

**Pennington Borough Council
Regular Meeting – May 1, 2023**

Mayor Davy called the Regular Meeting of the Borough Council to order at 7:00 pm. The meeting was held via Zoom. Borough Clerk Betty Sterling called the roll with Council Members Angarone, Chandler, Marciante, Stern and Valenza in attendance. Ms. Gnatt arrived after the roll call.

Also present were Borough Administrator Donato Nieman, Administrative Coordinator Mona Habiby, Public Works Superintendent Rick Smith, Sergeant Daryl Burroughs, Sergeant Novin Thomas and Borough Attorney Walter Bliss.

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

Mayor Davy announced that meeting agendas and materials are available on the Borough Website and anyone interested in getting news alerts and announcements can subscribe by clicking on the “Subscribe to News and Announcements” button on the home page.

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 no comments from the public.

MAYOR’S BUSINESS

Mayor Davy stated that the Borough submitted a request to Senator Booker’s office for a water main upgrade at Route 31, and a portion of that request is not funded by the request. Mayor Davy stated that we received a request from Assemblyman Vereilli’s office and we have submitted a request to fund the remaining amount for the water main upgrade at Route 31. Mayor Davy stated that hopefully between these two requests we will be able to fund the entire project.

Mayor Davy stated that the Borough received a contribution from the Pennington School in the amount of \$3,000 for the Pennington Police Department.

Mayor Davy reported that Gregg Rackin has submitted his resignation from the Environmental Commission and he will be naming a replacement at the next meeting. Mayor Davy thanked Mr. Rackin for his service to the community.

Mayor Davy reported that a meeting with residents of the community to present the proposed plan for improvements to Sked Street Park. Mayor Davy stated that residents had the opportunity to comment on the plan and all comments were favorable and residents were very appreciative of the proposed improvements. Mayor Davy stated that there are several resolutions on the agenda later in the meeting with regard to the improvements.

Mayor Davy read the following two Proclamations.

Proclamation

Whereas, Pennington Borough includes a growing number of older Americans who contribute their time, wisdom, and experience to our community; and

Whereas, communities benefit when people of all ages, abilities, and backgrounds have the opportunity to participate and live independently; and

Whereas, Pennington Borough recognizes the need to create a community that offers the services and supports older adults may need to make choices about how they age; and

Whereas, Pennington Borough can work to build an even better community for our older residents by:

- Not limiting our thinking about aging,
- Exploring and combating stereotypes,
- Emphasizing the many positive aspects of aging,

- Inspiring older adults to push past traditional boundaries, and
- Embracing our community's diversity.

Now, therefore, We of Pennington Borough do hereby proclaim May 2023 to be Older Americans Month. we urge every resident to celebrate our older citizens, help to create an inclusive society, and accept the challenge of flexible thinking around aging.

**PROCLAMATION
DECLARING THE FIRST FRIDAY IN JUNE TO BE
NATIONAL GUN VIOLENCE AWARENESS DAY**

WHEREAS, every day, more than 120 Americans are killed by gun violence and more than 200 are shot and wounded, with an average of more than 17,000 gun homicides every year; and

WHEREAS, Americans are 26 times more likely to die by gun homicide than people in other high-income countries; and

WHEREAS, New Jersey has an average of 427 gun deaths every year, with a rate of 5 deaths per 100,000 people, a crisis that costs NJ \$5.3 billion each year of which \$168.9 million is paid by taxpayers; and NJ has the 5th lowest rate of gun deaths in the US; and

WHEREAS, gun homicides and assaults are concentrated in cities, with more than half of all firearm related gun deaths in the nation occurring in 127 cities; and

WHEREAS, cities across the nation, including in Pennington Borough, are working to end the senseless violence with evidence-based solutions; and

WHEREAS, protecting public safety in the communities they serve is mayors' highest responsibility; and

WHEREAS, support for the Second Amendment rights of law-abiding citizens goes hand-in-hand with keeping guns away from people with dangerous histories; and

WHEREAS, mayors and law enforcement officers—in partnership with local violence intervention activists and resources—know their communities best, are the most familiar with local criminal activity and how to address it, and are best positioned to understand how to keep their citizens safe; and

WHEREAS, gun violence prevention is more important than ever as we see an increase in firearm homicides, and nonfatal shootings across the country, increased calls to domestic violence hotlines, and an increase in city gun violence;

WHEREAS, in January 2013, Hadiya Pendleton was tragically shot and killed at age 15; and on June 2, 2023 to recognize the 26th birthday of Hadiya Pendleton (born: June 2, 1997), people across the United States will recognize National Gun Violence Awareness Day and wear orange in tribute to (1) Hadiya Pendleton and other victims of gun violence and (2) the loved ones of those victims; and

WHEREAS, the idea was inspired by a group of Hadiya's friends, who asked their classmates to commemorate her life by wearing orange; they chose this color because hunters wear orange to announce themselves to other hunters when out in the woods, and orange is a color that symbolizes the value of human life; and

WHEREAS, anyone can join this campaign by pledging to wear orange on June 2nd, the first Friday in June in 2023, to help raise awareness about gun violence; and

WHEREAS, by wearing orange on June 2, 2023 Americans will raise awareness about gun violence and honor the lives of gun violence victims and survivors; and

WHEREAS, we renew our commitment to reduce gun violence and pledge to do all we can to keep firearms out of the hands of people who should not have access to them, and encourage responsible gun ownership to help keep our families and communities safe.

NOW, THEREFORE BE IT PROCLAIMED that I, Mayor James Davy of the Borough of Pennington hereby declares the first Friday in June, June 2, 2023, to be National Gun Violence Awareness Day. I encourage all citizens to support their local communities' efforts to prevent the tragic effects of gun violence and to honor and value human lives.

PRESENTATIONS

Mayor Davy asked Mr. Neiman for a brief overview of the Biogene Transportation Plan. Mr. Neiman stated that Mr. Mark Katriniak is in attendance to discuss the transportation of modular offices that will be constructed on the BMS site in Hopewell Township just outside of Pennington Borough. Mr. Neiman stated that after a very laborious search for the best route to transport these modular units, Mr. Katriniak will be presenting the route that will be taken and the time frame involved. Mr. Katriniak stated that he represents Hopewell Township as the redevelopment engineer and he was the former in house engineer for Hopewell Township. Mr. Katriniak stated that he joined private practice, but he still serves Hopewell Township with large redevelopment projects. Mr. Katriniak stated that this project involves the construction of a large drug manufacturing facility on the former site of Bristol Myers Squibb on

Pennington Rocky Hill Road. Mr. Katriniak stated that this project went through the Site Plan process in 2021 through early 2022, received Planning Board approval. Mr. Katriniak stated that Hopewell Township has been working with Biogene with the construction of their headquarters here in Hopewell Township. Mr. Katriniak stated that part of the construction involves large modular pieces that are constructed overseas and then transported here. Mr. Katriniak compared these to “large lego blocks” that are fitted together on site. Mr. Katriniak stated that they have been meeting with the Biogene team to ensure the timely construction and transport with the least impact on the community. Mr. Katriniak stated that the Hopewell Valley area does not have a large roadway area for transport of large items and the development of routes that have the least amount of impact on the community has been challenging. Mr. Katriniak stated that the size of these containers and the weight of the containers requires that they be transported on oversize carriers. Mr. Katriniak stated that the routes that these vehicles can travel are very limited mainly due to the size of the vehicles and low wires and turning capabilities. Mr. Katriniak stated that additionally these are not traditional tractor trailers, they are articulated trailers where the back of the trailer is steerable and maneuvering through intersections is a slow process. Mr. Katriniak stated that this requires a specific contractor and Biogene has hired Bay Crane to coordinate the transportation of the modular units. Mr. Katriniak stated that they have been working with Bay Crane for several months to identify and plan the best route. Mr. Katriniak stated that the route that has been decided would be 295 to Route 31 in Hopewell Township to Main Street in Pennington and then left onto West Delaware down to the site on Pennington Rocky-Hill Road.

Mr. Valenza asked which direction on 295 they will be travelling. Mr. Katriniak stated that they will be coming South on 295 from the port in Philadelphia. Mr. Valenza asked why they are not coming in 206 to Carter Road as opposed to coming through Pennington. Mr. Katriniak stated that is a viable route however it is about three times the length of the proposed route. Mr. Valenza stated that it seems more direct and does not involve cars parked on the side of the road and elimination of parking in a downtown area. Mr. Katriniak stated that there are some vertical limitation on 295 and 206 including low wires so they would have to get off at Route 31 and then turn onto Blackwell Road to go in that way. Mr. Valenza stated that makes more sense than coming through downtown Pennington. Mr. Valenza stated that Biogene trucks have already take out a stop light in Pennington. Mr. Valenza stated that what he is hearing is that Biogene is trying to save money by having these units constructed off site and transporting them to the site by the shortest route and they don’t care that they are disrupting the businesses in a small town because they want to save money. Mr. Valenza stated that Pennington gets no benefit from this, Hopewell Township will get all the benefits and it does not make any sense to disrupt Pennington Borough. Mrs. Chandler and Mr. Marciante agreed that there is no benefit to Pennington. Mr. Valenza stated that he has additional environmental concerns with a drug company operating so close to Pennington Borough. Mr. Katriniak stated that he asked representatives from Biogene to attend this meeting but he does not see them in attendance. Mr. Valenza stated that this should have come to Pennington Borough way before these decisions were made and he would like to see alternatives. Mr. Katriniak stated that he provided information to Council that shows alternatives that were discussed and they have been working for several months with Biogene to limit the impact to communities.

Mr. Stern asked do we have any authority or jurisdiction to approve or deny. Mr. Katriniak stated that the company has been working with the State and the County and they have received approval to use this route. Mr. Katriniak stated that since the route involves only State and County roads, the municipalities really have no jurisdiction. Mr. Katriniak stated that he represented to the State and the County that it was imperative that the municipalities be given the opportunity to review and comment on the plan. Mr. Katriniak stated that he has been working with the developer to limit the times that the trucks will be moving through towns. Mr. Katriniak stated that the duration of the transportation of these units is June through September which he is working on getting cut back to June through August. Mr. Katriniak stated that the transport will take place during the day to limit the need for extra crews and lighting and that would be disruptive to residents. Mayor Davy stated that causes the most disruption to businesses.

Mrs. Chandler cited Hopewell Township Ordinance 17-168 which was approved June 24, 2019, trips by commercial trucks was limited to three trucks per day and there are way more trucks coming through Pennington and so that implies that there is no enforcement by Hopewell Township. Mr. Katriniak stated that he has been working with Hopewell Township to try and cut down the duration of this project and moving additional vehicles will help with shortening the duration. Mrs. Chandler asked if anyone has done a cost analysis on the impact to Pennington Borough and Pennington Borough businesses. Mr. Katriniak stated that he does not believe so but all of the costs for police coverage will be covered by the company. Mrs. Chandler stated that the loss of six parking spaces in the downtown business area will cause the businesses to lose money and no one has considered that. Mayor Davy stated that this is a major disruption to Pennington Borough.

Mr. Marciante stated that Pennington is going to gain more traffic, Hopewell will get the benefit of a PILOT agreement and he would like to know what Pennington gets out of this arrangement for all of this disruption. Mr. Katriniak stated that overall once the development is complete the business community will thrive with approximately 100 to 250 people employed at Biogene.

Mrs. Chandler stated that her understanding is that there are six super trucks that have to come through Pennington Borough but is it possible that the remaining smaller trucks could take the alternate route on Blackwell Road. Mr. Katriniak stated that the only parking impact on Main Street would be three spaces

in front of Vito's Pizza. Mr. Katriniak stated that the Police Chiefs of Hopewell and Pennington have been involved in the discussions. Mr. Katriniak stated that he is not sure where the six super trucks fall in the transport schedule but those might be the only ones that require the elimination of parking spaces. Mr. Katriniak stated that he has been a strong advocate for Pennington and Hopewell to have a plan with the least disruption to both towns. Mr. Katriniak stated that he has stressed the importance of having alternate routes and staging areas in the event that one of the routes is not available because the last thing they want is to have the municipality disrupted for long periods of time. Mr. Katriniak stated that he has worked on several large projects in the area and he is working on minimizing the impact to all towns involved. Mr. Katriniak stated that there a lot of impacts involved with moving 200 plus trucks.

Ms. Stern asked if the Borough could get copies of the approvals that Mr. Katriniak referred to from the State and the County. Ms. Stern stated that she is surprised that they approve these routes without municipal involvement.

Mr. Valenza stated that it appears to him that there is zero impact to Hopewell Township and he does not see how Mr. Katriniak can say that the least impact is to move these trucks through Pennington Borough as opposed to Carter Road which is much more urban. Mrs. Chandler stated that Biogene is looking for the least expensive route, not the least disruptive route. Mr. Valenza stated that is not a good enough reason and he does not care if it takes longer and costs more. Mr. Katriniak stated that the other routes have other concerns. Mr. Marciante stated that Biogene should have been present to address these concerns. Mr. Valenza stated that the Borough should reach out the County and the State. Mayor Davy asked Mr. Katriniak to go back to Biogene with Council's concerns and let them know that it is not Pennington's problem that they chose to construct these modular buildings as opposed to constructing on site. Mrs. Chandler stated that Biogene is already in violation of the Ordinance and so she does not believe that they will conform to any plan that is agreed to. Mr. Katriniak stated that he will get these concerns to the table and he hopes that they take the message seriously. Mrs. Chandler stated that it is not Pennington's problem that Biogene chose a method of construction that does not work for this area.

Ms. Stern suggested that Mayor Davy reach out to County Executives the concerns of Pennington Borough. Mrs. Chandler asked Mr. Katriniak to relay to Biogene of the violations of the ordinance with regard to the number of trucks and the damages to traffic lights caused by these trucks currently travelling through Pennington Borough. Council Members also expressed concerns with regard to safety and children walking through town in the summer particularly to Penn Brook Swim Club.

Mayor Davy thanked Mr. Katriniak for his presentation.

APPROVAL OF MINUTES

Council Member Chandler made a motion to approve the minutes of the April 3, 2023 Regular Council Meeting, second by Council Member Marciante with all members present voting in favor with the exception of Ms. Angarone who abstained.

ORDINANCES FOR INTRODUCTION

Mayor Davy read Ordinance 2023-10 by title.

BOROUGH OF PENNINGTON ORDINANCE NO. 2023 - 10

ORDINANCE INCREASING CERTAIN FEES AND AMENDING CHAPTER 98 (FEES) OF THE CODE OF THE BOROUGH OF PENNINGTON

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):

Article II Land Use Fees

All applications for development to the Planning Board or the Planning Board acting as a Board of Adjustment shall be in such form and submitted to the respective Board in accordance with the rules prescribed by the Board and by this article.

§ 98-11 Application fee, escrow deposit and inspection fee.

Applications for development shall be accompanied by the payment to the Borough of an application fee, escrow deposit and, if appropriate, an inspection fee. The application fee and escrow deposit shall be paid separately according to the following schedule:

Application	Fee	Escrow
MINOR SUBDIVISION	\$400 <u>\$500</u>	\$500 - <u>\$1,000</u> per lot
Resubmission or amendment	\$100	
Concept review	\$300 <u>\$400</u>	\$300 to be credited
MAJOR SUBDIVISION		
Preliminary	\$600 <u>\$1,000</u>	\$600 per lot
Final	\$400 <u>\$500</u>	\$400 <u>\$500</u> per lot
Resubmission or amendment	\$300	\$400 per lot
Extension	\$100 <u>\$150</u>	
Concept review	\$500	\$500 to be credited
SITE PLAN		
Preliminary		
Residential	\$600	\$10 per unit; minimum \$500 <u>\$1,000</u>
Nonresidential	\$600 <u>\$700</u>	\$0.10 per square feet improved; minimum \$500 <u>\$1,000</u>
Final		
Residential	\$400	\$10 per unit; minimum \$300 <u>\$500</u>
Nonresidential	\$400 <u>\$500</u>	\$0.05 per square feet improved minimum \$300 <u>\$1,000</u>
Resubmission or amendment		
Residential	\$300	\$300 + \$10 per unit
Nonresidential	\$300 <u>\$400</u>	\$300 <u>\$500</u> + \$0.10 per square feet improved
Waiver	\$300 <u>\$400</u>	\$200 <u>\$500</u>
Extension	\$100 <u>\$150</u>	\$300 <u>\$500</u>
Concept review	\$200 <u>\$300</u>	\$500 <u>\$1,000</u> to be credited
CONDITIONAL USES		
Residential	\$300 <u>\$500</u>	\$400 <u>\$1,000</u>
Nonresidential	\$400 <u>\$600</u>	\$800 <u>\$1,500</u>

Application	Fee	Escrow
INTERPRETATIONS		
Residential	\$200 <u>\$300</u>	\$600 <u>\$1,000</u>
Nonresidential	\$300 <u>\$600</u>	\$600 <u>\$1,000</u>
APPEALS		
Residential	\$200 <u>\$300</u>	\$500 <u>\$1,000</u>
Nonresidential	\$400 <u>\$500</u>	\$500 <u>\$1,000</u>
VARIANCES		
Bulk		
Residential	\$250 <u>\$300</u> per variance	\$1,000 <u>\$2,000</u>
Nonresidential	\$400 <u>\$500</u> per variance	\$1,000 <u>\$1,500</u> per variance
Use		
Residential	\$300 <u>\$500</u>	\$1,000 <u>\$2,000</u>
Nonresidential	\$500 <u>\$600</u>	\$1,500 <u>\$3,000</u>
SPECIAL MEETING OF BOARD	\$500 <u>\$1,000</u>	
ZONING PERMITS		
Residential		
Fence	<u>\$25</u>	
Principal use	\$50 <u>\$60</u>	
Accessory use	\$25 <u>\$30</u>	
Commercial		
Fence	<u>\$50</u>	
Principal use	\$100 <u>\$150</u>	
Accessory use	\$50 <u>\$60</u>	
Temporary activity permit	\$25 <u>\$50</u>	
Residential conversion	\$50 <u>\$100</u>	

§ 98-19 **Miscellaneous fees.**
Miscellaneous fees shall be as follows:

- A. Copy of zoning ordinance: \$40.

- B. Copy of Master Plan: \$25.
- C. Subdivision approval certificate: \$25.
- D. Certified list of property owners: \$0.25 per name or \$10 whichever is greater.
- ~~E. Tape of meeting: \$25.~~
- ~~F E. CD USB~~ copy of meeting: ~~\$8~~ \$20.

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: ~~\$300~~ \$500.
- F. Fee for Adopt A Flag: ~~\$42~~ \$50.

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: ~~\$50~~ \$75.
- B. All others: ~~\$100~~ \$200.

Article IX
Solid Waste Disposal

§ 98-34 Trash pickup.

Fees for additional approved trash containers as provided by §§ **172-9** and **172-10** and for bulk household trash as required by § **172-11** of this Code shall be:

- A. Annual fee for one additional approved trash container pursuant to §§ **172-9** and **172-10**: \$400.
- B. Bulk trash stickers: one sticker per 40 pounds/~~\$4~~ \$6 each.
- C. Truck rental, if Borough truck is parked at the property overnight or for a weekend: ~~\$200~~ \$300.

§ 98-35 Adjacent properties.

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

- A. Per year for one ninety-five-gallon approved container once/week: \$400.
- B. Per year for one additional approved container collected once/week: an additional \$400.

§ 98-35.1 Replacement of lost or damaged trash containers.

The fee for replacement of a lost or damaged trash container in accordance with § **172-10** of this Code shall

be \$100.

Article XII
Water and Sewer Usage

§ 98-42 **Standby fees.**

Quarterly standby fees for private fire-protection systems pursuant to § 206-2 of this Code are as follows:

- A. Quarterly standby fees for private fire-protection systems regardless of the rate or quantity of that service: **[Amended 11-15-2010 by Ord. No. 2010-15; 8-6-2012 by Ord. No. 2012-9; 5-22-2017 by Ord. No. 2017-10]**

Size of Private Lines	Fee
(inches)	(per connection)
2	\$158
3	\$378
4	\$567
6	\$1,166
8	\$2,016

- B. Customers who are late in making payment of the standby fee will be given notice as to their deficiency in payment, and a copy of this notice shall be sent to the customer's insurance carrier.
- C. Standby fees shall be due on March 1, June 1, September 1 and December 1.

§ 98-46 **Inspection and field service fees.**

Inspection and field service fees pursuant to § 206-6 of the Code are as follows:

- A. Plan approval, inspection and field service fees pursuant to § 206-6 of the Code are as follows: : **[Amended 2-3-2016 by Ord. No. 2016-1]**

- (1) Plan approval (actual engineering charges up to): \$250.
- (2) Service connections: \$160.
- (3) Lateral connections: \$160.
- (4) Certified construction cost, off-site improvements (escrow): 7.8%

- B. Equipment hourly rates are as follows:

- (1) Backhoe: ~~\$120~~ \$200.
- (2) Service truck: ~~\$75~~ \$100.
- (3) Dump truck: ~~\$100~~ \$150.
- (4) Parts: ~~172%~~ 200%.

Note: Includes the time required to mobilize to and demobilize from the site.

- E. Temporary meter charges are as follows:

- (1) Meter installations: ~~\$75~~ \$100.
- (2) Rental (two week maximum): ~~\$50~~ \$75.
- (3) Removal and recording: ~~\$75~~ \$100.

- (4) Special billing: ~~\$25~~ \$50.

§ 98-47 Administrative fees.

Administrative fees pursuant to § 206-7 of the Code shall be charged as follows:

- A. Interest will be charged at the same rate as the interest on tax bills.
- B. Returned checks: ~~\$20~~ \$25.
- C. (Reserved)
- D. (Reserved)
- E. Non-quarterly or additional meter readings: Scheduled: ~~\$50~~ \$75 Urgent/ Disputed: \$100. (On non-quarterly billings, if the reading is requested due to an actual error by the Borough, the fee will be waived.)
- F. House inspections on sale of property: regular fee, ~~\$100~~ \$150; fee if less than 10 days' notice, ~~\$200~~ \$250.
- G. Tanker of water: \$200 plus per-gallon charge for water in accordance with water rates.
- H. Shutting off and turning on water at curb: Scheduled: \$100, Urgent / Disruptive \$150.

**Article XVI
Registrar Fees**

§ 98-63 Authorized fees.

The Registrar of the Borough of Pennington is authorized to collect the following fees from persons requesting issuance of permits and licenses or provision of certified copies of documents:

- A. Birth certificate (certified copy): ~~\$10~~ \$25.
- B. Burial permit: \$5.
- C. Death certificate (certified copy): ~~\$10~~ \$25.
- D. Marriage license/domestic partnership (\$25 state): \$28.
- E. Marriage license (certified copy): ~~\$10~~ \$25.
- F. Corrections: ~~\$5~~ \$25.

Council Member Chandler made a motion to introduce Ordinance 2023-10, second by Council Member Stern. Mr. Bliss read two corrections into the record. Ms. Angarone asked how these fee increases came about. Mrs. Sterling explained that each Department reviewed the fees associated with their departments. Mrs. Sterling stated that some fees were compared to neighboring municipalities and some fees are increasing to reflect the costs associated with respect to tipping fees and memorial trees in particular. Some discussion took place with regard to anticipated revenues and Mrs. Sterling stated that some fees can be anticipated such as trash stickers but others time will tell. Council Member Marcianti made a motion to introduce the Ordinance as amended, second by Council Member Stern with all members present voting in favor.

Mayor Davy read Ordinance 2023-11 by title.

**BOROUGH OF PENNINGTON
ORDINANCE 2023-11**

**BOND ORDINANCE PROVIDING FOR THE ACQUISITION OF EQUIPMENT IN AND BY THE
BOROUGH OF PENNINGTON, IN THE COUNTY OF MERCER, NEW JERSEY,
APPROPRIATING \$45,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$42,750
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 \$45,000, and further including the aggregate sum of \$2,250 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 \$42,750 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 message board for the Parks and Recreation Department, including all related costs and expenditures incidental thereto.	\$16,400	\$15,580	10 years
b) The acquisition of speed signs for the Police Department, including all related costs and expenditures incidental thereto.	\$28,600	\$27,170	10 years
Total:	\$45,000	\$42,750	

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 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 \$42,750, and the obligations authorized herein will be within all debt limitations prescribed by that Law.
- (d) An aggregate amount not exceeding \$2,250 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 Chandler made a motion to introduce Ordinance 2023-11, second by Council Member Marciante. Mrs. Chandler stated that although this ordinance is for eight traffic signs that will indicate that speed cars are traveling, the intent is to purchase two per year. Mr. Marciante stated that the message board sign is also in this ordinance. Upon a roll call vote all members present voted in favor.

Committee Reports

Planning & Zoning / Personnel / Economic Development – Ms. Gnatt had no report.

Public Works/Open Space/Shade Tree – Ms. Stern stated that Public Works met April 12th and discussed the Sked Street park improvements. Ms. Stern stated that they continue to discuss the upcoming regulations with regard to forever chemicals, though we are currently in compliance. Ms. Stern stated that a separate meeting took place with Van Note Harvey to address an overall picture of forever chemicals and we await a proposal from them. Ms. Stern stated that a spring leaf cleanup was discussed but found to be unnecessary. Ms. Stern stated that the next meeting will be May 17th at 3:00pm.

Ms. Stern stated that Open Space did not meet, but they will be meeting May 17th.

Ms. Stern stated that Shade Tree met on April 11th and they welcomed Meredith Moore as a new member, they discussed the Streetscape project, Arbor Day and Pennington Day. Ms. Stern thanked Morris Fabian for his presentation to the second graders at Arbor Day. Ms. Stern stated that two Memorial Trees have been planted on Curlis Avenue. Ms. Stern stated that the Shade Tree Committee has produced bookmarks

and they will be distributed at Pennington Day and in the Library welcome packages. Ms. Stern stated that next meeting will be May 9th.

Mayor Davy stated that the Streetscape Public Information Center was held and NV5 was present with poster boards on the project and they met with residents who attended to address concerns or questions. Mayor Davy stated that NV5 will be putting all of the comments together and once the final comments are approved they will be available on the Borough website.

Public Safety /Finance & Technology / Arboretum / Landfill – Mrs. Chandler stated that the environmental study of the Landfill is ongoing and we hope for an early fall completion.

Mrs. Chandler stated that the Borough approved a drone survey of the deer population and she will share the results as soon as she has them. Mrs. Chandler stated that she will be attending a deer management meeting with representatives from the State, Mercer County, Hopewell Township and FOVHOS but they are still working on a date for the meeting.

Mrs. Chandler stated that the First Aid Committee met and they are trying to coordinate a tour of the building and once that takes place they will work on criteria for the best use of the building.

Mrs. Chandler stated that the Arboretum Committee met on site and had a walk through with Mike Van Clef of FOVHOS to identify invasive species at one of the exclosures. Mrs. Chandler stated that there are two exclosures, but the committee decided to focus on one for 2023. Mrs. Chandler stated that they are seeking volunteers to work on Saturdays during the month of June and the Environmental Committee will have a signup sheet at Pennington Day for anyone interested in helping out.

Mrs. Chandler stated that the Finance and Technology Committee met and discussed capital debt management and debt service and they will be working on a five to ten year vision for capital needs. Mrs. Chandler stated that there is funding in the budget if Council Members are interested in taking training classes, reach out to Betty or Donato if you are interested.

Mrs. Chandler stated that Public Safety met and discussed Biogene. Mrs. Chandler stated that later in the meeting is a resolution regarding a COPS grant but she will comment at that point.

Historic Preservation / Library / Construction – Ms. Angarone stated that the Library hosted Busy Town and she would like to thank all of the Borough folks who helped out. Ms. Angarone stated that library has been busy with programs and events. Ms. Angarone encouraged residents to visit the Library website for information. Ms. Angarone stated that the Library is in the process of amending their by-laws.

Ms. Angarone stated that Historic Preservation met on April 18th regarding 15 West Delaware and concerns with non-compliance. Ms. Angarone stated that they are also working on amendments to the ordinance and updates to the website.

Parks & Recreation – Mr. Marciante stated that Parks & Recreation will be meeting this Wednesday but they are busy with preparations for Memorial Day.

Board of Health / Environmental Commission – Mr. Valenza stated that the Board of Health did not meet but they are meeting this week.

Mr. Valenza stated that Environmental met and discussed an Anjec Grant which is on the agenda for later in the meeting. Mr. Valenza stated that Environmental will have a big presence at Pennington Day with the focus being reducing the carbon footprint in Pennington and what residents can do. Mr. Valenza stated that the Carbon Neutral Committee continues to work on ways that the Borough can reduce the carbon footprint with regard to Borough operations.

Mr. Valenza commended the Environmental Commission and the members for their efforts, they are a hard working group and he wanted to acknowledge their efforts.

Senior Advisory Board – Mayor Davy had no report.

COUNCIL DISCUSSION

Communications Plan Update – Ms. Angarone stated that several Council Members received their nametags to wear at Borough sponsored events. Ms. Angarone stated that Borough Council will have a table at Pennington Day. Ms. Angarone stated that the second meeting with Committee chairs on May 23rd.

NEW BUSINESS

RESOLUTION 2023 – 5.2

AUTHORIZING PAYMENT OF BILLS

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

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Pennington that the bills be paid on audit and approval of the Mayor, the Appropriate Council Member and the Treasurer in the amount of \$2,737,093.13 from the following accounts:

Current	\$2,575,515.95
W/S Operating	\$ 131,959.35
Grant Fund	\$ 6,653.11
Developer’s Escrow	\$ 3,822.35
COAH Trust	\$ 2,000.00
Other Trust Fund	\$ 16,087.85
Animal Control	\$ 87.60
Unemployment Trust	\$ 966.92

TOTAL \$ 2,737,093.13

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	X				Valenza	X			

Council Member Chandler made a motion to approve Resolution 2023-5.2, second by Council Member Marciante with all members present voting in favor.

Mayor Davy asked for a consent agenda for Resolutions 2023-5.3, 2023-5.4, 2023-5.5, 2023-5.6 and 2023-5.7. Council Member Marciante made a motion to approve Resolutions 2023-5.3, 5.4, 5.5, 5.6 and 5.7, second by Council Member Stern with all members present voting in favor.

BOROUGH OF PENNINGTON
RESOLUTION 2023 – 5.3

RESOLUTION AUTHORIZING PURCHASE AND INSTALLATION OF PLAYGROUND
EQUIPMENT, BENCHES, TIMBERS FOR MULCH CONTAINMENT INCLUDING FREIGHT
AND AUTHORIZING THE USE OF OPEN SPACE FUNDS FOR THIS PURCHASE

WHEREAS, on the recommendation of the Parks and Recreation Committee in collaboration with Borough Council’s Public Works Committee, Borough Council seeks to make improvements to Sked Street Park to enhance its enjoyment by Borough residents as active open space;

WHEREAS, the approved plan for Sked Street Park includes replacement of existing playground equipment, park benches, upgrades and expansion of the walking path, tree removal and pruning and purchase and installation of a gazebo; and

WHEREAS, Public Works Superintendent Rick Smith has identified that the playground equipment, benches, timbers for mulch containment including installation and freight charges are available from General Recreation Inc.; and

WHEREAS, General Recreation Inc. under New Jersey State Contract #16-FLEET-00130 has supplied a quote dated January 9, 2023, which is attached to this resolution, at the quoted total cost of \$81,042.40 including installation and freight charges; and

WHEREAS, Mr. Smith recommends that the Borough accept the quote dated January 9, 2023 quote

#511, by General Recreation Inc.; and

WHEREAS, Pennington’s Open Space Trust Fund has been created in accordance with N.J.S.A. 40:12-15.7, which authorizes use of such funds for development and maintenance of lands acquired for recreation purposes, as determined by the governing body of the municipality;

WHEREAS, the Chief Financial Officer has certified that funds are available in the Open Space Trust Fund for this purpose;

NOW, THEREFORE, BE IT RESOLVED, by Borough Council of the Borough of Pennington, that the Borough Clerk is hereby authorized to issue a purchase order in an amount not to exceed \$81,042.40 for the work described above related to purchase and installation of a playground equipment, benches and timbers for mulch containment including freight charges as quoted in the attached proposal from General Recreation, Inc.

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	X				Valenza	X			

**BOROUGH OF PENNINGTON
RESOLUTION 2023 – 5.4**

**RESOLUTION AUTHORIZING PURCHASE OF SCREENED TOP SOIL, ASPHALT AND STONE
AND AUTHORIZING THE USE OF OPEN SPACE FUNDS FOR THIS PURCHASE**

WHEREAS, on the recommendation of the Parks and Recreation Committee in collaboration with Borough Council’s Public Works Committee, Borough Council seeks to make improvements to Sked Street Park to enhance its enjoyment by Borough residents as active open space;

WHEREAS, the approved plan for Sked Street Park includes replacement of existing playground equipment, park benches, upgrades and expansion of the walking path, tree removal and pruning and purchase and installation of a gazebo; and

WHEREAS, Public Works Superintendent Rick Smith has identified that as part of the improvements he will need to purchase screened top soil, asphalt and stone; and

WHEREAS, Mr. Smith has obtained a quote from Britton Industries for 25 yards of fine screened topsoil in the amount of \$18.95 per ton for a total cost of \$473.75; and

WHEREAS, Mr. Smith has obtained a quote from Trap Rock Industries, LLC for 15 tons of DGABC Blend at \$26.00 per ton and 25 tons of ¾” clean stone at \$32.00 per ton for a total cost of \$1,190.00 and

WHEREAS, Pennington’s Open Space Trust Fund has been created in accordance with N.J.S.A. 40:12-15.7, which authorizes use of such funds for development and maintenance of lands acquired for recreation purposes, as determined by the governing body of the municipality;

WHEREAS, the Chief Financial Officer has certified that funds are available in the Open Space Trust Fund for this purpose;

NOW, THEREFORE, BE IT RESOLVED, by Borough Council of the Borough of Pennington, that the Borough Clerk is hereby authorized to issue purchase orders to Britton Industries in the amount of \$473.75 and Trap Rock Industries LLC in the amount of \$1,190.00 in order to effectuate the purchases.

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	X				Valenza	X			

**BOROUGH OF PENNINGTON
RESOLUTION 2023 – 5.5**

**RESOLUTION AUTHORIZING INSTALLATION OF A CONCRETE WALKWAY AT SKED
STREET PARK AND AUTHORIZING THE USE OF OPEN SPACE FUNDS
FOR THIS PURCHASE**

WHEREAS, on the recommendation of the Parks and Recreation Committee in collaboration with Borough Council’s Public Works Committee, Borough Council seeks to make improvements to Sked Street Park to enhance its enjoyment by Borough residents as active open space;

WHEREAS, the approved plan for Sked Street Park includes replacement of existing playground equipment, park benches, upgrades and expansion of the walking path, tree removal and pruning and purchase and installation of a gazebo; and

WHEREAS, Public Works Superintendent Rick Smith has obtained quotes from Louis Beck Masonry, Greenleaf Lawn and Landscape and Wagner’s Land Expansion, Inc. for installation of a concrete walkway at Sked Street Park; and

WHEREAS, Mr. Smith recommends that the Borough accept quote #511, dated January 17, 2023 submitted by Wagner’s Land Expansion for installation of a concrete walkway through the park including removing and disposing of existing blacktop, regrading steep areas of the walkway, installing concrete and reseeding disturbed areas; and

WHEREAS, Pennington’s Open Space Trust Fund has been created in accordance with N.J.S.A. 40:12-15.7, which authorizes use of such funds for development and maintenance of lands acquired for recreation purposes, as determined by the governing body of the municipality;

WHEREAS, the Chief Financial Officer has certified that funds are available in the Open Space Trust Fund for this purpose;

NOW, THEREFORE, BE IT RESOLVED, by Borough Council of the Borough of Pennington, that the Borough Clerk is hereby authorized to issue a purchase order in an amount not to exceed \$17,500.00 for the work described above related to installation of a concrete walkway at Sked Street Park and quoted in the attached proposal of Wagner’s Land Expansion, Inc.

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	X				Valenza	X			

**BOROUGH OF PENNINGTON
RESOLUTION 2023 – 5.6**

**RESOLUTION AUTHORIZING TREE WORK AT SKED STREET PARK AND AUTHORIZING
THE USE OF OPEN SPACE FUNDS
FOR THIS PURCHASE**

WHEREAS, on the recommendation of the Parks and Recreation Committee in collaboration with Borough Council’s Public Works Committee, Borough Council seeks to make improvements to Sked Street Park to enhance its enjoyment by Borough residents as active open space;

WHEREAS, the approved plan for Sked Street Park includes replacement of existing playground equipment, park benches, upgrades and expansion of the walking path, tree removal and pruning and purchase and installation of a gazebo; and

WHEREAS, Public Works Superintendent Rick Smith has obtained quotes from HTS Tree Care Professionals, Tom’s Tree Service and Shier’s Tree Expert for tree removal, pruning and stump grinding at Sked Street Park; and

WHEREAS, Mr. Smith recommends that the Borough accept quote #5506, dated January 20, 2023 submitted by HTS Tree Care Professionals for removal of 11 trees, pruning and stump grinding in the park; and

WHEREAS, Pennington’s Open Space Trust Fund has been created in accordance with N.J.S.A. 40:12-15.7, which authorizes use of such funds for development and maintenance of lands acquired for recreation purposes, as determined by the governing body of the municipality;

WHEREAS, the Chief Financial Officer has certified that funds are available in the Open Space Trust Fund for this purpose;

NOW, THEREFORE, BE IT RESOLVED, by Borough Council of the Borough of Pennington, that the Borough Clerk is hereby authorized to issue a purchase order in an amount not to exceed \$4,400.00 for the work described above related to tree work at Sked Street Park and quoted in the attached proposal of HTS Tree Care Professionals.

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	X				Valenza	X			

**BOROUGH OF PENNINGTON
RESOLUTION 2023 – 5.7**

**RESOLUTION AUTHORIZING PURCHASE OF A GAZEBO AT SKED STREET PARK AND
AUTHORIZING THE USE OF OPEN SPACE FUNDS
FOR THIS PURCHASE**

WHEREAS, on the recommendation of the Parks and Recreation Committee in collaboration with Borough Council’s Public Works Committee, Borough Council seeks to make improvements to Sked Street Park to enhance its enjoyment by Borough residents as active open space;

WHEREAS, the approved plan for Sked Street Park includes replacement of existing playground equipment, park benches, upgrades and expansion of the walking path, tree removal and pruning and purchase and installation of a gazebo; and

WHEREAS, Public Works Superintendent Rick Smith has obtained quotes from Rosedale Structures, Pleasant Run Structures and Amish Mike for the purchase of a gazebo at Sked Street Park; and

WHEREAS, Mr. Smith recommends that the Borough accept quote #1573, dated March 17, 2023 submitted by Rosedale Structures for the purchase of a 12 ft Octagon Vinyl Gazebo with benches and decking; and

WHEREAS, Pennington’s Open Space Trust Fund has been created in accordance with N.J.S.A. 40:12-15.7, which authorizes use of such funds for development and maintenance of lands acquired for recreation purposes, as determined by the governing body of the municipality;

WHEREAS, the Chief Financial Officer has certified that funds are available in the Open Space Trust Fund for this purpose;

NOW, THEREFORE, BE IT RESOLVED, by Borough Council of the Borough of Pennington, that the Borough Clerk is hereby authorized to issue a purchase order in an amount not to exceed \$10,449.00 for the purchase of a gazebo for Sked Street Park as described above and quoted in the attached proposal of Rosedale Structures.

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	X				Valenza	X			

Mrs. Chandler asked if everyone had a chance to review the numbers with regard to the COPS grant proposal. Mrs. Chandler stated that the COPS grant has to be used to hire a seventh officer, it cannot be used for an existing position. Mrs. Chandler stated that the amount of the grant would be distributed over three years and the Borough would be required to retain the position for a fourth year. Mrs. Chandler stated that Public Safety discussed this grant prior to it coming to Council for approval, but to be clear approving this resolution essentially approves the hiring of a seventh officer if we get the grant. Mrs. Chandler stated that the Borough could decline the grant, but that might preclude the Borough from getting a grant down the road. Mrs. Chandler stated that she is uncomfortable applying for a grant that we intend to decline if the decision is to remain at six officers. Ms. Stern stated that she did not think that the intent was to hire another officer. Mr. Marciante stated that he thinks that six officers is enough for Pennington Borough. Ms. Angarone stated that she does not recall discussing this at Council, though in the sub-committee she did an analysis and found that a seventh officer is warranted for a town of Pennington’s size. Mayor Davy stated that Council has not had a firm conversation on whether to hire a seventh officer. Ms. Angarone stated that she does not understand the hiring issues that the Borough has but she does feel that further analysis is needed. Ms. Angarone stated that the ratios around the nation point to a seventh officer. Ms. Stern stated that the data should be analyzed with regard to crime rate, size of the town and nature of calls. Mr. Valenza stated that safety of our officers should be the primary focus because the Borough does seem to back up Hopewell Township which leaves one officer covering in Pennington. Ms. Angarone stated that development in Hopewell and the additional of 200 plus vehicles will directly affect Pennington and she is not worried about applying for and declining a grant. Ms. Angarone stated that she is concerned about finding out down the road that we do need a seventh officer and it is too late to apply for the grant. Some discussion took place with regard to the costs associated with hiring a seventh officer. Ms. Stern stated that Mona has indicated that she does not think that the Borough would be awarded the grant based on the criteria. Mrs. Chandler stated that she agrees that we should get used to the idea of

hiring a seventh officer but that decision should be based on a proper analysis first. Mrs. Chandler stated that she is not ready to make the decision this year, but Council should be thinking about it for next year. Mr. Marciante stated that another concern is why we can't even maintain six officers. Mr. Neiman stated that a focused conversation is needed with regard to the Police Department. Mayor Davy stated that Resolution 2023-5.8 will be held, no action was taken.

**BOROUGH OF PENNINGTON
RESOLUTION 2023 – 5.8**

**RESOLUTION AUTHORIZING SUBMISSION OF A 2023 OFFICE OF COMMUNITY ORIENTED
POLICING SERVICES (COPS OFFICE) COPS HIRING PROGRAM (CHP) GRANT**

WHEREAS, the Office of Community Oriented Policing Services offers grants for funding positions in Police Departments that are not already funded in the budget; and

WHEREAS, Borough Council seeks to apply for this grant in order to hire a seventh police officer in the Pennington Police Department; and

WHEREAS, the grant requires at a minimum a twenty-five percent (25%) match from the Borough; and

WHEREAS, the Public Safety Committee has reviewed the grant requirements and requests that Borough Council make the final determination as to the hiring of a seventh officer in the Police Department; and

WHEREAS, the deadline for submission of the grant is May 11, 2023;

NOW THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that it hereby formally approves submission of the aforesaid grant application to the Office of Community Oriented Policing Services for the hiring of seventh officer in the Police Department.

**BOROUGH OF PENNINGTON
RESOLUTION 2023 – 5.9**

**RESOLUTION AUTHORIZING AND RATIFYING APPLICATION FOR
2023 ANJEC OPEN SPACE GRANT AND FURTHER AUTHORIZING EXECUTION OF GRANT
AGREEMENT**

WHEREAS, ANJEC provides small grants to local environmental commissions to fund commission projects for open space preservation, maintenance, restoration and education; and

WHEREAS, the Environmental Commission seeks to advance the stewardship of the wooded area behind the Toll Gate Grammar school that the Borough is developing as an Arboretum by purchasing native plants; and

WHEREAS, eligible applicants are New Jersey environmental commissions established by ordinance;

WHEREAS, the deadline for submitting applications for this grant was April 17, 2023; and

WHEREAS, Mayor Davy endorsed the submission of the attached application with a letter dated April 14, 2023, also attached; and

WHEREAS, the Borough, on behalf of the Pennington Borough Environmental Commission now seeks to ratify authorization to submit the application an ANJEC grant for 2023 in the amount of \$1,500.00 for the purpose of funding the purchase of native plants to enhance the Arboretum; and

NOW, THEREFORE, BE IT RESOLVED, as follows:

1. The 2023 Grant Application that was submitted to ANJEC is hereby authorized ratified,
2. if awarded the grant, the Mayor is hereby authorized to execute such grant agreement as may be required by ANJEC, providing for a grant in the amount of \$1,500, subject to review and approval by the Borough Attorney;
3. if necessary, the Mayor is hereby authorized to execute such amendments to the grant agreement as recommended by ANJEC and the Commission provided the amendments do not materially increase the Borough's obligations.

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	X				Valenza	X			

Council Member Chandler made a motion to approve Resolution 2023-5.9, second by Council Member Marciante. Mrs. Chandler stated that this grant would fund native plants for the Arboretum if awarded. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2023 – 5.10**

**RESOLUTION GRANTING CONDITIONAL AUTHORIZATION FOR VITO’S PIZZA TO
MAINTAIN A TEMPORARY OUTDOOR
DINING AREA IN THE PUBLIC RIGHT- OF- WAY IN 2023**

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 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; products and completed operations liability; personal and advertising injury liability; (b) property liability coverage in the amount of \$50,000.; (c) medical expense coverage in the amount of \$5,000.; (d) workers compensation coverage with the limits required by statute; and (e) employer’s liability coverage in the amount of \$500,000. per person/per occurrence.
- (4) the Borough will be given 10 days’ written notice of any cancellation of this insurance.

- I. The outdoor dining area complies with all applicable requirements of Section 215-94 of the Borough Code which regulates out door dining areas otherwise permitted by the Code.
2. The conditional authorization for outdoor dining granted by this resolution may be revoked by the Borough at any time, with or without notice to 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.
3. This conditional authorization shall in any event expire on December 31, 2023.

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	X			
Gnatt	S				Valenza	X			

Council Member Marciante made a motion to approve Resolution 2023-5.10, second by Council Member Gnatt with all members present voting in favor.

BOROUGH OF PENNINGTON
RESOLUTION 2023 – 5.11

RESOLUTION GRANTING CONDITIONAL AUTHORIZATION FOR EMILY’S CAFE TO MAINTAIN A TEMPORARY OUTDOOR DINING AREA IN THE PUBLIC RIGHT- OF- WAY IN 2023

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

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

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

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

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

1. Emily Matticoli and Emily’s Café and Catering, LLC, are hereby granted permission to locate 3 tables and up to 6 chairs on the sidewalk immediately adjacent to the restaurant provided the following conditions are met:
- A. The tables and chairs shall be arranged as shown on the attached sketch.
- B. The outdoor dining area and affected sidewalk shall at all times be kept clean and free of litter and in compliance with all applicable health regulations.
- C. The outdoor dining area shall not obstruct pedestrian circulation on the sidewalk.
- D. Operation of the outdoor dining area shall comply with the Borough Noise Ordinance, as set forth in Chapter 133 of the Borough Code.

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

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

G. The outdoor dining area shall not obstruct access to upstairs apartments or Kriegner Travel Services.

H. Emily Matticoli and Emily’s Café and Catering, LLC, shall indemnify and hold harmless the Borough of Pennington and its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorney fees, arising out of the operation of the outdoor dining area approved by this resolution.

I. Emily Matticoli and Emily’s Café and Catering, LLC, shall at all times have on file with the Borough Clerk a current Certificate of Insurance which certifies that:

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

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

2. The conditional authorization for outdoor dining granted by this resolution may be revoked by the Borough at any time, with or without notice to Emily Matticoli or Emily’s Café and Catering, LLC. This conditional authorization also shall be subject to such additional or amended conditions as Borough Council may deem appropriate at any time.

3. This conditional authorization shall in any event expire on December 31, 2023.

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	X			
Gnatt	S				Valenza	X			

Council Member Marciante made a motion to approve Resolution 2023-5.11, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2023-5.12**

**RESOLUTION CONDITIONALLY AUTHORIZING WORK ABOVE THE CONTRACT LIMIT
FOR COMMUNITY GRANTS, PLANNING AND HOUSING (CGP&H) FOR ADMINISTRATIVE
SERVICES IN CONNECTION WITH AFFORDABLE HOUSING**

WHEREAS, the Borough has retained the firm Community Grants, Planning and Housing (CGP&H) to provide Administrative Agent services in connection with Borough affordable housing;

WHEREAS, the Amended Contract, effective for one year beginning August 1, 2022, as approved by Resolution 2022-8.7 and Resolution 2022-12.7, provides that total expenditures for CGP&H services may not exceed \$4,000 without the prior written approval of Borough Council;

WHEREAS, the start-up work needed to lay the groundwork for routine services resulted in billings in excess of \$4,000 during the first four months of the contract and without being conscious of the \$4,000 limit on hourly billings, CGP&H presented invoices through February 28, 2023 and to date which exceeded the cap by an additional \$4,371.48;

WHEREAS, these amounts do not include (and are not intended to include) two flat fees of \$2,000 apiece which were paid CGP&H under the Amended Contract upon the listing of two affordable units;

WHEREAS, CGP&H, now cognizant of the \$4,000 limit on hourly billings, will instruct its staff not to do additional work for the balance of the contract year unless approved in writing in advance by Borough Council;

WHEREAS, the intent of this Resolution is to authorize payment of the fees incurred above the cap to the extent of \$4,371.48, payable from the Borough Affordable Housing Fund, because it was necessary work satisfactorily performed;

NOW, THEREFORE, BE IT RESOLVED, by Borough Council of the Borough of Pennington, that payment of additional fees to CGP&H in the amount of \$4,371.48 is hereby authorized, on the condition that no additional hourly fees will be incurred for the balance of the contract year unless approved in writing in advance by Borough Council.

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		X			Stern	X			
Gnatt	X				Valenza		M		

Mayor Davy voted in favor to break the tie vote.

Council Member Valenza made a motion to approve Resolution 2023-5.12, second by Council Member Angarone. Mrs. Chandler stated that she is not in favor of approving this as it was an oversight on their end not ours. Mayor Davy stated that he, Walter and Betty met with CGPH and the work was done. Mayor Davy stated that they have been instructed not to do any further work without first getting approval. Upon a roll call vote Council Members Angarone, Gnatt and Stern voted yes and Council Members Chandler, Marciante and Valenza voted no. Mayor Davy voted in favor to break the tie vote.

PROFESSIONAL REPORTS

Borough Administrator – Mr. Neiman reported that the he heard back from the Central Jersey HIF and the rate for health benefits would be about fourteen percent more than the State Health Benefits. Mr. Neiman stated that the size and experience rating indicates the Borough is better off with the State Health Benefits Plan. Mr. Neiman stated that he got a call from Hopewell Township Administrator George Snyder regarding a traffic light at Ingleside Avenue. Mrs. Chandler asked what happened to the traffic study that we requested. Ms. Angarone stated that she is not opposed to the light but she did want to see a study on the side streets in Pennington. Mr. Marciante stated that if the light is going in then Pennington needs to look at the traffic impact for Pennington. Mr. Neiman stated that he will send out what the Township sent over but it is several years old.

Administrative Coordinator – Mrs. Habiby stated that Nadine Stern had asked about getting more information out to residents and she suggested getting quarterly updates out to Mercer Me for publication, coinciding with the newsletter that goes out with the water/sewer bills. Council Members asked why just Mercer Me and Nadine responded that someone reached out to her from Mercer Me.

Borough Attorney – Mr. Bliss stated that he is still waiting for a decision in the PILOT litigation.

Borough Clerk – Mrs. Sterling reminded Council of the closed session after the meeting. Mrs. Sterling reminded everyone that Financial Disclosure Forms were due April 30th so please remember to file if you have not already done so. Mrs. Sterling reminded Council to stop in and sign purchase orders.

Superintendent of Public Works – Mr. Smith reported that DPW has supported various events including Busy Town and Arbor Day. Mr. Smith stated that working with members of the JIF, Fire Safety and the Police Department a building fire drill was held followed by fire extinguisher training. Mr. Smith stated that work has commenced on Knowles and West Franklin.

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.

Mr. Dan Pace of 9 Railroad Place stated that he would to thank Borough Council for coordinating with Hopewell Township on recycling and shredding events.

Ms. Reba Holley of 200 S. Main Street thanked Borough Council for the Gun Violence Proclamation. Ms. Holley asked why we can't demand that Biogene build smaller units for transportation so that smaller trucks can be used. Mr. Valenza stated that this is all about money and the fact that it's cheaper to build somewhere else and install here. Mr. Valenza stated that it has been brought up and hopefully it will sink in because this is not a good way to start a business in the area. Mayor Davy stated that he is planning to communicate the Borough's concerns in writing with the Transportation Company and Mercer County. Mrs. Chandler stated that should also go to the State and Hopewell Township. Mr. Marciante stated that the other option is to transport at night so that the businesses are not disrupted during the day.

CLOSED SESSION

AT, 8:53 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 – PFAS

Mayor Davy stated that Borough Council would not be returning to Open Session as no further action is required. At 9:07 pm Council Member Marciante 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