

**Pennington Borough Council
Regular Meeting – August 2, 2021**

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

Also present were Borough Administrator Eileen Heinzl, Public Works Superintendent Rick Smith, Chief Financial Officer, Sandra Webb, Police Chief Doug Pinelli and Borough Attorney Walter Bliss.

Mayor Davy announced that notice of this meeting has been given to the Hopewell Valley News, Trenton Times and was posted on the door at Borough Hall and on the Borough web-site according to the regulations of the Open Public Meetings Act.

Mayor Davy announced the addition of three resolutions to the agenda for this evening, one authorizing an unpaid internship, one authorizing a contract with Government Management Advisors and one authorizing a grant agreement for tree planting.

Open to the Public – Agenda Items Only

Mayor Davy read the following statement.

The meeting is now open to the public for comments on items on the agenda for which no public discussion is provided. In an effort to provide everyone interested an opportunity to address his or her comments to the Governing Body, a public comment time limit has been instituted for each speaker. **Please raise your hand and when the Borough Administrator acknowledges your name and address for the record. Please limit comments to the Governing Body to a maximum of 3 minutes.**

There were no comments from the public.

Mayor's Business

Mayor Davy announced the following resignations:

Tom Petto – Construction Official (September)
Leo Wisniewski – Electric Sub-Code Official
Chris Brookes – Shade Tree Committee Chair
William Alexander – Environmental Commission

Mayor's Appointment

Mayor Davy announced that Timothy Schwartz who currently services as Alternate 1 will be moved to Mr. Alexander's unexpired term ending December 31, 2023.

Mr. Marciante stated that he received a call from a resident stating that Mr. Brookes was resigned under duress. Mayor Davy stated that he met with Mr. Brookes who indicated that he was frustrated that the Shade Tree Committee should have more of an advisory role and that they are often not heard. Mayor Davy stated that his goal is to have all boards and committees actively engaged and he will do everything he can to ensure that.

Proclamations

Mayor Davy announced the following proclamation:

PROCLAMATION

WHEREAS, October is Breast Cancer Awareness Month, let it be known that Pennington, NJ is pleased to recognize and observe October 13, 2021 as Metastatic Breast Cancer Awareness Day and hereby recognizes the #LightUpMBC national campaign;

WHEREAS, breast cancer is the most common type of cancer among women in the world, and second leading cause of cancer death among women in the United States. More than one in eight women and one in 833 men in the U.S. will be diagnosed with breast cancer in their lifetimes. In 2021, an estimated 284,200 Americans will be diagnosed with invasive breast cancer, including over 8,330 women in New Jersey;

WHEREAS, Metastatic breast cancer occurs when breast cancer spreads to other parts of the body, including the bones, lungs, liver and brain and has an average life expectancy of 26 months. Regardless of early detection, approximately 30% of stage 0 to III breast cancers will return as stage IV. An estimated 44,130 Americans, including 1,250 New Jerseyans, will die from breast cancer in 2021, equal to 115 women and men per day, with 98% due to metastatic breast cancer; and

WHEREAS, the national organization, METAvivor Research and Support, funds critical stage IV metastatic breast cancer research, educates the public about metastatic breast cancer and lack of funding for stage IV treatment. They aim to dramatically increase the current percentage of U.S. breast cancer research dollars from under 5 percent to 30 percent for the already metastasized patient. The national hashtags for this initiative on social media fall under #DontIgnoreStageIV and #LightUpMBC.

WHEREAS, there is a national #LightUpMBC campaign on October 13th every year. to illuminate 115 landmarks in the metastatic colors of teal, pink and green, throughout the world, bringing awareness to the disease and to honor the daily number of lives lost to MBC. In partnership between the METAvivor and Moore Fight Moore Strong organizations, the day will culminate in a virtual broadcast, #LightUpMBC Live, to commemorate landmarks lighting around the country, share inspiring stories by the metastatic breast cancer community and raise research funds.

WHEREAS, the pink ribbon is well-known for representing the fight against early stage breast cancer, it is not inclusive of Stage IV. Therefore, the metastatic breast cancer awareness tri-color ribbon includes teal, pink and green: The teal color portrays healing and spirituality. Green represents the triumph of spring over winter, life over death, renewal, hope, and immortality and the thin pink overlay signifies that the cancer originated in the breast.

WHEREAS: Metastatic breast cancer affects all races and socioeconomic classes. While, Caucasian women see slightly higher incidence rates of breast cancer, the mortality rate for Black women with breast cancer is 41 percent higher than that of Caucasian women, and breast cancer is the leading cause of cancer-related death for Hispanic women.

NOW, THEREFORE BE IT RESOLVED that (name of municipality) hereby encourages citizens to join the national effort towards awareness of metastatic breast cancer during October through METAvivor.

BE IT FURTHER RESOLVED that a copy of this Resolution, suitably prepared, be presented as a sincere token of this Board's best wishes to Sheetal Dewan volunteer for METAvivor.

Approval of Minutes

Council Member Marciante made a motion to approve the minutes of the July 6, 2021 Regular meeting, second by Council Member Chandler with all members present voting in favor with the exception of Ms. Semple who abstained.

Committee Reports

Planning & Zoning / Open Space / Personnel – Ms. Gnatt stated that the Planning Board met however she was unable to attend. Ms. Gnatt stated that the Planning Board found the Cannabis Ordinance to be consistent with the Master Plan.

Ms. Gnatt stated that candidates were interviewed for the Tax Assessor position and the resolution scheduled for this meeting has been pulled due to a question of conflict. Ms. Gnatt stated that a resolution appointing Randi Knechel as Deputy Registrar and a resolution appointing Caleb Briggs as clerical assistant for the month of August will be considered later in the meeting.

Mr. Marciante stated that an application coming up at the Planning Board for a property on Laning Avenue and he is within the 200 feet and did not receive notice of the application. Mr. Marciante stated that this application should not be heard unless the process is followed. Mrs. Heinzl stated that they won't be heard without adequate notice to the paper and residents.

Public Safety/Economic Development/Environmental – Mrs. Chandler stated that public safety met and mainly discussed parking and speeding in town and options for police response. Mrs. Chandler stated that they are looking into increased police presence and passive monitors. Mrs. Chandler stated that she and the Mayor and Chief of Police met with residents on Burd Street and Welling Avenue and they are working on solutions to the concerns raised regarding parking and speeding.

Mrs. Chandler stated that Economic Development met and discussed moving forward with the Borough Wide Yard Sale and they are waiting for a date that works for Public Works. Mrs. Chandler stated that they are preparing for the Holiday Walk in connection with the Pennington Business and Professional Association which will include discussions about the snowflakes that are installed throughout town.

Mrs. Chandler stated that the Environmental Commission met and they continue to work on the Environmental Resource Inventory, the Carbon Neutral Initiative and education on the plastic bag ban. Mrs. Chandler stated that there are two concerns that she would like Council to think about and they are issues with dog waste and the possibility of installing dog waste stations and noise generated by gas powered leaf blowers.

Public Works – Mr. Marciante stated that the Teamsters Contract has been settled. Mr. Marciante stated

that the department is down in manpower due to a COVID happening. Mr. Marciante stated that the new trash cans have been ordered and should be here in September ready roll out in October. Mr. Marciante stated that the amended trash ordinance is on for introduction later in the meeting. Mr. Marciante stated that there will be a trial period for the changes and make amendments as needed, however they do not anticipate a lot of problems.

Mr. Marciante stated that there is a bad problem with garbage and recycling at Academy Court. Mr. Marciante stated that he spoke to Public Works and the property owners were notified that the cans must be taken in after collection, they have not heeded Mr. Smith's warnings. Mr. Marciante stated that they were notified again today that fines will be coming if the problem is not corrected.

Mr. Marciante stated that Parks and Recreation will now fall under Public Works to offer guidance on the plan for Kunkel Park. Mr. Marciante stated that Public Works will meet with Parks and Recreation to discuss some recommendations to the plan.

Finance / Board of Health – Mr. Gross stated that the Capital Budget has been finalized and ordinances will be coming up later in the meeting. Mr. Gross stated that the Board of Health has not met since the last meeting.

Historic Preservation / Library – Mrs. Mills stated that Historic Preservation did not meet. Mrs. Mills stated that the Library has hired Kristyn Friedlich as Program and Collection Development Specialist. Mrs. Mills stated that Mrs. Friedlich has been active in the community and they are happy to welcome her. Mrs. Mills stated that the Library will be open on Tuesday through Thursday from 11 to 7pm.

Parks and Recreation / Shade Tree – Ms. Semple stated that as Mr. Marciante reported there is an effort to make some upgrades at Kunkel Park. Ms. Semple stated that she met with Rick Smith, Mr. Marciante and Mr. Gross at Kunkel Park and it was actually in better shape than anticipated thanks to the public works department. Ms. Semple stated that Mr. Smith is looking into getting a consultant to recommend upgrades for the park.

Ms. Semple stated that the July 4th races were held and well attended. Ms. Semple stated that a concert is coming up featuring The Sourland Band.

Ms. Semple stated that Shade Tree did not meet, but they will be meeting September 7th.

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

Council Discussion

Mayor Davy stated that the following Block Party requests have been submitted:

Block Party – Sked Street – Change of date to August 28th, 2021
Block Party – East Welling – October 10, 2021
Block Party – Baldwin Court – August 29, 2021
Block Party – Voorhees Avenue – September 5, 2021
Temporary Use of Outdoor Space – Straube Center – September 25, 2021
Art in the Park – Saturdays – September 18th to November 6th

Mayor Davy asked if there were any concerns with these requests. Mrs. Chandler stated that the one on October 10th might conflict with the Borough Wide Yard Sale. Some discussion took place with regard to hours for the block parties in relation to the yard sale.

Mrs. Sterling stated that a concern was raised that the original date of the Council Meeting, September 7th is the start of Rosh Hashanah. Mrs. Sterling stated that this is on the agenda to ensure that we will have a quorum on the new date of September 13, 2021.

ORDINANCES FOR INTRODUCTION

Mayor Davy read Ordinance 2021-12 by title.

BOROUGH OF PENNINGTON ORDINANCE NO. 2021 - 12

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

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

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

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

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

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

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

Council Member Marciante made a motion to introduce Ordinance 2021-12, second by Council Member Chandler with all members present voting in favor.

ORDINANCES FOR PUBLIC HEARING AND ADOPTION

Mayor Davy read Ordinance 2021-5 by title.

**BOROUGH OF PENNINGTON
 ORDINANCE #2021 – 5**

**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 2021**

**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	[84,781.79]	\$86,053.52
Borough Clerk	[44,291.76]	\$44,956.14
Assistant Chief Financial Officer	[75,674.18]	\$76,809.29
Utility Collector	[30,600.00]	\$31,059.00
Chief Financial Officer (part time)	[85.53]	\$86.81/hour
Tax Collector (part time)	[85.53]	\$86.81/hour
Technical Assistant to Construction (part time)	[25.50]	\$25.88/hour
Tax Assessor (part time)	[13,513.96]	\$13,716.67
Zoning Officer (part time)	[9,145.22]	\$9,282.40
Land Use Admin/Admin Asst. - (Full Time Eff. 4/13/21)	[53,301.77]	\$54,101.30
Deputy Registrar	[2,303.19]	\$2,337.74

Supt. of Public Works	[85,579.66]	\$86,863.35
Licensed Water Operator	[47,754.36]	\$48,470.68
Assistant to Superintendent of Public Works	[15.30]	\$15.53/hour
Foreman		\$76,750.00
Judge of Municipal Court	[12,848.53]	\$13,041.26
Court Administrator (part time)	[17,850.00]	\$18,117.75
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 (effective May 4, 2021)		\$115,000.00
Administrative Assistant	[15.00]	\$15.23/hour
Construction Official		\$28,373.53
Plumbing Sub-Code		\$41.98/ hour
Fire Sub-Code		\$42.61/ hour
Electric Sub-Code	[41.14]	\$41.76/ 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 \$50.00 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
Police Department:		
Crossing Guards	\$ 15.00	[26.51] \$ 26.91
Special Police	\$ 16.92 per hour	
 Part Time Employees – All Departments:		
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, 2021 if appropriate.

Council Member Mills. There were no comments from the public. Council Member Chandler made a motion to close the Public Hearing, second by Council Member Marciante with all members present voting in favor. Council Member Chandler made a motion to adopt Ordinance 2021-5, second by Council Member Mills with all members present voting in favor.

Mayor Davy read Ordinance 2021-7 by title.

**BOROUGH OF PENNINGTON
ORDINANCE NO. 2021-7**

**AN ORDINANCE IMPLEMENTING AUTOMATED TRASH
COLLECTION AND AMENDING CHAPTER 172 OF THE CODE
OF THE BOROUGH OF PENNINGTON**

WHEREAS, Borough Council has determined that automated trash collection, using an automated garbage truck and standardized trash containers, is an efficient means for collecting residential solid waste that is likely to produce significant cost savings for the Borough over the present system;

WHEREAS, this method of trash collection will improve the safety of working conditions for the Borough employees responsible for performing this function;

WHEREAS, requiring affected property owners to use trash containers supplied by the Borough with standardized sizes and features, as required for automated trash collection, will give a uniform appearance and help keep our neighborhoods clean;

NOW, THEREFORE, BE IT ORDAINED, by the 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 172-8, setting forth findings concerning the system of waste collection as it existed before adoption of the 1998 ordinance, is hereby deleted.
2. In Section 172-9, definitions of the following terms are amended and one new defined term is added, all to be inserted in proper alphabetic order:

“ADJACENT PROPERTY OWNER – A person who holds legal title to real property partially within the Borough and partially within Hopewell Township and ~~which property has~~ more than ~~44~~0% of the dwelling footprint on the property is located in Hopewell Township.”

“APPROVED TRASH CONTAINER -- ~~A watertight container and integral lid with a capacity of no more than 32 gallons and when full, it shall not weigh more than 40 pounds. The container shall be kept clean, covered and free from liquids and recyclable materials.~~ A trash container on wheels supplied and owned by the Borough to every property owner without charge or an identical additional container supplied by the Borough to the property owner for an annual fee as provided in Chapter 98 of this Code. Only one container per property shall be provided without charge to the property owner and no more than one additional container shall be provided to a 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 65-gallon container.”

“BULK TRASH – ~~Includes~~ Source-separated, non-putrescible and non-deleterious waste items; such as concrete, asphalt, brick, block, asphalt-based roofing scrap, wood waste, tires, appliances and all other solid waste not disposed of in an approved trash container identified as acceptable bulk trash on a list made available by the Department of Public Works. Examples of bulk trash include concrete, asphalt, brick, block, asphalt-based roofing scrap, wood waste, tires, sofas and other furniture, mattresses and appliances. Bulk trash shall not include bulk items that can fit into the approved trash container or non-bulk items that merely exceed the capacity of the approved trash container for a particular collection. Bulk trash collection shall be scheduled in accordance with the Trash Calendar published on the Borough website.”

“ELIGIBLE PROPERTY (new) – A property 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.”

“PROPERTY OWNER – A person who holds legal title to real property for which an individual or separate tax bill is issued by the Borough. This term shall not include owners of real property where less than 60% of the dwelling ~~floor space~~ footprint is located within the Borough.”

TRASH STICKER OR STICKER -- ~~A sticker obtained from the Borough Clerk Public Works Department which sticker~~ must be attached to the bulk trash or additional nonbulk trash item which is to be collected by the Borough. The number of stickers required by the Borough for the

collection ~~by the Borough~~ of each bulk item shall be calculated in accordance with weights for bulk items-as set-forth in the ~~American Movers Conference Joint Military/Industry Table of Weights and Depreciation Guide-official Department of Defense customer moving portal (Move.mil/resources/weight-estimator).~~”

3. Section 172-10, concerning “Basic” trash service, is amended as follows:

1. The Borough will collect trash once a week from every eligible property; on the day for collection days to be designated for each property by the Public Works Department, ~~non-recyclable trash which has been placed at the curb in one or more approved trash containers. provided the trash has been put in an approved trash container and placed at the curb at the time and in the manner required by this ordinance. The trash collected each week shall not exceed the contents of the approved container or containers with lid closed.~~
2. ~~The basic trash service shall include the curbside collection of one up to two approved trash containers on collection days from every property owner on the Borough’s tax records for which an individual or separate tax bill is issued by the Borough, as well as from every adjacent property owner who has requested the service and paid the required fee as set forth in Section 172-13 herein. Property owners and adjacent property owners may supplement this basic service by the purchase of an annual license from the Borough authorizing use of one or more additional approved trash containers. The license shall be effective for one year, beginning on July 1 and ending on June 30 of the following calendar year, regardless of the date of purchase. The fee for the license per container shall be determined by the Department of Public Works on an annual basis and approved by Borough Council as part of its budget process.~~

B. (formerly C). The A approved trash containers or containers shall be placed at the curb for collection no later than 7:00 a.m. on the collection day and removed from the curb no later than 9:00 p.m. on the day of collection.

3. (formerly D) If a designated collection day falls on a holiday recognized by the Borough as a holiday for trash collection purposes, ~~then the collection will be done on the next scheduled collection day scheduled in accordance with the calendar published on the Borough website. If on a designated collection day trash collection has to be cancelled on account of weather or other emergency, updates also will be posted to the Borough website. Residents can subscribe on the website for E-Alerts to receive notifications.~~
4. (new) Trash should be bagged before being placed in an approved trash container. The container must be placed next to the curb on the street in front of the curb line with the lid completely closed. The handle and wheels of the container should face the house with the lid opening facing the street.
5. (new) Items not permitted to be placed in an approved trash container include:
 - a. Recyclable materials
 - b. Bulk trash too large to fit in the approved container
 - c. Yard waste, such as leaves, grass or brush
 - d. Hot ash from fireplaces or fire pits
 - e. Any other hazardous, flammable, combustible materials, such as oil-based paints, solvents, asbestos or commercial medical waste.
6. (new) Trash permitted to be placed in an approved trash container that cannot fit in the container or containers in any given week shall be retained for a future collection date.
7. (new) All approved trash containers, including the containers for which the 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.

4. Section 172-11, concerning Bulk trash service, is amended as follows:

1. The Public Works Department will prepare and make available a list of common acceptable bulk trash, which ~~list~~ shall include the number of bulk stickers required for ~~each~~ most of the collection of the most common bulk trash items.
2. All items of bulk trash must have affixed to them ~~thereto~~ a sticker or stickers purchased from the Borough Clerk ~~Public Works Department to which will~~ indicate to the actual trash collector that the fee for the said item has been paid. A bulk trash item which does not have affixed thereto a sticker or stickers will not be collected by the Borough.
3. ~~Non-bulk trash in excess of two approved trash containers on any one collection day shall be considered bulk trash for which a collection sticker will be required for each additional container.~~

C (formerly D). In computing the cost of collection of bulk trash ~~and additional non-bulk trash~~ the cost shall be based upon the weight of the item, which ~~weight~~ shall be calculated in forty-pound increments. All fractional weights shall be calculated to the next weight increment. By way of example: a fifty-pound item of bulk trash shall be calculated as weighing 80 pounds, and the cost for disposal shall be calculated accordingly.

4. (formerly E) Persons disposing of bulk trash ~~or additional non-bulk trash~~ must affix the proper number of stickers to the item to be collected at the time it is placed at the curb for collection. “The sticker should be visible to the collector.”
5. (formerly F) The collection fee for bulk household trash ~~or additional non-bulk trash~~ (i.e., sticker prices) shall be as set forth in Chapter 98 of this Code.
6. (new) Bulk trash shall be collected at the curb on the dates specified in the Trash and Recycling Calendar. Bulk trash shall be collected at the same time as non-bulk trash unless otherwise scheduled by the Department of Public Works. Bulk trash must be placed at the curb by 7:00 am on the collection day.”
5. Section 172-13 shall be amended as follows:
 1. The Borough shall if requested by an adjacent property owner, provide the adjacent property owner with solid waste disposal under the applicable provisions of this ~~Section 172-13~~ Chapter.
 2. The adjacent property owner shall pay the Borough for the collection of their ~~his/her~~ solid waste. The fee for said collection is set forth in Chapter 98 of this Code.
 3. The Borough shall calculate the fee and shall bill the adjacent property owner at the same time as it bills customers for water and sewer charges. The payment shall be due from the adjacent property owner within 30 days of the billing. If the bill to the adjacent property owner is not paid within 90 days of the date billed, the Borough may suspend the solid waste collection until the fee is paid.
6. Provisions of this Chapter 172 not expressly amended by this ordinance shall remain unchanged and in full effect.
7. Chapter 98 of the Borough Code, concerning fees, shall be amended at Sec. 98-34, pertaining to trash pickup, as follows:

“Fees for additional approved trash containers as provided by Sec. 172-9 and 10 and for bulk household trash ~~and additional non-bulk trash~~ as required by Sec. 172-11 of this Code shall be:

 - A. Annual fee for one additional approved trash container pursuant to Sec. 172-9 and 10: \$400.
 - B. (formerly A) Bulk trash stickers: one sticker per 40 pounds/\$4 each.
 - ~~C. (formerly B) Non-bulk trash pickup in excess of two thirty-gallon trash containers on any one collection day: one sticker per container/\$4 each. No container may exceed 40 pounds.~~
 - C. Truck rental, if Borough truck is parked at the property overnight or for a weekend: \$200.”
8. Chapter 98 of the Code is further amended at Sec. 98-35, concerning adjacent properties, as follows:

“Fees for trash pickup for non-taxpayers who are adjacent property owners pursuant to Sec. 172-9 and 13 of this Code shall be:

 - A. Per year for ~~two thirty-gallon~~ one 95-gallon approved containers ~~once twice/week: \$400. No container may exceed 40 pounds.~~
 - B. Per year for one additional approved container collected once/week: an additional \$400. Bulk trash stickers and stickers for pickup in excess of two thirty-gallon containers on any one collection day: one sticker per 40 pounds of bulk items and one sticker per excess container/\$4 each. No container may exceed 40 pounds.”
9. This Ordinance No. 2021-7 shall be adopted and become effective upon passage and publication as required by law.

Council Member Mills made a motion to open the Public Hearing on Ordinance 2021-7, second by

Council Member Gnatt. Ms. Cara Laitusis of East Welling Avenue stated that she wanted to review the ordinance prior to commenting but when she requested a copy she did not receive it. Ms. Laitusis stated that she did make public comment in June and her concerns related to large families and how this ordinance does not take into account that larger families should not have to “purchase” an additional can when they are paying more taxes for a larger home. Mr. Marciante stated that if a week’s garbage does not fit into the larger can that is being provided there is an option to purchase another can. Ms. Laitusis stated that larger families should be given additional pick up or some other consideration due to the taxes that they are paying. Ms. Laitusis stated that she is also concerned about the Open Public Meetings act and whether that is being violated as she did not have access to the Ordinance. Mrs. Sterling stated that Ordinances are posted on the website. Mrs. Heinzel stated that the ordinance was not posted as she thought they were posted once approved. Mr. Marciante stated that this will have to be carried to September. Mayor Davy asked if there are other comments from the public so that we can get as much public comment tonight as possible. Mr. Dan Pace of 9 Railroad Place stated that he went on the website to check the trash calendar and the calendar only goes up to July. Mr. Smith stated that there is an update on the home page of the website with guidance for August and September. Mrs. Heinzel stated that there is also an APP available on the Public Works page of the website called Recycle Coach which is very helpful in reminding people of collection dates. Ms. Nadine Stern of 322 Sked Street that she also has concerns about additional cans and she would like to know where is there information available for residents? Ms. Semple stated that it is in the ordinance that a \$400 fee for the year would be charged each year for an additional can. Mrs. Heinzel stated that an updated FAQ will be going out to all residents. Mayor Davy announced that the public hearing will be carried to the September meeting. Mr. Gross suggested an easier way to access the ordinances on the website would be to have something on the home page of the website. Mr. Bliss stated that the hearing should be carried to the next meeting after proper notice on the website.

Mayor Davy read Ordinance 2021-9 by title.

**BOROUGH OF PENNINGTON
ORDINANCE NO. 2021 - 9**

**AMENDED ORDINANCE RESTRICTING THE NUMBER, LOCATION AND
OPERATION OF CANNABIS RETAILERS, MEDICAL CANNABIS DISPENSARIES
AND CANNABIS DELIVERY SERVICES AND PROHIBITING ALL OTHER
CANNABIS BUSINESSES AND OPERATIONS IN THE BOROUGH, AMENDING THE
CODE OF THE BOROUGH OF PENNINGTON**

WHEREAS, the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, N.J.S.A. 24:6I-31, et seq. (the “Personal Use Act”) legalizes the recreational use of marijuana by adults 21 years of age or older and establishes a comprehensive regulatory and licensing scheme for commercial production, distribution and sale of cannabis items;

WHEREAS, the Personal Use Act establishes six marketplace classes of licensed cannabis businesses, including: Class 1, Cannabis Cultivator, involved in growing cannabis; Class 2, Cannabis Manufacturer, dedicated to the manufacture, preparation and packaging of cannabis items; Class 3, Cannabis Wholesaler, which obtains and sells cannabis items for later resale by others licensees; Class 4, Cannabis Distributor, involved in transporting cannabis plants in bulk from one licensed cultivator to another or cannabis items in bulk among licensed cannabis businesses; Class 5, Cannabis Retailer, licensed to sell cannabis items and related supplies to consumers; and Class 6, Cannabis Delivery Services, providing courier service for consumer purchases of cannabis items that are fulfilled by a cannabis retailer for delivery to the consumer, or taking orders from the consumer to be presented to a retailer for fulfillment and then delivered to the consumer;

WHEREAS, the Personal Use Act authorizes municipalities to adopt regulations by ordinance governing the number of cannabis establishments, distributors and delivery services allowed to operate within their borders, regulating the location, manner and times of operation of these establishments, distributors and delivery services, and establishing civil penalties for the violation of any such regulations, provided the time of operation of delivery services shall be subject only to regulation by the State Cannabis Regulatory Commission (N.J.S.A. 24:6I-45.a);

WHEREAS, the Personal Use Act further authorizes municipalities to prohibit by ordinance the operation of any one or more classes of cannabis establishment, cannabis distributor or cannabis delivery service anywhere in the municipality, provided the prohibitory ordinance be adopted by August 21, 2021, 180 days after the effective date of the Act (N.J.S.A. 24:6I-45.b);

WHEREAS, the failure of a municipality to enact an ordinance prohibiting the operation of one or more classes of cannabis establishment, cannabis distributor or cannabis delivery service within 180 days after the effective date of the Personal Use Act shall result in any class of cannabis establishment, cannabis distributor or cannabis delivery service not so prohibited being permitted as follows: the growing, cultivating, manufacturing, and selling and reselling of cannabis and cannabis items, and operations to transport in bulk cannabis items by a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, or as a cannabis distributor or cannabis delivery service, shall be permitted uses in all industrial zones of the

municipality, and the selling of cannabis items to consumers from a retail store by a cannabis retailer shall be a conditional use in all commercial zones or retail zones, subject to meeting the conditions set forth in any applicable zoning ordinance or receiving a variance from one or more of those conditions in accordance with the Municipal Land Use Law, and the municipality shall be barred for at least five years thereafter from enacting an ordinance prohibiting these uses and any such prohibition may be prospective only;

WHEREAS, the Jake Honig Compassionate Use Medical Cannabis Act, N.J.S.A. 24:6I-1, et seq., (the “Medicinal Use Act”) permits the authorized cultivation, processing, manufacturing, preparing, packaging, transferring, sale, purchase, research, possession, use, and consumption of medical cannabis and products created from or which include cannabis;

WHEREAS, the Medicinal Use Act authorizes the licensed operation of medical cannabis cultivators, medical cannabis manufacturers, medical cannabis dispensaries and clinical registrants as defined in the Medicinal Use Act, N.J.S.A. 24:6I-3;

WHEREAS, a medical cannabis dispensary as defined in the Medicinal Use Act, means an organization issued a permit by the State Cannabis Regulatory Commission authorizing the dispensary, among other things, to sell and dispense medical cannabis and medical cannabis products and related supplies to qualifying patients and caregivers, N.J.S.A. 24:6I-3;

WHEREAS, a clinical registrant as used in the Medicinal Use Act means an entity that has a written contractual relationship with an academic medical center in the region in which it has its principal place of business, which includes provisions whereby the parties will engage in clinical research related to the use of medical cannabis and the academic medical center or its affiliate will provide advice to the entity regarding patient health and safety, medical applications, and dispensing and managing controlled dangerous substances, among other areas, N.J.S.A. 24:6I-3;

WHEREAS, municipalities are authorized by the Personal Use Act and N.J.S.A. 40:481-1.a (1) to impose by ordinance a transfer tax of up to two percent (2%) on the sale of cannabis or cannabis items by a cannabis retailer located in the municipality;

WHEREAS, municipalities imposing a transfer tax are required by N.J.S.A. 40:481-1.b (1) to include in the ordinance a user tax, at the equivalent transfer tax rates, on any current license holder operating more than one cannabis establishment and transferring cannabis or cannabis items from the license holder’s establishment in the municipality to any of the other license holder’s establishment(s), whether located in the municipality or another municipality, based on the value of each such transfer or use not otherwise subject to the transfer tax;

WHEREAS, municipalities are authorized by the Medicinal Use Act, N.J.S.A. 24:6I-10i, to adopt an ordinance imposing a transfer tax not to exceed two percent (2%) on the purchase price of any medical cannabis dispensed by a medical cannabis dispensary located in the municipality;

WHEREAS, Borough Council determines that it is in the best interests of the Borough and the health, safety and welfare of its citizens that all cannabis establishments, cannabis distributors and cannabis delivery services, together with medical cannabis dispensaries, clinical registrants and other licensed medical cannabis entities, be prohibited from operating anywhere in the Borough except as expressly authorized and regulated by this ordinance;

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

General Prohibition of Cannabis- and Medical Cannabis-
Related Enterprises, with Exceptions

1. The above recitals are repeated and incorporated herein by reference.
2. In accordance with the authority granted to municipalities by N.J.S.A. 24:6I-31, et seq. (the Personal Use Act), in particular N.J.S.A. 24:6I-45, all classes and types of cannabis establishments (Class 1 cannabis cultivators, Class 2 cannabis manufacturers, Class 3 cannabis wholesalers and Class 5 cannabis retailers), as well as Class 4 cannabis distributors and Class 6 cannabis delivery services, are hereby prohibited from operating anywhere in the Borough of Pennington except as expressly provided herein with respect to a limited number of Class 5 cannabis retailers permitted as conditional uses in the BH-Business Highway and OB-Office Business zoning districts and Class 6 delivery services permitted as conditional uses in the BH-Business Highway, OB-Office Business and MU-1 Mixed Use 1 zoning districts. As used herein, cannabis establishments, cannabis distributors and cannabis delivery services are as defined at N.J.S.A. 24:6I-33.
3. These prohibitions extend as well to all medical cannabis cultivators, medical cannabis manufacturers, medical cannabis dispensaries, clinical registrants and other entities authorized to operate under N.J.S.A. 24:6I-1, et seq. (the Medicinal Use Act), except as further provided in this ordinance

with respect to medical cannabis dispensaries as defined in the Medicinal Use Act, N.J.S.A. 24:61-3 .

Amendments to Relevant Borough Zoning Provisions

4. Chapter 215 of the Code of the Borough of Pennington (“Code”), concerning Zoning, is hereby amended at Section 215-25, Prohibited Uses, to add to the list of Prohibited Uses in all zoning districts cannabis cultivators, cannabis manufacturers, cannabis wholesalers and cannabis distributors, medical cannabis cultivators, medical cannabis manufacturers and clinical registrants, as follows:

215-25. Prohibited Uses.

Any use not specifically permitted in a zoning district established by this chapter is hereby specifically prohibited from that district, and further provided that the following uses and activities shall be specifically prohibited in any zone of the Borough of Pennington:

* * *

- Q. Cannabis cultivators, cannabis manufacturers, cannabis wholesalers and cannabis distributors, medical cannabis cultivators, medical cannabis manufacturers and clinical registrants.

5. Chapter 215 of the Code is hereby amended at section 215-71, TC Town Center Zone, to add cannabis and medical cannabis uses to Prohibited Uses, as follows:

215-71. TC – Town Center Zone.

* * *

- D. Prohibited uses. Any use not hereby specifically permitted in the Town Center is prohibited. The following uses are hereby specifically prohibited:

* * *

- (6) Cannabis cultivators, cannabis manufacturers, cannabis wholesalers, cannabis retailers, cannabis distributors, cannabis delivery services, medical cannabis cultivators, medical cannabis manufacturers, medical cannabis dispensaries and clinical registrants

* * *

6. Chapter 215 of the Code is hereby amended at section 215-71.1, TCB Town Center Buffer Zone, to add cannabis and medical cannabis uses to Prohibited Uses, as follows:

215-71.1 Town Center Buffer Zone

* * *

- D. Prohibited uses. Any use not hereby specifically permitted in the Town Center Buffer Zone is prohibited. The following uses are hereby specifically prohibited:

* * *

- (6) Cannabis cultivators, cannabis manufacturers, cannabis wholesalers, cannabis retailers, cannabis distributors, cannabis delivery services, medical cannabis cultivators, medical cannabis manufacturers, medical cannabis dispensaries and clinical registrants

* * *

7. Chapter 215 of the Code is hereby amended at section 215-72, B-H Highway Business Zone, to restrict permitted wholesale business establishments to other than cannabis wholesalers and to add cannabis retailers, cannabis delivery services and medical cannabis dispensaries to the list of Conditional Uses, subject to operating hours exclusively from 9:00 a.m. to 8:00 p.m. daily and the other provisions of Article VIII, and to insert Prohibited Uses, as follows:

215-72. B-H Highway Business Zone.

- A. Permitted primary uses. The permitted primary uses allowed in the B–H Highway Business Zone shall be as follows:

* * *

- (4) Wholesale business establishments other than cannabis wholesalers.

* * *

- C. Conditional uses. The conditional uses allowed in the B-H Highway Business Zone shall be as follows and shall be further subject to the provisions of Article VIII:

* * *

- (5) cannabis retailers
- (6) cannabis delivery services
- (7) medical cannabis dispensaries.

D. Prohibited uses. Any use not hereby specifically permitted in the BH-Business Highway zone is prohibited. The following uses are hereby specifically prohibited:

* * *

- (6) Cannabis cultivators, cannabis manufacturers, cannabis wholesalers, cannabis distributors, medical cannabis cultivators, medical cannabis manufacturers and clinical registrants

E. ~~D.~~ Other Provisions and Requirements

* * *

- (5) As further provided in Article VIII, the operating hours of cannabis retailers and medical cannabis dispensaries shall be exclusively from 9:00 a.m. to 8:00 p.m. daily.

8. Chapter 215 of the Code is hereby further amended at section 215-73, O-B Office Business Zone, to add to Conditional Uses cannabis retailers, cannabis delivery services and medical cannabis dispensaries, subject to the provisions of Article VIII, and to insert Prohibited Uses, as follows:

215-73. O-B Office (Building) Business Zone.

* * *

C. Conditional uses, subject to the provisions of Article VIII.

* * *

- (5) cannabis retailers
- (6) cannabis delivery services
- (7) medical cannabis dispensaries

D. Prohibited Uses. Any use not hereby specifically permitted in the OB-Office Business Zone is prohibited. The following uses are hereby specifically prohibited:

- (1) Cannabis cultivators, cannabis manufacturers, cannabis wholesalers, cannabis distributors, medical cannabis cultivators, medical cannabis manufacturers and clinical registrants

E ~~D.~~ General Requirements * * *

* * *

F ~~E.~~ Off-street parking requirements. * * *

* * *

G ~~F.~~ Off-street loading requirements * * *

* * *

H. As further provided in Article VIII, the operating hours of cannabis retailers and medical cannabis dispensaries shall be exclusively from 9:00 a.m. to 8:00 p.m. daily.

9. Chapter 215 of the Code is hereby amended at section 215-77, MU-1 Mixed Use Zone, to add a new subsection E for Conditional Uses and to include as conditional uses cannabis delivery services, subject to the provisions of Article VIII, and to add a new subsection F for Prohibited Uses as follows:

215-77. MU-1 Mixed Use Zone.

* * *

E. Conditional Uses, subject to the provisions of Article VIII.

- (1) cannabis delivery services.

F. Prohibited uses. Any use not hereby specifically permitted in the MU-1 Mixed Use zoning district is prohibited. The following uses are

hereby specifically prohibited:

- (1) Cannabis cultivators, cannabis manufacturers, cannabis wholesalers, cannabis retailers and cannabis distributors, medical cannabis cultivators, medical cannabis manufacturers, medical cannabis dispensaries and clinical registrants

10. Chapter 215 of the Code is hereby amended at section 215-78, MU-2 Mixed Use Zone, to insert a new subsection D for Prohibited Uses, as follows:

215-78 MU-2 Mixed Use Zone

* * *

D. Prohibited Uses. Any use not hereby specifically permitted in the MU-2 Mixed Use zoning district is prohibited. The following uses are hereby specifically prohibited:

- (1) Cannabis cultivators, cannabis manufacturers, cannabis wholesalers, cannabis retailers, cannabis distributors, cannabis delivery services, medical cannabis cultivators, medical cannabis manufacturers, medical cannabis dispensaries and clinical registrants

E. Office and retail use restrictions.

* * *

F. Bulk Standards.

* * *

G. Parking, loading and screening.

* * *

H. Building and site design.

* * *

11. Chapter 215 of the Code is hereby amended at section 215-78.2, Route 31 Corridor Business Overlay Zone, to insert Prohibited Uses to the extent not permitted as Conditional Uses in the underlying B-H Business Highway or O-B Office Business Zones, and to insert as Conditional Uses the conditional uses provided in these two underlying zones, as follows:

215-78.2 Route 31 Corridor Business Overlay Zone.

* * *

D. Conditional Uses, subject to the provisions of Article VIII.

* * *

- (3) cannabis retailers, cannabis delivery services and medical cannabis dispensaries to the extent provided in section 215-7.2 (B-H Business Highway Zone) or section 215-7.3 (O-B Office Business Zone) as applicable

E. Prohibited uses. Any use not hereby specifically permitted in the Route 31 Corridor Business Overlay Zone is prohibited. The following uses are hereby specifically prohibited:

* * *

- (5) Cannabis cultivators, cannabis manufacturers, cannabis wholesalers, and cannabis distributors, medical cannabis cultivators, medical cannabis manufacturers and clinical registrants

* * *

Conditions of Conditional Use and Restrictions on Location, Manner and Times of Operation

12. Chapter 215 of the Code is hereby amended at section 215-79, Article VIII, concerning Conditional Uses, by the addition of a new Section 215-81 (previously reserved) to specify the conditions of approval for cannabis retailers, cannabis delivery services and medical cannabis dispensaries designated as conditional uses in the B H-Business Highway and OB-Office Business zoning districts, and cannabis delivery services designated as a conditional use in the MU-1 Mixed Use zoning district, as follows:

215-81 (New). Cannabis Retailers, Medical Cannabis Dispensaries and Cannabis Delivery Services

A. A total of no more than three (3) cannabis retailers and

medical cannabis dispensaries may be permitted to operate in the BH-Business Highway and OB-Office Business zoning districts combined. At least one place in one of the two zones must be reserved for a medical cannabis dispensary. If no medical cannabis dispensary seeks to locate in one of the two zones, the total combined number of cannabis retailers in the two zones shall not exceed two, however distributed.

- B. Cannabis delivery services shall not be limited in number but shall be permitted only in the BH-Business Highway, OB-Office Business and MU-1 Mixed Use zoning districts.
- C. Cannabis consumption areas as defined in N.J.S.A. 24:6I-33 shall be permitted in the BH-Business Highway and OB-Office Business zoning districts if approved by Borough Council in accordance with N.J.S.A. 24:6I-21 and this ordinance, and if, in addition to complying with other applicable requirements of conditional use, any such cannabis consumption area is an indoor, structurally enclosed area of the cannabis retailer or medical cannabis dispensary. It may not be an exterior structure, whether separate from or connected to the retailer or dispensary.
- D. The floor area of a cannabis retailer or medical cannabis dispensary, inclusive of any cannabis consumption area, shall not exceed 2,500 square feet.
- E. The cannabis retailer and medical cannabis dispensary (hereafter referred to together as “licensed retail facility”) shall comply with the following restrictions and performance standards affecting the location, manner and times of operation:
 - (1) The operating hours of the licensed retail facility shall be between 9 am and 8 pm daily. It shall be unlawful for any person to sell or dispense cannabis or cannabis products in any licensed retail facility at any time other than between these hours.
 - (2) The licensed retail facility shall be accessible directly from a right-of-way through a separate entrance independent from any other retail ingress.
 - (3) No cannabis product shall be visible from a public sidewalk, public street or right-of-way or any other public place.
 - (4) All cannabis products shall be stored securely indoors and onsite.
 - (5) Consumption of cannabis products, by any means of ingestion, shall not be permitted in the licensed facility or adjacent grounds unless within an approved cannabis consumption area.
 - (6) A licensed retail facility shall plan and implement odor control measures, including carbon-filtered ventilation, sufficient to mitigate cannabis-related odors emanating from the interior of the facility. The ventilation system must be approved by the Borough Board of Health.
 - (7) A licensed retail facility shall develop and implement security protocols sufficient to secure the facility and its contents and protect the safety of customers, employees and the public. These security protocols shall be reviewed by the Pennington Borough Police Department, which in its discretion may, after inspection of the location, recommend or require additional safety and security measures.
 - (8) At a minimum, the following security measures must be undertaken:
 - (a) A video recording security system shall be employed covering all areas of the facility and the exterior of the building with a 24/7 recording system that records for a minimum 30-day archive.
 - (b) The facility and adjacent right-of-way shall be monitored by staff and kept free of loitering, litter and other debris, and the sidewalks if applicable shall be swept and cleaned on a regular basis.
- F. A licensed cannabis delivery service shall comply with the following restrictions and performance standards affecting the location, manner and

times of operation:

- (1) Time of operation shall be limited to such times as prescribed by the Cannabis Regulatory Commission.
 - (2) The cannabis delivery service shall comply with the restrictions and standards provided above for licensed retail facilities to the extent applicable to the operations and facilities of the delivery service.
 - (3) Cannabis items handled by or through a cannabis delivery service shall be securely packaged and properly labeled and tracked in accordance with regulations promulgated by the State Cannabis Regulatory Commission.
- G. Both licensed retail facilities and cannabis delivery services shall comply with the following requirements:
- (1) The design of any building or structure required by the licensed facility or service shall conform to the general character of the area in which it is located.
 - (2) The facility shall provide off-street parking adequate for the needs of its customers and employees, subject to the requirements for off-street parking facilities established by Article II General Regulations. In determining the total parking space requirement, the Planning Board may be guided by expert testimony and the plan of operation for the facility.
 - (3) Site access shall be located in order to direct primary traffic flow to nonresidential areas.
 - (4) The facility shall comply with all applicable zoning, signage and site plan requirements, and the specifications and standards prescribed by section 215-79 and this section, as same may be amended from time to time.
- H. Approval of an application by a cannabis retailer, cannabis delivery service or medical cannabis dispensary for issuance or renewal of licensure or permitting shall require a resolution of Borough Council approving the application and informing the Cannabis Regulatory Commission that the applicant complies with Borough restrictions on the number of such businesses and the location, manner and times of operation. Such resolution shall also be a requirement of conditional use approval under this Article VIII.
- I. Application for approval, renewal or reinstatement of a cannabis consumption area endorsement shall also require a resolution of Borough Council approving the application and confirming that the cannabis consumption area complies with Borough restrictions. Such resolution shall also be a requirement of conditional use approval as applicable.

Administration and Enforcement

13. (New) The Borough hereby establishes a separate local licensing requirement as part of restrictions on the number of cannabis retailers, cannabis delivery services and medical cannabis dispensaries and their location, manner and times of operation, 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. All such licenses must be renewed annually.

14. (New) All actions required or authorized to be taken by the Borough in connection with State or local licensure, permitting or endorsement of a cannabis or medical cannabis business or any aspect of it located or intending to locate in the Borough, in addition to any land use approvals within the jurisdiction of the Borough Planning Board, shall be the responsibility of Borough Council.

15. (New) The issuance or renewal of a local license shall require a resolution of Borough Council finding that the applicant complies with all applicable Borough restrictions on the number of cannabis and medical cannabis businesses and the location, manner and times of their operation, including continued compliance with all zoning and land use approvals and related conditions and standards. The adoption of such a resolution shall also be a basis for conditional use approvals under section 215-81 of the Borough Code.

16. (New) Borough Council may deny or revoke a local license or take other adverse action based on failure of compliance with restrictions, conditions and standards which are the basis for

licensure. To the extent permitted by law, possession of a valid local license shall be a condition precedent to operation of a cannabis or medical cannabis business in the Borough.

17. (New) Borough Council shall notify the Commission in every case that it either approves or denies each application forwarded to it.

18. (New) Any violation of the provisions of this ordinance or the conditions of the zoning permit granted, inclusive of any agreements or conditions imposed by the Planning Board, shall be punishable by a civil fine of no less than \$1,000.00 and no more than \$2,500.00. Responsibility for enforcement of these provisions shall be shared as appropriate by the Zoning Officer, the Police Department and the Health Department of the Borough. In addition, any person may make complaint for any violation of the provisions of this ordinance or any provision or section thereof and upon conviction, the penalties provided herein shall be imposed. All violations will be reported to the State Cannabis Regulatory Commission or other appropriate state authority.

Applications and Fees

19. (New) The applicant shall complete and file such applications, produce such documents and provide such further information and testimony as shall be required by Borough Council to discharge its responsibilities under this ordinance. Applicant shall also ensure that copies of all applications for issuance or renewal of State licensing or permitting or endorsement for any cannabis consumption area shall be timely filed with the Borough Clerk for action by Borough Council. The required copies shall also include copies of all applications to the Borough Planning Board for applicable land use approvals, which shall be filed separately with the Planning Board as required by the Borough Code.

20. Chapter 98 of the Borough Code, concerning Fees, shall be amended by the addition of a new Article XVIII, Fees Affecting Cannabis Enterprises, which shall read as follows:

98-__ Applicants for Borough approval as cannabis retailer, medical cannabis dispensary or cannabis delivery service, in addition to fees and other charges required in connection with applicable zoning and land use applications, shall pay to the Borough an Application Fee of \$1,000.

98-__ A. Cannabis retailers and medical dispensaries shall pay to the Borough an annual renewal or registration fee of \$5,000.

B. Cannabis delivery services shall pay to the Borough an annual renewal or registration fee in the amount of \$2,500.00.

Local Taxation

21. Chapter 180 of the Borough Code, concerning taxation, shall be amended by the addition of a new Article III, Local Cannabis Transfer and User Tax, and shall provide as follows:

188-__ (New) Sales of cannabis and cannabis items by a cannabis retailer located in the Borough shall be subject to a transfer tax payable to the Borough in the amount of two percent (2%) of gross receipts. The tax shall apply to receipts from the sale of cannabis and cannabis items to another cannabis establishment, cannabis distributor or cannabis delivery service as well as to retail customers who are 21 years of age or older, or any combination thereof.

188-__ (New) A cannabis retailer operating one or more cannabis establishments shall pay a user tax at a rate equivalent to the transfer tax on the value of each transfer or use of cannabis or cannabis items from the license holder's establishment in the Borough to or by any other establishment of the license holder whether located in the Borough or another municipality.

188-__ (New) All sales and transfers of cannabis products from a medical cannabis dispensary in the Borough shall be subject to a one percent (1%) transfer tax payable to the Borough. The tax shall be assessed on the purchase price of all medical cannabis dispensed by the dispensary, including medical cannabis that is furnished by the dispensary to a medical cannabis handler for delivery to a registered qualifying patient or the patient's caregiver.

188-__ The transfer and user taxes provided for in this Chapter shall be in addition to any other taxes imposed by law and shall be collected

and transmitted to the Borough as provided by law.

Severability

22. If any part of this ordinance shall be adjudged by any court of competent jurisdiction to be invalid, that judgment shall not impair or invalidate the remainder but shall be confined in its operation to the affected part.

Effective Date

23. This ordinance is intended to supersede and replace Ordinance No. 8 introduced for first reading by Borough Council on June 7, 2021.

24. This ordinance shall be effective upon its passage and publication as provided by law.

Council Member Chandler made a motion to open the Public Hearing on Ordinance 2021-8, second by Council Member Gnatt. Mr. Davy read the title off the agenda which incorrectly listed Ordinance 2021-8. Mr. Bliss stated that he just realized that the Ordinance before Council is Ordinance 2021-9 which replaced and superseded Ordinance 2021-8. Mr. Bliss stated that in terms of public comment he is not sure which version people have. Mr. Bliss stated that he would recommend that the hearing be carried for 7 days. Mrs. Sterling stated that the title is wrong on the agenda, but Council has copies of the correct Ordinance 2021-9. Mr. Bliss asked if public access was granted for Ordinance 2021-9. Mrs. Sterling stated that the Ordinance that was distributed and posted on the bulletin board in Borough Hall was the correct Ordinance 2021-9. Mr. Bliss stated if the title on the agenda were to be amended then it would be consistent with all other notices provided. Mr. Bliss suggested solving the problem with something far less involved by simply amending the agenda to provide that the ordinance under consideration is Ordinance 2021-9 the title of which is AMENDED ORDINANCE RESTRICTING THE NUMBER, LOCATION AND OPERATION OF CANNABIS RETAILERS, MEDICAL CANNABIS DISPENSARIES AND CANNABIS DELIVERY SERVICES AND PROHIBITING ALL OTHER CANNABIS BUSINESSES AND OPERATIONS IN THE BOROUGH, AMENDING THE CODE OF THE BOROUGH OF PENNINGTON. Council Member Gnatt made a motion to amend the title of the ordinance listed on the agenda as stated by Mr. Bliss, second by Council Member Mills with all members present voting in favor.

Mrs. Heinzl stated that Ordinance 2021-8 is on the website, Ordinance 2021-9 is not posted on the website. Mrs. Chandler stated that Ordinance 9 is more restrictive than Ordinance 8. Mrs. Chandler stated that based on what was decided regarding Ordinance 2021-7, this is the same situation and this hearing should also be carried however that might be a problem with the deadline to adopt a Cannabis Ordinance being August 21st. Mr. Bliss stated that the hearing can be carried for seven days to August 9th. Mrs. Gnatt stated that she will be away, but she can join the meeting. Mayor Davy stated that this is an important ordinance and all members should plan to attend. Mr. Marciante asked if Ordinance 2021-7 could also be considered further at a meeting on August 9th. Mayor Davy agreed that would be a good idea.

Ms. Semple asked if someone could summarize the Cannabis locations. Mrs. Chandler stated that retail locations would only be allowed along Route 31 in the Business Highway and Business Office Zones only. Mrs. Chandler asked if there is a zoning map available on the website. Mrs. Heinzl stated that it is hard to find but she will make it more available. Mr. Marciante asked about the MU Zone across from Penn Brook Swim Club. Mrs. Chandler stated that a delivery business only would be allowed in that zone.

Mayor Davy stated both Ordinance 2021-7 and Ordinance 2021-9 will be posted on the website tomorrow.

Mayor Davy stated that he is happy to open the public hearing tonight and then carry the hearing to August 9th. Council Member Chandler made a motion to open the Public Hearing on Ordinance 9, second by Council Member Gnatt.

Mr. Mike Wasden of Eglantine Avenue thanked Borough Council for the time to speak. Mr. Wasden thanked Mrs. Chandler for responding to his questions prior to the meeting. Mr. Wasden stated that he has family members who use cannabis for medical reasons, he has two sons and he is joined tonight by his one son Louis. Mr. Wasden stated that he would pass by the Shoppes at Pennington each day when he drove his kids to school. Mr. Wasden stated that it is important that consideration be given to the youth in the community. Mr. Wasden stated that there are four area schools and he is concerned about the youth of the community because it has been proven that pot usage has a direct effect on the adolescent brain. Mr. Wasden stated that having a dispensary in a storefront with signage will have an impact on the youth of the community. Mr. Wasden quoted a survey that was done indicating that the impact on youth is higher in areas where there are dispensaries with storefront signs. Mr. Wasden stated that he does not want any of his three sons driving by marijuana signs for the seven years that they attend our public schools. Mr. Wasden stated that consumption rooms are very dangerous and it would not be safe to allow the youth of the town to ride their bikes to Vito's or Uncle Ed's with consumption rooms nearby. Mr. Wasden stated that he has done some research on impaired driving and the stats are high involving accidents while driving impaired. Mr. Wasden stated that neighboring communities or delivery services can provide marijuana to

residents in small towns like ours. Mr. Wasden stated that he started an on-line petition which has 45 signatures asks that the Borough not allow cannabis in the Borough, that there be no advertising along Route 31 and that consumption rooms not be allowed in the Borough. Mr. Wasden stated that he has submitted the petition to Mayor and some members of Council. Mayor Davy asked that Mr. Wasden send the petition to him.

Ms. Laitusis stated that she is on the Planning Board and she is the one person who voted no regarding this Ordinance being consistent with the Master Plan. Ms. Laitusis stated that this is similar to a bar and there are no references in the Master Plan regarding bars in the Borough.

Ms. Meredith More of 153 East Delaware Avenue stated that she is not a marijuana user and she does not know anyone who does use marijuana. Ms. Moore stated that though she is not in favor of consumption rooms, she does feel that there will be other establishments in the area and so in terms of economic value and control of these establishments this ordinance makes sense. Ms. Moore stated that the law passed and so Pennington should take advantage and take control now. Ms. Moore stated that keeping this limited to Route 31 is the right decision.

Mr. Dan Pace of 9 Railroad Place complemented Borough Council and the Planning Board on all the work that went into creating this ordinance. Mr. Pace stated that he has no adverse comments and residents he has spoken to have no adverse comments and he is in favor of Council moving forward with this ordinance.

Mr. Nick Angarone of 12 Park Avenue stated that he prefers bourbon and donuts to cannabis and he is a father of two who will pass these proposed cannabis locations and also pass by a bar he has no issues with Ordinance 2021-9 and it should be adopted.

Mayor Davy stated that the public hearing on Ordinance 2021-9 will be carried to a Special Meeting to be held on August 9th, 2021 at 7:00 pm.

Mayor Davy read Ordinance 2021-10 by title.

**BOROUGH OF PENNINGTON
ORDINANCE 2021 -10**

**BOND ORDINANCE PROVIDING FOR THE ACQUISITION OF EQUIPMENT AND UPGRADES
FOR THE POLICE DEPARTMENT IN AND BY THE BOROUGH OF PENNINGTON, IN THE
COUNTY OF MERCER, NEW JERSEY, APPROPRIATING \$107,000 THEREFOR AND
AUTHORIZING THE ISSUANCE OF \$53,200 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 \$107,000, including \$51,000 from the Deferred Charge to Future Taxation Fund (the "Fund") and further including the sum of \$2,800 as the down payment required by the Local Bond Law. The down payment is now 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 improvement or purpose not covered by application of the down payment and the Fund, negotiable bonds are hereby authorized to be issued in the principal amount of \$53,200 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 the acquisition of equipment and upgrades for the Police Department, including, but not limited to, body cameras, portable and mobile radios, a fingerprinting machine, a digital camera/booking system, service rifles, an in car video system, body worn cameras, a server, a recording system, radars and mobile data terminals, including all work and materials necessary therefor and incidental thereto and further including all related costs and expenditures 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 5 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 \$53,200, and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.
- (d) An aggregate amount not exceeding \$2,500 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 Chandler made a motion to open the Public Hearing on Ordinance 2021-10, second by Council Member Gross. There were no comments from the public. Council Member Chandler made a motion to close the Public Hearing on Ordinance 2021-10, second by Council Member Mills with all members present voting in favor. Council Member Chandler made a motion to adopt Ordinance 2021-10, second by Council Member Gross with all members present voting in favor.

Mayor Davy read Ordinance 2021-11 by title.

**BOROUGH OF PENNINGTON
ORDINANCE 2021 -11**

ORDINANCE APPROPRIATING \$582,000, \$580,000 OF WHICH IS FROM A GRANT FROM THE STATE OF NEW JERSEY DEPARTMENT OF TRANSPORTATION AND \$2,000 OF WHICH IS FROM THE GENERAL CAPITAL FUND, FOR THE DOWNTOWN STREETSCAPE IMPROVEMENTS PHASE II PROJECT IN AND BY BOROUGH OF PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY.

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY AS FOLLOWS:

Section 1. \$582,000 is hereby appropriated by the Borough of Pennington, in the County of Mercer, New Jersey (the "Borough"), \$580,000 of which is from a grant from the State of New Jersey Department of Transportation and \$2,000 of which is from the General Capital Fund, for the Downtown Streetscape Improvements Phase II Project, including all work and materials necessary therefor and incidental thereto and further including all related costs and expenditures incidental thereto, including all related soft costs pursuant to N.J.S.A. 40A:2-20.

Section 2. 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 3. This ordinance shall take effect after final adoption and publication and otherwise as provided by law.

Council Member Marciante made a motion to open the Public Hearing on Ordinance 2021-11, second by Council Member Chandler. There were no comments from the public. Council Member Chandler made a motion to close the Public Hearing on Ordinance 2021-11, second by Council Member Gnatt with all members present voting in favor. Council Member Chandler made a motion to adopt Ordinance 2021-11, second by Council Member Gross with all members present voting in favor.

NEW BUSINESS

**BOROUGH OF PENNINGTON
RESOLUTION #2021 – 8.1**

RESOLUTION AUTHORIZING REFUNDS

BE IT RESOLVED that a refund be issued from the Developer's Escrow Fund to Anna & Brendon Morfe, 118 East Delaware Avenue, Pennington, NJ 08534, for balance of escrow funds for Planning Board Application P21-003 in the amount of \$668.63.

BE IT RESOLVED that a refund be issued from the Developer's Escrow Fund to Gabriel Rosko, 58 North Main Street, Pennington, NJ 08534, for balance of escrow funds for Planning Board Application P21-007 in the amount of \$1,000.10.

BE IT RESOLVED that a refund be issued from the Developer's Escrow Fund to Charles Rotundo, 1 Maple Lane, Pennington, NJ 08534, for balance of escrow funds for Planning Board Application P20-001 in the amount of \$415.23.

BE IT RESOLVED, that a refund be issued from the Current Fund to CoreLogic Centralized Refunds, P.O. Box 9202, Coppell, TX 75019-9760, for refund of overpayment of 2021 third quarter taxes,

Block 103, Lot 14, also known as 9 West Franklin Avenue, in the amount of \$123.11.

Record of Council Vote on Passage

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

Council Member Marciante made a motion to approve Resolution 2021-8.1, second by Council Member Mills with all members present voting in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION 2021 – 8.2**

RESOLUTION AUTHORIZING PAYMENT OF BILLS

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

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Pennington that the bills be paid on audit and approval of the Mayor, the Appropriate Council Member and the Treasurer in the amount of \$ 1724,256.47 from the following accounts:

Current	\$ 935,404.74
W/S Operating	\$ 95,149.85
General Capital	\$ 461,321.85
Open Space Fund	\$ 38,039.97
Grant Fund	\$ 193,065.86
Developer’s Escrow	\$ 1,266.40
Animal Control	\$ 7.80
TOTAL	\$1,724,256.47

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2021-8.2, second by Council Member Gnatt. Mr. Marciante asked about several bills on the bill list. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION NO. 2021 – 8.3**

**RESOLUTION APPOINTING ALAINA WYSOCKE TAX ASSESSOR FOR UNEXPIRED TERM
 EFFECTIVE AUGUST 2, 2021**

This resolution was pulled from the agenda due to a conflict. Mayor Davy asked that this be included on the August 9th agenda. Mr. Bliss stated he would have an opinion ready for the August 9th meeting.

**BOROUGH OF PENNINGTON
 RESOLUTION 2021 – 8.4**

**RESOLUTION APPOINTING RANDI KNECHEL AS THE
 DEPUTY REGISTRAR OF THE BOROUGH OF PENNINGTON**

WHEREAS, the Borough is required to appoint a Deputy Registrar; and

WHEREAS, Deputy Registrar Mary Mistretta retired from this position effective January 31, 2021, after years of dedicated and distinguished service; and

WHEREAS, Elizabeth Sterling, Borough Registrar, wishes to appoint Randi Knechel as Deputy Registrar, as provided by statute; and

WHEREAS, Randi Knechel has obtained certification as a Certified Municipal Registrar (CMR) as required by law; and

WHEREAS, Ms. Knechel will be paid \$175.00 per month for this position;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington that the appointment of Randi Knechel as Deputy Registrar for a term of three years beginning on August 2, 2021 is hereby ratified and accepted, subject to continued satisfaction of applicable legal requirements.

Record of Council Vote on Passage

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

Council Member Marciante made a motion to approve Resolution 2021-8.4, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION 2021 – 8.5**

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

WHEREAS, Borough Council seeks to continue its program of deer management designed to control the population of deer in Pennington Borough by entering into a contract with professional deer hunters Mike Bellaus and Brian Kubin, doing business in Hopewell Township as Scorpion Outdoors Deer Management (hereafter “Scorpion Outdoors”);

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

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

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

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

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

WHEREAS, Mr. Bellaus and Mr. Kubin represent that they and Scorpion Outdoors possesses all necessary licenses for the activity they propose, they will provide copies of these licenses to the Borough so

that they may be kept on file, and they will keep all such licenses in effect for the duration of their contract with the Borough;

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

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

WHEREAS, the total cost of the contracted activities shall not exceed \$7,500 in the 2021-2022 hunting season, representing 50 deer harvested @ \$150, plus reimbursable expenses;

WHEREAS, the Chief Financial Officer has certified that funds are available for this contract from the Borough Open Space Fund;

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

1. The Mayor and the Business Administrator are hereby authorized to enter such purchase orders as necessary to enter into a contract on behalf of the Borough with Mr. Bellaus and Mr. Kubin doing business as Scorpion Outdoors for performance of the services described in the attached Proposal, subject to (1) the terms described in the Proposal, which is incorporated herein by reference, and (2) the conditions described in the recitals to this Resolution.
2. The duration of the contract shall not exceed one (1) year, with hunting activity limited to the 2021-22 hunting season.
3. The total cost of the contract shall not exceed \$8,000.00, inclusive of all reimbursable expenses, to 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.
Chandler	M				Marciante	S			
Gnatt		X			Mills	X			
Gross	X				Semple	X			

Council Member Chandler made a motion to approve Resolution 2021-8.5, second by Council Member Marciante. Mrs. Chandler stated that she along with the Mayor and Mr. Marciante met with Scorpion regarding deer management for this year. Mrs. Chandler stated that there was universal disappointment in the number of deer that were eliminated last year. Mrs. Chandler stated that the Borough is also meeting with Mercer County to work with them and other entities to focus on areas bordering Pennington. Mrs. Chandler stated that Mr. Kubin felt that he could add hunters to assist with the areas bordering Pennington. Mr. Marciante stated that the County and the D&R Greenway have granted permission for hunting on lands they own. Mrs. Chandler stated that within the Borough 22 deer were eliminated and outside the Borough there were 10 and another hunter reported 26. Mrs. Chandler stated that this is only a quarter of what they should be getting. Mrs. Chandler stated that they are getting an earlier start this year, there are more locations and there are more hunters this year. Mrs. Chandler stated that this will happen in the evening at dusk starting September 11th. Upon a roll call vote all members present voting in favor with the exception of Ms. Gnatt who voted no.

**BOROUGH OF PENNINGTON
RESOLUTION 2021 - 8.6**

**RESOLUTION APPROVING ACCEPTANCE OF STATE FUNDS
AND PARTICIPATION IN STATE GRANT PROGRAM KNOWN
AS SFY21 BODY-WORN CAMERA GRANT PROGRAM, AND
PROVIDING FOR THE INSERTION OF THE AWARD AMOUNT
IN THE BOROUGH BUDGET**

WHEREAS, the Pennington Borough Police Department seeks to participate in the State grant program known as SFY21 Body-Worn Camera Grant Program administered by the New Jersey Department of Law & Public Safety;

WHEREAS, on June 22, 2021, the Pennington Borough Police Department was awarded a grant under the Program in the amount of \$16,304.00, with no in-kind, cash or local match (AWARD # 21-BWC-346; AWARD PERIOD January 1, 2021 through December 31, 2025);

WHEREAS, Borough Council of the Borough of Pennington is authorized to accept the award on behalf of the Pennington Borough Police Department for the purpose described in the application;

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget, and may also approve the insertion of any item of appropriation in equal amount;

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

1. The representations set forth above are affirmed and incorporated herein.
2. Borough Council gratefully accepts the Body-Worn Camera Grant, on behalf of the Pennington Borough Police Department, in the amount of \$16,304.00.
3. Borough Council requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the Borough’s 2021 Budget in the sum of \$16,304.00, representing revenue now available from the 2021 Body-Worn Camera Grant Program.
4. Borough Council hereby appropriates the 2021 Body-Worn Camera Grant in the same sum of \$16,304.00.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2021-8.6, second by Council Member Marciante. Chief Pinelli stated that this is a grant that the State has issued, we applied for 8 and we were granted 8 cameras. Mrs. Chandler stated that we will only be requesting 6 cameras at this time and then the grant will remain open in case the Borough hires additional officers. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION 2021 – 8.7**

RESOLUTION AUTHORIZING THE UPFITTING OF NEW POLICE VEHICLE BY GENERAL SALES ADMINISTRATION T/A MAJOR POLICE SUPPLY CHARGEABLE TO APPROPRIATED FUNDS IN 2020.

WHEREAS, by Resolution 2020-9.17, Borough Council authorized the acquisition of a police vehicle under State contract from Cherry Hill Winner Ford of Cherry Hill, New Jersey (State Contract No. 20-FLEET-01189) for a total price of \$66,103.00;

WHEREAS, the contract price included installation of equipment appropriate for police purposes;

WHEREAS, Cherry Hill Winner Ford has since advised the Borough that it does not at present have the personnel necessary to install the specialized equipment;

WHEREAS, the Borough has therefore obtained a quote under State contract from General Sales Administration t/a Major Police Supply of Kenil, New Jersey for the labor and equipment needed to make the installation (State Contract Nos. 17-FLEET-00760 and -00719);

WHEREAS, the itemized quotation totals \$6,421.93 for labor and equipment as set forth in the attached Quotation;

WHEREAS, this amount will be credited in full against the amount otherwise owing to Cherry Hill Winner Ford;

WHEREAS, the Chief Financial Officer of the Borough certifies that these funds are available and may be charged to the funds budgeted for the new vehicle in the 2020 Budget;

NOW, THEREFORE, BE IT RESOLVED, by Borough Council of the Borough of Pennington, that the Administrator is hereby authorized to issue one or more purchase orders as needed to obtain the quoted services of General Sales Administration t/a Major Police Supply for a sum not to exceed \$6,421.93, and to take such further steps as required to ensure that these sums are credited against the amount otherwise due to Cherry Hill Winner Ford.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2021-8.7, second by Council Member Mills. Chief Pinelli explained this resolution and the reasons why it will be charged back to the 2020 budget. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION 2021 - 8.8**

**RESOLUTION AUTHORIZING PROFESSIONAL SERVICES
 AGREEMENT WITH EXCEL ENVIRONMENTAL RESOURCES, INC.
 FOR SUPPLEMENTAL REMEDIAL INVESTIGATION AT BOROUGH LANDFILL**

WHEREAS, Excel Environmental Resources, Inc. (“Excel”) has applied to the State of New Jersey on behalf of the Borough for grants from the Hazardous Discharge Site Remediation Fund (HDSRF) to cover the cost of Preliminary Assessment, Site Investigation and Remedial Investigation at the Borough Sanitary Landfill on Delaware Avenue in the Borough and has performed related services funded by these grants;

WHEREAS, the Borough now requires Supplemental Remedial Investigation at the Landfill and has received an HDSRF Grant in the amount of \$312,041.58 from the New Jersey Economic Development Authority for the performance of this work;

WHEREAS, by Resolution 2021-7.9, Borough Council has accepted this Grant and related terms and conditions and has authorized the Mayor to execute all grant documents as the authorized representative of the Borough;

WHEREAS, Borough Council now seeks to enter into a professional services agreement with Excel in the amount of \$312,041.58 to perform the work required for Supplemental Remediation;

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

WHEREAS, this is an agreement for professional services not requiring advertisement for bids under the Local Public Contracts Law;

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 the attached Professional Services Agreement with Excel Environmental Resources, Inc., for an amount not to exceed \$312,041.58, subject only to such amendments in form as may be required by the Borough Attorney.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2021-8.8, second by Council Member Gnatt. Mrs. Heinzl stated that this is part two of the landfill preliminary site investigation. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION 2021 – 8.9**

**RESOLUTION AUTHORIZING PAYMENT REQUEST NO. 9 (FINAL) TO LEVY
 CONSTRUCTION COMPANY, INC. FOR WORK COMPLETED ON THE PENNINGTON
 BOROUGH HALL RENOVATION PROJECT
 (VNHA #43829-210-71)**

WHEREAS, Levy Construction Company, Inc. has completed work pursuant to the contract for the Pennington Borough Hall Renovation Project (VNHA #: 43829-210-71); and

WHEREAS, Van Note Harvey Associates has reviewed Levy Construction Company, Inc’s attached application for payment and recommends payment of same pursuant to the Contractor’s Request for Payment No.9 in the amount of \$5,835.00 plus return of retainage in the amount of \$15,073.33; and

WHEREAS, this is the final payment under the contract; and

WHEREAS, funds are available under Ordinances 2017-14 in the General Capital Fund;

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that payment to Levy Construction Company, Inc. in the total amount of \$20,908.33 pursuant to payment request No. 9 (Final) is hereby authorized, upon receipt of fully executed documents and certified payrolls.

Record of Council Vote on Passage

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

Council Member Mills made a motion to approve Resolution 2021-8.9, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION 2021 – 8.10**

**RESOLUTION APPOINTING PART-TIME CLERICAL ASSISTANT FOR THE BOROUGH’S
 ADMINISTRATIVE OFFICE DURING THE MONTH OF AUGUST 2021**

WHEREAS, the Borough seeks part-time clerical assistance at the administrative offices in Borough Hall;

WHEREAS, the Borough has identified as qualified to perform this function Caleb Briggs of Pennington, a graduate of Hopewell Valley Central High School who is about to be a freshman at St. John’s College in Annapolis, Maryland;

WHEREAS, Mr. Briggs is able to work part-time during the month of August through August 20, 2021; and

WHEREAS, Mr. Briggs would serve from 11am to 2pm, 5 days per week or as needed, during this period, at the hourly rate of \$15.00 per hour;

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Pennington that the Borough Administrator is authorized to hire Caleb Briggs as a part-time clerical assistant on the terms described above.

Record of Council Vote on Passage

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

Council Member Marciante made a motion to approve Resolution 2021-8.10, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION 2021-8.11**

**RESOLUTION AUTHORIZING SUBORDINATION OF
 MORTGAGE ON 12A TUCKER WAY, BLOCK 102, LOT 1**

WHEREAS, the property known as 12A Tucker Way, Block No. 102, Lot 1 on the Tax Map of the Borough of Pennington (“Property”) is part of the Borough’s Affordable Housing Program;

WHEREAS, the owners of the property at the time of acquisition in December 2018 granted a mortgage (Recapture Mortgage”) to the Borough securing repayment of the sum of \$90,350 in the event of a non-exempt sale of the property, as required by law;

WHEREAS, at the time of purchase the owners also executed a commercial purchase money mortgage for the principal sum of \$112,717 (“Purchase Money Mortgage”);

WHEREAS, on advice of counsel, the Purchase Money Mortgage is typically recorded as the first mortgage on an affordable property but in this case was somehow recorded after the Recapture Mortgage, thus subordinating it to the Recapture Mortgage;

WHEREAS, the owners of the Property are now refinancing the Purchase Money Mortgage, seeking to replace it with a mortgage to the same lender (“New Mortgage”) in the amount of \$111,500, subject to subordination of the Recapture Mortgage to the New Mortgage;

WHEREAS, subordination of the Recapture Mortgage to the New Mortgage is consistent with the purposes of the Recapture Mortgage and the goals of the Borough’s Affordable Housing Program;

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 a Mortgage Subordination document that subordinates the Recapture Mortgage to the New Mortgage as described above, 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.
Chandler	X				Marciante	S			
Gnatt	X				Mills	X			
Gross	M				Semple	X			

Council Member Gross made a motion to approve Resolution 2021-8.11, second by Council Member Marciante. Mr. Bliss stated that this is a standard feature of the Affordable Housing Program. Mr. Bliss stated that when this property was originally purchased for a capped price, they indirectly received subsidy which is what kept the price down and under our program American Properties is an inclusionary development and the law requires us to take back a recapture mortgage so that if the owner sells the property for more than the permitted price, this mortgage would kick in to recapture the subsidy. Mr. Bliss stated that when the owners purchased the property back in December the purchase mortgage which typically gets recorded first was recorded after the recapture mortgage. Mr. Bliss stated that now the owner wants to refinance and the loaner will not refinance the mortgage unless they are the first lienholder. Mr. Bliss stated that this corrects the recording that should have been done in December. Upon a roll call vote all members present voted in favor.

Professional Reports

Mrs. Heinzl stated she would like to apologize for the Ordinances not being posted on the website and she will have them posted tonight. Mrs. Heinzl stated that she will also post a link in the news section of the website for new ordinances that are introduced.

Mrs. Heinzl stated that the last time Energy Aggregation was discussed Council agreed that the Borough did not want to continue with this process. Mrs. Heinzl stated that if no one objects she would like to formally withdraw from this program.

Mr. Bliss had nothing further.

Chief Pinelli had nothing further. Mr. Gross asked if anything came of the Burd Street concern with parking. Mrs. Chandler stated that they have discussed this and they are working on some ideas. Mrs. Chandler stated that they are looking at what other towns have done and what might work for Pennington. Mayor Davy stated that they have met with the resident of East Welling and the resident of Burd Street that expressed concerns at the last meeting.

Rick Smith stated that he would like to thank Chief Pinelli and his team for their assistance during the near miss with the tornado.

Ms. Sterling had nothing further.

Mrs. Webb stated that the tax bills were mailed last week and the grace period has been extended to August 23rd. Mrs. Webb reminded everyone that if payment comes in after August 23rd, the interest reverts back to the August 1st due date.

Public Comment

Mayor Davy asked anyone wishing to address Council to please raise your hand so the Borough Administrator can acknowledge you. Please state your name and address for the record. Please limit comments to the Governing Body to a maximum of 3 minutes.

There were no comments from the public.

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

Council Member Chandler made a motion to approve the Closed Session Minutes from July 6, 2021, second by Council Member Mills with all members present voting in favor with the exception of Ms. Semple who abstained.

At 8:32 P.M. with no further business to address Council Member Mills made a motion to adjourn, second by Council Member Chandler.

Respectfully submitted,

Elizabeth Sterling
Borough Clerk