

**Pennington Borough Council
Regular Meeting – December 5, 2022**

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

Also present were Public Works Superintendent Rick Smith, Sergeant First Class Novin Thomas, Sergeant First Class Daryl Burroughs, Chief Financial Officer Sandra Webb, Borough Engineer Brandon Fetzer and Borough Attorney Walter Bliss.

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

Open to the Public – Agenda Items Only

Mayor Davy read the following statement.

The meeting is now open to the public for comments. 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.**

Ms. Nancy Breland thanked Mayor and Council for the change to the public comment period allowing residents to speak at the beginning of the meeting. Ms. Breland stated that she sent the Mayor an e-mail regarding her concerns about outdoor lighting in the Borough and she appreciates the efforts of Council to address her concerns. Ms. Breland stated that she supports the changes to the ordinance and she would like some clarification on the language. Ms. Breland stated that her issue is with flood, sensor lights that go on and off automatically and she is concerned that the ordinance does not address those lights with the requirement that lights must be turned off at a certain time. Ms. Breland asked that the new ordinance be passed as soon as possible and maybe her concern about motion detector lights could be addressed.

Mayor Davy stated that the ordinance is on for Council Discussion only and will be developed further for introduction in January at the meeting.

Ms. Meredith Moore supported Ms. Breland's comments regarding the lighting ordinance.

There were no further comments from the public.

Mayor's Business

Mayor Davy announced the Sergeant First Class Daryl Burroughs and Sergeant First Class Novin Thomas who are in attendance will be administered the Oath of Office by Borough Attorney Walter Bliss.

Both Sergeant First Class Daryl Burroughs and Novin Thomas thanked Mayor and Council for their support.

Mayor Davy introduced Cheryl Kastrenakes who reported on a pedestrian count survey that was performed at Route 31 and Delaware Avenue. Ms. Kastrenakes stated that they performed a count in October when school was in session. Ms. Kastrenakes commended the Crossing Guard at that intersection who does a great job, but she has great concern about the safety of pedestrians at this intersection. Ms. Kastrenakes stated that they are recommending that the Borough ask the NJDOT to install an All-Pedestrian Phase Signal at this intersection. Ms. Kastrenakes stated that they recommend that the No Turn on Red be instituted as well. Ms. Kastrenakes stated that the All-Pedestrian Phase Signal would stop all traffic once the button is hit so that pedestrians can cross safely. Ms. Kastrenakes stated that she reached out to NJDOT as they would have to approve the change and they would likely perform an evaluation first. Ms. Kastrenakes stated that an All-Pedestrian Phase Signal would allow pedestrians to cross in any direction at the intersection. Mr. Marciante stated that he feels that there should be an overpass for crossing and Ms. Kastrenakes stated that she agreed but that can be costly.

Mrs. Chandler stated that the Vision Zero initiative was referred to Public Safety and though she is in support of this suggestion, she would like this to be referred to Public Safety before any action is taken. Ms. Chandler stated that more data might be needed since this was just a one day study. Ms. Kastrenakes stated that the NJDOT will likely do a traffic impact study and

observation. Ms. Chandler stated that we may end up back in the same place, but she would like Public Safety to review this before it comes to Council for action.

Mayor Davy stated that the Borough received a letter from Montgomery Township officially informing the Borough that they will no longer be provided services for Health and Animal Control. Mayor Davy stated that he has reached out to several other municipalities, one was not interested and he is waiting for responses from the other two.

Mayor Davy stated that the Borough received a letter from the Pennington First Aid Squad indicating that they will be disbanding in 2023. Mr. Marciante expressed the need for a Master Plan for Pennington Borough. Mr. Gross stated that he and Ms. Angarone attended a meeting with Hopewell Township Fire Commissioners who will be taking over the services and they are rapidly trying to figure out how to provide these services going forward. Mr. Gross stated that the Fire Commissioners will have paid EMT employees to provide these services. Ms. Stern stated that she has some comments from Ms. Angarone who has lost her voice that the Borough should put out an alert and post on the website an appeal for volunteers. Mayor Davy stated that his understanding of this is that after many years of having a volunteer first aid squad, Pennington will be transitioning to a paid first aid service and there will be a charge to anyone who utilizes the services. Some discussion took place regarding some ideas that are being discussed to provide these services to the entire valley. Mr. Marciante reminded residents that the Police has officers who are EMT's and they are first responders and the Fire Department also responds and they have been assisting with calls as volunteers who are older are no longer able to do heavy lifting. Mr. Gross stated that there are some assets that might be used to offset some costs, but that is between the Fire District and the First Aid.

Mayor Davy announced that the Borough received notification from the DOT of the award of a grant in the amount of \$517,730 for road work on Baldwin Street and Baldwin Court.

Mayor Davy announced that Ken Gross has submitted his resignation as Council Member effective December 31, 2022.

Mr. Bliss stated that he has concerns about advice that he provided regarding filling the vacancy. Mr. Bliss stated that late today he discovered case law that indicates that the date of the occurrence of the vacancy is actually the effective date of the vacancy and not the notification date. Mr. Bliss stated that taking action to fill the vacancy would be premature. Mr. Bliss stated that would mean that the Democratic Committee has fifteen days from December 31, 2022 to submit three names for consideration with Council having forty-five days from December 31, 2022 to make a selection. Mr. Bliss stated that with apologies to the three candidates in attendance he would ask that the appointment to fill the vacancy be scheduled for the January meeting. Mr. Bliss stated that this could be done at the reorganization meeting because the committee does not have to take the fifteen days to submit the names and the Council does not have to take fifteen days to make an appointment. Ms. Stern asked given that we have the three candidates already, could we proceed anyway. Mayor Davy stated that he asked Mr. Bliss that and if Council proceeded tonight and the person voted on items they could be challenged. Ms. Stern stated that it was the assumption that even if we proceeded tonight the candidate would not be effective until the January meeting. Mr. Bliss stated that the court did not like several things in the Mount Laurel case and though we have effectively done everything right it would not be prudent to proceed. Mr. Bliss stated that as an officer of the court he would not recommend proceeding tonight. Mr. Bliss stated that we can rally and get it all done for the January meeting. Mayor Davy thanked the Democratic Committee for their quick response in submitting three names to Council and apologized for any inconvenience but stated that he would prefer to do this cleanly at the January meeting. Ms. Stern stated that she would like to thank her Committee members for hustling and getting the three candidates lined up. Mayor Davy asked if it would be appropriate to bring the three candidates in to the meeting, thank them and ensure that they are available for the January meeting.

Mayor Davy announced that Ken Baker has resigned as Emergency Management Coordinator and Rick Smith who was recommended by Ken Baker as Deputy Emergency Management Coordinator both effective December 31, 2022. Mrs. Chandler stated that she would like to thank both Ken Baker and Rick Smith for the work that they did particularly in working through the pandemic which was way more than anyone expected.

Mayor Davy reminded Council Members of the year end meeting scheduled for December 29, 2022 at 3:00 pm.

APPROVAL OF MINUTES

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

ORDINANCES FOR INTRODUCTION

Mayor Davy read Ordinance 2022-15 by title and stated that the Public Safety Committee has asked that this be referred back to them for review before introduction at the January meeting. Ms. Stern asked if the changes could be indicated when this comes back to Council.

**BOROUGH OF PENNINGTON
ORDINANCE NO. 2022-15**

**AN ORDINANCE APPROVING RULES AND REGULATIONS
FOR THE PENNINGTON POLICE DEPARTMENT AMENDING
AND SUPERSEDING “RULES AND REGULATIONS OF THE
POLICE DEPARTMENT OF THE BOROUGH
OF PENNINGTON DATED 1995.”**

WHEREAS, in accordance with Section 46-3 of the Code of the Borough of Pennington, Rules and Regulations for the Pennington Police Department were codified by Borough Council in 1995 as the “Rules and Regulations of the Police Department of the Borough of Pennington dated 1995;”

WHEREAS, Borough Council now seeks to amend and supersede the 1995 document by adoption of the codification of Rules and Regulations attached to this Ordinance and incorporated herein by reference as if set forth at length (hereafter “2022 Rules and Regulations”;

WHEREAS, the attached 2022 Rules and Regulations are proposed on the recommendation of the Chief of Police with the endorsement of the Public Safety Committee;

WHEREAS, the 2022 Rules and Regulations consist of 35 pages including an Introduction with Code of Ethics and Mission Statement, a description of the General Duties and Responsibilities of the members of the Department, Rules of Conduct and Disciplinary Regulations;

WHEREAS, the 2022 Rules and Regulations revoke and supersede any rule or regulation previously issued to the extent of any conflict or inconsistency;

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Pennington, that the attached 2022 Rules and Regulations of the Pennington Police Department are hereby adopted and approved, with the direction that copies be distributed electronically to all members of the Department and that a copy be maintained by the Borough Clerk and made available as a public document; and

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

Committee Reports

Planning & Zoning / Parks & Recreation/ Personnel – Ms. Gnatt stated that Planning Board did not meet and Parks and Recreation will be meeting tomorrow night.

Public Safety /Economic Development / Environmental – Mrs. Chandler reported that Economic Development assisted the Pennington Business and Professional Association and she hopes that everyone had a chance to attend. Mayor Davy stated that it was a very nice evening and very well attended.

Public Works/Open Space/Shade Tree – Ms. Stern reported that Public Works met with Borough Engineer Brandon Fetzer in attendance and they identified a project in the Asset Management Plan for the Borough to consider. Ms. Stern stated that the Public Works Committee recognizes that before they approve a project, we need to have a better five to ten year plan that merges projects in the Asset Management Plan with upcoming road projects. Ms. Stern stated that the information exists, but it needs to be pulled together in one document. Ms. Stern stated that Rick Smith and Brandon Fetzer have committed to having a list for review for the Public Works meeting on December 20th.

Ms. Stern stated that Mr. Smith has been in conversation with a company called 120 Water to assist with the Lead Line Project and that has been referred to Betty and Sandy to figure out the financing.

Ms. Stern stated that at the last meeting a resolution was approved for a Stornwater Utility Feasibility Study and though Public Works is not opposed to the study, she feels that she did not fully understand the resolution and Public Works has some questions. Ms. Stern stated that they have asked Joann Held to

attend their next meeting and answer their questions as to what this resolution and study means. Mayor Davy stated that he asked that question of whether the resolution would tie our hands or commit the Borough to something. Ms. Stern stated that this was not referred to Public Works first. Mayor Davy stated that there was a deadline that needed to be met. Ms. Stern stated that it needs to be clear that committees need time to review things before they get to the agenda.

Ms. Stern stated that the lead line inventory is proceeding and they reviewed the Public Works Capital requests that has now been submitted to finance for the budget.

Open Space / Shade Tree – Ms. Stern stated that Shade Tree did not meet. Ms. Stern reported that Open Space welcomed Nancy Fishman as the representative from the Environmental Commission. Ms. Stern stated that she updated Open Space on the Communication Plan and the meeting schedule was set for 2023, officers were elected and Alan Hershey will again be the Chair.

Finance & Technology / Board of Health – Mr. Gross stated that the Board of Health did not meet. Mr. Gross stated that the Finance Committee met and developed an outline for the 2023 budget process. Mr. Gross stated that the Committee Chairs met with Council Members on November 29th and while there were no particular budget requests it was great to get everyone together to discuss what they are working on and how it affects the budget. Mr. Gross stated that there is a lot going on behind the scenes with regard to the budget, gathering figures for insurance, pension and salaries. Mr. Gross stated that department budgets have been entered. Mr. Gross stated that Betty and Sandy will be working on year end close out and getting reports to the auditor so that the Annual Financial Statement can be prepared. Mr. Gross stated that the Annual Financial Statement is required to finalize the budget and get it ready for introduction.

Historic Preservation / Library – Ms. Stern read a report from Ms. Angarone. Ms. Stern reported that Historic Preservation did not meet. Ms. Stern stated that the Library Board met and finalized the 2023 budget, performance reviews were completed and the strategic plan was presented to the Board. Ms. Stern stated that Kathryn Rosko will be stepping down from her position on the Board. Mayor Davy stated that he has someone interested and they will be meeting with that individual for appointment in January.

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

COUNCIL DISCUSSION

Draft Nuisance (Noise/Lighting) Ordinance – Mayor Davy stated that the last time Council met, it was discussed to just address the concerns raised by residents with regard to lighting and noise and these draft ordinances are the result of that discussion. Mayor Davy stated that Kit and Kati have asked for one more meeting to address some additional concerns in particular the one raised earlier by Ms. Breland related to motion detection lights. Mayor Davy asked if Council has questions or concerns that should be addressed in the working group. Ms. Stern stated that she is not sure why noise pertaining to lawnmowers is not covered under noise and not nuisance. Ms. Stern stated that the hours are inconsistent in defining permitted and not permitted hours. Mayor Davy stated that the hours have been longstanding and the work group only addressed lawn equipment use between the hours of 8pm and 8am and the construction hours have been in the ordinance. Mayor Davy stated that at the last meeting the direction was to just address the hours for use of lawn equipment. Mr. Bliss stated that with regard to the nuisance ordinance the Borough does not really have the authority to do much because there is a State Controlled Noise Act that defines decibel measurements and enforcement by a qualified person. Mr. Bliss further stated that any noise ordinance adopted by the Borough would have to be approved by the DEP. Mr. Bliss stated that the Borough is entitled to adopt a nuisance ordinance as long as the Borough does not measure the activity. Mr. Bliss briefly explained the language in the proposed ordinance as to lighting.

Update on Communication Plan – Ms. Stern stated that she and Ms. Angarone met with the Committee Chairs and the Department Heads at two different meetings. Ms. Stern stated they are in the gathering ideas phase and over the next month or so they are hoping to implement some of the easy best practices and improvements and then work on and present the more involved practices. Ms. Stern encouraged all residents to sign up for e-mail news alerts and announcements.

Mr. Marciante read a statement related to the recent election and some things there were said in the public that he did not support open space. Mr. Marciante stated that he has and will continue to support open space in the green belt around Pennington. Mr. Marciante stated that we will not support use of open space funds for adjacent properties, properties in the Borough and improvements to parks in the Borough.

NEW BUSINESS

**BOROUGH OF PENNINGTON
RESOLUTION 2022 – 12.1**

RESOLUTION AUTHORIZING REFUNDS

BE IT RESOLVED that a refund be issued from the Water Sewer Operating Fund to Kathleen Windfelder, 416 York Avenue, Landsdale, PA 19446 for an overpayment of Water/Sewer Account 690-0for Block 903, Lot 15, 418 Hale Street in the amount of \$162.06.

Record of Council Vote on Passage

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

Council Member Gross made a motion to approve Resolution 2022-12.1, second by Council Member Chandler with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2022 – 12.2**

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 \$ 1,118,137.07 from the following accounts:

Current	\$ 958,106.57
W/S Operating	\$ 97,343.42
General Capital	\$ 28,848.80
Grant Fund	\$ 364.34
Animal Control Fund	\$ 50.00
Open Space	\$ 27,292.58
Developer’s Escrow	\$ 760.50
COAH Trust	\$ 188.50
Other Trust Fund	\$ 3,203.34
Unemployment Trust	\$ 1,979.02
TOTAL	\$ 1,118,137.07

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2022-12.2, second by Council Member Marciante with all members present voting in favor.

BOROUGH OF PENNINGTON
RESOLUTION # 2022 – 12.3

RESOLUTION AUTHORIZING BUDGET TRANSFERS

WHEREAS, N.J.S.A. 40A:4-58 provides that during the last two months of the fiscal year or the first three months of the following year, should it become necessary to expend funds for any purposes specified in the budget an amount in excess of the respective sums appropriated therefore and there shall be an excess in any appropriations over and above the amount deemed to be necessary to fulfill the purpose of such appropriations transfers may be made; and

WHEREAS, transfers may not be permitted to appropriations for contingent expenses or deferred charges; and

WHEREAS, transfers may not be permitted from appropriations for contingent expenses, deferred charges, cash deficit of the preceding year, reserve for uncollected taxes, down payments, capital improvement fund or interest and redemption charges;

NOW THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Pennington that transfers be made between the following year 2022 budget appropriations:

<u>Current Fund Appropriations:</u>	<u>To:</u>	<u>From:</u>
Borough Clerk – Salaries	\$ 1,000.00	
Police – Salaries	\$30,000.00	
Trash – Salaries	\$ 5,000.00	
Trash – Other Expense – Tipping Fees	\$20,000.00	
Borough Property – Salaries		\$ 5,000.00
Borough Admin. – Salaries		\$51,000.00
Total Current Fund	\$ 56,000.00	\$56,000.00

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

Council Member Chandler made a motion to approve Resolution 2022-12.3, second by Council Member Stern with all members present voting in favor.

BOROUGH OF PENNINGTON
RESOLUTION 2022 – 12.4

RESOLUTION APPOINTING DEPUTY COURT ADMINISTRATOR

WHEREAS, Margaret Umbro, Administrator of the Pennington Municipal Court, is in need of a Deputy Court Administrator to serve in her absence; and

WHEREAS, Mrs. Umbro has recommended the appointment of Christine Irizarry to serve as Deputy Court Administrator; and

WHEREAS, Municipal Court Judge Eric Perkins approves of the appointment of Ms. Irizarry; and

WHEREAS, the Deputy Court Administrator is a part-time employee of the Borough with salary established by the Borough salary ordinance; and

WHEREAS, Ms. Irizarry will work on an as needed basis in the absence of the Court Administrator; and

WHEREAS, Ms. Irizarry will be compensated at a rate of \$89.00 per hour by purchase order;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that Christine Irizarry is hereby appointed Deputy Court Administrator of the Municipal Court of the Borough of Pennington, effective on the date of adoption of this resolution, and shall be compensated at an hourly rate of \$89.00 per hour.

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

Council Member Chandler made a motion to approve Resolution 2022-12.4, second by Council Member Gross with all members present voting in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2022 – 12.5**

**RESOLUTION AUTHORIZING CHANGE ORDER NO. 3 (FINAL) FOR
EAST WELLING AVENUE ROAD REHABILITATION PROJECT – NJDOT FY 2020 MUNICIPAL
AID PROJECT (VNHA #44348-551-71)**

WHEREAS, Borough Council approved Resolution 2021-11.15 authorized entering into a contract with Top Line Construction Corp. for East Welling Avenue Road Rehabilitation Project (VNHA #44348-551-71) at the total contract price of \$465,704.35, representing the total of the lowest base bid and lowest bid for Add Alternate #4, installation of speed table; and

WHEREAS, on February 7, 2022, Borough Council approved Resolution 2022-2.5 authorizing Change Order 1 in the amount of \$27,518.20, for Add Alternate 2, which increased the total Contract Price to \$493,222.55; and

WHEREAS, Resolution 2022-2.5 also approved the elimination of Add Alternate 4 in the amount of \$3,097.10, which was approved in the initial award, reducing the contract price to \$490,125.45; and

WHEREAS, upon completion of the resurfacing of East Welling Avenue, it was discovered that a water service line under the repaved surface had been damaged, requiring the excavation of a trench for installation of a new water service line; and

WHEREAS, on July 5, 2022, Borough Council approved Resolution 2022-7.15 authorizing Change Order 2 in the amount of \$9,045.00 which increased the price to \$499,170.45; and

WHEREAS, the Borough Engineer has submitted Change Order 3 (Final) which proposes additions and reductions in contract quantities as necessary for completion of the project resulting in a net decrease in the amount of \$87,409.52, reducing the contract price to \$411,760.93;

NOW, THEREFORE, BE IT RESOLVED, by Borough Council of the Borough of Pennington, that the aforesaid Change Order No. 3 (Final) is hereby approved to authorize a decrease in the contract of \$87,409.52, producing an amended net contract price of \$411,760.93 is hereby approved.

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

Council Member Marcianti made a motion to approve Resolution 2022-12.5, second by Council Member Chandler. Mr. Fetzer explained for Council the need for the change order. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2022 – 12.6**

**RESOLUTION AUTHORIZING PAYMENT REQUEST NO. 4 (FINAL) TO TOP LINE
CONSTRUCTION CORP. FOR WORK COMPLETED ON THE EAST WELLING AVENUE ROAD
REHABILITATION PROJECT
(VNHA #44348-210-71)**

WHEREAS, Top Line Construction Corp. has completed work pursuant to the contract for the East Welling Avenue Road Rehabilitation Project (VNHA File #:44348-210-71); and

WHEREAS, Van Note Harvey Associates has reviewed Top Line Construction Corp’s attached application for payment and recommends payment of same pursuant to the Contractor’s Request for Payment No.4 (Final) in the amount of \$39,183.34 including return of retainage in the amount of \$7,603.62; and

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

WHEREAS, funds are available through a grant from the NJDOT under Ordinance 2021-4 in the General Capital Fund;

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that payment to Top Line Construction Corp. in the net amount of \$39,183.34 pursuant to payment request No.4 is hereby authorized, upon receipt of fully executed documents, Maintenance Bond and certified payrolls.

Record of Council Vote on Passage

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

Council Member Marciante made a motion to approve Resolution 2022-12.6, second by Council Member Chandler. Mr. Fetzer briefly explained for Council the purpose of this resolution. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2022-12.7**

**RESOLUTION AUTHORIZING AMENDMENT OF PROFESSIONAL SERVICES AGREEMENT
WITH CGP&H LLC FOR AFFORDABLE HOUSING SERVICES**

WHEREAS, Pennington Borough has entered into an agreement with CGP&H LLC for the performance of professional services relating to administration of the Borough’s Affordable Housing program (“Agreement”);

WHEREAS, the Agreement provides in Schedule A, which is attached to the agreement, the following Scope of Services and Compensation:

“For services rendered by the Consultant, the Consultant shall be
Compensated as follows;

Administrative Agent Advisory Services paid the Borough

CGP&H shall provide the Borough of Pennington advisory services on the development of the Borough’s affordable housing plan and affordable housing matters regarding the eventual resale/turnover of the 16 affordable housing units at the American Properties development and 8 units at Pennington pointe. For these services, CGP&H will bill hourly at \$145 per hour for senior staff and \$100 per hour for all other staff.”

WHEREAS, an amendment to the Agreement is now proposed with the intent that Schedule A shall be amended to provide that CPG&H will charge the Borough a flat fee of \$2,000.00 for services in connection with the resale of a property, provided it is understood that (1) this fee will be paid by the Borough in advance and retained by CPG&H whether or not the resale is thereafter effectuated, (2) CGP&H will also charge the seller a fee equal to three percent (3%) of resale price paid at closing and (3) if the sale fee comes in less than the minimum, the Borough will pay CGP&H the difference.

WHEREAS, a copy of the proposed new Schedule A is attached to this Resolution, providing additional explanation;

WHEREAS, CGP&H has provided a form of “Amendment #1 to Contract (Dated August 1, 2022 through July 31, 2023,” which is also attached;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Mayor is hereby authorized to sign and enter into the attached Amendment #1 with revised Schedule A subject to approval as to form by the Borough Attorney.

Record of Council Vote on Passage

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

Council Member Chandler made a motion to approve Resolution 2022-12.7, second by Council Member Marciante. Mayor Davy proved a brief summary of the amendment to the contract. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2022 – 12.8**

RESOLUTION ADOPTING TECHNOLOGY RISK MANAGEMENT STANDARDS IN COMPLIANCE WITH THE TIER TWO REQUIREMENTS OF THE CYBER RISK MANAGEMENT PLAN OF THE NEW JERSEY MUNICIPAL EXCESS LIABILITY JOINT INSURANCE FUND

WHEREAS, the Borough of Pennington is a member of the Mid Jersey Municipal Joint Insurance Fund which secures insurance protection through the New Jersey Municipal Excess Liability Joint Insurance Fund (NJ MEL); and

WHEREAS, through its membership in the Mid Jersey Municipal Joint Insurance Fund, the Borough of Pennington enjoys cyber liability insurance coverage to protect the Borough of Pennington from the potential devastating costs associated with a cyber related claim; and

WHEREAS, in an attempt to prevent as many cyber related claims as possible, the NJ MEL developed and released to its members the NJ MEL Cyber Risk Management Plan; and

WHEREAS, the NJ MEL Cyber Risk Management Plan outlines a set of best practices and standards broken out into Tier 1, Tier 2, and Tier 3 standards that if adopted and followed will reduce many of the risks associated with the use of technology by the Borough of Pennington; and

WHEREAS, the Borough is required to adopt and by this Resolution intends to adopt in particular (1) a Master Technology Policy, Version 2.2; (2) a Remote Access Policy – VPN; and (3) the following best practices and standards: a. Server Security; b. Access Privilege Controls; c. Technology Support; d. System/Event Logging; e. Protected Information; f. Remote Access; g. Leadership Access; h. IT/ Business Continuity; i. Banking Controls; and j. Technology Practice Policy;

WHEREAS, copies of these Policies are attached to this Resolution;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the following policies and practices are hereby adopted:

- 1. Master Technology Policy, Version 2.2, MEL Cyber Risk Management Program (attached);
- 2. Borough of Pennington, Remote Access Policy (attached).
- 3. The best practices and standards further described above.

AND, BE IT FURTHER RESOLVED, that a copy of this resolution along with all required checklists and correspondence be provided to the NJ MEL Underwriter for their consideration and approval.

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

Council Member Marciante made a motion to approve Resolution 2022-12.8, second by Council Member Chandler. Mayor Davy stated that this will get us Tier two status and we hope to be ready for Tier three by the end of the year. Mrs. Sterling stated that it is important to reach Tier three status because if the Borough became a victim of a cyber-attack, the Borough does not have insurance coverage. Mrs. Sterling stated that Mona is working very diligently on a Business Continuity Plan for review at the Finance and Technology Committee on December 27th. Ms. Stern stated that she is happy to hear that the next step will be reviewed by Finance and Technology. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON
RESOLUTION 2022 – 12.9**

RESOLUTION AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH JOSEPH L. MAZOTAS OF PRINCETON REALTY RESOURCES FOR UPDATED APPRAISAL REQUIRED BY GREEN ACRES RELATED TO THE RECENT ACQUISITION OF 417B SOUTH MAIN STREET AS OPEN SPACE

WHEREAS, the Borough of Pennington by Resolution 2022-1.23 retained Joseph L. Mazotas, Princeton Realty Resources to perform an appraisal of Block 1002, Lot 12.02 on the Pennington Borough Tax Map, also known as 417B South Main Street in the Borough (“the Property”); ; and

WHEREAS, the Borough acquired the Property utilizing funds available in the Borough Open Space Fund together with anticipated funding by the Green Acres Program in the New Jersey Department of Environmental Protection; and

WHEREAS, the Borough is now in the process of applying for Green Acres Funding and Green Acres is requiring that certain additional information be included in the appraisal report; and

WHEREAS, for the purpose of revising the appraisal report in accordance with Green Acres requirements, the Borough seeks to retain again the professional services of Joseph L. Mazotas and Princeton Realty Resources, in accordance with a proposal by them dated December 1, 2022 of which a copy is attached (“the Proposal”);

WHEREAS, as provided in the Proposal, Mr. Mazotas will perform the work at the rate of \$125 per hour inclusive of all related expenses for a total cost not to exceed \$1,200, except exclusive of any cost of updating property-specific documents such as surveys, tax maps and other technical documents regarding the Property, which shall not be undertaken without the prior written approval of Council;

WHEREAS, Joseph L. Mazotas of Princeton Realty Resources is on the Green Acres List of approved appraisers; and

WHEREAS, pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, et. seq., a contract for professional services of the kind authorized herein is not subject to public bidding;

WHEREAS, prior to entering into the contract, Joseph L. Mazotas and Princeton Realty Resources shall provide sworn statements made under penalty of perjury that neither they nor any of their covered principals, partners, officers or subsidiaries has made a political contribution in violation of the Code of the Borough of Pennington or N.J.S.A. 19:44A-20.5 prohibiting certain political contributions by business entities awarded contracts by the Borough for professional services;

WHEREAS, funds are available in the Open Space Trust Fund, T-03-00-850-850-255;

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

The Mayor and Borough Clerk are hereby authorized to issue a purchase order to Joseph L. Mazotas of Princeton Realty Resources for appraisal services pertaining to the Property, at a cost not to exceed \$1,200, in accordance with the attached Proposal and as further explained above.

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

Council Member Chandler made a motion to approve Resolution 2022-12.9, second by Council Member Marciante. Mayor Davy explained that this is required by Green Acres as part of the reimbursement requirements. Upon a roll call vote all members present vote in favor with the exception of Ms. Angarone who abstained.

**BOROUGH OF PENNINGTON
RESOLUTION 2022 - 12.10**

**RESOLUTION AUTHORIZING REIMBURSEMENT OF THE OPEN SPACE FUND FOR THE
VALUE OF A FENCE ENCROACHMENT AREA ON THE ARBORETUM PROPERTY,
VALUED BY GREEN ACRES AT \$264.70.**

WHEREAS, by Ordinance 2019-10, the Borough of Pennington has acquired from the Hopewell Valley Regional School District a tract of wooded land for preservation as active open space and the creation of an arboretum;

WHEREAS, this acquisition has been financed by the Pennington Open Space Fund in anticipation of matching funding under the Green Acres Program of the New Jersey Department of Environmental Protection;

WHEREAS, the Arboretum Property, designated Block 1003, Lot 15.02 on the Borough Tax Map, consists of approximately 3.4 acres of land bounded on the west by the rear property line of Toll Gate Elementary School, on the north by Curlis Avenue, on the east by Baldwin Boulevard, and on the south by the rear property lines of residential dwellings on East Welling Avenue;

WHEREAS, the Borough has applied to Green Acres for funding of allowable costs with the understanding that in consideration of the State’s agreement to provide funding, the Arboretum Property shall be held exclusively for recreation and conservation purposes subject to the covenants, restriction and conditions prescribed by law;

WHEREAS, a survey made by Van-Note Harvey Associates, Inc. dated November 15, 2019 reveals mislocation of a six-foot post and wire fence (“the Fence”) at the rear of the adjacent East Welling Avenue property known as Block 1003, Lot 2 on the Borough Tax Map (hereafter “the East Welling Property”), resulting in an angular encroachment on the Arboretum Property ranging from approximately 0 to 4.5 feet in depth over the width of the East Welling property;

WHEREAS, as one of the conditions of Green Acres funding, Green Acres requires the Borough to reimburse the Pennington Open Space Fund for the value of that portion of the Arboretum Property, surveyed to be 0.006 acres, affected by the Fence encroachment (“Fence Encroachment Area”);

WHEREAS, Green Acres values the Fence Encroachment Area at \$264.70, representing 0.0006 acres at \$44,117.65/acre;

WHEREAS, the required funds are available in account #: 2-01-20-100-000-255;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the Borough Clerk is hereby authorized to disburse \$264.70 in Borough funds to the Pennington Open Space Fund, reimbursing the Fund for the value of the Fence Encroachment Area on the Arboretum Property as explained above.

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

Council Member Marciante made a motion to approve Resolution 2022-12.10, second by Council Member Gross. Mayor Davy gave a brief explanation of the resolution stating that Green Acres is requiring this before the Borough can get reimbursed for the Arboretum even though originally they required the agreement with the owners of the fence. Upon a roll call vote all members present voted in favor with the exception of Ms. Angarone who abstained.

Mayor Davy stated that as per the discussion earlier in the meeting, Resolution 2022-12.11 will be referred to Public Safety for further discussion.

**BOROUGH OF PENNINGTON
RESOLUTION 2022 – 12.11**

**RESOLUTION REQUESTING THE NEW JERSEY DEPARTMENT OF TRANSPORTATION
INSTALL AN ALL-PEDESTRIAN SIGNAL PHASE AT THE INTERSECTION OF ROUTE 31 AND
WEST DELAWARE AVENUE**

Mayor Davy stated that Brandon Fetzer, Borough Engineer will speak on this Resolution as well, but Council should know that the bids for the West Franklin and Knowles project have been received and they are all in excess of the grant award by \$130,000. Mayor Davy stated that normally, the course of action would be to reject all bids, redesign the project and rebid the project. Mayor Davy stated that Mr. Fetzer has posed the conundrum that if the Borough rejects the bids, it will delay the project three to four months and we would need to ask DOT for an extension which he is not sure would be granted. Mayor Davy stated that a discussion took place today and Mr. Fetzer proposed awarding the contract for the full amount, which will require a bond ordinance in January, and he will work in the field to bring the project in at the grant amount through field adjustments and/or change orders. Mayor Davy stated that he does not like doing things this way, but the alternative is a time delay and there is no guarantee that the DOT would approve an extension. Mayor Davy asked Mr. Fetzer and Mr. Bliss to talk to Council about this so they are fully informed on this. Mr. Fetzer outlined the process that the Mayor outlined and indicated that he will work hard to bring the project in at the grant amount. Mr. Fetzer stated that the change order would involve removal of sidewalks. Mr. Marciante asked about an agreement with American properties to fund part of this project. Mr. Fetzer stated that they are bound by the Developer’s agreement and he is working on getting the agreement memorialized. Mr. Gross asked if any of the changes were things that were told to the residents at the meetings that were held. Mr. Fetzer stated the changes would have a minor impact on the road. Mayor Davy stated that he would be fine with having another meeting to update them on this discussion.

**BOROUGH OF PENNINGTON
RESOLUTION 2022-12.12**

**RESOLUTION AWARDING CONTRACT FOR WEST FRANKLIN AND KNOWLES STREET
ROAD REHABILITATION PROJECT – NJDOT FY 2020 MUNICIPAL AID
(VNHA #44836-210-71)**

WHEREAS, Borough Council of the Borough of Pennington authorized advertisement for bids for the project known as West Franklin and Knowles Street Road Rehabilitation Project (NJDOT FY 2020 Municipal Aid, VNHA #44836-210-71);

WHEREAS, a total of seven (7) sets of plans and specifications for the Project were picked up and six (6) contractors submitted bids, which were opened on November 30, 2020;

WHEREAS, the lowest responsive bid was that of Top Line Construction Corp. whose base bid price is \$645,930.39, and

WHEREAS, Top Line Construction Corp. provided bids for Add Alternate #1 of \$2,983.31 and Add Alternate #2 of \$82,669.75; and

WHEREAS, the bid submitted by Top Line Construction Corp with or without add alternate #1 and add alternate #2 is still the lowest responsive bid;

WHEREAS, the Borough Engineer has reviewed the bid package submitted by Top Line Construction Corp. and has determined that the bid conforms with the Project Specifications and other bidding requirements, that Top Line Construction Corp. has the ability to perform the work, and that Top Line Construction Corp. should be awarded the contract as the lowest responsive and responsible bidder;

WHEREAS, the Borough Engineer recommends that the contract to Top Line Construction Corp. be awarded for the base bid price of \$645,930.39 only; and

WHEREAS, the award of contract must be made contingent upon receipt of Authorization to Award by the New Jersey Department of Transportation, Local Aid; and

WHEREAS, the Chief Financial Officer of the Borough has certified that partial funding for this project is available in the amount of \$515,000 under the 2020 Municipal Aid Grant funded through the New Jersey Department of Transportation; and

WHEREAS, the Chief Financial Officer of the Borough has certified that award of this contract must be contingent on the availability of funding for the difference between the grant award and the contract amount;

WHEREAS, a summary of the bids is available in the office of the Borough Clerk;

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

1. The contract for West Franklin and Knowles Street Road Rehabilitation Project is hereby awarded to the aforesaid Top Line Construction Corp. for the total contract price of \$645,930.39, subject to the availability of full funding;
2. The Mayor, with the attestation of the Borough Clerk, is hereby authorized to execute and enter into the aforesaid contract on behalf of the Borough upon approval of same as to form by the Borough Attorney.

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

Council Member Marciante made a motion to approve Resolution 2022-12.12, second by Council Member Gross with all members present voting in favor.

Mayor Davy stated that he had one other item to discuss under Mayor’s Business. Mayor Davy stated that we are very close to getting reimbursement for the Arboretum, the site inspection has been completed, the corrective deed and title work are in process and the last piece is the filing of the ROSI, Recreation and Open Space Inventory. Mayor Davy stated that Green Acres wants the Borough to include a property adjacent to the cemetery property, it is .5 acres and it is landlocked. Mayor Davy stated that once a property goes on the ROSI, it would be very hard for the Borough to remove the property at a later date.

Mayor Davy stated that he spoke to Alan Hershey and he felt that the property is ripe for a conversation easement and it is not unreasonable to include it on the ROSI, but the property has not been designated as a conservation easement. After some discussion on the property, Mayor Davy stated that he wanted to bring this to Council's attention and he will be looking into this further and bringing it to Council at the December 29th meeting. Mrs. Chandler suggested checking with Borough Planner, Jim Kyle to ensure that he was not including the property in the Affordable Housing report that he is working on. Mrs. Chandler stated that she does think that this property should be included on the ROSI, but we should have all concerns addressed before we submit the ROSI. Mayor Davy stated that we will reach out to Jim Kyle and get this ready for the meeting on December 29th.

PROFESSIONAL REPORTS

Borough Attorney – Mr. Bliss had nothing further to report.

Chief Doug Pinelli – Chief Pinelli was not in attendance. Sergeant Burroughs did not have anything to report.

Superintendent of Public Works – Mr. Smith stated that he will provide his report soon, but he has been under the weather. Mr. Smith briefly reported on a large fire in Hopewell Township that involved providing about 100,000 gallons of water. Mr. Smith stated that he plans to bring this to the Public Works Committee for discussion.

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

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

Public Comment

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

Mr. Mark Blackwell spoke briefly about the Pennington First Aid Squad. Mr. Blackwell stated that they knew this was coming and it appears that the Fire District is going to contract with Capital Health for these services. Mr. Blackwell stated that this will be a substantial amount of money and he believes that the Fire District will be coming to the Borough to help with the costs. Mr. Blackwell stressed the importance of staying on top of this situation.

There were no comments from the public.

Closed Session

At, 9:07 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:

- Open Space Acquisition

AT, 9:36 PM, following the Closed Session the meeting was adjourned.

Respectfully submitted,

Elizabeth Sterling
Borough Clerk