

**Pennington Borough Council
Regular Meeting – March 4, 2024**

Mayor Davy called the Regular Meeting of the Borough Council to order at 7:03 pm. The meeting was held via Zoom. Borough Clerk Betty Sterling called the roll with Council Members Angarone, Chandler, Gnatt, Marciante, Stern and Valenza in attendance. Ms. Gnatt was absent and Ms. Angarone arrived after the roll call.

Also present were Borough Clerk Betty Sterling, Borough Attorney Walter Bliss, Borough Administrator GP Caminiti, Chief Financial Officer Sandra Webb, Public Works Superintendent Rick Smith and Police Chief Doug Pinelli.

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 two changes to the agenda, the first is to add a resolution to hire a police officer and the other change is to remove the resolution listed regarding a use and occupancy agreement for the First Aid building.

Open to the Public

Mayor Davy read the following statement.

The meeting is now open to the public for comments. 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 you state your name and address for the record. Please limit comments to the Governing Body to a maximum of 2 minutes.**

There were several attendees who offered comments to Council.

Mr. Kurt Pederson of 436 Sked Street stated that he would like to find out when Sked Street Park will be completed. Mr. Smith stated that there is one section that does not have playground mulch because the Council was considering a more permanent solution. Mr. Smith stated that because a more permanent solution will require more time they will be installing playground mulch shortly. Mr. Pederson asked about a fall hazard and what is being done about that. Mr. Smith stated that they will be installing some topsoil as well to level off the area. Mr. Pederson asked if there is a certified person who certifies the playgrounds for safety and compliance. Mr. Smith stated that no one in his department is certified but he would look into it. Borough Administrator Caminiti stated that he would also reach out to the Joint Insurance Fund and the DCA in terms of certification and compliance.

PRESENTATIONS

Mayor Davy invited Sherry Tracey of Phoenix Advisor to present an updated capital plan for the Borough. Ms. Tracey stated that she has been asked to do some revisions to the original presentation that she made a few months ago. Ms. Tracey stated that with regard to General Capital she was asked to do an update with two options one is projecting planned capital and the other option showing a projection of the amount of debt that the Borough could afford to take on over the next ten years. Ms. Tracey reviewed Bond Anticipation Notes and how that process works as compared to a more permanent financing option. Mayor Davy stated that this is a worst case scenario and will be updated as projects are identified but it will guide us in making budget decisions. Mrs. Chandler stated that the goal was to have a projection based on the 10 year capital plan that can be adjusted each year based on capital needs. Mrs. Webb briefly explained existing debt and how capital purchases have been funded through the budget over the past several years. Ms. Tracey reviewed a schedule of water/sewer capital which will be updated as projects are identified and projected increases to the water/sewer rates which will also be reviewed each year.

MAYOR'S BUSINESS

Mayor Davy announced the resignation of Michael Abrahamson as Alternate 1 on the Environmental Commission.

MAYOR'S APPOINTMENTS

Mayor Davy announced the appointment of Nell Houghton as Alternate 1 on the Environmental Commission for a term ending December 31, 2026.

Mayor Davy also announced the appointment of Michelle Needham and Jason Meyer to Ad-Hoc Master Plan Citizen Advisory Committee.

APPROVAL OF MINUTES

Council Member Chandler made a motion to approve the minutes of the February 5, 2024 Regular Meeting, second by Council Member Marciante with all members present voting in favor.

ORDINANCES FOR INTRODUCTION

Mayor Davy read Ordinance 2024-2 by title.

**BOROUGH OF PENNINGTON
ORDINANCE # 2024 - 2**

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

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

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

WHEREAS, the Mayor and Council of the Borough of Pennington, Mercer County hereby determines that it is advisable and necessary to increase its CY 2024 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

NOW THEREFORE BE IT ORDAINED, by the Mayor and Council of the Borough of Pennington, in the County of Mercer, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2024 budget year, the final appropriations of the Borough of Pennington shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5 %, amounting to a total increase of \$113,751.31, said amount being \$32,500.38 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, and that the CY 2024 municipal budget for the Borough of Pennington be approved and adopted in accordance with this ordinance; and,

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

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

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

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

Council Member Chandler made a motion to introduce Ordinance 2024-2, second by Council Member Angarone. Mayor Davy asked Chief Financial Officer Sandy Webb to explain the Ordinance for Council. Upon a roll call vote all members present voted in favor.

Mayor Davy read Ordinance 2024-3 by title.

**BOROUGH OF PENNINGTON
ORDINANCE 2024-3**

BOND ORDINANCE PROVIDING FOR IMPROVEMENTS TO BALDWIN STREET AND BALDWIN COURT 11 IN AND BY THE BOROUGH OF PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY, APPROPRIATING \$700,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$182,270 BONDS OR NOTES OF THE BOROUGH TO FINANCE 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 \$700,000, including a grant expected to be received from the State of New Jersey Department of Transportation in the amount of \$517,730 (the "State Grant"). Pursuant to N.J.S.A. 40A:2-11(c), no down payment is provided for the cost of the improvement or purpose herein since the improvement or purpose is being partially funded by the State Grant.

Section 2. In order to finance the cost of the improvement or purpose not covered by the State Grant, negotiable bonds are hereby authorized to be issued in the principal amount of \$182,270 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued is improvements to Baldwin Street and Baldwin Court 11, including, but not limited to, the rehabilitation of roadways and further including all work and materials necessary therefor and incidental thereto.

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

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

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

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

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

- (a) The improvement or purpose described in Section 3(a) of this bond ordinance is not a current expense. It is an improvement or purpose that the Borough may lawfully undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.
- (b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is 10 years.
- (c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$182,270, and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

- (d) An aggregate amount not exceeding \$10,770 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, if other than the State Grant referred to in Section 1 hereof, to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

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

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

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

Council Member Marciante made a motion to introduce Ordinance 2024-3, second by Council Member Stern with all members present voting in favor.

Mayor Davy read Ordinance 2024-4 by title.

**BOROUGH OF PENNINGTON
ORDINANCE #2024 – 4**

**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 2024**

**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	\$125,000.00
Administrative Coordinator (part time)	\$33.66/hour
Borough Clerk	\$48,176.68
Assistant CFO	\$115,595.72
Chief Financial Officer (part time)	\$93.02/hour
Tax Collector (part time)	\$93.02/hour
Technical Assistant to Construction (part time)	\$27.73//hour

Tax Assessor (part time)	\$14,699.30
Zoning Officer (part time)	\$9,947.37
Land Use Admin/Admin Asst.	\$51,000.00
Deputy Registrar	\$175.00 / month
Supt. of Public Works	\$93,086.02
Licensed Water Operator	\$51,943.00
Assistant to Superintendent of Public Works	\$42,865.50
Foreman	\$82,248.18
Judge of Municipal Court	\$13,975.50
Court Administrator (part time)	\$19,415.66
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)	\$75.00
Chief of Police (yearly clothing allowance \$1,500)	\$141,141.00
Administrative Assistant – Police Department	\$48.23/hour
Construction Official	\$30,406.14
Plumbing Sub-Code	\$53.58/ hour
Fire Sub-Code	\$44.55/ hour
Electric Sub-Code	\$53.58/ 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 \$53.58 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	\$ 15.13	\$ 28.44
Crossing Guard – Special Events	\$ 40.00 per hour	
Special Police	\$ 17.00 per hour	
 Part Time Employees – All Departments:		
Part Time or Temporary	\$ 15.13	\$ 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, 2024 if appropriate.

Council Member Chandler made a motion to introduce Ordinance 2024-4, second by Council Member Stern with all members present voting in favor.

Mayor Davy read Ordinance 2024-5 by title.

**BOROUGH OF PENNINGTON
ORDINANCE 2024-5**

**AN ORDINANCE REGULATING REMOVAL OF
TREES ON PRIVATE PROPERTY AND
AMENDING THE CODE OF THE BOROUGH OF PENNINGTON**

WHEREAS, trees play a critical often overlooked role in the water cycle and in the mitigation of storm water runoff issues such as soil erosion, pollutant reduction, infiltration, quantity reduction, and thermal effects;

WHEREAS, the New Jersey Department of Environmental Protection, as part of the 2023 Tier A MS 4 permit renewal process, requires permittees to adopt and enforce a community-wide ordinance to control tree removal and replacement on all types of properties where the municipality has jurisdiction;

WHEREAS, the within ordinance is based on the model ordinance promulgated by NJDEP;

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Pennington, that the Code of the Borough of Pennington, is hereby amended by the insertion of a new Chapter 197 concerning Tree Removal and Replacement, which shall read as follows:.

SECTION I. Purpose.

The purpose of this ordinance is to establish requirements for tree removal and replacement on private property in the Borough of Pennington.

This ordinance shall be construed in conjunction with Article I of Chapter 13 of the Borough Code, which establishes a Shade Tree Committee and provides standards and procedures affecting the planting, care and removal of shade and ornamental trees and shrubbery upon and in the streets, highways, public rights-of-way and public property of the Borough.

This ordinance incorporates by reference the Community Forestry Management Plan of the Borough, as approved by the New Jersey Department of Environmental Protection, Division of Parks and Forestry, New Jersey Forestry Service.

SECTION II. Definitions.

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this ordinance clearly demonstrates a different meaning. When consistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The use of the word "shall" means the requirement is always mandatory and not merely directory.

- A. "Approving Authority" means the official or agency of the Borough responsible for review and approval of applications for building permits and land-use applications.
- B. "Diameter at Breast Height" or "DBH" means the diameter of the trunk of a mature tree generally measured at a point four and a half feet above ground level from the uphill side of the tree. For species of trees where the main trunk divides below the 4½ foot height, the DBH shall be measured at the highest point before any division.
- C. "Department" means the Borough Department of Public Works.

- D. "Hazard Tree" means a tree or limbs thereof that meet one or more of the criteria below. Trees that do not meet any of the criteria below and are proposed to be removed solely for development purposes are not Hazard Trees.
1. Has an infectious disease or insect infestation as determined by a Licensed Tree Expert;
 2. Is dead or dying as determined by a Licensed Tree Expert;
 3. Obstructs the view of traffic signs or the free passage of pedestrians or vehicles, where pruning attempts have not been effective;
 4. Is causing obvious damage to structures (such as building foundations, sidewalks, etc.); or
 5. Is determined to be a threat to public health, safety, and/or welfare by a Licensed Tree Expert, or is otherwise subject to removal in accordance with Section 13-5C and 13-6D of the Borough Code.
- E. "Licensed Tree Expert" means a person licensed to provide tree expert services in New Jersey pursuant to N.J.S.A. 45:15C-11, et seq.
- F. "Person" means any individual, resident, corporation, utility company, partnership, firm or association owning or residing on property where a tree regulated by this ordinance is removed or proposed to be removed. Person also includes any contractor hired by the individual or entity owning or residing on the property.
- G. "Tree" means a woody perennial plant, typically having a single stem or trunk bearing lateral branches a distance from the ground.
- H. "Tree Caliper" means the diameter of the trunk of a young tree, measured six (6) inches from the soil line. For young trees whose caliper exceeds four (4) inches, the measurement is taken twelve (12) inches above the soil line.

SECTION III. Regulated Activities.

A. Regulated Tree Removals.

1. No Person shall remove or cause or permit the removal of any tree having a DBH of 6 inches or more unless the removal has been registered with the Department of Public Works in accordance with this ordinance. Replacement of removed trees shall be required unless the removal is exempt from replacement under Section IV of this ordinance.
2. Any planned removal of a tree in connection with construction or other development of land requiring a building permit, site plan, subdivision or other land use application must also be approved by the approving authority and registered with the Department of Public Works as part of a tree removal and replacement plan compliant with this ordinance.

B. Tree Replacement Requirements

1. Any person who removes one or more trees with a DBH of six inches (6") or more, unless exempt under Section IV, shall be subject to the requirements of the Tree Replacement Requirements Table below.
2. The species, type and diversity of replacement trees shall be in accordance with Appendix A and as otherwise required by this ordinance. Deviation from requirements governing species, types and diversity of replacement trees shall require prior written approval of the Department of Public Works.
3. Replacement tree(s) shall:
 - a. Be replaced in kind with a tree that has an equal or greater DBH than the tree removed or meet the Tree Replacement Criteria in the table below.
 - b. Be planted within twelve (12) months of the date of removal of the original tree(s) or at an alternative date specified by the Department of Public Works.
 - c. Be monitored by the owner or resident as applicable for a period of two (2) years to ensure the tree(s) survival and shall be replaced as needed within twelve (12) months; and
 - d. Shall not be planted in temporary containers or pots, as these do not count toward tree replacement requirements.

4. Tree Replacement Requirements Table:

Category	Tree Removed (DBH)	Tree Replacement Criteria (See Appendix A)	
1	DBH of 6" to 12.99"	Replant 1 tree with a minimum tree caliper of 1.5" for each tree removed	
2	DBH of 13" to 22.99"	Replant 2 trees with minimum tree calipers of 1.5" for each tree removed	
3	DBH of 23" to 32.99"	Replant 3 trees with minimum tree calipers of 1.5" for each tree removed	
4	DBH of 33" or greater	Replant 4 trees with minimum tree calipers of 1.5" for each tree removed	

C. Replacement Alternatives.

If the Department or Approving Authority determines that some or all required replacement trees cannot be planted on the property where the tree removal activity occurred, then the owner or resident as applicable shall plant replacement trees in separate area(s) approved by the Department or Approving Authority.

SECTION IV. Exemptions.

All Persons shall comply with the tree registration and replacement standards outlined above except the following tree removals shall be exempt from requirements pertaining to replacements:

- A. Removal of trees in categories 1, 2 and 3 in the Tree Replacement Table on properties that within a five-year period have had fewer than a rolling count of four (4) such trees removed per acre, prorated in accordance with acreage. In maintaining the rolling count, for example, if 3 trees from category 1 are removed in July 2023 and there are no further tree removals in the next five years, the count resets to zero in July 2028. However, if one tree from category 1 is removed in July 2023 and another in July 2025, the first tree will come off the count in July 2028 and the second in July 2030. Replacement requirements shall apply beginning with the first tree over the exempt maximum for the property.
- B. Removal of trees on tree farms in active operation, nurseries, fruit orchards, and garden centers, with respect to activity on those properties only. . .
- C. Removal of trees on properties used for the practice of silviculture under an approved forest stewardship or woodland management plan that is active and on file with the Borough.
- D. Removal of trees as part of a municipal or state decommissioning plan. This exemption only includes trees planted as part of the construction and predetermined to be removed in the decommissioning plan.
- E. Removal of trees pursuant to a New Jersey Department of Environmental Protection (NJDEP) or U.S. Environmental Protection Agency (EPA) approved environmental clean-up, or NJDEP approved habitat enhancement plan.
- F. Removal of trees in accordance with approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife.
- G. Removal of Hazard Trees.

SECTION V. Enforcement.

This ordinance shall be enforced by the Borough of Pennington Police Department.

SECTION VI. Violations and Penalties.

Any person(s) found to be in violation of this ordinance, upon conviction thereof, shall be subject to a fine not exceeding \$1,000. Such person also shall be required to pay for the costs of acquiring and planting replacement trees as necessary to comply with applicable specifications and requirements. These costs may be charged to the property owner as appropriate pursuant to Section 13-6F of the Borough Code.

SECTION VII. Severability.

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be independent, such that a finding or holding that any such portion of the Ordinance is unconstitutional, void, or ineffective for any cause or reason shall not affect any other portion of this Ordinance.

SECTION VIII. Effective Date.

This Ordinance shall be in full force and effect upon adoption and publication as required by law.

Council Member Stern made a motion to introduce Ordinance 2024-5, second by Council Member Chandler. Council Member Marciante stated his intent to vote no on this ordinance as he did not feel that the Borough should regulate trees on private property. Mr. Marciante stated that he planted his trees and he should not have to file a permit to take them down. Mr. Valenza stated that this Ordinance and the next one are required as part of the MS4 permit requirements and the Public Works Committee has been working on the ordinances to get to this point. Mr. Bliss stated that the requirement to register with the Borough to take down a tree is specific to the size and health of a tree. Mr. Bliss stated that there is no fee it is simply a registration with the Borough with the intent that when a resident takes down 4 in five years there are replacement requirements. Upon a roll call vote Council Members Chandler, Stern and Valenza voted in favor, Council Member Marciante voted no, and Council Member Angarone abstained. Ms. Gnatt was not in attendance.

Following the vote on the remaining Ordinances for Introduction, Mr. Bliss reconsidered the vote on Ordinance 2024-5 and a new vote was taken. Council Member Chandler made a motion to introduce Ordinance 2024-5, second by Council Member Stern with Council Members Chandler, Stern and Valenza voting in favor, Council Member Marciante voted no, Council Member Angarone abstained and Ms. Gnatt was absent. Considering this to be a tie, Mr. Bliss called for the Mayor to cast a tie-breaking vote, Mayor Davy voted in favor and the Ordinance was considered to be introduced.

Mayor Davy read Ordinance 2024-6 by title.

**BOROUGH OF PENNINGTON
ORDINANCE 2024-6**

**AN ORDINANCE REGULATING PRIVATELY-OWNED
SALT STORAGE**

WHEREAS, the Borough of Pennington seeks to regulate privately-owned salt storage to protect the environment in accordance with the directives of the New Jersey Department of Environmental Protection and its proposed model ordinance;

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Pennington, that Chapter 155 of the Code of the Borough of Pennington is hereby amended to regulate Privately-Owned Salt Storage, as follows:

SECTION I. Purpose.

The purpose of this ordinance is to prevent stored salt and other solid de-icing materials from being exposed to stormwater.

This ordinance establishes requirements for the storage of salt and other solid de-icing materials on properties not owned or operated by the Borough (privately-owned), including residences in the Borough, to protect the environment, public health, safety and welfare, and to prescribe penalties for failure to comply.

SECTION II. Definitions.

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the context of this Chapter clearly demonstrates a different meaning. When consistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- A. "De-icing materials" means any granular or solid material such as melting salt or any other granular solid that assists in the melting of snow.

- B. “Impervious surface” means a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.
- C. “Storm drain inlet” means the point of entry into the storm sewer system.
- D. “Permanent structure” means a permanent building or permanent structure that is anchored to a permanent foundation with an impermeable floor, and that is completely roofed and walled with a door or other means of sealing the access way from wind driven rainfall. A “permanent structure” shall include a fabric frame structure if it meets the following specifications:
 - 1. concrete blocks, jersey barriers or other similar material shall be placed around the interior of the structure to protect the side walls during loading and unloading of de-icing materials;
 - 2. the design shall prevent stormwater run-on and run through, and the fabric cannot leak;
 - 3. the structure shall be erected on an impermeable slab;
 - 4. the structure cannot be open sided; and
 - 5. the structure shall have a roll up door or other means of sealing the access way from wind driven rainfall.
- E. “Person” means any individual, corporation, company, partnership, firm, or association subject to municipal jurisdiction. Persons subject to the prohibitions contained in this ordinance shall include the owner of the affected property and any tenant or other person in control of the property.
- F. “Resident” means a person who resides on a residential property where de-icing material is stored.

SECTION III. Deicing Material Storage Requirements.

- A. No person shall store de-icing materials outdoors in the Borough except from October 15th through April 15th in compliance with the requirements below:
 - 1. Loose materials shall be placed on a flat, impervious surface in a manner that prevents storm water run-through;
 - 2. Loose materials shall be placed at least 50 feet from surface water bodies, storm drain inlets, ditches and/or other conveyance channels;
 - 3. Loose materials shall be maintained in a cone-shaped storage pile. If loading or unloading activities alter the cone-shape during daily activities, tracked materials shall be swept back into the storage pile, and the storage pile shall be reshaped into a cone after use;
 - 4. Loose materials shall be covered as follows:
 - a. The cover shall be waterproof, impermeable, and flexible.
 - b. The cover shall extend to the base of the pile(s).
 - c. The cover shall be free from holes or tears.
 - d. The cover shall be secured and weighed down around the perimeter to prevent removal by wind.
 - e. Weight shall be placed on the cover(s) in such a way that minimizes the potential of exposure as materials shift and runoff flows down to the base of the pile. Sandbags lashed together with rope or cable and placed uniformly over the flexible cover, or poly-cord nets, provide a suitable method. Items that can potentially hold water (e.g., old tires) shall not be used;
 - 5. Containers must be sealed when not in use.
 - 6. The site shall be free of all de-icing materials between April 16th and October 14th.
- B. Storage of de-icing materials in a permanent structure, including storage of loose de-icing materials in such a structure is not restricted to October 15th through April 15th.
- C. All temporary and permanent structures must comply as well with all other local ordinances, including building and zoning regulations.

- D. The property owner, or owner of the de-icing materials if different, shall designate a person(s) responsible for operations at the site where these materials are stored outdoors, and who shall document that weekly inspections are conducted to ensure that the conditions of this ordinance are met. Inspection records shall be kept on site and made available to the Borough upon request.
- E. Residents who operate businesses from their homes that utilize de-icing materials are also required to perform weekly inspections.

SECTION IV. Exemptions:

Residents other than those described in Section III.E. above may store de-icing materials outside in a solid-walled, closed container that prevents precipitation from entering and exiting the container, and which prevents the de-icing materials from leaking or spilling out. Under these circumstances, weekly inspections are not necessary, but repair or replacement of damaged or inadequate containers shall occur within 2 weeks.

The storage and inspection requirements in Section III above shall not apply if the de-icing materials are containerized (in bags or buckets) and stored within a permanent structure. Piles of de-icing materials are not exempt, even if stored in a permanent structure.

This ordinance does not apply to facilities where the stormwater discharges from de-icing material storage activities are regulated under another NJPDES permit.

SECTION V. Enforcement:

This ordinance shall be enforced by the Pennington Borough Police Department and the Department of Public Works during the course of ordinary enforcement duties. Enforcement shall be in the municipal court having jurisdiction over proceedings to enforce and collect any penalty imposed because of a violation of any provision of this article. The proceedings shall be summary and in accordance with the Penalty Enforcement Law (N.J.S.A. 2A:58-10 et seq.). Process shall be in the nature of a summons or warrant and shall be issued by those authorized by the Borough Police Department.

SECTION VI. Violations and Penalties:

Any person(s) who is found to be in violation of the provisions of this ordinance shall have 72 hours to complete corrective action. Repeat violations and/or failure to complete corrective action shall result in fines as follows:

A. Maximum penalty. Any person who shall violate any provision of this article shall, upon conviction thereof, be punishable by one or more of the following: a fine not exceeding \$2,000 or imprisonment for a period not exceeding 90 days or to a period of community service not exceeding 90 days at the discretion of the Judge of the Municipal Court.

B. Separate violations. Except as otherwise provided, every day in which a violation of any provision of this article or any other ordinance of the Borough exists shall constitute a separate violation.

C. Application. The maximum penalty stated in this section is not intended to state an appropriate penalty for every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation.

D. Minimum penalty. A minimum penalty shall be imposed equal to \$100 for each day a violation continues.

SECTION VII. Severability:

Each section, subsection, sentence, clause, and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause, and phrase, and finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause or reason shall not affect any other portion of this Ordinance.

SECTION VIII. Effective Date:

This Ordinance shall be in full force and effect from and after its adoption and ~~any~~ publication as may be required by law.

Council Member Stern made a motion to introduce Ordinance 2024-6, second by Council Member Marciante. Mr. Bliss gave a brief overview of the requirements of the Ordinance which pertain to commercial users of salt on private property. Mr. Marciante asked who would be enforcing these ordinances. Mr. Bliss stated that the ordinance calls for a combination of Public Works and the Police who

will have the authority to issue summonses. Upon a roll call vote all members present voted in favor of introduction with the exception of Ms. Angarone who abstained.

Mayor Davy read Ordinance 2024-7 by title.

**BOROUGH OF PENNINGTON
 ORDINANCE 2024-7**

BOND ORDINANCE PROVIDING FOR VARIOUS CAPITAL IMPROVEMENTS IN AND BY THE BOROUGH OF PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY, APPROPRIATING \$325,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$308,750 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF.

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

Section 1. The several improvements described in Section 3 of this bond ordinance are hereby respectively authorized to be undertaken by the Borough of Pennington, in the County of Mercer, New Jersey (the "Borough") as general improvements. For the several improvements or purposes described in Section 3, there are hereby appropriated the respective sums of money therein stated as the appropriation made for each improvement or purpose, such sums amounting in the aggregate to \$325,000, and further including the aggregate sum of \$16,250 as the several down payments for the improvements or purposes required by the Local Bond Law. The down payments have been made available by virtue of provision for down payment or for capital improvement purposes in one or more previously adopted budgets.

Section 2. In order to finance the cost of the several improvements or purposes not covered by application of the several down payments, negotiable bonds are hereby authorized to be issued in the principal amount of \$308,750 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

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

<u>Purpose</u>	<u>Appropriation & Estimated Cost</u>	<u>Estimated Maximum Amount of Bonds & Notes</u>	<u>Period of Usefulness</u>
a) The acquisition of a dump truck, including all related costs and expenditures incidental thereto.	\$168,000	\$159,600	10 years
b) The acquisition of a leaf vacuum, including all related costs and expenditures incidental thereto.	\$37,000	\$35,150	15 years
c) Improvements to Fitzcharles Drive, North Riding Drive and Walking Purchase Drive, including, but not limited to, milling, paving and asphalt work and further including all work and materials necessary therefor and incidental thereto.	\$104,000	\$98,800	10 years
d) The acquisition of an administration server, including all related costs and expenditures incidental thereto.	\$16,000	\$15,200	5 years
Total:	<u>\$325,000</u>	<u>\$308,750</u>	

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

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

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

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

(a) The improvements or purposes described in Section 3 of this bond ordinance are not current expenses. They are all improvements or purposes that the Borough may lawfully undertake as general improvements, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The average period of usefulness, computed on the basis of the respective amounts of obligations authorized for each purpose and the reasonable life thereof within the limitations of the Local Bond Law, is 10.32 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 \$308,750, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$19,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purposes or improvements.

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

Section 8. Any grant moneys received for the purposes or improvements described in Section 3 hereof shall be applied either to direct payment of the cost of the improvements or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

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

Section 10. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy

ad valorem taxes upon all the taxable property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

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

Council Member Marciante made a motion to introduce Ordinance 2024-7, second by Council Member Stern with all members present voting in favor.

ORDINANCES FOR PUBLIC HEARING AND ADOPTION

Mayor Davy read Ordinance 2024-1 by title.

BOROUGH OF PENNINGTON ORDINANCE NO. 2024-1

ORDINANCE AMENDING CHAPTER 98 (FEES) OF THE CODE OF THE BOROUGH OF PENNINGTON TO INSERT FEES RELATING TO THE ANNUAL YARD SALE AND THE USE OF KUNKEL PARK

WHEREAS, as part of the Budget Process, the Finance Committee and various departments of the Borough review and recommend changes to fees collected for certain services provided by the Borough; and

NOW THEREFORE BE IT ORDAINED by the Borough Council of the Borough of Pennington that in accordance with these recommendations, Chapter 98 of the Code of the Borough of Pennington, concerning fees, is amended as follows (with new language underlined and deleted language crossed out):

1. Article VI is amended as follows:

Article VI Miscellaneous Non Land Use Fees

§ 98-30 Miscellaneous fees.

The following miscellaneous fees shall be collected as required by the applicable sections of this Code:

- A. Annual license fee for body art establishments, as required by § **76-1** of this Code: \$500.
- B. Peddler's permit, as required by § **147-6** of this Code: \$100.
- C. Registration of vacant building, as required by Chapter **136**, Art. **II**, initially and annually: \$250.
- D. Annual fee for electronic smoking device establishment license: \$600.
- E. Fee for Memorial Tree: \$500.
- F. Fee for Adopt A Flag: \$50.
- G. Fees for registration as a participant in the annual yard sale including use of yard sign advertising participation: \$25.00

2. Article VII is amended as follows:

Article VIII Use of Borough Parks

§ 98-33 Use of parks.

Fees for use of Borough parks as provided in § **143-4** of this Code shall be:

- A. Permit for use of park by documented nonprofit or Pennington resident: \$75.
- B. All others: \$200.
- C. All users not charged a fee for use: a refundable security deposit of \$500 chargeable for cost of clean-up or damage to facility.

Council Member Chandler made a motion to open the Public Hearing on Ordinance 2024-1, second by Council Member Angarone. There were no comments from the public. Council Member Angarone made a

motion to close the Public Hearing, second by Council Member Chandler with all members present voting in favor. Mrs. Chandler stated that the fee for the yard sale does not read that it is voluntary because residents can participate in the yard sale without registration. Mrs. Chandler was concerned that residents would be led to believe that they have to register when in fact it is intended to be voluntary. The ordinance was amended to insert the word voluntary for yard sale registration. Council Member Chandler made a motion to amend the Ordinance to include the word voluntary, second by Council Member Angarone with all members present voting in favor. Council Member Angarone made a motion to adopt Ordinance 2024-1, second by Council Member Chandler with all members present voting in favor.

BUDGET INTRODUCTION

Mayor Davy asked Chief Financial Officer Sandy Webb to explain the next couple of Resolutions and to present the 2024 Budget to Council for introduction. Ms. Webb explained that Resolution 2024-3.9 is for self-examination of the 2024 budget. Ms. Webb stated that every three years municipalities can self-examine their budgets instead of submitting for State Review. Ms. Webb explained that this came about several years ago and as long as we meet the criteria we will be self-examining for the years 2024 and 2025.

BOROUGH OF PENNINGTON RESOLUTION 2024 – 3.9

RESOLUTION AUTHORIZING A SELF-EXAMINATION OF THE 2024 MUNICIPAL BUDGET OF THE MAYOR AND COUNCIL OF THE BOROUGH OF PENNINGTON

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

WHEREAS, pursuant to N.J.A.C 5:30-7.2 through 5:30-7.5 the Borough of Pennington has been declared eligible to participate in the program by the Division of Local Government Services, and the Chief Financial Officer has determined that the Borough of Pennington meets the necessary conditions to participate in the program for the year 2024;

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

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

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

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

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

That pursuant to the Local Budget Law:

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

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

That all other applicable statutory requirements have been fulfilled.

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the Director of the Division of Local Government Services.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2024-3.9, second by Council Member Angarone with all members present voting in favor.

Mrs. Webb explained that Resolution 2024-3.10 is also required as part of the budget introduction. Mrs. Webb stated that we are required by the Department of Community Affairs and has been required for the past five or so years.

**BOROUGH OF PENNINGTON
RESOLUTION 2024 – 3.10**

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

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

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

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

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2024-3.10, second by Council Member Stern with all members present voting in favor.

Mayor Davy asked Chief Financial Officer Sandy Webb to present the 2024 budget for introduction. Mrs. Webb shared a power point showing where Pennington’s tax rate is in comparison to other municipalities in Mercer County and she explained some cuts and increases that are reflected in the budget for introduction.

**BOROUGH OF PENNINGTON
RESOLUTION 2024-3.13**

RESOLUTION AUTHORIZING INTRODUCTION OF THE 2024 MUNICIPAL BUDGET

WHEREAS, the Municipal Budget of the Borough of Pennington, County of Mercer for the Fiscal Year 2024 needs to be introduced.

BE IT RESOLVED, that the attached statement of revenues and appropriations shall constitute the Municipal Budget for the year 2024;

BE IT FURTHER RESOLVED that said Budget be published in Hopewell Valley News in the issue of March 8, 2024.

The Governing Body of the Borough of Pennington does hereby approve the attached as the Budget for the year 2024.

Notice is hereby given that the Budget and Tax Resolution was approved by the Borough Council of the Borough of Pennington, on March 4, 2024. A hearing on the Budget and Tax Resolution will be held

on April 1, 2024 at 7:00 pm at which time and place objections to said Budget and Tax Resolution for the year 2024 may be presented by taxpayers or other interested persons.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2024-3.13 introducing the 2024 budget, second by Council Member Marciante with all members present voting in favor.

COMMITTEE REPORTS

Personnel / Economic Development – Ms. Angarone stated that Personnel did not meet, but they will meet in March and they will be reviewing new performance evaluation protocols. Ms. Angarone stated that EDC has completed the mandatory training for treatment of minors, they are working on the “Welcome to Pennington” signs, the yard sale and other upcoming events and they working on a commercial element for the Master Plan.

Public Work / Planning Board / Historic Preservation – Ms. Stern reported that Public Works met in February and they have a meeting coming up in March. Ms. Stern stated that the Borough Engineer was in attendance to present a proposed plan for Baldwin Street and Baldwin Court. Ms. Stern stated that Mr. Caminiti as the Borough Administrator will be assuming a couple of things that Public Works has been working on such as an analysis of trash and bulk collection and also the message board/banner questions that have been raised. Ms. Stern stated that they continue to look at rubber surfacing at the parks. Ms. Stern stated that Public Works was working with the Borough Engineer on the PFAS, forever chemical study and Mr. Valenza requested that be shifted to the Water Review Committee.

Ms. Stern stated that the February Planning Board meeting was cancelled so they will be meeting in March, but she has also joined the Master Plan Review Committee and there is a ton of work being done on drafting elements of the plan and a lot of discussion on how to share information and seek input from the public.

Ms. Stern stated that Historic Preservation met in January and approved three small applications for Certificates of Appropriateness. Ms. Stern stated that they continue to work on ordinance revisions.

Finance & Technology / Public Safety / Open Space / Arboretum / Landfill – Mrs. Chandler had nothing further to report for Finance. Mrs. Chandler stated that the Arboretum will be trying to get back together now that winter is over and they will be working on getting the second enclosure installed.

Mrs. Chandler stated that Public Safety did not meet. Mrs. Chandler stated that Public Safety will be working to get the monthly statistics back as part of the Council packets and we have a resolution later for consideration to hire the sixth officer in the department.

Mrs. Chandler stated that the Use Agreement was removed from tonight’s agenda but she wanted to ask Council if there was an opportunity for the Police Department to utilize the building for a breakroom or other uses since the building is still empty. Mrs. Chandler stated that the next step for the First Aid Building is to do an RFP, Request for Proposal to get actual proposals for the building. Mrs. Chandler stated that the next step is to meet with our QPA and come up with a vision for the building and get an architect to design the specifications. .

Library / Shade Tree – Ms. Gnatt was absent, so no report.

Parks & Recreation – Mr. Marciante reported that the Egg Hunt will be held on March 30th and they will be distributing a calendar of events for 2024.

Board of Health / Environmental Commission – Mr. Valenza has nothing to report.

Senior Advisory Board – Mayor Davy had no report.

COUNCIL DISCUSSION

Local Government Week – Ms. Stern stated that we will be holding our second observance of Local Government Week and tomorrow morning we will have a meeting to discuss ideas for this event. Ms. Stern stated that the group is made up of staff and residents and she will moderate to make sure that the plan stays grounded.

Ms. Stern stated that Pennington Day is coming up and the Borough will be represented with a table. Ms. Stern stated that she will be coordinating committee chairs and volunteers to help at the table on May 18th for Pennington Day.

NEW BUSINESS

**BOROUGH OF PENNINGTON
 RESOLUTION 2024 – 3.1**

**RESOLUTION AUTHORIZING REFUND OF REDEMPTION
 MONIES TO OUTSIDE LIENHOLDER**

WHEREAS, at the Borough Tax Sale held on December 8, 2023, a lien was sold on Block 906, Lot 20, also known as 432 South Main Street, Pennington, NJ, for 2022 delinquent tax payments; and

WHEREAS, this lien, known as Tax Sale Certificate #22-00003, was sold to Christiana T C/F CE1/First Trust, P.O. Box 5021, Philadelphia, PA 19111-5021 for 0% and a \$1,200.00 premium; and

WHEREAS, Barry Havens,,432 South Main Street, Pennington, New Jersey 08534 has effected redemption of Certificate #22-00003 in the amount of \$2,776.31;

NOW, THEREFORE, BE IT RESOLVED, that the Chief Financial Officer is authorized to issue a check in the amount of \$2,776.31 payable to Christiana T C/F CE1/First Trust, P.O. Box 5021, Philadelphia, PA 19111-5021 for the redemption of Tax Sale Certificate #22-00003; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer is authorized to issue a check in the amount of \$1,200.00 (Premium) from the Other Trust fund to the aforementioned lienholder.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2024-3.1, second by Council Member Angarone with all members present voting in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION 2024 – 3.2**

AUTHORIZING PAYMENT OF BILLS

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

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Pennington that the bills be paid on audit and approval of the Mayor, the Appropriate Council Member and the Treasurer in the amount of \$ 1,915,440.90 from the following accounts:

Current	\$ 1,851,451.91
W/S Operating	\$ 51,498.78
Grant Fund	\$ 2,908.61
Developer’s Escrow	\$ 3,487.18
Open Space	\$ 812.82
Other Trust Fund	\$ 3,100.00
Animal Control Trust	\$ 135.60
COAH Trust	\$ 2,046.00
TOTAL	\$ 1,915,440.90

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2024-3.2, second by Council Member Stern with all members present voting in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION 2024-3.3**

**RESOLUTION AUTHORIZING AMENDMENTS TO THE
 2024 TEMPORARY BUDGET**

WHEREAS, the 2024 Budget for the Borough of Pennington has not been adopted; and

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

NOW, THEREFORE, BE IT RESOLVED, that the following additional appropriations be made in the 2024 Temporary Budget for the Current Account.

Administration	Other Expense	\$7,000.00
Mayor & Council	Other Expense	\$1,000.00
Planning & Zoning	Salaries	\$2,500.00
Police	Salaries	\$100,000.00
Police	Other Expense	\$20,000.00
Borough Property	Other Expense	\$20,000.00
Library	Salaries	\$15,000.00
Telephone	Other Expense	\$5,000.00
Shared Services – EMS Dispatch	Other Expense	\$220.00
Recreation	Other Expense	\$2,500.00
Total		\$173,220.00

Record of Council Vote on Passage

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

Mrs. Sterling requested that Recreation-Other Expense be added in the amount of \$2,500 to cover the cost of the playground mulch that was discussed earlier. Council Member Chandler made a motion to approve Resolution 2024-3.3, second by Council Member Angarone with all members present voting in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION 2024-3.4**

**RESOLUTION AUTHORIZING AND DIRECTING THE PLANNING BOARD OF THE
 BOROUGH OF PENNINGTON TO UNDERTAKE A PRELIMINARY INVESTIGATION TO
 DETERMINE WHETHER A CERTAIN AREA WITHIN THE
 BOROUGH (BLOCK 205, LOTS 2, 3, 4, 5 AND 6) IS AN AREA
 IN NEED OF REDEVELOPMENT**

WHEREAS, pursuant to N.J.S.A. 40A:12A-6, the governing body of the Borough of Pennington (“Borough”) is authorized to direct the Borough Planning Board (“Planning Board”) to undertake a preliminary investigation in order to determine whether a certain area within the Borough would qualify as an area in need of redevelopment pursuant to the criteria set forth in N.J.S.A. 40A:12A-5;

WHEREAS, N.J.S.A. 40A:12-6 directs that the resolution authorizing a planning board to undertake such an investigation shall state whether the redevelopment area determination shall authorize the municipality to use all those powers provided for use in a redevelopment area other than the use of eminent domain (the area then to be known as a “Non-Condensation Redevelopment Area”) or whether the redevelopment area determination should authorize the municipality to use all those powers provided for use in a redevelopment area including the powers of eminent domain (the area therefore to be known as a “Condensation Redevelopment Area”);

WHEREAS, the Borough does not intend to use all the powers provided for use in a redevelopment area, and specifically, the Borough will not use eminent domain;

WHEREAS, Borough Council desires the Planning Board to conduct such a preliminary investigation relative to certain properties located within the Borough, more specifically identified as Block 205, Lots 2, 3, 4, 5 and 6, as shown on the Borough Tax Map (“Property”);

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

1. The Planning Board is hereby directed to conduct a preliminary investigation to determine whether the aforementioned Property, or any portions thereof, constitute an area in need of redevelopment (that is, a Non-Condensation Redevelopment Area) according to the criteria set forth in N.J.S.A. 40A:12A-5.
2. In its preliminary investigation of the Property, the Planning Board is hereby further directed to comply with the procedural requirements set forth in N.J.S.A. 40A:12A-6, including preparation of a map showing the boundaries of the potential area in need of redevelopment and locations of the various parcels of property included therein, appending to the map a statement setting forth the basis for the investigation; specification of a date of public hearing for the purpose of hearing persons who are interested in, or would be affected by, the determination that the delineated area is an area in need of redevelopment; providing notice of said hearing pursuant to the notice requirements set forth in N.J.S.A. 40A:12A_6(b)(3); and hearing and receiving into the record any objections to such a determination that the proposed property be designated an area in need of redevelopment.
3. After completing a hearing on the matter, the Planning Board shall recommend to Borough Council whether or not the delineated Property, or any part thereof, should be determined by Council an area in need of redevelopment.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2024-3.4, second by Council Member Marciante with all members present voting in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION 2024 – 3.5**

**RESOLUTION AUTHORIZING BLOCK PARTY ON AUGUST 24, 2024
 (RAIN DATE AUGUST 25, 2024) FROM 2 PM TO 10 PM ON SKED STREET**

WHEREAS, Patrick Marchetti has applied to the Borough of Pennington for permission to close the street known as Sked Street in the Borough on August 24, 2024 (Rain Date August 25, 2024) beginning at 2 PM and ending at 10 PM for a block party on Sked Street (South End) for an estimated 50 to 75 people;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that this application by Patrick Marchetti is approved subject to the following conditions:

1. The road closure on the dates and at the times indicated must be approved by the Pennington Borough Police Department and comply with its directives.
2. Each property owner affected by the closure shall be notified in writing substantially in advance of the closure.
3. There must be access for emergency vehicles at all times.
4. All local noise ordinances must be observed.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2024-3.5, second by Council Member Marciante. Mrs. Chandler stated that she would like to know the costs involved related to Public Works and Police time for these block parties and maybe it might be worth setting a nominal fee for these requests. After some discussion it was decided to determine the costs related to these requests. The question came up as to whether these requests should even come before Council. Mr. Bliss stated that a public body should be aware and authorize the use of public roads and services and there should be official action for these types of requests. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION 2024 – 3.6**

RESOLUTION AUTHORIZING SHARED SERVICES AGREEMENT BETWEEN BOROUGH OF PENNINGTON AND COUNTY OF MERCER FOR EMS DISPATCH SERVICES FOR THE YEAR 2024

WHEREAS, beginning July 1, 2014, EMS dispatch services for the greater Mercer County area became available through Mercer County, and Mercer County began providing EMS dispatch services to Pennington under a shared services agreement;

WHEREAS, the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1, et seq., permits local units of government to enter into a contract with any other local unit for the joint provision within their combined jurisdiction of any service which any party to the agreement is empowered to render within its own jurisdiction;

WHEREAS, under the proposed shared services agreement, Mercer County would arrange for and provide EMS dispatch services, including emergency medical dispatch and community support services, for the Borough of Pennington;

WHEREAS, the term of the proposed agreement is one (1) year from January 1, 2024 through December 31, 2024;

WHEREAS, Pennington would pay for these services through an annual assessment representing the cost of calls made to and received by the County for EMS dispatch services within Pennington’s boundaries;

WHEREAS, based on the annual assessment the annual cost for Pennington Borough for the year 2024 will be \$3,650.00 as set forth in the attached agreement;

WHEREAS, a copy of the proposed shared services agreement is attached to this Resolution;

WHEREAS, the Chief Financial Officer has certified that funds are available in the 2024 budget 4-01-42-102-000-268;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Mayor, with the attestation of the Borough Clerk, is hereby authorized to enter into the annexed Shared Services Agreement with Mercer County for the provision of EMS dispatch services as described therein, subject to approval as to form by the Borough Attorney. .

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2024-3.6, second by Council Member Marciante with all members present voting in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION 2024 – 3.7**

RESOLUTION APPROVING LIST OF ENGINEERING PROJECTS WITH BOROUGH ENGINEER FOR THE YEAR 2024

WHEREAS, Borough Council seeks to approve a list for certain engineering projects for 2024 prior to adoption of the budget; and

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

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

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

WHEREAS, although the Project List identifies projects totaling \$32,500.00 payable from the Current Fund, \$34,250.00 payable from Water and Sewer and \$201,500.00 from Capital Ordinances, **it is understood that there is no guarantee that all of these projects will be undertaken this year**; and

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

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

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

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2024-3.7, second by Council Member Stern with all members present voting in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION 2024 – 3.8**

**RESOLUTION GRANTING CONDITIONAL AUTHORIZATION FOR VITO’S PIZZA TO
 MAINTAIN A TEMPORARY OUTDOOR
 DINING AREA IN THE PUBLIC RIGHT- OF- WAY IN 2024**

WHEREAS, 2 N. Main Street Hospitality, LLC d/b/a Vito’s Pizza, a restaurant located at 2 N. Main Street on the corner of North Main Street and West Delaware Avenue in the Borough of Pennington;

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

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

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

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

1. Vito’s Pizza is hereby granted permission to locate up to 6 tables and 24 chairs on the sidewalk immediately adjacent to the restaurant provided the following conditions are met:

A. The tables and chairs shall be arranged as shown on the attached sketch with no more than 4 tables and 16 chairs on the Main Street side of the restaurant and no more than 2 tables and 8 chairs on the Delaware Avenue side of the restaurant.

B. The outdoor dining area and affected sidewalk shall at all times be kept clean and free of litter and in compliance with all applicable health regulations.

C. The outdoor dining area shall not obstruct pedestrian circulation on the sidewalk.

D. Operation of the outdoor dining area shall comply with the Borough Noise Ordinance, as set forth in Chapter 133 of the Borough Code.

E. The outdoor dining area may be used only during the operating hours of the restaurant. When the restaurant is not open, all tables and chairs shall be removed from the sidewalk.

F. Owners must provide receptacles for collection of all garbage generated by outdoor diners and insure that these receptacles are emptied as frequently as needed to avoid overflow.

G. 2 N. Main Hospitality, LLC and Vito’s Pizza shall indemnify and hold harmless the Borough of Pennington and its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorney fees, arising out of the operation of the outdoor dining area approved by this resolution.

H. The outdoor dining area approved by this resolution shall not operate until 2 N. Main Hospitality, LLC and Vito’s Pizza has filed with the Borough Clerk a current Certificate of Insurance which certifies that:

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

2. The outdoor dining area complies with all applicable requirements of Section 215-94 of the Borough Code which regulates out door dining areas otherwise permitted by the Code.

3. The conditional authorization for outdoor dining granted by this resolution may be revoked by the Borough at any time, with or without notice to 2 N. Main Street Hospitality, LLC or Vito’s Pizza. This conditional authorization also shall be subject to such additional or amended conditions as Borough Council may deem appropriate at any time.

4. This conditional authorization shall in any event expire on December 31, 2024.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2024-3.8, second by Council Member Stern with all members present voting in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION 2024-3.11**

RESOLUTION ACCEPTING PLANNING BOARD RECOMMENDATION TO DESIGNATE THE AREA IN THE BOROUGH KNOWN AS BLOCK 206, LOTS 4, 5 AND 12 ON THE BOROUGH TAX MAP AN AREA IN NEED OF REDEVELOPMENT, IN ACCORDANCE WITH THE NEW JERSEY LOCAL REDEVELOPMENT AND HOUSING LAW, N.J.S.A. 40A:12A-1, ET SEQ.

WHEREAS, by Resolution 2023-8.5, pursuant to the provisions of the New Jersey Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1, et seq.*, Borough Council of the Borough of Pennington directed the Planning Board to conduct a preliminary investigation to determine whether the area of the Borough known as Block 206, Lots 4, 5 and 12 on the Borough Tax Map (hereafter “Study Area”) constituted a non-condemnation area in need of redevelopment, in accordance with the criteria set forth in *N.J.S.A. 40A:12A-5* and further in compliance with the procedural requirements contained in *N.J.S.A. 40A:12A-6*;

WHEREAS, the Planning Board has conducted such investigation in compliance with *N.J.S.A. 40A:12A-6*, in that:

- 1. It commissioned a study and report by the Borough’s Planning Consultants Kyle McManus Associates entitled “Preliminary Investigation Block 206, Lots 4, 5 and 12,” dated September 15, 2023 (hereafter “Kyle McManus Report”) to assist the Board in assessing whether the Study Area or any part of it meets one or more of the criteria for designation as an area in need of redevelopment pursuant to *N.J.S.A. 40A:12A-5*.

2. The Kyle McManus Report presented a map showing the boundaries of the potential area in need of redevelopment and locations of the various parcels of property included therein, with a statement appended to the map setting forth the basis for the investigation.
3. The Board specified a public hearing date of December 13, 2023 for the purpose of hearing persons who are interested in or would be affected by the determination that the delineated Study Area or part thereof is an area in need of redevelopment, gave notice of the hearing in accordance with *N.J.S.A. 40A:12A-6(b)(3)*, and conducted a hearing on the specified date at which James T. Kyle, PP, AICP (Licensed NJ Professional Planner Number 05667) presented the Kyle McManus Report in detail. There were no objections from the public to designation of the Study Area as a non-condemnation area in need of redevelopment and the Board approved a recommendation of that designation to Borough Council
4. On January 10, 2024, the Board adopted a resolution of memorialization recommending designation of the Property as a redevelopment area (“Resolution of Memorialization – Borough of Pennington Planning Board – Recommendation to Designate Block 206, Lots 4, 5 and 12, Pennington Borough Tax Map As A Redevelopment Area”).

WHEREAS, copies of the Kyle McManus Report and the Planning Board’s Resolution of Memorialization are attached to this Resolution and incorporated herein by reference;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that in accordance with the analysis contained in the Kyle McManus Report and its approval by the Planning Board as set forth in its Resolution of Memorialization, Borough Council makes the following findings drawn from the Report (with references to relevant pages):

F1. The Property, designated Block 206, Lots 4, 5 and 12 on the Borough Tax map, consists of approximately 8.5 acres located on the north side of West Delaware Avenue and south of Broemel Place, immediately west of the railroad, as depicted in the aerial photograph at Figure 1 (p6) of the Kyle McManus Report. The photograph details the location of the parcels studied, with the block and lot designations of those parcels and the lots surrounding them labeled for reference. (p5)

F2. All three parcels are currently owned by the Borough. (p5)

F.3 Lot 4 is presently vacant and contains remnants of a driveway. Lot 5 contains the former Pennington landfill, a garage formerly utilized by the public works department, a municipal water supply well and treatment equipment, as well as a portion of the parking area for the Pennington Fire Department encroaching on the northern part of the lot. Lot 12 currently contains an abandoned municipal well enclosed in a brick building, and a steel water tank. (p7)

F.4. Data prepared in conjunction with the Borough’s landfill closure process delineate flood hazard areas, riparian zones, wetlands and required wetland buffers. A tributary to Lewis Brook flows through Lot 5 emanating from a pipe at the eastern boundary of Lot 12 then flowing north before entering another pipe in the northeastern corner of Lot 5 and continuing northeast. The brook itself is designated as State Open Waters, but there are small pockets of wetlands on Lot 5 located on the west side of the brook (1,216 sf) and in the northeast corner of the lot (2,415 sf). These wetlands appear to require buffers of 150 feet. Lot 5 also contains flood hazard area associated with the Lewis Brook as well as a required riparian zone of 150 feet. (p7)

F.5. Figures 2 through 5 on pages 8 and 9 of the Kyle McManus Report detail the regulated areas on the three lots. (p7)

F.6. The area surrounding the Study Area is generally comprised of nonresidential uses, Adjacent uses to the west include the Old Mill Shopping Center, a former TD Bank to be converted to a Starbucks, and the Pennington Square Shopping Center. On the south are the Pennington Center complex, containing Pennington Quality Market and a variety of restaurants and retail/service uses. To the east is a rail line and beyond that playing fields that are part of the Pennington School Campus. North are the Shoppes at Pennington, the Pennington Fire Department and the Pennington Post Office. (p7)

F.7. The Property under study is located in the B–H Highway Business District. Permitted primary uses include retail business and personal service establishments of a community service character. The Study Area is also part of the Route 31 Corridor Business Overlay Zone, which is intended to create a mixed-use environment. (p10)

F.8. The Borough will not seek to condemn any privately-owned properties in connection with any development of the Study Area. (p11)

F-9. Based on a Kyle McManus inspection of the site on September 13, 2023, “the structures that exist on Lots 5 and 12 are substandard, unsafe and dilapidated.” (p13) All the windows of the former Public Works garage on Lot 5 are boarded up and the roof is deteriorating. See Photo 1 on p13. The two structures on Lot 12, the brick building containing the abandoned well and a steel water tank, have remained unused since the well was sealed “decades ago.” “Visual inspection reveals the roof of the well building has collapsed on the north side of the building and the windows are boarded.” (p14) The steel water tank has not been maintained and is heavily rusted, presenting a dilapidated appearance. See Photo 2 on p14. These structures are located in close proximity to West Delaware Avenue and Boro Restaurant and Bar in the Old Mill Shopping Center.

F-10. A delineated area may be determined to be in need of redevelopment if, after investigation, notice and hearing as provided in *N.J.S.A. 40A:12A-6*, conditions specified in *N.J.S.A. 40A:12A-5.a* are found:

“The generality of buildings are substandard, unsafe, unsanitary, dilapidated, or obsolescent, or possess any of such characteristics, or are so lacking in light, air, or space, as to be conducive to unwholesome living or working conditions.”

The Kyle McManus Report has determined that the condition of the buildings on Lots 5 and 12 meet this criterion. (p14)

F-11. All three structures on Lots 5 and 12 are obsolete because Public Works operations have moved to North Main Street and the public water supply well has long been abandoned and sealed. “None of the structures has any functional use in the modern world and could not reasonably be adapted to alternative uses given their size, configuration and condition.” (p14)

F-12. A delineated area may also be determined to be in need of redevelopment if the conditions in *N.J.S.A. 40A:12A-5.c* are found:

“Land that is owned by the municipality, the county, a local housing authority, redevelopment agency or redevelopment entity, or unimproved vacant land that has remained so for a period of ten years prior to adoption of the resolution, and that by reason of its location, remoteness, lack of means of access to developed sections or portions of the municipality, or topography, or nature of the soil, is not likely to be developed through the instrumentality of private capital.”

The Kyle McManus Report has determined that the nature of the soil on Lot 5 and its topography meet this criterion. (p14-15)

F-13. The Borough’s solid waste landfill was located on Lot 5 from 1954 until its closure in 1980. Based on earlier study and analysis by an LSRP, soil sampling has revealed that hydrocarbons, volatile organic compounds, semi-volatile organic compounds, PCB’s and metals are present to some extent [?] in soils surrounding the landfill. “The trash layer itself is documented to be approximately 25’ in depth and 65,000 cubic yards in volume. Taken together, the extent of the trash fill and the soil contamination would satisfy criterion c of the LRHL, as the nature of the soil on these properties is a barrier to redevelopment.” (p14)

F-14. The Kyle McManus Report further observes that the mound of the former landfill reaches a height of 209’ above sea level, sloping down to approximately 180’ above sea level for a total height of 29’. Slopes on the sides of the mound exceed 15% gradient, which presents limitations for development. See Photo 3 on page 15.

F-15. According to the Report, “the trash pile consumes most of” the area of Lot 5 not constrained by riparian zone, flood hazard area, wetlands or wetland buffers. (p15) The topographic characteristics of the trash pile negatively affect the development potential of the property because development will necessitate significant regrading and removal, likely requiring more than private capital alone. (p15)

F-16. Lot 4 is located on Broemel Place, is owned by the Borough and is vacant except for a driveway and a concrete pad. The Lot provides additional frontage on Broemel Place that is necessary for redevelopment of the Study Area overall. As explained in the Kyle McManus Report:

“This property is adjacent to Lot 5 where the landfill operated. While it may not strictly meet the criteria of the LRHL for designation as an area in need of redevelopment, the LRHL permits inclusion of ‘lands, buildings, or improvements which of themselves are not detrimental to the public health, safety or welfare, but the inclusion of which is found necessary, with or without change in their condition, for the effective redevelopment of the area of which they are a part.’ [citing *N.J.S.A. 40A:12A-3*, definition of ‘redevelopment area’]. Lot 4, taken together with the portion of Lot 5 that fronts on Broemel Place, provides important frontage on a public street that is necessary for effective

redevelopment of the overall area. Addition of Lot 4 to the designation would provide a total of 270’ of frontage on Broemel Place where only 120’ would be available if Lot 4 were not included.” (p15)

F-17. The Kyle McManus Report concludes that the Property meets one or more of the criteria for designation as an area in need of redevelopment under the Local Redevelopment and Housing Law, in particular the criteria in *N.J.S.A. 40A:12A-5.a* and *c.* . The Planning Board has approved the Report and recommended to Borough Council that Block 206, Lots 4, 5 and 12 be designated an area in need of redevelopment.

F-18. The recommended boundaries for this proposed “Landfill Redevelopment Area” are shown in Figure 6 at page 17 of the Kyle McManus Report.

F-19. Based on the above findings, and the site inspection, data review, analysis and conclusions described in the Kyle McManus Report, Borough Council accepts the recommendation of the Planning Board to designate Block 206, Lots 4, 5 and 12, in their entirety, a Non-Condensation Area in Need of Redevelopment under the New Jersey Local Redevelopment and Housing Law.

BE IT FURTHER RESOLVED that the Borough Administrator and Borough Clerk are hereby directed as follows:

1. the Borough Clerk shall forward for review and approval, no later than 10 days after adoption, a certified copy of this Resolution to the Commissioner of Community Affairs, which must be approved or disapproved by the Commissioner within 30 days or same shall be deemed approved;
2. the Borough Clerk shall issue within 10 days, on behalf of Borough Council, a notice of determination to any property owners within the delineated area and any person who filed a written objection and specified an address to which a notice of determination must be sent,
3. the Borough Administrator, in consultation with the Borough Planning Consultant, shall prepare and advertise a request for proposals seeking responses from qualified developers that shall include conceptual plans for redevelopment of the redevelopment area.

Record of Council Vote on Passage

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

Council Member Marciante made a motion to approve Resolution 2024-3.11, second by Council Member Stern with all members present voting in favor.

Resolution 2024-3.12 was pulled from the agenda for further review.

**BOROUGH OF PENNINGTON
RESOLUTION 2024 – 3.12**

**RESOLUTION AUTHORIZING USE AND OCCUPANCY AGREEMENT TO PERMIT
TEMPORARY USE OF THE PENNINGTON FIRST AID BUILDING BY THE PENNINGTON
BOROUGH FIRE DISTRICT NO. 1**

**BOROUGH OF PENNINGTON
RESOLUTION 2024 – 3.14**

**RESOLUTION AUTHORIZING ADDITIONAL FUNDS FOR A.C. SCHULTES TO COMPLETE
WORK REQUIRED ON WELL #6**

WHEREAS, by Resolution 2023-7.6 the Borough of Pennington retained A.C. Schultes of Woodbury Heights, New Jersey to make necessary improvements to Well #6 in the Borough, including replacement of a vertical turbine pump with a high efficient clear well pump and the provision of electric assistance as needed;

WHEREAS, under Resolution 2023-7.6, the contract with A.C.Schultes was authorized in an amount not to exceed \$31,415.00;

WHEREAS, during the course of performing the work A.C. Schultes discovered that many of the valves needed to operate the well are inoperable, requiring replacement as well as pipe modification; and

WHEREAS, pursuant to Resolution 2024-2.12, on the recommendation of the Borough’s Superintendent of Public Works, Borough Council authorized the Borough Clerk to issue a Purchase Order on an emergency basis to retain A.C.Schultes to perform the additional work for a total additional cost not to exceed \$10,000.00;

WHEREAS, the additional work has now been completed, but as evidenced by the attached letter dated February 29, 2024 from A.C. Schultes, Inc. (Michael Schultes) to Pennington Boro, (Attention: Rick Smith), the cost of the additional work exceeded the authorized \$10,000 by \$2,640.00;

WHEREAS, the Superintendent of Public Works recommends that additional funds be authorized in the amount of \$2,640.00;

WHEREAS, the Chief Financial Officer of the Borough has certified that the additional funds are available the Water/Sewer Budget – Account #: 4-05-55-501-000-226;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington that augmenting the contract amount payable to A.C. Schultes for additional work authorized by Resolution 2024-2.12 is hereby authorized in the amount of \$2,640.00.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2024-3.14, second by Council Member Angarone with all members present voting in favor.

**BOROUGH OF PENNINGTON
 RESOLUTION 2024-3.15**

**RESOLUTION CONFIRMING SATISFACTION OF CONDITIONS
 FOR THE HIRING OF GERARD SINNOTT AS POLICE OFFICER
 IN THE PENNINGTON POLICE DEPARTMENT**

WHEREAS, by Resolution 2024-2.19 Borough Council authorized a conditional offer of employment to Gerard Sinnott subject to satisfaction of the conditions set forth in the attached “Conditional Offer of Employment;”

WHEREAS, Resolution 2024-2.19 stipulated that the determination whether conditions of the offer have been satisfied and that hiring is appropriate shall be made by Borough Council;

NOW, THEREFORE, BE IT RESOLVED by Borough Council of the Borough of Pennington that, on the representation of Chief of Police Douglas Pinelli, it is hereby confirmed that the conditions for the hiring of Gerard Sinnott have been satisfied and that his hiring as Police Officer in the Pennington Police Department is authorized as appropriate;

BE IT FURTHER RESOLVED, that Mr. Sinnott’s salary and other terms and conditions of employment shall be governed by the contract between the Borough and the Pennington Borough Police Association; and

BE IT FURTHER RESOLVED, that Mr. Sinnott’s start date shall be March 14, 2024.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2024 3.15, second by Council Member Marciante. Some discussion took place with regard to the employment agreement and the costs related to training an officer and having them leave for other employment. Mr. Bliss stated that State Statute has a provision for recouping costs from the hiring entity within a certain period of time. Upon a roll call vote all members present voted in favor.

Professional Reports

Borough Administrator – Mr. Caminiti stated that he is happy to report that he started about two weeks ago and he would like to thank the Borough Staff and Council Members who have been very welcoming. Mr. Caminiti has been working on mapping out the priorities and the idea is that 2024 will be a re-alignment year where Council Members will be relieved of some of the responsibilities that they have picked up over the past couple years.

Borough Attorney – Walter Bliss – Mr. Bliss stated that he would report in closed session.

Borough Clerk – Betty Sterling – Mrs. Sterling had nothing further to report.

Chief Financial Officer – Sandy Webb – Mrs. Webb had nothing further to report.

Chief of Police – Doug Pinelli – Chief Pinelli had nothing further to report.

Superintendent of Public Works – Rick Smith – Mr. Smith stated that curbside leaf collection has been added for the month of March.

Public Comment

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

Mayor Davy stated that the participant GLP would be invited to speak if they provided a full name, the Borough policy does not permit admittance to speak unless you enter your name.

Mr. Kurt Pederson suggested in light of the issues at the beginning of the meeting that the Borough look into registering for a meeting. Mayor Davy stated that we will look into this to ensure we don't have the same problems we did earlier.

CLOSED SESSION

AT 9:21, PM, BE IT RESOLVED, that Mayor and Council shall hereby convene in closed session for the purposes of discussing a subject or subjects permitted to be discussed in closed session by the Open Public Meetings Act, to wit:

Negotiations - EMS Services

AT, PM, Mayor and Council returned to open session.

ADJOURNMENT

Mayor Davy stated that Council would not be returning to Open Session, Council Member Gnatt made a motion to adjourn the meeting, second by Council Member Angarone with all members present voting in favor.

Respectfully submitted,

Elizabeth Sterling
Borough Clerk