negotiating the PSE&G agreement for a solar field at the Public Works site;
7. Overseeing the completion of the Borough Hall renovations project;
8. Securing funding through the New Jersey Green Acres Program for acquisition of the property surrounding the African American Cemetery, as well as the purchase of the Arboretum behind the Toll Gate School;
9. Supporting the Pennington Police Department and its officers;
10. Promoting Police Department renovations and facilitating the purchase of the Department's first hybrid police vehicle;
11. Assisting in the transition of the Department to a personnel complement of six (6) officers, and the shift from a Police Director to Police Chief;
12. Leading the development of the Pennington Library's first strategic plan, which was developed with community participation.

NOW THEREFORE BE IT PROCLAIMED THAT the Mayor and Borough Council of the Borough of Pennington on behalf of its citizens does hereby recognize Eileen Heinzl for her caring, compassionate, dedicated, faithful and professional years of service to Pennington Borough government and community.

BE IT FURTHER PROCLAIMED THAT THE Mayor and Borough Council shall hereby dedicate the first tree planted in the Borough's new arboretum in Eileen Heinzl's honor for her extraordinary service to the Pennington community.

Eileen thanked Mayor Davy and stated that she has enjoyed every minute of her time working for the Borough.

Mayor Davy stated that there are quite a few people in attendance that would like to speak a few words beginning with New Jersey Commissioner of Health, Judy Persichilli.

Mrs. Persichilli stated that when Mayor Davy reached out and asked if she wanted to say a few words she thought “wow, I get to talk to Tony’s work wife”. Mrs. Persichilli stated that her second thought was what Tony would say. Mrs. Persichilli stated that she has a picture of Eileen, Joe Lawver and Tony Persichilli from the first campaign that they ran and then told a story of Tony going out campaigning and returning home to watch the Giants game announcing that Eileen would handle the campaigning. Mrs. Persichilli stated that many times Tony stated “Eileen will handle it”. Mrs. Persichilli stated that Tony always depended on Eileen and he was so excited when Eileen expressed an interest in the Borough Administrator position. Mrs. Persichilli stated that Eileen completed a great team at the Borough. Mrs. Persichilli stated that Tony lived vicariously through Eileen’s family going on and on about what Eileen’s children were doing, where they were going to school and what they were doing. Mrs. Persichilli stated that Eileen was one of his favorite people and when Tony liked and respected someone, they could do no wrong. Mrs. Persichilli stated that is what Tony would want her to say and to thank you Eileen for everything you did and for your service to the Borough of Pennington. Mrs. Persichilli stated that Tony would say, Eileen you are a good and faithful servant and he would want you to know that getting to know you was one of the highlights of his time in public service but actually his time in Pennington. Mrs. Persichilli stated that Tony would say that of all that Eileen has done, her greatest accomplishment are her children. Mrs. Persichilli stated Tony would be proud and he would want you to know that he knows that the journey you are on is difficult and the cross you have to bear is a heavy one, but when you are ready you can gently put that cross down and like him you will find peace and like him, she is sure that that is what Tony would want her to say.

Mayor Davy next introduced New Jersey State Treasurer, Liz Muoio. Mrs. Muoio stated that she has been fortunate to know and share experiences with Eileen on both a personal and professional level and they share a love of family, politics and elected service. Mrs. Muoio stated that she has known the Heinzels for over 25 years. Mrs. Muoio stated that Eileen has always served with a quiet smile even though that is sometimes difficult to do when dealing with small town politics. Mrs. Muoio stated that when Eileen agreed to take the Borough Administrator position she said that it would be the perfect job to complement her love for the community but also her love for her family. Mrs. Muoio stated that she wanted to thank everyone for the opportunity to speak but she wanted to thank Eileen for her dedication and hard work.

Mayor Davy introduced Weed Tucker, former Mayor and Council Member. Mr. Tucker stated that he dubbed Eileen “the Great Leader”. Mr. Tucker stated that this is a proper dedication for Eileen and he thanked Eileen for her years of service to the Borough.

Former Mayor Joe Lawver, former Council Members Liz Semple, Glen Griffiths and Tom Ogren, former Public Safety Director Bill Meytrott, Borough Attorney Walter Bliss, Borough Engineer Don Fetzer, Ed McManimon, Jim Reilly, Eric Holtermann, Alan Hersey, Dan Pace and Michelle Needham, Chico Marciante and Deb Gnatt all spoke in tribute to Eileen Heinzl’s many accomplishments and thanked Eileen for her service to the Borough of Pennington.

Following the comments Eileen thanked everyone for their kind words and for allowing her to do what she loved doing.

At 7:50pm, Ms. Gnatt left the meeting.

Mayor Davy read the following proclamation recognizing Beverly Mills:

**PROCLAMATION OF MAYOR AND COUNCIL
RECOGNIZING AND HONORING
BEVERLY MILLS**

Whereas, Beverly Mills, who has lived in Pennington her entire life, has been an engaged and active member of her church, community and government and has contributed her wisdom and common sense to these institutions and made them better from her membership;

Whereas, Beverly Mills through her research, writing and activism has contributed to and improved the community’s knowledge, understanding and appreciation of the history and experiences of all Pennington Borough and Hopewell Township citizens;

Whereas, Beverly’s talent, wit, intelligence and strong community ties were a great asset to Council, and will be sorely missed;

Whereas, Beverly additionally provided vital assistance and input as a member of the Police and Court Review Committee, Finance Committee, Library Board of Trustees and the Borough’s Personnel Committee;

NOW THEREFORE BE IT PROCLAIMED THAT the Mayor and Borough Council of the Borough of Pennington on behalf of its citizens does hereby recognize Beverly Mills for her dedicated and steadfast service to Pennington Borough government and community as a member of the Pennington Borough Council.

Mayor Davy read the following Proclamation recognizing St. Matthews Church:

***A PROCLAMATION BY MAYOR AND COUNCIL OF PENNINGTON BOROUGH CELEBRATING
THE 100TH ANNIVERSARY OF ST. MATTHEW'S EPISCOPAL CHURCH***

Whereas, in 1921 a small but enthusiastic group of Episcopalians met in the Tea Room of the Rose Garden Inn at 410 South Main Street in Pennington, and,

Whereas, in 1925 the Rt. Rev. Paul Matthews commissioned a mission church, and in 1926 William Howe donated a lot at 300 South Main Street on which a small wooden church was built in honor of Bishop Matthews as the chapel of St. James Church in Trenton. Pastoral care was assigned to Rev. Gerald Manchion, and,

Whereas, in 1945 Henry C. Beck was appointed as Deacon, and left when he was elevated to priesthood. Next leadership of the chapel went to Rev. William Ernest Tilley followed by Rev. Ware King. Expansion followed in 1952, including a parish hall, kitchen, and sacristy, and,

Whereas, a service of rededication was held on February 10, 1955, and with further growth of the congregation a need was seen which included the purchase of a house on the adjacent property which became the rectory, and,

Whereas, on April 9, 1957, St. Matthew's was commissioned a parish and the Rev. Edwin W. Tucker became the first full-time rector. During his tenure a Sunday school for the youth of the parish was built. Canon Tucker left in 1959 when he was appointed to the Diocesan Staff, and,

Whereas, St. Matthew's has flourished with diversified leadership of seven rectors, that includes four men and three women, especially 37 years by long-serving Rev. Canon John "Jack" Belmont, 1976-2013, and our current priest in charge, Rev. Ophelia Laughlin. She grew up in the area and has deep family and personal ties to Pennington and to St. Matthews, and,

Whereas, from a humble beginning in a Tea Room, St. Matthew's has experienced change and growth both spiritual and civic from child day care to senior support, and,

Whereas, St. Matthew's is a proud partner among the six churches of Pennington serving the religious and civic needs of parishioners and providing leadership to the community with four congregants' service as Mayor of Pennington: John T. Huddleson, Edwin Weed Tucker, James Benton, and Joseph R. Lawver, and,

Whereas, for 100 years clergy and parishioners have contributed to the spiritual, ecumenical, and civil well-being of parish and community and,

Now, therefore be it proclaimed by the Mayor and Council of Pennington to recognize and honor with congratulations the accomplishments of St. Matthew's for this milestone 100th anniversary of its long and distinguished history.

Mayor Davy announced the two budget work sessions have been scheduled for March 15th and for March 22nd to finalize the budget prior to introduction.

Mayor Davy announced the office hours for the Borough have returned to normal, masks will still be required at the point of contact and beginning with the April meeting Council will return to in-person meetings. Mayor Davy stated that other committee, boards and commissions will be advised that they can return to in-person meetings.

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.

Ordinances for Public Hearing and Adoption

Mayor Davy read Ordinance 2022-1 by title.

**BOROUGH OF PENNINGTON
ORDINANCE NO. 2022-1**

ORDINANCE CONCERNING TRASH COLLECTION AND REPLACEMENT OF DAMAGED CONTAINERS, AMENDING CHAPTERS 172 AND 98 OF THE CODE OF THE BOROUGH OF PENNINGTON

WHEREAS, Borough Council seeks to amend Article II, Chapter 172 of the Code of the Borough of Pennington, concerning trash collection, (a) to make clear that vacant lots are not eligible properties for receipt of approved trash containers, and (b) to require property owners to purchase an approved trash container to replace a container lost or damaged beyond reasonable wear and tear;

WHEREAS, Borough Council further seeks to amend Chapter 98 of the Code, concerning fees, to provide for a container replacement fee of \$100;

NOW, THEREFORFE, BE IT ORDAINED, by Borough Council of the Borough of Pennington, that Article II of Chapter 172 of the Code of the Borough of Pennington, is hereby amended (with new language underlined and deleted language crossed out) as follows:

1. Section 172-9, definitions, is hereby amended to modify the definitions of “Approved Trash Container” and “Eligible Property” to read:

“APPROVED TRASH CONTAINER. A trash container on wheels ~~supplied and~~ owned by the Borough and supplied without charge to the property owner of every eligible property ~~property owner without charge~~ or an identical additional container supplied by the Borough to ~~the~~ that property owner for an annual fee as provided in Chapter 98 of this Code. Only one container per eligible property shall be provided without charge to the property owner and no more than one additional container shall be provided to ~~a~~ that property owner for a fee. No other container or rolling cart may be used for trash collected by the Borough. Each container shall have a capacity of 95 gallons unless before the deadline advertised by the Department of Public Works the property owner notified the Department that it prefers a sixty-five-gallon container.”

“ELIGIBLE PROPERTY. A property other than a vacant lot owned by a property owner as defined herein or, if owned by an adjacent property owner as defined, the adjacent property owner has requested trash collection service and paid the required fee as set forth in Section 172-13 and Chapter 98.”

2. Section 172-10, basic trash service, is hereby amended at Subsection G to read:

G. All approved trash containers, including the containers for which the property owner or adjacent property owner pays an additional fee, shall be issued and owned by the Borough and remain at the property address to which they are assigned. Property owners and adjacent property owners who lose a trash container or damage the container beyond reasonable wear and tear shall replace the container for the fee established for this purpose by Chapter 98 of this Code.

NOW, THEREFORE, BE IT FURTHER ORDAINED, that Article IX of Chapter 98 of the Code, concerning fees for solid waste disposal, is hereby amended by the insertion of a new Section 98-36, pertaining to replacement of lost or damaged trash containers, as follows:

“Section 98-36. Replacement of Lost or Damaged Trash Containers (new). The fee for replacement of a lost or damaged trash container in accordance with Section 172-10 of this Code shall be \$100.

NOW, THEREFORE, BE IT FURTHER ORDAINED, that this Ordinance shall be adopted and become effective upon passage and publication as required by law.

Council Member Marciante made a motion to open the Public Hearing on Ordinance 20221, second by Council Member Chandler. There were no comments from the public. Council Member Marciante made a motion to close the Public Hearing, second by Council Member Chandler with all in favor. Council Member Chandler made a motion to adopt Ordinance 2022-1, second by Council Member Marciante with all members present voting in favor.

Committee Reports

Planning & Zoning / Parks & Recreation/ Personnel – No report.

Public Safety /Economic Development / Environmental – Mrs. Chandler stated that Public Safety and discussed the budget for 2022. Mrs. Chandler stated that Economic Development met and discussed the

proposed Short Term Rental Ordinance which will be discussed later under Council Discussion. Mrs. Chandler stated that Environmental met and they are in the final stages of the Environmental Resource Inventory.

Public Works – Mr. Marciante stated garbage collection is going smoothly. Mr. Marciante stated that public works and parks and recreation will be meeting at Sked Street Park to discuss improvements to the park. Mr. Marciante stated that the public works committee would like to be involved in the conversations regarding the lead line inventory compliance. Mayor Davy stated that this can be placed on a future agenda once we have more information of funding opportunities and what our costs might be.

Finance & Technology / Board of Health – Mr. Gross reported that the Finance Committee met and he thanked Betty and Sandy for putting the budget numbers together. Mr. Gross stated that we discussed many parts of the budget so that we are ready for the upcoming budget work sessions.

Mr. Gross reported that the Board of Health met and held their reorganization meeting. Mr. Gross stated that the board re-elected Steve Papernberg as Chair. Mr. Gross stated that rabies clinic will be held in the spring. Mr. Gross stated that Health Officer, Devanji Patel reported that they are working on guidance for mask wearing for future use of masks. Mr. Gross stated that the Board of Health talked about the deer management plan and they would like to see a coordinated effort with a committee that included the Board of Health.

Historic Preservation / Library – Ms. Angarone stated that she had no report for Historic Preservation. Ms. Angarone stated that she had three quick highlights for the library, first the library launched the Big Read programs, second the library is working on their annual report which is due March 15th, and finally the library is working on an update of their strategic plan.

Senior Advisory Board – Mayor Davy had nothing to report for Senior Advisory.

Open Space/ Shade Tree – Ms. Stern reported that Open Space has not met since the last Council Meeting. Ms. Stern stated that the Shade Tree Committee did meet and they have many new members including herself. Ms. Stern stated that Shade Tree has a very seasoned group of people and there is a lot to learn. Ms. Stern stated that the Mayor attended the meeting as well and he invited two guest speakers from the DEP Forest Service who described what Shade Tree Committees are all about and what it means to be a member of the committee. Ms. Stern stated that she is pleased to report that four members have signed up for the CORE education program that is offered. Ms. Stern stated that they will be meeting the first Tuesday of each month.

Mr. Marciante stated that at the last meeting Open Space presented a plan for a bicycle path to connect the high school to the bike path and it did not seem that Council was in favor of that but more in favor of preserving the green belt around Pennington. Mr. Marciante stated that it has come to his attention that a property on Route 31 was purchased by an auto salvage company and that property was a prime consideration when Mayor Persichilli was in office. Mr. Marciante was very concerned about this location becoming an auto salvage yard. Mr. Marciante was quite upset about this news.

COUNCIL DISCUSSION

Short Term Rental Ordinance – Mayor Davy stated that Council received a draft of the Short Term Rental Ordinance that is being proposed. Mayor Davy stated that this ordinance would regulate the rental of properties for short terms and is really designed to deal with situations like the neighbors on South Main Street have been dealing with over the last couple of years. Mayor Davy stated that the ordinance would prohibit rentals of less than five consecutive days, but it also applies some regulatory standards and some enforcement tools for our various bodies of the Borough. Mayor Davy stated that there is a short term rental permit with a fee that will required to be renewed each year. Mayor Davy stated that it requires a fire safety inspection and procedures that are outlined in the ordinance. Mayor Davy stated that the ordinance gives the police department the ability to address violations like the ones on South Main. Mayor Davy thanked Walter Bliss, Kit Chandler, Eileen Heinzl, Cecile Vidican and Michelle Needham for their help with this.

Mr. Marciante stated that to him it looks like overkill and does this apply to people who go away for longer periods of time? Mayor Davy asked Walter Bliss to respond.

Mr. Bliss stated that State law permits a municipality to regulate short term rentals which is defined as any rental up to 174 days, roughly six months and anything longer than that is subject to conventional leases and is not regulated by the municipality. Mr. Bliss stated that any tenant living in a residence whatever the term is subject to the same enforcement as the homeowner is. Mr. Bliss stated that this ordinance simply focuses on one small segment of the rental housing market somewhere between five days and ninety days. Mr. Bliss stated that anything shorter than five days and longer than ninety days is prohibited under this ordinance up to 174 days. Mr. Marciante asked who handles the registration and Mr. Bliss stated that applications will be made to the Borough Clerk and she will keep track of it and as quarterback she will pass them out to agencies with appropriate jurisdiction. Mr. Bliss stated that there are a variety of powers, police, health, fire, construction that hinge on the use of property and this process will ensure that if the rules are broken there are penalties. Mr. Bliss stated that this will control run-away situations like the one

on South Main Street.

Ms. Stern stated that she is concerned about a couple of the requirements, first she asked how the five day requirement came about because that eliminates a long weekend and do we want to eliminate that in all cases. Ms. Stern stated that the respond in two hours requirement seems too short to her. Ms. Stern stated that she will not object to the ordinance, but she wanted to mention her concerns. Ms. Angarone agreed with the five day requirement as she often rents housing for soccer tournaments and that is only two days. Ms. Angarone stated that she likes the addition of a placard on the door, but the occupancy limits should be on the placard as well.

Mayor Davy stated that when there is a problem and the police need to get in contact with someone right away is what prompted the two hour response time requirement. Mayor Davy stated that the five day requirement addresses the problem we found with local college students renting houses and holding big weekend bashes and this will curb that from happening.

Mr. Gross asked how we will get the word out to people who will be affected by this. Mayor Davy stated that we will prominently post this and get the word out as best we can. Ms. Angarone stated that it is easy to find locations on the different sites where they are advertising.

Ms. Angarone asked about the requirement of a single rental at one time and would that preclude someone who owns a duplex from renting out both sides of their house and Mr. Bliss responded no, but we can make it clear in the ordinance.

Mrs. Chandler asked about occupancy into the body of the ordinance and Walter stated that he would work that into the ordinance. Mr. Bliss stated that will polish the ordinance for introduction at the next meeting.

Cannabis Resolution of Support – Mayor Davy stated that a meeting was conducted last week to review applications for Jersey Meds, Fine Fettle and Cannique and a couple things have happened since last week. Mayor Davy stated that Jersey Meds has moved their location from the Shoppes of Pennington to 7 Route 31 North and they have provided a lease agreement to the Borough. Mayor Davy stated that all applicants have provided information on their proposed locations proximity to schools. Mayor Davy stated that with regard to the number of resolutions of support that can be issued which originally we thought was one might have changed based on information that Walter received from the State. Mr. Bliss stated that he wanted to suggest that Council has a choice and they can issue one resolution of support and that will be it until the applicant either passes muster with the State or does not. Mr. Bliss stated that if Council adopts multiple resolutions that is allowed by the State as long as it is stated in the resolution that as soon as one application is approved by the CRC then that is the one that the Borough approved. Mr. Bliss stated in other words, the first application through the State process wins.

Mrs. Chandler stated that if we send three Resolutions through what is the criteria for the State or is it as she understands, whoever gets through the process first. Mr. Bliss stated that depends and if the Borough does three resolutions then the priority that the State gives to the different applications becomes pertinent. Mr. Bliss stated that for example one of the applicants has indicated that they will apply to be a micro business which has special priority and during the hearing we asked questions of the applicants related to special priorities and if the Borough issues more than one resolution then whichever applicant that has a higher priority with the State will have an advantage.

Mr. Marciante asked if we approve all three do they all have to go to zoning? Mr. Bliss stated that this is one of the grey areas, the law states that once an application is approved by the CRC the application will come to the Borough within 14 days and we will then have 28 days to get back to CRC as to whether or not this applicant complies with our zoning which is entirely unrealistic in terms of getting zoning approvals. Mayor Davy stated especially if a site plan or sub-division approval is needed. Mr. Bliss stated that he would argue and the applicants acknowledged that if the Land Use Law requires approvals, then they will have to get approvals, however long that takes.

Mrs. Chandler stated that two of the three have actual locations and one does not have a physical location, though they have a place where they want to locate their business. Mrs. Chandler asked if that will pass muster with the CRC? Mr. Bliss stated that he believed it would and if a resolution is issued to that applicant, the Borough would be tied to that applicant until they opened for business. Mrs. Chandler asked of Council if they would be in favor of issuing a time limit for that applicant as there is a lot that needs to be done with the location including sub-division, site plan approval and a road cut to Route 31. Mr. Bliss stated that the application states that they will use an existing cut but will work simultaneously to get approval for a second. Mrs. Chandler asked if we give one resolution of support then would it make sense to put a time limit so that it is acted on within a certain amount of time. Mr. Bliss felt that was a decent idea.

Some discussion took place about leaving this up to the State to decide. Ms. Stern stated that the Borough has put a lot of time and effort into this process and she would not be in favor of leaving the decision up to the State. Ms. Angarone stated that she agrees with Ms. Stern and does not like the idea that whoever gets in the door first as that undermines the procedure that we have undertaken. Ms. Angarone stated that she also likes the idea of a deadline.

Mr. Marciante was concerned about the zoning requirements holding up the process if we only issue one resolution of support. Mr. Bliss stated that it is a big burden on the zoning board. Mrs. Chandler stated that she thought that all three applicants were viable candidates and that perhaps Council should rank the applicants in case the one that is awarded a resolution of support does not come through then we have an order for issuing a second resolution to the next applicant.

Mayor Davy stated that Council needs to make a determination on the one applicant if the direction of Council is to issue only one resolution so that Walter can work on filling in the resolution for later in the meeting.

Mrs. Chandler stated that when we first began this process the ordinance was for three retail cannabis establishments, two recreational and one medical and that was reduced to one recreational and one medical and she would like to know since there are three viable candidates if there is interest in revisiting that. Ms. Stern stated that seeing the proximity of the locations to one another she feels that three is too many. Ms. Stern stated that she likes the idea of ranking the applicants and not leaving it up to the State.

After some discussion Council Members voiced their rankings. Mr. Gross stated that he is concerned that Jersey Meds did not realize that their initial location was so close to a school. Mr. Gross stated that Cannique is a concern as it close to a residential area and Fine Fettle has two executives that do not have experience with Cannabis. Mayor Davy stated that it is good to hear concerns, but he would like to hear from Council who their first choice for issuing a resolution of support would be.

Ms. Stern stated that there are considerations for all of them but she would give her support to Cannique and the reason is that the nature of the local commitment and involvement and the more discreet location of their site as compared to the other two locations. Ms. Stern stated signage basically at the entrance to Pennington is concerning to her much like Mr. Marciante's concern with the auto salvage yard.

Ms. Angarone stated that having reviewed all the applications and the criteria that was used she came to the same conclusion and would support a resolution of support to Cannique. Ms. Angarone stated that the folks involved are very invested in Pennington and she also likes the idea of the understated design of the building and the not so walkable location.

Mr. Gross stated that he would prefer Cannique for similar reasons, the connection to Pennington and the experience of having run a cannabis business previously but he does have some concerns with the location and the proximity to a residential area. Mayor Davy stated that ingress and egress would be on Route 31 so it should not be a problem for the residential area.

Mr. Marciante stated that he also would put Cannique as his first choice, but he would like to see a deadline set, Fine Fettle would be second and Jersey Meds would be third. Mr. Stern and Ms. Angarone agreed with Mr. Marciante.

Mrs. Chandler stated that she does not disagree with any of the comments but she is concerned with how long it will take Cannique to get up and running as we have two other viable options and she agrees with the ranking of Cannique, Fine Fettle and Jersey Meds. Mrs. Chandler stated that she would like to see an expiration date for the resolution of support.

Mr. Bliss stated that the time restriction would be to limit the time that the applicant has to file. Mayor Davy stated that Cannique as of the last meeting was not ready to file as they were working on getting certification as a Women Owned Business. Mrs. Chandler was concerned with giving the resolution of support to someone who is not ready to file their application.

Some discussion took place on placing a time limit in the resolution or issuing two resolutions for support. Mr. Bliss stated that Council should take whatever time they need to make the best decision for the Borough. Council agreed that that they would issue one resolution of support now with a deadline for filing their application and if the deadline is not met than a second resolution of support would be issued at that time. Mrs. Chandler stated that she would suggest that the deadline for filing an application be May 2nd and if Cannique has not filed their application by that date, Council can consider a second resolution of support at the May Council meeting.

Ms. Stern asked if the Borough is allowed to ask Cannique to respond to some of the concerns that were raised this evening. Mr. Bliss stated that he did not think that there was legal impediment but he would think an arm's length approach would be best. Mrs. Chandler stated that she thought that Cannique should communicate their application status to Mr. Bliss. Mr. Bliss stated that the draft resolution has a recital related to distance from schools and he is not sure that the Borough has a great record from the applicants and there are some inconsistencies perhaps related to the methodology used. Mr. Bliss stated that all applicants are required to submit this information to the State and maybe it would make sense to delete that recital from the resolution. Mayor Davy stated that if it is required by the State, then we should let them deal with that regulation. Mr. Bliss stated that the Borough has not sought to regulate the distance to schools in the ordinance. Ms. Angarone stated that if it is not included in the ordinance then she is not comfortable with it being included in the resolution.

NEW BUSINESS

**BOROUGH OF PENNINGTON
RESOLUTION #2022 – 3.1**

RESOLUTION AUTHORIZING REFUNDS

BE IT RESOLVED that a refund be issued from the Developer’s Escrow Fund to J & M Schragger LLC, 417 South Main Street, Pennington, NJ 08534 for the balance of escrow account for Planning Board application 16-002 in the amount of \$470.40 and Planning Board application 16-001 in the amount of \$20.50.

BE IT RESOLVED that a refund be issued from the Developer’s Escrow Fund to Walter Stephen Mahle, 151 East Delaware Avenue, Pennington, NJ 08534 for the balance of escrow account for Planning Board application 21-013 in the amount of \$600.12.

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	X			
Gnatt				absent	Stern	M			

Council Member Stern made a motion to approve Resolution 2022-3.1, second by Council Member Chandler with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2022 – 3.2**

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 \$ 2,149,790.99 from the following accounts:

Current	\$ 1,972,578.74
W/S Operating	\$ 82,742.20
Grant Fund	\$ 266.87
Other Trust Fund	\$ 23,695.00
Open Space Fund	\$ 40,050.98
Animal Control Fund	\$ 132.00
General Capital	\$ 29,461.52
Developer’s Escrow	\$ 863.68
TOTAL	\$ 2,149,790.99

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				absent	Stern	X			

Council Member Chandler made a motion to approve Resolution 2022-3.2, second by Council Member Marciante with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION #2022-3.3**

**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.

Finance	Salaries	\$10,000.00
Engineering	Other Expense	\$10,000.00
Planning Board	Salaries	\$10,000.00
Planning Board	Other Expense	\$5,000.00
Police	Salaries	\$100,000.00
Library	Other Expense	\$20,000.00
Street Lighting	Other Expense	\$7,000.00
Social Security	Other Expense	\$10,000.00
Municipal Court	Other Expense	\$2,000.00
Total		\$174,000.00

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

Water	Salaries	\$30,000.00
Water	Other Expense	\$20,000.00
Sewer	Other Expense	\$15,000.00
Stony Brook Regional Sewer Auth.	Other Expense	\$100,000.00
TOTAL		\$165,000.00

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				absent	Stern	S			

Council Member Chandler made a motion to approve Resolution 2022-3.3, second by Council Member Stern with all members present voting in favor.

Mayor Davy deferred Resolution 2022-3.4 to the end of New Business to allow Mr. Bliss time to fill in and amend the resolution as per the discussion above.

**BOROUGH OF PENNINGTON
RESOLUTION NO. 2022-3.5**

**RESOLUTION AUTHORIZING LEAVE OF ABSENCE FOR
BUSINESS ADMINISTRATOR EILEEN HEINZEL**

WHEREAS, Business Administrator Eileen Heinzl has requested an unpaid leave of absence in conformance with the Borough’s Leave of Absence Policy (4.10);

NOW, THEREFORE, BE IT RESOLVED, by Borough Council of the Borough of Pennington, that Ms. Heinzl’s request for unpaid leave be granted, effective February 15, 2022.

Record of Council Vote on Passage

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

Council Member Gross made a motion to approve Resolution 2022-3.5, second by Council Member Chandler with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2022–3.6**

**RESOLUTION AUTHORIZING SHARED SERVICES
AGREEMENT FOR USE, MAINTENANCE AND CLEANING OF THE SENIOR CENTER**

WHEREAS, use of the Senior Center on Reading Street in the Borough of Pennington is shared by Hopewell Borough, Hopewell Township and Pennington Borough;

WHEREAS, responsibilities for maintenance of the Senior Center are also shared among the three municipalities;

WHEREAS, the three municipalities intend to enter into a shared services agreement for 2022, superseding prior agreements, by which Hopewell Township will continue to provide weekly cleaning services at the Center and pay to Pennington Borough the sum of \$4,969.00; Hopewell Borough will pay Pennington \$1,241.00 for the year; and Pennington will provide cleaning supplies for the building and be responsible for all maintenance to the outside of the building and the HVAC and plumbing, painting and replacement of light bulbs, and snow and ice removal from sidewalks and parking lots;

WHEREAS, the proposed form of agreement is annexed to this Resolution;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Mayor, with the attestation of the Borough Clerk, is hereby authorized to execute the annexed agreement on behalf of Pennington Borough.

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				absent	Stern	X			

Council Member Chandler made a motion to approve Resolution 2022-3.6, second by Council Member Gross with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2022 - 3.7**

**RESOLUTION APPROVING LIST OF ENGINEERING PROJECTS WITH BOROUGH
ENGINEER FOR THE YEAR 2022**

WHEREAS, Borough Council seeks to approve a list for certain engineering projects for 2022 prior to adoption of the budget; and

WHEREAS, attached to this resolution is a Project List identifying projects that the Borough Engineer recommends, subject to approval by Borough Council; and

WHEREAS, the Project List includes projects that may require engineering services during the year although the estimated costs of the required services has not yet been determined; and

WHEREAS, those projects not yet estimated may require further action by Borough Council and certification as to availability of funds by the Chief Financial Officer once an amount is determined; and

WHEREAS, although the Project List identifies projects totaling \$27,500.00 payable from the Current Fund, \$43,250.00 payable from Water and Sewer and \$204,000.00 from Capital Ordinances, **it is understood that there is no guarantee that all of these projects will be undertaken this year**; and

WHEREAS, it is further understood and agreed that the Engineer shall not begin work on any project without explicit written direction and a signed purchase order from the Borough Administrator;

WHEREAS, the Chief Financial Officer of the Borough has certified that funds are available in the respective engineering budgets and/or Capital Ordinances for the projects identified on the Project List;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the projects on the attached Project List are hereby approved subject to specific authorization to proceed and issuance of one or more signed purchase orders by the Borough Administrator as stated above.

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				absent	Stern	X			

ENGINEERING PROJECT LIST - 2022

<u>ROUTINE ENGINEERING</u>	<u>CURRENT FUND</u>	<u>GENERAL CAPITAL</u>
General Engineering – Current Fund	\$10,000.00	
Attendance at Meetings	\$ 4,000.00	
NJDOT Grant Application (Mill and Overlay)	\$ 6,000.00	
Stormwater Pollution Plan	\$ 5,000.00	
Tax Map Updates/Maintenance	\$ 2,500.00	
NJDOT – W. Franklin/Knowles (Design)		\$ 80,000.00
NJDOT – East Welling Avenue (Construction)		\$ 89,000.00
TOTAL – CURRENT	\$ 25,000.00	
Tax Maps	\$ 2,500.00	
TOTAL – CAPITAL		\$169,000.00

WATER AND SEWER ENGINEERING PROJECT LIST

<u>ROUTINE ENGINEERING</u>	<u>WATER</u>	<u>SEWER</u>	<u>W/S CAPITAL</u>
General Engineering – Water/Sewer	\$10,000.00		
Water/Sewer Connection Fees	\$ 5,500.00		
Grease Interceptors		\$ 4,500.00	

NJDEP REGULATION

Water Conservation & Draught Mgmt	\$ 4,500.00
Water & Sewer – O&M Manual Update	\$ 4,500.00
Water Utilization & DRBC Audit Report	\$ 3,000.00
CCR Report	\$ 5,000.00

WATER QUALITY ACCOUNTABILITY ACT

Update Water System Standard			
Drawings & Construction Rules and Regulations	\$ 3,750.00		
Update Sanitary System Standard			
Drawings & Construction Rules & Regulations		\$ 2,500.00	
Asset Management Plan			\$ 35,000.00
TOTAL	\$ 36,250.00	\$ 7,000.00	\$ 35,000.00

Council Member Marciante made a motion to approve Resolution 2022-3.7, second by Council Member Chandler. Ms. Angarone asked what water conservation & draught management covers. Mrs. Sterling stated that Borough Engineer, Brandon Fetzer was in attendance. Mr. Fetzer stated that is the annual report of pumped water versus billed water. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2022 – 3.8**

**RESOLUTION AUTHORIZING GRANT AGREEMENT BETWEEN
THE BOROUGH OF PENNINGTON AND THE STATE OF NEW JERSEY BY AND FOR THE
DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR
A NJ URBAN & COMMUNITY FORESTRY PROGRAM (NJUCF)**

WHEREAS, the governing body of the Borough of Pennington desires to further the public interest by obtaining a grant from the State of New Jersey in the amount of \$10,000.00 to fund the project known as NJUCF Stewardship Grant - Reforestation Tree Planting; and

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington that the Mayor with the attestation of the Borough Clerk are hereby authorized as follows:

1. To make application for such a grant.
2. If awarded, to execute a grant agreement with the State for a grant in an amount not more than \$10,000.00, subject to approval as to form by the Borough Attorney.
3. To execute any amendments thereto which do not increase the Grantee’s obligations.

BE IT FURTHER RESOLVED that the Borough Council of the Borough of Pennington authorize and hereby agree to match 20% of the Total Project Amount, in compliance with the match requirements of the agreement. Zero% of the match will be made up of in-kind services (if allowed by grant program requirements and the agreement). The availability of the match for such purposes, whether cash, services, or property, is hereby certified.

Record of Council Vote on Passage

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

Council Member Marciante made a motion to approve Resolution 2022-3.8, second by Council Member Gross. Ms. Stern asked for an explanation of the resolution. Mrs. Sterling stated that this is a grant that we already received and the DEP requires that we do their form of resolution. Upon a roll call vote all members present voted in favor with the exception of Ms. Angarone who abstained.

**BOROUGH OF PENNINGTON
RESOLUTION 2022-3.9**

**RESOLUTION AUTHORIZING MUNICIPAL SERVICES AGREEMENT WITH HERITAGE AT
PENNINGTON CONDOMINIUM ASSOCIATION FOR 2022**

WHEREAS, Heritage at Pennington Condominium Association, Inc., c/o American Properties, 517 Route 1 South, Suite 2100, Iselin, NJ 08830 (“Association”) is a “qualified private community” as that term is defined in the New Jersey Municipal Services Act, N.J.S.A. 40:67-23.2, et seq. (“Act”);

WHEREAS, the Act requires that the Borough annually reimburse the Association for designated services not being performed by the Borough that are performed or paid for instead by the Association;

WHEREAS, the Act further requires that the Borough and the Association enter into a written agreement to provide for this reimbursement in an amount not to exceed the cost that would be incurred by the Borough in providing the services directly;

WHEREAS, the services subject to reimbursement are the following: (1) removal of snow, ice and other obstructions from the roads and streets within the Association’s community; (2) lighting of the roads and streets within the Association’s community, to the extent of payment for the electricity required, but not including the installation or maintenance of lamps, standards, wiring or other equipment; and (3) collection of leaves in the community, if any;

WHEREAS, the proposed Agreement between the Borough and the Association attached to this Resolution is intended to cover authorization of reimbursements in the calendar year 2022;

WHEREAS, the amounts the Borough is authorized to pay the Association in 2022 are set forth in the attached Agreement, including Schedule A (Snow Removal), Schedule B (Lighting of Roads and Streets) and Schedule C (Collection of Leaves) incorporated therein;

WHEREAS, as required by the Act, the Association shall account for use of the money paid over to it by the Borough to ensure that reimbursements do not exceed the amounts actually expended or

contractually committed by the Association during the accounting period in order to provide for the services covered by the Agreement;

WHEREAS, this Agreement shall be renewed and update annually with respect to covered services and amounts of authorized reimbursement;

NOW, THEREFORE, be it resolved by the Borough Council of the Borough of Pennington, that the Mayor, with the attestation of the Borough Clerk, is hereby authorized to enter into the attached Agreement on behalf of the Borough.

Record of Council Vote on Passage

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

Council Member Marciante made a motion to approve Resolution 2022-3.9, second by Council Member Chandler with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2022 – 3.10**

**RESOLUTION AUTHORIZING BOROUGH OF PENNINGTON TO ENTER INTO
A SHARED SERVICES AGREEMENT WITH HOPEWELL BOROUGH AND
HOPEWELL TOWNSHIP FOR SENIOR SERVICES COORDINATOR FOR THE
YEAR 2022**

WHEREAS, the Borough of Pennington desires to contract with Hopewell Borough and Hopewell Township for the provision of Senior Services; and

WHEREAS, the Uniform Shared Services and Consolidation Act permits a local unit to enter into a contract with another local unit for the provision of any services which any party to the agreement is empowered to render within its own jurisdiction; and

WHEREAS, the term of the proposed contract, entitled “Senior Services Agreement Between Borough of Hopewell, Borough of Pennington and the Township of Hopewell”, shall be for one year beginning January 1, 2022 and continue through December 31, 2022; and

WHEREAS, the cost to the Borough for senior services coordinator services as outlined in the Shared Services agreement would be \$5,000.00, which represents no increase over the previous year;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Mayor, with the attestation of the Borough Clerk, is hereby authorized to execute the aforesaid Shared Services Agreement with Hopewell Borough and Hopewell Township for the services of a senior services coordinator during the period January 1, 2022 through December 31, 2022; and

BE IT FURTHER RESOLVED that the aforesaid Agreement shall be substantially in the form attached to this Resolution, 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	S				Gross	X			
Chandler	M				Marciante	X			
Gnatt				absent	Stern	X			

Council Member Chandler made a motion to approve Resolution 2022-3.10, second by Council Member Angarone. Ms. Stern asked if we get the report that is referenced in the agreement and if so who gets the report. Mayor Davy stated that he will follow up on that. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2022-3.11**

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

WHEREAS, Mesh Films, LLC has requested permission to have police vehicles and officers in a scene of a movie shoot in Pennington on April 15 and 16, 2022, in the parking lot of the Pennington Quality

Market as authorized by the realty company managing the property;

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

WHEREAS, the shoot would take place on two nights, April 15 and 16, 2022, starting at approximately 6 pm and continue into the overnight because the scene takes place well into the night;

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

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

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

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

WHEREAS, the attached from of agreement describes the responsibilities of the parties;

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

Record of Council Vote on Passage

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

Council Member Marciante made a motion to approve Resolution 2022-3.11, second by Council Member Chandler. Mayor Davy stated that we authorized this last year, but they did not go through with the filming so this is a new request. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2022 – 3.12**

**RESOLUTION AUTHORIZING 24 POINT INSPECTION OF PUMP STATIONS THROUGH
COOPERATIVE PRICING SYSTEM AGREEMENT WITH NORTH JERSEY WASTEWATER
COOPERATIVE**

WHEREAS, the Superintendent of Public Works has identified the need to perform inspections at the Sked Street and Curlis Avenue pump stations; and

WHEREAS, the Borough has determined that the required services are available from Pumping Services, Inc. through the North Jersey Wastewater Cooperative Pricing System; and

WHEREAS, Pennington Borough approved Resolution 2021-10.8, authorizing the Borough to enter into a cooperative pricing agreement with North Jersey Wastewater Cooperative Pricing System in October of 2021; and

WHEREAS, North Jersey Wastewater Cooperative approved the Borough’s request to join in November of 2021; and

WHEREAS, Pumping Services, Inc. located in Middlesex, New Jersey is an authorized vendor for the desired services and has provided the Borough with quote #SQ36494 for inspection services in the amount of \$2,294.46; and

WHEREAS, the Chief Financial Officer has certified that funds are available for this purchase in the Administration budget line item 2-05-55-502-000-225;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington that the aforesaid services are hereby authorized in an amount not to exceed \$2,294.46 as per quote SQ36494 dated January 27, 2022 from Pumping Services, Inc.

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				absent	Stern	X			

Council Member Marciante made a motion to approve Resolution 2022-3.12, second by Council Member Angarone with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2022-3.13**

**RESOLUTION AUTHORIZING ESTABLISHMENT OF A DONATED
LEAVE PROGRAM FOR BOROUGH EMPLOYEES**

WHEREAS, Pennington Borough Council seeks to establish a Donated Leave Program for employees suffering from a catastrophic health condition or injury;

WHEREAS, a “catastrophic health condition or injury” is defined for this purpose as either (1) a life-threatening condition or combination of conditions; or (2) a period of disability required by his or her mental or physical health or the health of the employee’s fetus which requires the care of a physician who provides medical verification of the need for the employee’s absence from work for 60 or more work days;

WHEREAS, operation of the proposed plan is described in the attached two-page narrative entitled “Pennington Borough Donated Leave Program,” together with pertinent forms entitled “Pennington Borough Donated Leave Approval Form - Employee Application Form (1p), “Pennington Borough Donated Leave Program Donor Transfer Form,” (1p), and “Pennington Borough Donated Leave Program – Recipient Application/Affidavit” (2pp);

WHEREAS, the Personnel Committee of Borough Council has reviewed the proposed program and recommends its adoption by Council;

NOW, THEREFORE, BE IT RESOLVED, by Borough Council of the Borough of Pennington, that the aforesaid Donated Leave Program is hereby approved, effective immediately, with the understanding that it will be administered by the Borough Clerk and incorporated into the Borough Personnel Manual.

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				absent	Stern	S			

Council Member Marciante made a motion to approve Resolution 2022-3.13, second by Council Member Stern. Mr. Marciante asked if Mr. Bliss drew this up. Mr. Bliss stated that he did review it. Mayor Davy stated that this program models the program that Mercer County has. Upon a roll call vote all members present voted in favor.

Mayor Davy stated that Resolution 2022 – 3.14 will be considered after the Closed Session.

**BOROUGH OF PENNINGTON
RESOLUTION 2022-3.4**

**RESOLUTION IN SUPPORT OF APPLICATION OF
FOR CLASS 5 CANNABIS RETAIL LICENSE**

WHEREAS, the Borough of Pennington has adopted an ordinance permitting as a conditional use the establishment of a single licensed retail store for the sale of personal-use cannabis in the Borough (“Ordinance”);

WHEREAS, in accordance with the Ordinance, that single retail store shall be permitted as a conditional use in either the B-H Highway Business Zone or the O-B Office (Building) Business Zone;

WHEREAS, the conditions of conditional use established by the Ordinance may be summarized as follows:

1. floor area shall not exceed 2,500 square feet;
2. operating hours shall be between 9 am and 8 pm daily;
3. the store shall be accessible directly from a right-of-way through a separate entrance independent from any other retail ingress;
4. no cannabis product shall be visible from a public sidewalk, public street or right-of-way or any other public place;
5. all cannabis products shall be stored securely indoors and onsite;
6. consumption of cannabis products by any means of ingestion shall not be permitted in the licensed facility or adjacent grounds;
7. the store must have odor control measures approved by the Borough Board of Health;
8. the store must have security protocols to protect the safety of customers, employees and the public, approved by the Borough Police Department;
9. the store must have a 24/7 video recording security systems covering both interior and exterior areas with a 30-day archive;
10. the store and adjacent right-of-way must be monitored and kept free of loitering, litter and other debris and any sidewalks shall be swept and cleaned on a regular basis;
11. the design of the structure required by the store shall conform to the general character of the area;
12. the store must have adequate off-street parking subject to Borough requirements for off-street parking, as determined by the Borough Planning Board;
13. site access shall direct primary traffic flow to nonresidential areas;
14. the store shall comply with all applicable zoning, signage and site plan requirements prescribed by Borough ordinances, as may be amended from time to time;

WHEREAS, the Ordinance also establishes a local licensing requirement, to the full extent permitted by N.J.S.A. 24:6I-1, et seq. and N.J.S.A. 24:6I-31, et seq., including provisions for administration, enforcement and civil penalties and a requirement of ongoing compliance with Borough restrictions on the number, location, time and manner of operations of the store;

WHEREAS, the Ordinance further specifies that the responsibilities of Borough Council in promulgating and administering these restrictions shall be in addition to any required land use approvals within the jurisdiction of the Borough Planning Board.;

WHEREAS, Cannique, LLC (hereafter “Applicant”) has advised the Borough that it seeks to apply to the Consumer Regulatory Commission (CRC) for a Class 5 Cannabis Retailer License in order to establish a retail store for the sale of personal-use cannabis products in the Borough of Pennington;

WHEREAS, under N.J.S.A. 24:6I-36.d.1(c)(iv), every applicant for a CRC license must submit as part of its application to the CRC “proof of local support for the suitability of the location, which may be demonstrated by a resolution adopted by the municipality’s governing body indicating that the intended location is appropriately located or otherwise suitable for activities related to the operations of the proposed” cannabis facility;

WHEREAS, for this purpose, Applicant has applied to Borough Council for a Resolution of Local Support to include with its CRC application for annual licensure;

WHEREAS, in support of this application to the Borough, Applicant has responded in writing to questions posed by the Borough seeking to document that the Applicant’s proposed location and related plan of operations complies in all respects or is intended to so comply with all conditions for conditional use and other applicable Borough requirements contained in the Ordinance;

WHEREAS, at a public hearing before Borough Council on February 28, 2022, Applicant appeared and made an oral presentation and responded to questions, and later supplemented its written materials in response to questions by members of Council and the public, including specific calculations of the distance from its location to the nearest school;

WHEREAS, following discussion at a public meeting of Mayor and Council on March 7, 2022, Council has approved this Resolution of Local Support in favor of Applicant, subject to the conditions set

forth below;

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

1. The Applicant’s legal name under which it is registered to do business in the State of New Jersey is Cannique, LLC;
2. The Borough of Pennington has authorized by ordinance, as a conditional use, a cannabis retail store at 144 West Franklin Avenue, Pennington, NJ 08534, the location proposed by Applicant, subject to satisfaction of the conditions for conditional use further set forth above;
3. Borough Council further finds, based on the information provided by Applicant to date, that Applicant complies or intends to comply with all conditions of use and other requirements contained in the Ordinance;
4. Borough Council issues this Resolution of Local Support with Applicant’s acknowledgment that this Resolution is subject to a detailed review of Applicant’s proposed physical plant and plan of operations by applicable local authorities in accordance with the Ordinance as well as such zoning and land use approvals as required by law;
5. Borough Council confirms that because it has limited to One (1) the number of licensed cannabis retail businesses authorized to sell personal-use cannabis, the issuance of a license to the Applicant by the Commission will not exceed that limit;
6. This Resolution of Support shall expire and be withdrawn and be of no further force or effect if the Applicant has not applied for licensure to the Cannabis Regulatory Commission before May 2nd, 2022.

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	X			
Gnatt				absent	Stern	M			

Mr. Bliss read his revisions into the record to insert Cannique LLC and 144 West Franklin Avenue in the pertinent blanks that were in the distributed copy of the resolution and to eliminate the paragraph dealing with proximity to schools. Mr. Bliss added a new paragraph to establish an expiration date of May 2nd 2022 if the applicant has not made application to the CRC by that date. Council Member Stern made a motion to approve Resolution 2022-3.4, second by Council Member Gross with all members present voting in favor.

Professional Reports

Borough Attorney – Mr. Bliss stated that there is a closed session following the regular meeting.

Chief Doug Pinelli – Chief Pinelli stated that all officers have completed required training and everything has been relatively quiet.

Superintendent of Public Works – Mr. Smith stated that they are fielding heavy calls related to the lead inventory letters that went out. Mr. Smith stated that this is the only way to know what we are dealing with over the next 10 years.

Borough Clerk – Mrs. Sterling stated that our new staff members are working our great.

Chief Financial Officer – Mrs. Webb had no report.

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.

Mr. Brian Rogosky aired some concerns about the retail cannabis store. Mr. Rogosky agreed with Council that the location chosen will have the least impact on the Pennington community but he is concerned overall with the impact to the community related to proximity to schools and with traffic on Route 31. Mr. Rogosky asked that Council particularly address security as this could have a big impact on the Police Department. Mr. Rogosky stated that he is concerned about the rush to bring this type of business in to town where there is not even a store that sells liquor. Mr. Rogosky stated that with regard to safety, it is difficult to identify an impaired driver and that is something that should be considered. Mayor Davy stated that the security plan is part of the application and when the ordinance was adopted Council heard and addressed all of the concerns

that were raised.

Mr. Elias Perris of 41 East Welling Avenue thanked Council for the lovely tribute to Eileen Heinzl. Mr. Perris stated that his question is from the last meeting which is the crosswalk that is included in the road project. Mayor Davy stated that was part of the original design and was included in the award of the contract. Mr. Perris outlined some statistics on crosswalks and sidewalks at intersections in the Borough. Mr. Perris stated that the connector for the crosswalk will directly impact two of his trees. Mr. Perris stated that he is also concerned that new plans will not be drawn up and he would like to know how his tree plan will be included or considered in the plan. Mayor Davy stated that he forwarded the plan to the Engineer and he will be responding to Mr. Perris.

Closed Session

AT, 9:32 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

AT, 10:05 PM, Mayor and Council returned to open session.

BOROUGH OF PENNINGTON RESOLUTION NO. 2022-3.14

RESOLUTION OPPOSING LONG-TERM TAX EXEMPTION GRANTED BY HOPEWELL TOWNSHIP FOR RESIDENTIAL DEVELOPMENT BY US HOME AT HOPEWELL PARC URBAN RENEWAL LLC

WHEREAS, Hopewell Township, Pennington Borough and Hopewell Borough are partners in the Hopewell Valley Regional School District, which requires that each of the three municipalities share the funding of our schools in proportion to the equalized valuation of taxable properties within their borders;

WHEREAS, on February 22, 2022, the Hopewell Township Committee adopted Ordinance No. 17-1669, granting to U.S.Home at Hopewell Parc Urban Renewal, LLC (“U.S. Home”), a private developer, a 30-year tax exemption for a large-scale residential development on Scotch Road in the Township, to consist of 1,097 new homes;

WHEREAS, the tax exemption awarded US Home is accompanied by an agreement with the Township for payments in lieu of taxes (PILOT) that will replace tax revenues otherwise payable to the schools with direct cash payments to the Township;

WHEREAS, Ordinance 17-1669 will have substantial adverse impacts on the taxpayers of Pennington Borough and Hopewell Borough in at least two major respects:

1. Rather than increasing the tax base of Hopewell Township, the new development will reduce it, thereby shifting additional school district tax burden to the Boroughs; and
2. The large residential development will produce a commensurate increase in the school population and related costs, further exacerbating the shifting of tax burden;

WHEREAS, the proposed development, planned as part of an Area in Need of Redevelopment earlier declared by Hopewell Township Committee, will include a 20 percent set-aside, amounting to 216 units, for low and moderate income housing;

WHEREAS, by adoption of Ordinance 17-1669 the Township Committee approved US Home’s Application for Long-Term Tax Exemption which provides as the sole (unexplained)reason for the requested exemption: “excessive off-site sewer and water infrastructure obligations as well as excessive sewer reservation fees” (Application, Exhibit 16);

WHEREAS, Hopewell Township Committee has taken these actions without adequately considering the adverse impact they will have on its partners in the school district and their taxpayers;

WHEREAS, Hopewell Township Committee argues that the 30-year tax exemption and the Township’s acceptance of direct payments in lieu of taxes is necessary to have US Home build affordable housing;

WHEREAS, experience proves that Hopewell Township can incentivize a private developer to build affordable housing without providing it a tax abatement for 30 years;

WHEREAS, in addition to the experience of numerous New Jersey municipalities who have relied entirely on zoning accommodations rather than long-term tax exemptions to ensure the construction of inclusionary housing, Hopewell Township did precisely this in the case of Brandon Farms, which had the

same water and sewer infrastructure needs as the US Home development;

WHEREAS, Hopewell Township has also misconstrued the implications of increases in the school population which this development will generate, arguing -that there is "unused capacity" in the school district for 700 to 800 children and that this development will not add to the educational cost burden of our respective municipalities;

WHEREAS, it can be shown-that while there may be seat capacity in the schools, the district's teaching workforce has been reduced through attrition over the years in response to declining enrollments and is not likely to be able to serve the new student population effectively without staff increases;

WHEREAS, over the recent past the School District has taken action to better utilize available space in its educational facilities, such as: instituting full day kindergarten; assuming in-district teaching of Special Needs students as opposed to sending them out of district; and offering Early Childhood programs;

WHEREAS, in the face of increased enrollment of students from the US Home development, the district will have to increase the number of teachers and potentially reduce programs like full-day kindergarten and in-district special education programs, and even consider redistricting of students;

WHEREAS, as education costs increase to accommodate the additional students, the taxpayers of Pennington and Hopewell Boroughs will face a significantly greater tax burden for education unless the school district reduces services such as in-district special needs education and/or redistricts elementary students to schools farther from their homes;

WHEREAS, the actions taken by the Hopewell Township Committee in exempting US Home property from taxation and accepting instead direct payments to the Township, coupled with denial of the cost implications of serving the needs of an increased school population, circumvent reliance on equalized valuations for funding of our regional school system as otherwise required by law, effectively passing school-related obligations of the Township to the Boroughs;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, on this 7th day of March, 2022, that:

1. The Borough Attorney be authorized to investigate all legal remedies associated with the long-term tax exemption granted to US Home by Hopewell Township by Ordinance No. `17-1669; and,
2. The Mayor is hereby authorized to retain legal services to commence suit.
3. That a copy of this resolution be provided to the Commissioner of the Department of Community Affairs, the Mercer County Executive and Board of Commissioners and the Mayor and Council Members of Hopewell Borough in pursuit of collective action in opposition to the long-term tax exemption application approved by Hopewell Township.

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				absent	Stern	X			

Council Member Marciante made a motion to approve Resolution 2022-3.14, second by Council Member Chandler with all members present voting in favor. Mayor Davy cautioned Council Members to not discuss this topic in the public.

Approval of Closed Session Minutes (for Content but not for Release)

Council Member Chandler made a motion to approve the minutes from the October 18, 2021 Closed Session for content but not for release, second by Council Member Marciante with all members present voting in favor with the exception of Ms. Angarone and Ms. Stern who abstained.

At 10:07 pm with no further business to come before Council the meeting was adjourned.

Respectfully submitted,

Elizabeth Sterling
Borough Clerk