



REGULAR COUNCIL MEETING - JUNE 3, 2024 AGENDA

Monday, June 03, 2024 at 7:00 PM

Online via Zoom

CALL TO ORDER - Mayor Davy

ROLL CALL - Borough Clerk - Betty Sterling

Angarone; Chandler; Gnatt; Marciante; Stern; Valenza; Mayor Davy

OPEN PUBLIC MEETINGS STATEMENT

Notice of this meeting has been given to the Hopewell Valley News, Trenton Times and was posted on the bulletin board at Borough Hall at 30 North Main Street and on the Borough website according to the regulations of the Open Public Meetings Act.

OPEN TO THE PUBLIC

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

MAYOR'S BUSINESS

1. ANJEC Grant award for Environmental Commission - \$1,500.00
2. Pennington Day Grant - Denied
3. Retirement - Chief Doug Pinelli - 2/1/2025
4. Resident Meeting - Baldwin Street Road Project - June 11th, 2024 @ 7:00 pm

PRESENTATIONS

5. Environmental Commission - Kiernan John

APPROVAL OF MINUTES

6. Work Session Minutes - April 29, 2024
7. Regular Council Meeting - May 6, 2024

APPROVAL OF CLOSED SESSION MINUTES (FOR CONTENT BUT NOT FOR RELEASE)

8. Closed Session Minutes - March 25, 2024

9. Closed Session Minutes - April 29, 2024

ORDINANCES FOR INTRODUCTION

10. Ordinance 2024-11 - Ordinance Amending Chapter 98 of the Code of the Borough of Pennington (Fees) to Clarify When a Refundable Security Deposit is Required for Use of Borough Parks

COMMITTEE REPORTS

11. Personnel / Economic Development - Ms. Angarone

12. Public Works / Planning Board / Historic Preservation - Ms. Stern

13. Finance / Public Safety / Arboretum / Landfill - Mrs. Chandler

14. Library / Shade Tree - Ms. Gnatt

15. Parks & Recreation - Mr. Marciante

16. Board of Health / Environmental Commission - Mr. Valenza

17. Senior Advisory - Mayor Davy

COUNCIL DISCUSSION

18. Use of Kunkel Park - Waiver of Fee Request

Hopewell Valley Municipal Alliance - June 6, 2024

Hopewell Valley Green Team - June 20, 2024

NEW BUSINESS

19. Resolution 2024-6.1 - Resolution Authorizing Refunds

20. Resolution 2024-6.2 - Resolution Authorizing Payment of Bills

21. Resolution 2024-6.3 - Resolution Granting Conditional Authorization for Las Patatas De Rafa LLC, Doing Business as La Unica to Maintain a Temporary Outdoor Dining Area in the Public Right-of-Way in 2024

22. Resolution 2024-6.4 - Resolution Authorizing Purchase of 2025 F-75 Diesel Regular Cab Base (F7D) Under State Contract 17-Fleet-00241

23. Resolution 2024-6.5 - Resolution Authorizing Preventative Maintenance for Public Works Vehicles and Garbage Trucks Under State Contract T2108-A89300

24. Resolution 2024-6.6 - Resolution Authorizing Take Down of Maple Tree Near Proposed Second Enclosure Within the Arboretum and Authorizing the Use of Open Space Funds For This Purpose

[25.](#) Resolution 2024-6.7 - Resolution Appointing William E. Mullen 3rd as Executive Coordinator of the Hopewell Valley Office of Emergency Management (OEM)

[26.](#) Resolution 2024-6.8 - Resolution Approving Renewal of Plenary Retail Consumption License #1108-33-001-001 for 2024-2025

PROFESSIONAL REPORTS

Borough Administrator - GP Caminiti

Borough Attorney - Walter Bliss

Borough Clerk - Betty Sterling

Chief Financial Officer - Sandy Webb

Chief of Police - Doug Pinelli

Superintendent of Public Works - Rick Smith

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ADJOURNMENT

**BOROUGH OF PENNINGTON
ORDINANCE NO. 2024-11**

**ORDINANCE AMENDING CHAPTER 98 OF THE CODE OF THE BOROUGH OF
PENNINGTON (FEES) TO CLARIFY WHEN A REFUNDABLE SECURITY DEPOSIT IS
REQUIRED FOR USE OF BOROUGH PARKS**

WHEREAS, Chapter 143 of the Borough Code governing Parks and Recreation Areas provides at Section 143-3.E that no organization (whether formal or informal) or group of people of 25 or more shall utilize the park facilities without first obtaining a permit as provide in Section 143-4; and

WHEREAS, Section 143-4.B of the Code provides that permits shall be issued upon the payment of the fee required by Chapter 98 of the Code; and

WHEREAS, Section 98-33 of Chapter 98 provides that use of the parks by a documented non-profit or Pennington resident shall pay a permit fee of \$75 and all others shall pay \$200; and

WHEREAS, in practice, the permit fee for governmental organizations has been waived;

WHEREAS, Ordinance No. 2024-1 amended Section 98-33 to provide that users of the parks who are not charged a fee must post a refundable security deposit of \$500 chargeable for the cost of clean-up or damage to facilities; and

WHEREAS, Borough Council now seeks to clarify Section 98-33 to make explicit that (a) governmental organizations shall not be charged a fee and (b) governmental organizations otherwise required to post a \$500 security deposit shall not be so required if the Borough of Pennington is a member or otherwise directly affiliated with that governmental organization;

NOW THEREFORE BE IT ORDAINED by the Borough Council of the Borough of Pennington that Section 98-33 of the Borough Code, concerning use of Borough parks, shall be amended to read as follows: (with new language underlined and deleted language crossed out):

§ 98-33 Use of parks.

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

- A. Permit for use of park by documented nonprofit or Pennington resident: \$75.
- B. Permit for use by ~~All~~ all, others: \$200, provided governmental organizations shall not be charged a fee.
- C. All users not charged a fee for use, unless a governmental organization with which the Borough of Pennington is directly affiliated, shall post a refundable security deposit of \$500 chargeable for cost of clean-up or damage to facilities.

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

Introduced: _____

Advertised: _____

Public Hearing: _____

Adopted: _____

Published: _____

ATTEST:

APPROVED:

Elizabeth Sterling, Borough Clerk

James Davy, Mayor

**BOROUGH OF PENNINGTON
ORDINANCE NO. 2024-11**

**ORDINANCE AMENDING CHAPTER 98 (FEES) OF THE CODE OF THE BOROUGH OF
PENNINGTON (FEES) TO CLARIFY WHEN A REFUNDABLE SECURITY DEPOSIT IS
REQUIRED FOR USE OF BOROUGH PARKS**

RECORD OF COUNCIL VOTE ON INTRODUCTION

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Angarone					Marciante				
Chandler					Stern				
Gnatt					Valenza				

RECORD OF COUNCIL VOTE ON ADOPTION

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Angarone					Marciante				
Chandler					Stern				
Gnatt					Valenza				

**BOROUGH OF PENNINGTON
RESOLUTION 2024 – 6.1**

RESOLUTION AUTHORIZING REFUNDS

BE IT RESOLVED that a refund be issued from the Water/Sewer Operating Fund to Donna Aster, c/o Dina Thornton, Destribats, Campbell, Staub & Schroth, LLC, 247 White Horse Avenue, Hamilton, NJ 08610 for an overpayment of water/sewer bill in the amount of \$122.89.

BE IT RESOLVED that a refund be issued from the Developer’s Escrow Account to Gimbert Fernandez, 100 Lewis Brook Road, Pennington, NJ 08534, for escrow balance for Escrow Account #90-068 in the amount of \$213.96.

Record of Council Vote on Passage

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Angarone					Marciante				
Chandler					Stern				
Gnatt					Valenza				

This is to certify that the foregoing is a true copy of a Resolution adopted by the Borough Council of the Borough of Pennington at a meeting on June 3, 2024.

Elizabeth Sterling, Borough Clerk

**BOROUGH OF PENNINGTON
RESOLUTION 2024 – 6.2**

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 \$ 381,211.79 from the following accounts:

Current	\$ 279,843.79
W/S Operating	\$ 37,248.54
General Capital	\$ 49,653.25
Grant Fund	\$ 1,887.01
Developer’s Escrow	\$ 687.50
Water/Sewer Capital	\$ 2,352.50
Other Trust Fund	\$ 7,428.00
Animal Control Trust	\$ 7.20
Unemployment Trust	\$ 2,104.00
TOTAL	\$ 381,211.79

Record of Council Vote on Passage

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Angarone					Marciante				
Chandler					Stern				
Gnatt					Valenza				

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Elizabeth Sterling, Borough Clerk

**BOROUGH OF PENNINGTON
RESOLUTION 2024 – 6.3**

**RESOLUTION GRANTING CONDITIONAL AUTHORIZATION
FOR LAS PATATAS DE RAFA LLC, DOING BUSINESS AS LA UNICA TO MAINTAIN
A TEMPORARY OUTDOOR DINING AREA IN THE PUBLIC
RIGHT- OF- WAY IN 2024**

WHEREAS, Rafa Ponce de Leon is the principal owner of Las Patatas de Rafa, LLC, d/b/a La Unica (“La Unica”) a restaurant located at 14 N. Main Street in the Borough of Pennington;

WHEREAS, Mr. Ponce de Leon and La Unica have 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 up to 8 chairs on the Main Street side and driveway sides 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 La Unica, 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, that use of the sidewalk as proposed is hereby ratified and approved and Council further resolves as follows:

1. Rafa Ponce de Leon and La Unica are granted permission to locate 4 tables and up to 8 chairs on the sidewalk immediately adjacent to their restaurant along N. Main Street and the driveway side of the restaurant, provided the following conditions are met and continue to be 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 other businesses in the building.
- H. Rafa Ponce de Leon and Las Patatas de Rafa LLC, dba La Unica, 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. Rafa Ponce de Leon and Las Patatas de Rafa 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.

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

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 Rafa Ponce de Leon or Las Patatas de Rafa LLC, dba La Unica.. 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, 2024.

Record of Council Vote on Passage

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Angarone					Marciante				
Chandler					Stern				
Gnatt					Valenza				

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Elizabeth Sterling, Borough Clerk

**BOROUGH OF PENNINGTON
RESOLUTION 2024-6.4**

**RESOLUTION AUTHORIZING PURCHASE OF 2025 F-750 DIESEL REGULAR CAB BASE
(F7D) UNDER STATE CONTRACT 17-FLEET-00241**

WHEREAS, the Superintendent of Public Works has identified the need to purchase a 6/8 Yard Dump Truck for the Public Works Department; and

WHEREAS, the Superintendent of Public Works has determined that the desired equipment is available under New Jersey State Contract 17-Fleet-00241; and

WHEREAS, the Superintendent has obtained quote PENNINGT1 dated 04/30/2024 from Route 23 Automall, 1301 Route 23, Butler, NJ 07405; and

WHEREAS, Route 23 Automall is a qualified vendor under the aforesaid State Contract and its proposal is consistent with the State Contract; and

WHEREAS, the proposed purchase of a 2025 F-750 Diesel Regular Cab Base (F7D) Dump Truck is subject to all the terms and conditions of the aforesaid State Contract; and

WHEREAS, a copy of the quote from Route 23 Automall in the amount of \$166,247.00 is attached to this Resolution; and

WHEREAS, purchase of the 2025 F-750 Diesel Regular Cab Base (F7D) Dump Truck under State Contract as proposed conforms with the Local Public Contracts Law and does not require further public bidding; and

WHEREAS, the Chief Financial Officer has certified that funds are available in the Capital budget, line item C-04-24-007-000-201;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington that the acquisition of a 2025 F-750 Diesel Regular Cab Base (F7D) Dump Truck for the Borough pursuant to the attached proposal from Route 23 Automall is hereby authorized in the amount of \$166,247.00, and the Chief Financial Officer and Borough Clerk are further authorized to execute such purchase orders and other documents as are needed to effectuate the purchase.

Record of Council Vote on Passage

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Angarone					Marciante				
Chandler					Stern				
Gnatt					Valenza				

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Elizabeth Sterling, Borough Clerk

**BOROUGH OF PENNINGTON
RESOLUTION 2024 – 6.5**

**RESOLUTION AUTHORIZING PREVENTATIVE MAINTENANCE FOR PUBLIC WORKS
VEHICLES AND GARBAGE TRUCKS UNDER STATE CONTRACT T-2108-A89300**

WHEREAS, the Superintendent of Public Works has determined that preventative maintenance services are necessary for various public works vehicles including three (3) garbage trucks and one (1) Peterbilt 330; and

WHEREAS, the Superintendent has determined that the repairs can be made under State Contract T-2108-A89300 through Hainesport Enterprises, Inc. located at 1466 Route 38, Hainesport, NJ 08036; and

WHEREAS, the Chief Financial Officer has certified that funds are available for this purchase in the following line items 4-01-26-290-000-277 (Streets), 4-01-26-305-000-277 (Trash) and 4-05-55-501-000-277; and

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington that the aforesaid repairs through Hainesport Enterprises, Inc. under State Contract T-2108-A89300 are hereby authorized in an amount not to exceed \$8,000.00 for Preventative Maintenance as requested by the Superintendent of Public Works. .

Record of Council Vote on Passage

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Angarone					Marciante				
Chandler					Stern				
Gnatt					Valenza				

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Elizabeth Sterling, Borough Clerk

**BOROUGH OF PENNINGTON
RESOLUTION 2024 – 6.6**

**RESOLUTION AUTHORIZING TAKE DOWN OF MAPLE TREE NEAR PROPOSED SECOND
EXCLOSURE WITHIN THE ARBORETUM AND
AUTHORIZING THE USE OF OPEN SPACE FUNDS FOR THIS PURPOSE**

WHEREAS, the Borough of Pennington acquired a parcel of land behind the Tollgate Elementary School as Open Space; and

WHEREAS, the Borough is developing this parcel as an Arboretum; and

WHEREAS, the Arboretum Committee has determined that there is a Maple tree near the proposed second enclosure within the Arboretum that needs attention; and

WHEREAS, the Superintendent of Public Works solicited a quote from HTS Tree Care Professionals to perform the services required related to the Maple tree; and

WHEREAS, a copy of quote #6360 from HTS Tree Care Professionals, LLC in the amount of \$600.00, is attached to this Resolution; and

WHEREAS, Pennington citizens have authorized the creation of an Open Space Trust Fund in accordance with N.J.S.A. 40:12-15.7, which authorizes use of such funds for, among other things, development and maintenance of lands acquired for recreation and conservation 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 Fund for this purchase;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the aforesaid services by HTS Tree Care Professionals, LLC, pursuant to the attached quote #6360, are hereby authorized for an amount not to exceed \$600, and the Chief Financial Officer and Borough Clerk are further authorized to execute such purchase orders and other documents as are needed to effectuate the work.

Record of Council Vote on Passage

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Angarone					Marciante				
Chandler					Stern				
Gnatt					Valenza				

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Elizabeth Sterling, Borough Clerk

**BOROUGH OF PENNINGTON
RESOLUTION 2024 – 6.7**

RESOLUTION APPOINTING WILLIAM E. MULLEN 3RD AS EXECUTIVE COORDINATOR OF THE HOPEWELL VALLEY OFFICE OF EMERGENCY MANAGEMENT (OEM)

WHEREAS, the Hopewell Valley Office of Emergency Management is a regional office that includes the Township of Hopewell and the Boroughs of Hopewell and Pennington; and

WHEREAS, the three municipalities are represented on the Hopewell Valley Office of Emergency Management by OEM Coordinator Douglas Pinelli (Pennington), OEM Coordinator William Springer (Hopewell Borough) and OEM Coordinator William E. Mullen 3rd (Hopewell Township); and

WHEREAS, the Hopewell Valley Office Of Emergency Management is required to appoint an Executive Director on an annual basis under NJ OEM Directive #104 Section 3.6;

WHEREAS, the OEM Coordinators for the three municipalities have nominated William E. Mullen 3rd to serve as Executive Coordinator to serve for one year from January 1, 2024 through December 31, 2024, nunc pro tunc and until his successor is appointed and qualified; and

WHEREAS, William E. Mullen 3rd, before his appointment as OEM Coordinator for Hopewell Township, served as Deputy Coordinator of the Hopewell Township Office of Emergency Management for 6 years;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that William E. Mullen 3rd, NJDEM #197, is hereby appointed as Executive Coordinator of the Hopewell Valley Office of Emergency Management, nunc pro tunc, to serve in this capacity from January 1 through December 31, 2024 and until his successor is appointed and qualified.

Record of Council Vote on Passage

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Angarone					Marciante				
Chandler					Stern				
Gnatt					Valenza				

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Elizabeth Sterling, Borough Clerk

**BOROUGH OF PENNINGTON
RESOLUTION 2024 - 6.8**

**RESOLUTION APPROVING RENEWAL OF PLENARY RETAIL
CONSUMPTION LICENSE #1108-33-001-001 FOR 2024-2025**

WHEREAS, Plenary Retail Consumption License #1108-33-001-001 is due for renewal on or before June 30, 2024; and

WHEREAS, the Borough has received an application for renewal but that application is yet unaccompanied by payment of the required Borough renewal fee;

WHEREAS, the Borough of Pennington Health Department has consequently not yet inspected the licensed premises for compliance with requirements under their purview;

WHEREAS, these matters are being addressed and it is anticipated that they will be resolved shortly;

WHEREAS, it is therefore the intent of Borough Council to approve the owner’s application for renewal of licensure subject to receipt of payment of the Borough fee and satisfactory completion of all required inspections;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington, that the application for renewal of License #1108-33-001-001 for the year 2024-2025 is hereby approved subject to the following conditions;

1. payment of \$2,500.00 renewal fee to the Borough of Pennington; and
2. completion of all required inspections as confirmed by the Borough Clerk;

BE IT FURTHER RESOLVED that the Borough Clerk of the Borough of Pennington, County of Mercer, is hereby authorized and instructed to issue and deliver said license when these conditions are satisfied and then notify the Division of Alcoholic Beverage Control accordingly, on or before June 30, 2024.

Record of Council Vote on Passage

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Angarone					Marciante				
Chandler					Stern				
Gnatt					Valenza				

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