

**Pennington Borough Council  
Regular Meeting – June 5, 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, Gnatt, Marciante, Stern and Valenza in attendance.

Also present were Borough Administrator Donato Nieman, Administrative Coordinator Mona Habiby, Chief Financial Officer, Sandra Webb, Chief Doug Pinelli, Sergeant Daryl Burroughs 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 of the website.

**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.**

Dan Pace of 9 Railroad Place asked about the traffic count machine and whether it would be permanently mounted. Mrs. Chandler stated that the counters would be placed on a number of streets throughout the Borough.

Mr. Eric Holterman, Chair of the Historic Preservation Commission expressed concern about lighting in the Historic District. Mr. Holtermann stated that PSE&G will be replacing the current lights in the downtown area with 4000k Lumen lights that are too bright for the downtown. Mr. Holtermann stated that PSE&G is only offering one choice for lighting and he suggests that the Borough look into replacing the lights with 3000K Lumen lights. Mr. Holtermann suggested getting samples of the lights to see what they would look like because 4000K Lumen lights are too much for any Historic District. Mr. Holtermann stated that with Phase 2 of the Streetscape coming it is important to get a handle on the lighting. Mr. Holtermann stated that replacing the high pressure sodium lights with LED is a good idea, but the Lumens is the important factor. Mayor Davy stated that PSE&G is planning to install 4000K Lumen lights as part of the Streetscape 2 project. Mr. Holtermann stated that the options are to remove the lights or to replace the tops with LED fixtures. Mr. Holtermann stated that it is not a matter of replacing a bulb. Mayor Davy stated that the light fixtures were installed in the interest of public safety. Mayor Davy stated that removing the lights from the upcoming project is a process. Mrs. Chandler asked if we can talk to PSE&G to see if there are other options. Mayor Davy stated that several people have asked the question and there are no other options available. Mayor Davy stated that the current lights are all being replaced with the 4000K LED fixtures. Ms. Angarone stated that the incandescent lights on Weidel were replaced and it is very bright and obnoxious. Mayor Davy stated that if we do not go with the PSE&G lighting program, the Borough would have to cover the expense of the lights. Mr. Holtermann stated that he would reach out to the manufacturer and see what other lights are available. Mrs. Chandler stated that she would like to see what the cost would be if the Borough pulled out of the PSE&G program. Mayor and Council thanked Mr. Holtermann for looking into this.

**MAYOR’S BUSINESS**

Mayor Davy stated that the Borough received a request from the Municipal Alliance for the annual grant resolution and also for use of Kunkel Park for Come Out and Play night with an additional request to waive the fee for use of Kunkel Park. Mayor Davy invited Heide Kahme from the Municipal Alliance to speak about these requests.

Mrs. Kahme thanked Mayor and Council for the opportunity to present to Council about the Municipal Alliance as they consider the two requests later in the meeting. Mrs. Kahme stated that the Resolution for the grant request is now in the twenty-seventh year. Mrs. Kahme shared a brief power point presentation on what she and the Municipal Alliance do for the youth of the community. Mrs. Kahme stated that

primarily they support and develop programs in the community that promote positive youth development. Mrs. Kahme stated that they have an executive committee that assists them made up of Mayors, Council Members, School District Officials, Professionals in the Community, Parents and others to discuss how best to get the word out to the youth of the community related to drug, alcohol and vaping use as well as mental health awareness. Mrs. Kahme reviewed some of the programs available to youth including programs to train young people to help identify friends that might be in crisis.

Mrs. Kahme briefly spoke about the Come Out and Play 3 day event which is held outdoors for youth with programs related to nature, art and promoting getting outdoors. Mrs. Kahme stated that they appreciate consideration of the waiver of the fee for use of Kunkel Park.

Mayor Davy stated that he did not anticipate any problems with the requests from the Municipal Alliance, but that Mrs. Kahme was welcome to stay for the meeting. Mrs. Kahme thanked Mayor and Council for their support.

Mayor Davy reported that the ANJEC grant that the Borough applied for through the DEP for work at the Arboretum was denied.

Mayor Davy stated that the Borough recently conducted another drone survey of the deer in Pennington. Mayor Davy stated that several years ago the Borough had a survey done and the recent survey was done to see if the deer management program has had any impact on the deer population in the Borough. Mrs. Chandler stated that the original study was done about 4 years ago and that showed that there were about 100 deer living inside the Borough and another 300 deer living on the borders of Pennington Borough. Mrs. Chandler stated that prompted the Borough to undertake its current deer management program. Mrs. Chandler stated that for the last three years, the Borough has been working to cull the deer population and so this year we authorized another drone survey. Mrs. Chandler stated that the study was done one night and the results showed 44 deer living within the Borough. Mrs. Chandler stated that deer management will continue to be an issue for the Borough even if the number were to drop even further. Mrs. Chandler stated that the deer management group will be meeting again to determine whether to continue with this program going forward. Mr. Valenza asked that the Health Officer and Board of Health be included in the conversation and that we coordinate with Hopewell Township because if they are not working on their deer population then it defeats the purpose of Pennington continuing the program. Mrs. Chandler stated that she is optimistic that the program is effective as she has seen untouched landscaping throughout the Borough. Mrs. Chandler stated that there is a coordinated effort and she will talk about that later during Committee reports.

Mayor Davy stated that the next item is Beigene and the transport of oversize loads through Pennington Borough. Mayor Davy stated that a lot has happened since the last meeting. Mayor Davy stated in May, the engineer for the project presented the plan to Borough Council for the movement of the trucks down Route 31 to Main Street where they would turn left onto Delaware Avenue. Mayor Davy stated that he worked with Kit Chandler and John Valenza and the County Engineer and he was sure that an agreement had been reached where most of the trucks would not be coming through Pennington Borough. Mayor Davy stated that unfortunately we subsequently heard that the proposal and agreement was denied and Mercer County officials ordered that the County Engineer issue the permit. Mayor Davy stated that the first movement of trucks came through today and this will be ongoing through the summer, Monday through Friday. Mayor Davy stated that he and Kit Chandler attended the County Executive meeting and they were met with a brick wall. Mayor Davy stated that we continue to work with Beigene and the hauler to ensure that this continues to progress without disruption to the Borough. Mayor Davy stated that there will be further discussion in Closed Session.

Chief Pinelli stated that he has been working closely with Beigene and the hauler and they have been very accommodating. Chief Pinelli stated that they are still working on figuring out the times that they will come through town but it was only the first day so the kinks are still be worked out. Mrs. Chandler stated that she is concerned about the number of trucks and the amount of days that are available through the month of August. Mayor Davy stated that the problem is that we do not control the road, Mercer County does. Mayor Davy commended the Police Department on the coordination to ensure that everyone is safe.

Ms. Stern inquired about the proceedings at the County meeting that the Mayor and Kit attended. Mayor Davy stated that it was clear that the County was going to issue the permit, but they tried to get them to understand the problem this would cause for Pennington and to try to mitigate those concerns. Mayor Davy stated that the County Executives were not interested in getting involved and they were told to work it out with Hopewell Township. Some further discussion took place regarding the merits of the alternate route which would not involve disruption of local businesses in Lawrence. Mr. Valenza stated that he spoke to representatives from Beigene and the hauler today and they are willing to work with the Borough. Mr. Valenza asked that anyone who is directly impacted by this let Mayor and Council know so that any concerns can be addressed.

Mayor Davy announced the resignation of Barbara Kirsch from the Historic Preservation Commission and thanked her for her years of service.

Mayor Davy reminded Council that the NJ Municipal Aid 2023 Grant application is due by July 1, 2023. Mayor Davy stated that a meeting was held to discuss what the next road project would be. Mayor Davy asked Ms. Stern to comment. Ms. Stern stated that the Public Works Committee has been maintaining, reviewing and updating a list of priority road projects in conjunction with larger water projects so that they can be addressed together. Ms. Stern stated that given that, the next project on the list that we intend to go forward with applying for is Abey Drive, Kings Court and Mallard Drive. Ms. Stern stated that the project would not be scheduled for construction until 2026 so there will be plenty of opportunity for public input. Mayor Davy stated that the other grant opportunity that was discussed was a NJDOT Walking and Biking Safety grant which the group agreed to consider for next year.

Mayor Davy stated that the next item is the traffic signal at Route 31 and Ingleside Avenue. Mayor Davy stated that he has communicated to NJDOT and Mercer County that though Pennington is not opposed to the idea, that we would like to see a traffic impact analysis for Burd Street and Ingleside Avenue. Mayor Davy stated that NJDOT stated that they will not be doing that as they do not feel that it is warranted. Mrs. Chandler stated that it is important to do a traffic count on the streets involved so that we have the data available as a baseline. Ms. Angarone stated that she is hearing support for the traffic signal, however she does feel that having the data available regarding the traffic impact is important. Mrs. Chandler stated that we need data in order to consider some options that might help with the traffic impact.

Mayor Davy stated that the Streetscape Public Information Center comments were distributed for approval. Mayor Davy stated that this needs to be approved so that it can be submitted and posted. Mayor Davy stated that he will ask that the comments show that the lighting is still under discussion. Mayor Davy asked if there were any other changes to the document. There were none.

**MAYOR’S APPOINTMENTS**

Mayor Davy stated that he had listed on the agenda the designation of a Chair for the Environmental Commission but he will be holding that as he is not ready.

Mayor Davy announced that Kieran John will be moving from Alternate 2 to regular member of the Environmental Commission for an unexpired term ending December 31, 2025.

**APPOINTMENTS (WITH COUNCIL APPROVAL)**

Mayor Davy announced the following updates for Historic Preservation:

- Robert Chandler – changed from Class C to Class A
- Natalie Shivers – changed from Class C to Class A
- Katrina Homel – changed from Class D to Class B
- Mary Baum – moving from Class C – Alternate 1 to Class C member for an unexpired term ending December 31, 2024
- Yasmine Zein appointed as Class C – Alternate 1 for unexpired term ending December 31, 2023

Council Member Angarone made a motion to approve the changes/appointment to Historic Preservation, second by Council Member Valenza with all members present voting in favor with the exception of Mrs. Chandler who abstained.

**APPROVAL OF MINUTES**

Council Member Chandler made a motion to approve the minutes of the May 1, 2023 Regular Council Meeting, second by Council Member Valenza with all members present voting in favor.

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

Council Member Marciante made a motion to approve the Closed Session minutes for May 1, 2023 for content but not for release, second by Council Member Valenza with all members present voting in favor.

**ORDINANCES FOR PUBLIC HEARING AND ADOPTION**

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:

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

<b>Application</b>	<b>Fee</b>	<b>Escrow</b>
Waiver	<del>\$300</del> <u>\$400</u>	<del>\$200</del> <u>\$500</u>
Extension	<del>\$100</del> <u>\$150</u>	<del>\$300</del> <u>\$500</u>
Concept review	<del>\$200</del> <u>\$300</u>	<del>\$500</del> <u>\$1,000</u> to be credited
<b>CONDITIONAL USES</b>		
Residential	<del>\$300</del> <u>\$500</u>	<del>\$400</del> <u>\$1,000</u>
Nonresidential	<del>\$400</del> <u>\$600</u>	<del>\$800</del> <u>\$1,500</u>
<b>INTERPRETATIONS</b>		
Residential	<del>\$200</del> <u>\$300</u>	<del>\$600</del> <u>\$1,000</u>
Nonresidential	<del>\$300</del> <u>\$600</u>	<del>\$600</del> <u>\$1,000</u>
<b>APPEALS</b>		
Residential	<del>\$200</del> <u>\$300</u>	<del>\$500</del> <u>\$1,000</u>
Nonresidential	<del>\$400</del> <u>\$500</u>	<del>\$500</del> <u>\$1,000</u>
<b>VARIANCES</b>		
<b>Bulk</b>		
Residential	<del>\$250</del> <u>\$300</u> per variance	<del>\$1,000</del> <u>\$2,000</u>
Nonresidential	<del>\$400</del> <u>\$500</u> per variance	<del>\$1,000</del> <u>\$1,500</u> per variance
<b>Use</b>		
Residential	<del>\$300</del> <u>\$500</u>	<del>\$1,000</del> <u>\$2,000</u>
Nonresidential	<del>\$500</del> <u>\$600</u>	<del>\$1,500</del> <u>\$3,000</u>
<b>SPECIAL MEETING OF BOARD</b>	<del>\$500</del> <u>\$1,000</u>	
<b>ZONING PERMITS</b>		
<b>Residential</b>		
<u>Fence</u>	<u>\$25</u>	
Principal use	<del>\$50</del> <u>\$60</u>	
Accessory use	<del>\$25</del> <u>\$30</u>	
<b>Commercial</b>		
<u>Fence</u>	<u>\$50</u>	

Application	Fee	Escrow
Principal use	<del>\$100</del> <u>\$150</u>	
Accessory use	<del>\$50</del> <u>\$60</u>	
Temporary activity permit	<del>\$25</del> <u>\$50</u>	
Residential conversion	<del>\$50</del> <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 (inches)	Fee (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 open the Public Hearing on Ordinance 2023-10, second by Council Member Gnatt. There were no comments from the public. Council Member Chandler made a motion to close the Public Hearing on Ordinance 2023-10, second by Council Member Angarone with all members present voting in favor. Council Member Chandler made a motion to adopt Ordinance 2023-10, second by Council Member Marciante with all members present voting in favor.

Mayor Davy read Ordinance 2023-11 by title.



**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 &amp; Estimated Cost</u>	<u>Estimated Maximum Amount of Bonds &amp; 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:	<u>\$45,000</u>	<u>\$42,750</u>	

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

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

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

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

- (a) The improvements or purposes described in Section 3 of this bond ordinance are not current expenses. They are all improvements or purposes that the Borough may lawfully undertake as general improvements, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.
- (b) The average period of usefulness, computed on the basis of the respective amounts of obligations authorized for each purpose and the reasonable life thereof within the limitations of the Local Bond Law, is 10 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 Marciante made a motion to open the Public Hearing on Ordinance 2023-11, second by Council Member Chandler. There were no comments from the public. Council Member Chandler made a motion to close the Public Hearing on Ordinance 2023-11, second by Council Member Valenza. Mrs. Chandler stated that although this ordinance is for eight traffic signs that will indicate the speed cars are traveling, the intent is to purchase two per year. Council Member Marciante made a motion to adopt Ordinance 202311, second by Council Member Chandler with all members present voting in favor.

### **Committee Reports**

**Planning & Zoning / Personnel / Economic Development** – Ms. Gnatt stated that the Planning Board met and the Master Plan Re-Examination was presented by Borough Planner, Jim Kyle and Andy Jackson. Ms. Gnatt stated that the Resolution was unanimously approved.

Ms. Gnatt stated that Economic Development met but she had nothing to report.

**Public Works/Open Space/Shade Tree** – Ms. Stern stated that Public Works met April 1<sup>st</sup> and discussed the Recycling contract submitted by Mercer County Improvement Authority and includes a very large increase. Ms. Stern stated that this item will be discussed later under Council Discussion. Ms. Stern stated that Mr. Nieman and Mr. Smith met with Dan Napoleon but there is nothing that can be done regarding the cost increase as the cost to dispose of recycling has gone up and that gets distributed to the participants in the agreement. Mr. Smith stated that he looked at bringing this service in house but it would not be cost effective.

Ms. Stern stated that the Public Works Committee supported Mr. Smith's suggestion to apply for a Stormwater grant and there is a resolution on for later in the meeting.

Ms. Stern stated that the Committee received a draft of an amendment to the Stormwater Ordinance which will be discussed at the Public Works meeting on June 19<sup>th</sup>, 2023 at 7:00 pm. Ms. Stern stated that they hope to have this ready for introduction at the July meeting.

Ms. Stern stated that the Committee continues to work on a consolidated list of projects that will combine road projects and water projects in one place. Ms. Angarone suggested incorporating the Master Plan into the discussion.

Ms. Stern reported that Open Space met on May 17<sup>th</sup>, Mr. Jackson attended to discuss the Open Space Element of the Master Plan. Ms. Stern stated that a subcommittee will be reviewing the section of the Master Plan pertaining to Open Space. Ms. Stern stated that the Open Space Committee has requested more detail on the spreadsheet that Mrs. Sterling provided.

Ms. Stern stated that Shade Tree met May 9<sup>th</sup> and discussed and congratulated themselves on a successful Arbor Day event. Ms. Stern commended Morris Fabian for a great job working with the Tollgate students, teaching them how to plant a tree and involving them in the planting of a tree. Ms. Stern stated that Shade Tree is very interested in the Arboretum cleanup program. Ms. Stern stated that Meredith Moore has arranged to have Shade Tree bookmarks in the Library welcome packets. Ms. Stern stated that two more trees have been identified for removal at Sked Street Park and there is a resolution on for later in the meeting.

**Public Safety /Finance & Technology / Arboretum / Landfill** – Mrs. Chandler reported that Finance and Technology and Public Safety did not meet. Ms. Chandler stated that the Landfill committee did not meet, but staging is ongoing at the site.

Mrs. Chandler reported that June cleanup of the Arboretum has begun, there were 8 volunteers present this past Saturday and they were very energetic and did a great job. Mrs. Chandler stated that sign up is available through the Environmental Commission.

Mrs. Chandler stated that a deer management meeting was held with Hopewell, Pennington, Mercer County and others. Mrs. Chandler stated that a robust conversation to coordinate efforts for deer management took place. Mrs. Chandler stated that there are several locations that are too residential for hunting. Mrs. Chandler stated that they discussed a deer drive to move deer from residential areas to areas where they can be hunted.

Mrs. Chandler reported that the PFAS Building Committee participated in a walk-through of the building. Mrs. Chandler stated that the building is in good shape and well maintained. Mrs. Chandler stated that no decisions or promises have been made.

**Historic Preservation / Library / Construction** – Ms. Angarone stated that the Library Board met May 25<sup>th</sup>, and voted to appoint Hilary Burke to replace outgoing President Maureen Hassett. Ms. Angarone reported the annual audit is underway. Ms. Angarone stated that the Library received a generous donation from the First Aid Squad which they plan to use for building improvement and other programs. Ms. Angarone reported that there are upcoming events scheduled for the summer months, information can be found on the Library website.

Ms. Angarone stated that Historic Preservation met on May 16<sup>th</sup> and discussed the Streetscape Public Information Session Comments. Ms. Angarone stated that they are making good progress on Ordinance revisions. Ms. Angarone stated that earlier Council approved some shuffling of appointments. Ms. Angarone stated that some of the Historic Preservation members attending the Planning Board meeting to hear the Master Plan Re-examination presentation. Ms. Angarone stated that they continue to update the Historic Preservation page on the website.

**Parks & Recreation** – Mr. Marciante stated that Parks & Recreation is planning the July 4<sup>th</sup> races and the Summer Concert series has begun.

**Board of Health / Environmental Commission** – Mr. Valenza stated that the Board of Health met May 2<sup>nd</sup> and the transition from Montgomery Township to Hopewell Township is complete. Mr. Valenza stated that Health Officer Dawn Marling is great to work with. Mr. Valenza stated that the Health Department participated in Pennington Day and performed necessary inspections for food vendors. Mr. Valenza reported on upcoming events sponsored by the Health Department, information is available on the website. Mr. Valenza stated that the COVID 19 public health emergency ended May 11<sup>th</sup>, vaccines are available for the elderly and anyone who is immune compromised. Mr. Valenza reported that there is an upswing of tick borne illnesses in Hunterdon County. Mr. Valenza stated that they are reviewing public health ordinances and animal control and working with Chief Pinelli to understand how calls are handled.

Mr. Valenza reported that the Environmental Commission met on May 16<sup>th</sup>. Mr. Valenza stated that they discussed the ANJEC grant that was denied and Pennington Day. Mr. Valenza stated that a good part of the meeting was focused on Pennington Day and what can be done to reduce the carbon footprint such as composting. Mr. Valenza stated that they will continue to focus on how to adhere to the Resolution that was approved to reduce the carbon footprint by 2035.

**Senior Advisory Board** – Mayor Davy had no report. Mayor Davy stated that he wanted to thank Anthony Verelli for his attention and work in securing a \$2 million grant for the Hopewell Valley Senior Center.

**COUNCIL DISCUSSION**

**Communications Plan Update** – Ms. Stern reported that Pennington Day despite the weather was a great success. Ms. Stern stated that they had volunteers from committees assisting with manning the table. Ms. Stern thanked John Valenza, Kati Angarone and Deb Gnat for their help with set up and take down of the display. Ms. Stern stated that she will be talking to Mike Rheinhardt about getting all of the Borough Committees that have tables to be in one place for next year. Ms. Stern thanked Betty Sterling for the handouts in plastic sleeves that were on the tables. Ms. Stern stated that she will be submitting a request for 2024 for a canopy with Pennington Borough printed on it. Ms. Stern thanked Rick Smith for all of his help with the event.

Ms. Stern stated that a meeting was held with Committee Chairs and attended by Donato Nieman and Betty Sterling. Ms. Stern stated that these meetings with the Chairs are scheduled for three times per year. Ms. Stern stated that Mrs. Sterling gave an update on making sure that requisitions are submitted and that no purchases are made without first getting a purchase order.

Ms. Stern stated that Mrs. Sterling has asked that each committee designate one person to provide updates and news releases for the website so that we don't have an issue with something getting posted that wasn't ready to be posted. Ms. Stern stated that she will follow up on this.

Ms. Stern stated that Municipal Open House was held in April and though it was good for the committees and Council Members it was not well attended by the public.

Mayor Davy stated that second item for Council Discussion was the Shared Services Agreement with Mercer County Improvement Authority for recycling services and that has already been discussed.

**NEW BUSINESS**

Mayor Davy asked that Resolution 2023-6.6 be moved up as representatives from Jersey Meds are in attendance and he would like to get them on their way.

**BOROUGH OF PENNINGTON  
RESOLUTION 2023-6.6**

**RESOLUTION AWARDING LOCAL RETAIL CANNABIS LICENSE TO JERSEY MEDS  
MANAGEMENT, LLC, PURSUANT TO THE NEW JERSEY CANNABIS REGULATORY,  
ENFORCEMENT ASSISTANCE, AND MARKETPLACE MODERNIZATION  
ACT, N.J.S.A. 24:6I-31, ET SEQ., AND PENNINGTON ORDINANCE 2021-9**

**Regulatory Framework**

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

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

**WHEREAS**, by Ordinance 2021-9, entitled “Amended Ordinance Restricting the Number, Location and Operation of Cannabis Retailers, Medical Cannabis Dispensaries and Cannabis Delivery Services and Prohibiting All Other Cannabis Businesses and Operations in the Borough, Amending the Code of the Borough of Pennington” (hereafter “Ordinance” or “Ordinance 2021-9”), the Borough of Pennington has authorized as a conditional use the establishment of a single retail store for the sale of personal-use cannabis, subject to the following requirements: :

1. the store shall be licensed by the Cannabis Regulatory Commission (“CRC”) as a Class 5 retailer under the Personal Use Act;
2. the store shall be located in either the B–H Highway Business zoning district or the OB-Office Business zoning district;
3. the store shall be regulated as a “conditional use,” requiring the owner to satisfy as a condition of operation the restrictions on the number, location, manner and time of operation set forth in the Ordinance, as amended from time to time, including:
  - (a) the floor area of the licensed facility shall not exceed 2,500 square feet, as defined in Chapter 215 of the Borough Code;
  - (b) the operating hours of the dispensary shall be between 9 am and 8 pm daily;
  - (b) the store shall be accessible directly from a right-of-way through a separate entrance independent from any other retail ingress;
  - (c) no cannabis product shall be visible from a public sidewalk, public street or right-of-way or any other public place;
  - (e) all cannabis products shall be stored securely, indoors and onsite;
  - (f) consumption of cannabis products, by any means of ingestion, shall not be permitted in the licensed facility or adjacent grounds;
  - (g) the licensed facility shall implement odor control measures approved by the Board of Health;
  - (h) the licensed facility shall develop and implement security protocols subject to review and approval by the Pennington Borough Police Department;
  - (i) At a minimum, the following security measures must be undertaken:
    - [1] a video recording security system shall be employed covering all areas of the facility and the exterior of the building with a 24/7 recording system that records for a minimum 30-day archive;
    - [2] the facility and adjacent right-of-way shall be monitored by staff and kept free of loitering, litter and other debris, and the sidewalks shall be swept and cleaned on a regular basis;
4. the design of the building or structure required by the licensed facility shall conform to the general character of the area in which it is located;
5. the facility shall provide off-street parking and site access as required by Borough ordinances and applicable approvals of the Borough Planning Board;
6. the facility shall also comply with all applicable zoning, signage and site plan requirements and the specifications and standards of Sections 215-79 and 215-81 and other applicable provisions of Chapter 215 of the Borough Code, as may be amended from time to time;

**WHEREAS**, as authorized by the Personal Use Act, the Ordinance establishes a separate local licensing requirement as part of Borough restrictions on the number of cannabis retailers and their location, manner and times of operation, to the full extent permitted by law, and such license must be renewed annually;

**WHEREAS**, the issuance or renewal of a local license shall require a resolution of Borough Council finding that the applicant complies with all applicable Borough restrictions on the number of cannabis businesses and the location, manner and times of their operation, including continued compliance with all zoning and land use approvals and related conditions and standards;

**WHEREAS**. Borough Council may deny or revoke a local license or take other adverse action based on failure of compliance with restrictions, conditions and standards which are the basis for licensure, and to the extent permitted by law, possession of a valid local license shall be a condition precedent to operation of a cannabis business in the Borough;

**WHEREAS**, Borough Council shall notify the CRC in every case that Council either approves or denies an application for local licensure;

**WHEREAS**, the local licensing requirement shall be in addition to any land use approvals within the jurisdiction of the Borough Planning Board; .

**WHEREAS**, as authorized by the Personal Use Act and N.J.S.A. 40:48I-1.a (1), Ordinance 2021-9 imposes a transfer tax of up to two percent (2%) on the sale of cannabis or cannabis items by a cannabis retailer located in the Borough;

**WHEREAS**, municipalities imposing a transfer tax by ordinance are required by N.J.S.A. 40:48I-1.a (2) to include in the ordinance a user tax, equivalent to the transfer tax rate, payable by any concurrent license holder in the municipality operating more than one cannabis establishment and transferring cannabis or cannabis items to any of the license holder’s other cannabis establishments, whether located in the same or other municipality, based on the value of each such transfer or use not otherwise subject to the transfer tax;

**WHEREAS**, any violation of the provisions of the Ordinance or the conditions of the zoning permit granted, inclusive of any agreements or conditions imposed by the Planning Board, shall be punishable by a civil fine of no less than \$1,000.00 and no more than \$2,500.00, and all violations shall be reported to the CRC or other appropriate state authority;

Application for Local License by Jersey Meds Management, LLC

**WHEREAS**, Jersey Meds Management, LLC (“Jersey Meds”).has applied for a local license to locate and operate a retail cannabis store as lessee of Unit 5 in the Pennington Square Shopping Center, Block 206, Lot 3 on the Pennington Borough Tax Map, also known as 7 Route 31 North in the Borough of Pennington;

**WHEREAS**, the proposed location is in the BH - Business-Highway Zoning District of the Borough;

**WHEREAS**, in support of this application, New Jersey Meds has submitted the following information and related documents:

1. On May 2, 2022, Borough Council approved Resolution 2022-5.23, titled “Resolution in Support of Application of Jersey Meds Management, LLC for Class 5 Cannabis Retail License.” The Resolution was adopted as proof of local support for the suitability of the location proposed by Jersey Meds, proof required to be submitted by Jersey Meds as part of its application to the CRC for State licensure. This Resolution confirmed Jersey Meds’ commitment to comply with all conditions of use and other requirements contained in the Ordinance and set forth above. The Resolution was also contingent upon a detailed review of Jersey Meds’ proposed physical plant and plan of operations by applicable local authorities in accordance with the Ordinance and such zoning and land use approvals required by law. A copy of Resolutions 2022-5.23 is attached.
2. On June 10, 2022, the Pennington Borough Zoning Officer issued a letter to the attorneys for Jersey Meds certifying that Jersey Meds’ cannabis retail store and intended operation at 7 Route 31 North in Pennington will conform with local zoning requirements allowing the operation of a cannabis retailer as a “conditional use,” provided that before the store will be permitted to open it must obtain necessary land use approvals from the Pennington Planning Board, including a determination that the store will in fact satisfy the conditions for conditional use set forth in the zoning ordinance. Jersey Meds also required this Letter as part of its application for licensure to CRC. A copy of this Zoning Letter is attached.
3. Jersey Meds subsequently received from the CRC a “Final Agency Decision – Approval of Conditional License Application” dated July 29, 2022, issued for the location in the Pennington Square Shopping Center at 7 Route 31 North in Pennington. A copy of this Conditional License approval is attached.
4. Jersey Meds then applied to the Planning Board for approval as a conditional use under the Ordinance and, after published notice as well as mailed notice to all property owners within 200 feet, presented testimony at a hearing before the Board on December 14, 2022. Jersey Meds’ application to the Board included a sealed Conditional Use Plan dated November 17, 2022 prepared by Tristate Engineering

and Surveying, PC (Project No. 22-139, 1 sheet); sealed Traffic Impact Study captioned "Trip and Parking Generation letter," dated November 10, 2022, prepared by McMahon, A Bowman Company, signed by Victor C. Anosike, P.E.; a sealed floor plan, dated October 11, 2022, prepared by Ben Catarinicchia, AIA of Zacs International, LLC (Project No. Z22-023, 2 sheet); and the sealed drawing for the proposed signage, dated November 9, 2022, prepared by Albert B. Varosi, P.E., P.P., C.M.E. from Blazing Visual (1 sheet). These documents are on file with the Secretary to the Board.

5. The hearing before the Planning Board included reports by the Borough Planner, the Borough Engineer and the Pennington Police Department, testimony by Jersey Meds' Cannabis Consultant (Siegel), Architect (Catarinicchia) and Engineer and Planning Consultant (Mancini), as well as testimony by the Board's Planning Consultant (Kyle) and Engineering Consultant (Perry). One member of the public also spoke.

6. With respect in particular to security requirements, the Planning Board considered the report of the Pennington Police Department, dated December 6, 2022, by Chief Douglas M. Pinelli. As reported, based on the Chief's review of Jersey Meds' security plans, floor layout, preliminary map of camera locations, and consultation with Jersey Meds' security team, the plans were determined to be sufficient to meet all standards of both the local safety protocol and the federal and state rules and regulations. The report expresses confidence as well that Jersey Meds will work with the Borough during the opening phase to address any concerns that may arise. A copy of this Report is attached.

7. At the conclusion of the hearing on December 14, 2022, by a vote of 8 to 0, the Planning Board conditionally approved the Jersey Meds' application. This approval was memorialized by a Resolution adopted by the Board on January 11, 2023. A copy of this Resolution is attached.

8. The Planning Board approval finds that Jersey Meds' proposed use complies with all of the conditional use requirements set forth in the Ordinance (now Section 215-81 of the Borough Code), that there is adequate parking for this business within the Pennington Square Shopping Center, that Jersey Meds has developed an online ordering system for cannabis products which will permit prescribed pickup times to avoid congestion at peak times of day, and that Jersey Meds has also arranged for off-duty police officers to assist with the control of customers and traffic at the initial opening of the business.

9. The Planning Board approval is subject to the following conditions:

(a) That Jersey Meds shall at all times operate this retail business in accordance with the requirements of Section 215-81 of the Borough Zoning Code (the Ordinance), the CRC Rules and Regulations (N.J.A.C. 17:30, et seq.) and the Personal Use Act;

(b) That with respect to odor control, based on the representation by the Board of Health that it does not have the capability of evaluating and approving the ventilation system, Jersey Meds must retain a private licensed engineering firm to select a ventilation system to satisfy this condition of approval, and after installation, certify to the satisfaction of the Borough Engineer that the proposed ventilation system includes all of the odor control measures, including carbon-filter ventilation, needed to prevent odors from emanating from the property, with provision for maintenance and monitoring the system annually to ensure that it is working properly at all times;

(c) That Jersey Meds shall provide the Borough Clerk and Board Secretary copies of the Class 5 license required to operate the business, once it is received from CRC;

(d) That as part of the security plan, Jersey Meds must confiscate any fraudulent identification documents presented in an effort to purchase cannabis products on the property and immediately contact the Pennington Borough Police Department;

(e) That within 30 days of publication of the notice of this approval by the Planning Board Secretary, Jersey Meds must arrange with the owner of the Shopping Center to bring current all real property taxes and sewer and water charges owed by the Center.

10. Jersey Meds has since submitted to the Borough a report by Professional Engineer Albert B. Varosi, P.E., dated April 24, 2023, certifying among other things that he is a New Jersey licensed professional engineer retained by Jersey Meds, that he will ensure that the odor control system installed on the property, including carbon-filtered ventilation, will be satisfactory to mitigate cannabis-related odors emanating from the interior of the property, and that the activated carbon air filters will be installed in the return air filter track of the HVAC rooftop unit and both exhaust fans at the garage and bathroom locations, with the recommendation that they be replaced every four months.

11. Jersey Meds' Conditional License approval by CRC does not permit it to purchase, possess, or sell cannabis or cannabis products (N.J.A.C. 17:30-7.6(e)) until the Conditional License is replaced by an approved annual license. Jersey Meds has applied to the CRC for the annual license and its application is pending.

12. On June 5, 2023, officers of Jersey Meds appeared before Borough Council, provided

testimony and responded to questions by Council Members.

13. Jersey Meds has agreed, as a condition of issuance of a local license, that it will pay required cannabis transfer taxes to the Borough on a monthly basis by the twentieth (20<sup>th</sup>) day of each month, with the last payment of each calendar year to be paid no later than the 20<sup>th</sup> day of December of that year.

Findings

**WHEREAS**, on the basis of this record, Borough Council makes the following findings:

1. Except as specifically noted below, Jersey Meds’ proposed Class 5 retail store complies with all applicable Borough restrictions on the number of cannabis businesses in the Borough and the location, manner and times of their operation, including compliance with all zoning and land use approvals and related conditions and standards, as required by the Ordinance (Section 215-81(15) of the Borough Code).

2. Exceptions, which shall be conditions precedent to issuance of a local license, are the following:

(a) Submission of expert certification to the Borough Engineer upon installation of the store’s ventilation system, as required by Condition D at page (5) of the Planning Board Resolution of January 11, 2023 (“Planning Board Resolution”);

(b) CRC Issuance of an annual Class 5 retail license to Jersey Meds, entitling Jersey Meds to open for business, and delivery of a copy of same to the Pennington Borough Clerk and to the Secretary to the Planning Board, consistent with Condition E at page (6) of the Planning Board Resolution;

(c) Documented confirmation that the owner of the Pennington Square Shopping Center has brought current all real property taxes and sewer and water charges for the Center, as required by Condition G at page (6) of the Planning Board Resolution;

(d) Documented confirmation that Jersey Meds has brought current all municipal land use application and escrow charges for its conditional use application before the Planning Board, as also required by Condition G at page (6) of the Planning Board Resolution;

(e) In addition to fees and charges paid or payable to the Pennington Planning Board, Jersey Meds shall pay the Borough all required application and registration fees.

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

1. Borough Council adopts the recitals and findings set forth above.

2. Issuance of a local license to Jersey Meds for the operation of a Class 5 retail store at 7 Route 31 North in the Borough of Pennington is hereby approved subject to the following conditions precedent:

(a) Written confirmation by the Borough Engineer that a satisfactory expert certification has been submitted in accordance with Finding 2(a) above;

(b) Written confirmation by the Borough Clerk that the CRC has issued to Jersey Meds an annual license in accordance with Finding 2(b) above;

(c) Written confirmation by the Borough Tax Assessor that the owner of the Princeton Square Shopping Center has brought taxes and sewer and water charges current, in accordance with Finding 2(c) above;

(d) Written confirmation by the Secretary to the Planning Board that Jersey Meds has brought current all land use application and escrow charges in accordance with Finding 2(d) above.

3. The required writings in satisfaction of the above conditions may be received and approved by the Borough Administrator and need not require prior approval by Borough Council before issuance of the license.

4. The local license shall be issued to Jersey Meds by the Borough Clerk over the signatures of the Mayor and the Borough Clerk and in a form determined by them to be suitable for display on the premises of the Jersey Meds’ store.

5. Issuance of the local license shall also be subject to the following continuing conditions:



- (a) Continued compliance with all applicable New Jersey State laws and regulations, including in particular the Personal Use Act, CRC Rules and Regulations, the requirements of Ordinance 2021-9 and the Code of the Borough of Pennington, all as may be amended from time to time.
- (b) Continued compliance with the conditions of Conditional Use approval by the Pennington Planning Board, as memorialized in the Planning Board Resolution including, inter alia, the required reporting of attempted use of fraudulent identification documents presented in an effort to purchase cannabis products, as set forth in Condition F at page (6) of the Planning Board Resolution.
- (c) Payment of all required taxes and fees owed to the Borough in accordance with the Ordinance and Borough Code and agreement concerning the schedule for monthly payment of cannabis transfer taxes stated above under “Application for Local License by Jersey Meds Management, LLC,” as may be amended from time to time.
- (d) The local license shall be prominently displayed in the Jersey Meds’ store, visible to customers.

**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	S				Stern	X			
Gnatt	X				Valenza	X			

Mayor Davy read the Resolution by title and asked Borough Attorney Walter Bliss to comment. Mr. Bliss stated that this is a local license for the one Class 5 Cannabis Retail License that is permitted in town and it meets all of the criteria in our Ordinance, has received Planning Board approval and has received conditional approval from the State although they await a permanent annual license. Mr. Bliss stated that as a result, Jersey Meds will not be able to operate until the license is issued by the State, but the Borough is moving ahead with issuance of the local license. Mr. Bliss stated that the Borough has the authorization under the law to regulate location, operation and time of operations. Mr. Bliss stated that the resolution is long because there is a lot of history to this and he wanted to be sure to capture it all in one place. Mr. Bliss read four amendments related to schedule of payment into the record based on a conversation that was held with the applicant earlier today. Mr. Bliss asked Mr. Alan Fox and Ms. Sheila Mints to comment on this as per the Resolution. Mr. Fox stated that the resolution is pretty comprehensive in explaining the process that Jersey Meds went through to get to this point. Mr. Fox stated that they are awaiting final approval from the State hopefully soon, the space should be prepared and ready by July. Mr. Fox stated that they are working towards compliance with conditions of the Planning Board Resolution and they will continue to ensure that everything is in place once the license is issued by the State. Mrs. Chandler asked if Jersey Meds was okay with the monthly submitting of tax revenues. Ms. Mints stated that works for them as it coincides with when State taxes are due. Mrs. Chandler asked when the annual license fee gets paid. Mrs. Chandler asked about the annual review that was discussed early in the process. Mr. Bliss stated that will be part of the annual renewal of the license. Mr. Bliss stated that as a condition of obtaining the local license, the fee must be paid. Ms. Angarone asked about parking and what will be done if parking becomes an issue. Mr. Bliss stated that it can be addressed as a condition when the license is renewed. Mr. Bliss asked Mr. Fox if his client is present and if they would like to say a few words. Mr. Fox stated that they understand that they cannot operate until the license is issued and that it requires payment of the annual fee. Council Member Marciante made a motion to approve Resolution 2023-6.6 as amended, second by Council Member Chandler with all members present voting in favor.

**BOROUGH OF PENNINGTON  
 RESOLUTION 2023 – 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 \$ 478,644.64 from the following accounts:

Current	\$ 331,622.59
W/S Operating	\$ 88,134.99
Grant Fund	\$ 2,323.16

Developer’s Escrow	\$ 4,925.80
General Capital	\$ 19,159.35
Other Trust Fund	\$ 31,990.00
Animal Control	\$ 15.00
Open Space	\$ 473.75
<b>TOTAL</b>	<b>\$ 478,644.64</b>

**Record of Council Vote on Passage**

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

Council Member Chandler made a motion to approve Resolution 2023-6.2, second by Council Member Angarone with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2023 – 6.3**

**RESOLUTION AUTHORIZING PURCHASE OF STALKER TRAFFIC DATA COLLECTOR  
W/SOLAR OPTION FROM STALKER RADAR APPLIED CONCEPTS, INC. UNDER STATE  
CONTRACT 17-FLEET-00726**

**WHEREAS**, the Public Safety Committee has identified the need to purchase a Stalker Traffic Data Collector with solar option for the Pennington Borough Police Department; and

**WHEREAS**, the Chief of Police has determined that the desired data collector is available under New Jersey State Contract 17-Fleet-00726; and

**WHEREAS**, the Chief of Police has obtained quote #2073675 dated 5/2/2023 from Stalker Radar Applied Concepts, Inc.,855 E. Collins Blvd., Richardson, TX 75081; and

**WHEREAS**, Stalker Radar, Applied Concepts, Inc. 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 Stalker Traffic Data Collector from Stalker Radar, Applied Concepts, Inc.is subject to all the terms and conditions of the aforesaid State Contract; and

**WHEREAS**, a copy of the quote from Stalker Radar, Applied Concepts, Inc. in the amount of \$2,695.00 is attached to this Resolution; and

**WHEREAS**, purchase of the Traffic Data Collector 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-04-21-010-000-201;

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Pennington that the acquisition of a Stalker Traffic Data Collector for the Pennington Borough Police Department pursuant to the attached proposal from Stalker Radar, Applied Concepts, Inc. is hereby authorized, 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	X				Marciante	S			
Chandler	M				Stern	X			
Gnatt	X				Valenza	X			

Council Member Chandler made a motion to approve Resolution 2023-6.3, second by Council Member Marciante with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2023 – 6.4**

**RESOLUTION AUTHORIZING BLOCK PARTY ON JULY 8, 2023 FROM  
4 PM TO 8 PM ON VOORHEES AVENUE**

**WHEREAS**, Charles Marciante has applied to the Borough of Pennington for permission to close the streets known as Burd Street and Sked Street in the Borough on July 8, 2023 beginning at 4 PM and ending at 8 PM for a block party on Voorhees Avenue for an estimated 30 people;

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

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

**Record of Council Vote on Passage**

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

Council Member Chandler made a motion to approve Resolution 2023-6.4, second by Council Member Stern with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2023 – 6.5**

**RESOLUTION AUTHORIZING BLOCK PARTY ON AUGUST 19, 2023 (RAIN DATE AUGUST 20,  
2023) FROM 11 AM TO 10 PM ON SKED STREET**

**WHEREAS**, Patrick Marchetti has applied to the Borough of Pennington for permission to close the street known as Sked Street in the Borough on August 19, 2023 (Rain Date August 20, 2023) beginning at 11 AM and ending at 10 PM for a block party on Sked Street (South End) for an estimated 50 people;

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

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

**Record of Council Vote on Passage**

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

Council Member Chandler made a motion to approve Resolution 2023-6.6, second by Council Member Stern with all members present voting in favor.

**BOROUGH OF PENNINGTON**

**RESOLUTION 2023 – 6.7**

**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**, Resolution 2023-5.6 authorized the removal of 11 trees at Sked Street Park; and

**WHEREAS**, Public Works Superintendent Rick Smith has identified 2 additional trees that are diseased and require removal; and

**WHEREAS**, Public Works Superintendent Rick Smith has obtained quotes from HTS Tree Care Professionals, Tom’s Tree Service and Princeton Tree Care for tree removal and stump grinding of the 2 additional trees at Sked Street Park; and

**WHEREAS**, Mr. Smith recommends that the Borough accept quote #5767, dated May 19, 2023 submitted by HTS Tree Care Professionals for removal of 2 trees including 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 \$4,000.00 for the removal of 2 additional trees at Sked Street Park as 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	S				Stern	X			
Gnatt	X				Valenza	X			

Council Member Marciante made a motion to approve Resolution 2023-6.7, second by Council Member Chandler with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2023 - 6.8**

**RESOLUTION APPROVING RENEWAL OF PLENARY RETAIL CONSUMPTION LICENSE #1108-33-001-001 FOR 2023--2024**

**WHEREAS**, renewal of Plenary Retail Consumption License #1108-33-001-001 is due for renewal on or before June 30, 2023; and

**WHEREAS**, the Borough has received an application for renewal but that application is yet unaccompanied by payment of 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 owners 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 2023-2024 is hereby approved subject to the above conditions; and

**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	X				Marciante	X			
Chandler	M				Stern	S			
Gnatt	X				Valenza	X			

Council Member Chandler made a motion to approve Resolution 2023-6.8, second by Council Member Stern with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2023-6.9**

**RESOLUTION AUTHORIZING RETENTION OF  
SPECIAL LABOR COUNSEL**

**WHEREAS**, the Borough of Pennington requires the services of a special labor counsel to represent the Borough in a pending employee disciplinary matter;

**WHEREAS**, on or about May 12, 2023, in anticipation of statutory deadlines for Borough action, on the advice of the Borough Attorney, the Mayor entered into an agreement with the law firm of Trimboli & Prusinowski, LLC, of Morristown, New Jersey, through its principal Stephen E. Trimboli, Esquire, to serve as special labor counsel in this matter;

**WHEREAS**, a condition of this agreement provides that at the first meeting of Borough Council after the signing of the agreement by Borough representatives, Borough Council will have the right to terminate the agreement effective immediately, provided the attorney is compensated in full for all services and expenses incurred to the date notice of the termination is provided;

**WHEREAS**, the agreement provides that the firm shall perform services at the rate of \$200 per hour for attorneys and \$125 per hour for paralegals, with a projected total cost of \$30,000. which may not be exceeded without prior approval by Borough Council;

**WHEREAS**, in accordance with the Local Public Contracts Law, this agreement has been awarded without advertising for bids because it is a contract for professional services;

**WHEREAS**, the Chief Financial Officer of the Borough has certified that funds are available for this purpose in the Legal Consultants line #3-01-20-155-000-250;

**NOW, THEREFORE, BE IT RESOLVED**, by Borough Council of the Borough of Pennington, that the agreement retaining special labor counsel as described above is hereby ratified and approved.

**Record of Council Vote on Passage**

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

Council Member Chandler made a motion to approve Resolution 2023-6.9, second by Council Member Valenza with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2023-6.10**

**RESOLUTION AUTHORIZING RETENTION OF  
ATTORNEY FOR SERVICES AS HEARING OFFICER**

**WHEREAS**, the Borough of Pennington requires the services of a hearing officer to hear a pending employee disciplinary matter;

**WHEREAS**, the Borough seeks to retain Ellen O’Connell to perform these services; and

**WHEREAS**, Ellen O’Connell has the necessary judicial experience to perform these services; and

**WHEREAS**, Ellen O’Connell will enter into a Professional Services agreement specifying compensation at the rate of \$185.00 per hour and reimbursement of necessary related expenses; and

**WHEREAS**, the total expenditure for these services shall not exceed \$5,000.00 without prior written approval by Borough Council;

**WHEREAS**, in accordance with the Local Public Contracts Law, this agreement has been awarded without advertising for bids because it is a contract for professional services;

**WHEREAS**, the Chief Financial Officer of the Borough has certified the funds are available for these services in the Legal Consultants line #3-01-20-155-000-250;

**NOW, THEREFORE, BE IT RESOLVED**, by Borough Council of the Borough of Pennington, that the retention of Ellen O’Connell for the described services as a hearing officer is hereby approved, subject to execution of a Professional Services Agreement containing the above terms and further subject to approval by the Borough Attorney.

**Record of Council Vote on Passage**

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

Council Member Chandler made a motion to approve Resolution 2023-6.10, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2023 – 6.11**

**RESOLUTION AUTHORIZING AND RATIFYING APPLICATION FOR  
2023 STORMWATER ASSISTANCE GRANT AND FURTHER AUTHORIZING EXECUTION OF  
GRANT AGREEMENT**

**WHEREAS**, the New Jersey Department of Environmental Protection, Division of Watershed Protection and Restoration (DEP) is offering funding to assist New Jersey municipalities in upgrading their MS4 Stormwater Programs to comply with requirements of the 2023 Tier A MS4 Permit renewal; and

**WHEREAS**, the Public Works Committee reviewed and approved the submission of a grant application for the Borough of Pennington; and

**WHEREAS**, the Superintendent of Public Works at the direction of the Public Works Committee and with the signature of the Borough Administrator submitted the attached Grant Application Form for Existing (prior to July 1, 2022) Tier A Municipalities on May 22, 2023; and

**WHEREAS**, the deadline for submitting applications for this grant is December 31, 2023; and

**WHEREAS**, subsequent to submission of the application, the Borough received the attached letter dated May 24, 2023 entitled Approval of Stormwater Assistance Grant Application; and

**WHEREAS**, Borough Council seeks to ratify authorization to submit the application as referenced above in the amount of \$25,000 to be used to comply with the requirements of the Tier A MS4 Permit as outlined in the Notice of Funding Availability;

**NOW, THEREFORE, BE IT RESOLVED**, as follows:

1. The Grant Application Form for Existing (prior to July 1, 2022) Tier A Municipalities is hereby authorized and ratified,
2. In accordance with the letter dated May 24, 2023, the Borough agrees:
  - to use the funding from this grant provided by the DEP to comply with the requirements of the Tier A MS4 Permit as outlined in the Notice of Funding Availability;
  - to disperse the funds in two installments with the final installment dispersed upon the Department’s receipt and approval of the required Tier A Permit deliverables as detailed in the “Required Elements” section of the Department’s Notice of Funding Availability;

- any funding received by a grantee that is not committed to payment of eligible project costs or any costs not allowed by the DEP must be returned to the DEP with determination of eligible project costs at the sole discretion of the DEP;
3. if necessary, the Mayor is hereby authorized to execute further documents and/or amendments to the grant 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				abstain	Marciante	X			
Chandler	M				Stern	S			
Gnatt	X				Valenza	X			

Council Member Chandler made a motion to approve Resolution 2023-6.11, second by Council Member Stern with all members present voting in favor with the exception of Ms. Angarone who abstained.

**BOROUGH OF PENNINGTON  
RESOLUTION 2023 – 6.12**

**RESOLUTION TO REQUEST AMENDMENT OF THE 2023 ADOPTED BUDGET  
(CHAPTER 159) TO INSERT A SPECIAL ITEM OF REVENUE AND APPROPRIATION FOR  
2023 – CLEAN COMMUNITIES**

**WHEREAS**, NJSA 40A4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget, and

**WHEREAS**, said Director may also approve the insertion of an item of appropriation for an equal amount, and

**WHEREAS**, the Borough of Pennington has received a grant in the amount of \$6,391.07 from the State of New Jersey – for the 2023 Clean Communities Grant; and

**WHEREAS**, the Borough wishes to amend its 2023 Budget to include this amount as a special item of revenue and appropriation;

**NOW THEREFORE BE IT RESOLVED**, that the Borough Council of the Borough of Pennington hereby requests the Director of the Division of Local Government Services to approve the insertion of a special item of revenue in the budget of the year 2023 in the sum of \$6,391.07, which is now available as revenue from:

2023 – Clean Communities Grant

**BE IT FURTHER RESOLVED** that a like sum of \$6,391.07 be and the same is hereby appropriated under the caption of:

2023 – Clean Communities Grant

**BE IT FURTHER RESOLVED** that the Borough Clerk file the required documents with the Director of Local Government Services.

**Record of Council Vote on Passage**

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

Council Member Chandler made a motion to approve Resolution 2023-6.12, second by Council Member Gnatt with all members present voting in favor with the exception of Council Member Angarone who abstained.

**BOROUGH OF PENNINGTON  
RESOLUTION 2023 – 6.13**

**RESOLUTION AUTHORIZING PAYMENT REQUEST NO. 1 TO TOP LINE CONSTRUCTION  
CORP. FOR WORK COMPLETED ON THE WEST FRANKLIN AVENUE AND KNOWLES  
STREET ROAD REHABILITATION PROJECT (VNHA #44836-210-71)**

**WHEREAS**, Top Line Construction Corp. has completed work pursuant to the contract for the West Franklin Avenue and Knowles Street Road Rehabilitation Project (VNHA File #:44836-210-71); 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.1 in the amount of \$344,037.39 less 2% retainage in the amount of \$6,880.75; and

**WHEREAS**, this is a partial payment under the contract; and

**WHEREAS**, funds are available through a grant from the NJDOT under Ordinance 2022-5 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 \$337,156.64 pursuant to payment request No.1 is hereby authorized, upon receipt of fully executed documents and certified payrolls.

**Record of Council Vote on Passage**

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

Council Member Marciante made a motion to approve Resolution 2023-6.13, second by Council Member Chandler with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2023 – 6.14**

**RESOLUTION AUTHORIZING SUBMISSION OF GOVERNOR’S COUNCIL ON ALCOHOLISM AND DRUG ABUSE FISCAL GRANT JULY 1, 2023 TO JUNE 30, 2024**

**WHEREAS**, the Governor’s Council on Alcoholism and Drug Abuse established the Municipal Alliances for the Prevention of Alcoholism and Drug Abuse in 1989 to educate and engage residents, local government and law enforcement officials, schools, nonprofit organizations, the faith community, parents, youth and other allies in efforts to prevent alcoholism and drug abuse in communities throughout New Jersey.

**WHEREAS**, the Council of the Borough of Pennington, County of Mercer, State of New Jersey recognizes that the abuse of alcohol and drugs is a serious problem in our society among persons of all ages; and therefore along with Hopewell Township and Hopewell Borough has established a Municipal Alliance Committee; and,

**WHEREAS**, Pennington Borough further recognizes that it is incumbent upon not only public officials but also upon the entire community to take action to prevent alcoholism and drug abuse in its community; and,

**WHEREAS**, Borough Council has applied for funding to the Governor’s Council on Alcoholism and Drug Abuse as a consortium with Hopewell Township and Hopewell Borough through the County of Mercer; and,

**WHEREAS**, the requested funding will be applied among the three municipalities in Hopewell Valley based on population;

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

1. The Pennington Borough Council does hereby authorize the submission of a strategic plan for the Hopewell Valley Municipal Alliance grant for budget year of July 1, 2023 to June 30, 2024, subject to certification of available funds by the Chief Financial Officer of the Borough, in the amount of:
 

DEDR	\$ 9,467.00
Cash Match	\$17,800.00*
In-Kind	\$ 7,100.25

\*Hopewell Township: \$14,000.00, **Pennington Borough \$1,500.00**, Hopewell Borough \$2,300.00

2. The Pennington Borough Council acknowledges the terms and conditions for administering the Municipal Alliance grant, including the administrative compliance and audit requirements.

**Record of Council Vote on Passage**

COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
Angarone	X				Marciante	X			



Chandler	M				Stern	X			
Gnatt	X				Valenza	S			

Council Member Chandler made a motion to approve Resolution 2023-6.14, second by Council Member Valenza with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2023 – 6.15**

**RESOLUTION AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH MONTROSE ENVIRONMENTAL FOR THE COMPLETION OF THE 2022 RIGHT TO KNOW SURVEY**

**WHEREAS**, the Borough Council of the Borough of Pennington seeks to retain the services of Montrose Environmental, licensed engineers, to assist the Borough in completion of the 2022 Right To Know Survey;

**WHEREAS**, a copy of the Montrose proposal, dated May 24, 2023, is annexed to this resolution;

**WHEREAS**, the contemplated services include inventory of areas that contain hazardous chemicals, completion of the 2022 Right to Know Survey for each area, together with update of the Written Hazard Communications Plan (Tasks 1 and 2 in attached proposal);

**WHEREAS**, the areas inventoried for hazardous chemicals will include:

1. Borough Hall/Library/Police Dept.
2. Senior Citizen Center
3. Public Works Garage
4. Well House 4 & 5
5. Well House 6
6. Well House 7
7. Well House 8 & 9

**WHEREAS**, Montrose Environmental will prepare the appropriate number of surveys and distribute them to all required state and local agencies as well as provide a copy for the Borough files; and

**WHEREAS**, Montrose Environmental has agreed to perform Tasks 1 and 2 for the lump sum amount of \$3,015.00;

**WHEREAS**, the attached Montrose proposal includes additional tasks (“Additional Tasks”) which may be optional, namely tasks 3, 3a, 4 and 4a, as described on pages 2 and 3 and priced on page 4 of the proposal;

**WHEREAS**, Borough Council wishes to authorize the Mayor and the Borough Clerk, as appropriate, to obtain the performance of such of the Additional Tasks as may be legally required;

**NOW THEREFORE BE IT RESOLVED**, by the Borough Council of the Borough of Pennington, that the Mayor and Borough Clerk of the Borough are hereby authorized to issue one or more purchase orders or enter into one or more agreements with Montrose Environmental to ensure performance of Tasks 1 and 2 at the cost of \$3,015.00 and to issue or enter into such additional purchase orders or agreements as needed to obtain performance of such of the Additional Tasks as may be legally required, at the price or prices indicated in the proposal, not to exceed \$3,450.00 for said Additional Tasks.

**Record of Council Vote on Passage**

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

Council Member Chandler made a motion to approve Resolution 2023-6.15, second by Council Member Valenza with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2023 – 6.16**

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

**WHEREAS**, at the Borough Tax Sale held on December 3, 2021, a lien was sold on Block 102.01, Lot 3, also known as 84 Woolsey Court, Pennington, NJ, for 2020 delinquent tax payments; and

**WHEREAS**, this lien, known as Tax Sale Certificate #21-00001, was sold to Christiana T C/F CE1/First Trust, P.O. Box 5021, Philadelphia, PA 19111-5021 for 0% and a \$22,000.00 premium; and

**WHEREAS**, Homestead Title Agency, Inc. 114 North Broad Street, Woodbury, New Jersey 08096 have effected redemption of Certificate #21-00001 in the amount of \$14,107.37;

**NOW, THEREFORE, BE IT RESOLVED**, that the Chief Financial Officer is authorized to issue a check in the amount of \$14,107.37 payable to Christiana T C/F CE1/First Trust, P.O. Box 5021, Philadelphia, PA 19111-5021 for the redemption of Tax Sale Certificate #21-00001; and

**BE IT FURTHER RESOLVED**, that the Chief Financial Officer is authorized to issue a check in the amount of \$22,000.00 (Premium) from the Other Trust fund to the aforementioned lienholder.

**Record of Council Vote on Passage**

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

Council Member Marciante made a motion to approve Resolution 2023-6.16, second by Council Member Angarone with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2023-6.17**

**AUTHORIZING THE TAX COLLECTOR TO PROCESS THIRD QUARTER “ESTIMATED” TAX BILLS, DUE AUGUST 1, 2023**

**WHEREAS**, in light of the County Budget not being adopted; and

**WHEREAS**, the DLGS hasn’t Certified our Levy and the County Board of Taxation cannot certify taxes until after the June 30, 2023 deadline to process third quarter tax bills due August 1, 2023; and

**WHEREAS**, without a Certified Levy, the Tax Collector cannot process the final 2023 Tax Levy; and

**WHEREAS**, the Tax Collector, in consultation with the Chief Financial Officer, computed and certified an estimated Tax Levy necessary to bill third quarter taxes due August 1, 2023

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of Pennington, in the County of Mercer and State of New Jersey on this 5<sup>th</sup> day of June, 2023 that the Tax Collector is hereby authorized and directed to process estimated tax bills for the third quarterly installment of 2023 taxes; and

**BE IT FURTHER RESOLVED** that, the third quarterly installment of 2023 taxes shall not be subject to interest until the later of August 10, 2023 or the twenty-fifth (25) calendar day after the date the estimated tax bills were mailed. The estimated tax bills shall contain a notice specifying the date on which interest may begin to accrue.

**BE IT FURTHER RESOLVED**, that the Pennington Tax Collector is hereby authorized to prepare and issue estimated tax bills for the third installment of 2023 based upon an annualized levy analysis totaling \$15,680,177.90, \$2.973 total rate. The Tax Collector shall proceed and take such actions as are permitted and required by P.L. 1994, c.72 (N.J.S.A. 54:4-66.2 and 54:4-66.3).

**Record of Council Vote on Passage**

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

Council Member Chandler made a motion to approve Resolution 2023-6.17, second by Council Member Stern. Chief Financial Officer, Sandra Webb stated that the State has been unable to approve the County budget and therefore they are unable to certify our tax rate. Mrs. Webb stated that we don’t know when the State will certify the rate so in order to avoid a cash flow problem she is recommending that we issue estimated tax bills. Upon a roll call vote all members present voted in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2023-6.18**

**RESOLUTION APPROVING EMERGENCY APPROPRIATION BY THE PENNINGTON BOROUGH BOARD OF FIRE COMMISSIONERS, DISTRICT NO. 1. IN THE AMOUNT OF \$17,380. FOR REPAIR OF A PUMPER TANKER TRUCK TO PROTECT AND PROMOTE THE PUBLIC SAFETY**

**WHEREAS**, the Pennington Borough Board of Fire Commissioners District No. 1 has filed with Pennington Borough Council the attached Resolution, adopted on April 18, 2023 by no less than 2/3 of the Board’s full membership (hereafter the “ Fire District Resolution”) declaring that an emergency exists requiring a supplemental appropriation in the amount of \$17,380;

**WHEREAS**, as further explained in the Fire District Resolution, the emergent purpose of the supplemental appropriation is to repair a pumper tanker truck in substantial need of repairs, including seal replacement, engine repair, brake repair and repair of a hole in the pumper presented;

**WHEREAS**, the Fire District Resolution further represents that, in accordance with N.J.S.A. 40A:14-78.11, an emergency appropriation is required because the need for these repairs was not foreseen at the time of the adoption of the Fire District’s operating budget and its approval by the Director of the Division of Local Government Services, and use of the pumper tanker truck is needed to protect and promote the public safety;

**WHEREAS**, the District Resolution also represents that in compliance with N.J.S.A. 14:78.12, the proposed emergency appropriation together with any prior emergency appropriations made during this budget year does not exceed the maximum permitted 3% of total current operating appropriations made in the budget for this year;

**WHEREAS**, the District Resolution further stipulates that the \$17,380 emergency appropriation will be provided in full by the District as a deferred charge in the District’s 2023 current fund operating budget;

**WHEREAS**, a copy of the Fire District Resolution has been filed with Pennington Borough Council because the Resolution shall not take effect until approved by a vote of 2/3 of the full membership of the municipal governing body, which shall certify its approval to the Fire District, in accordance with N.J.S.A. 40A:14-78.13;

**NOW, THEREFORE, BE IT RESOLVED**, by no less than 2/3 of its full authorized membership of Borough Council as follows:

1. An emergency appropriation by the Pennington Borough Board of Fire Commissioners, District No. 1, is hereby made for repair of the described pumper tanker truck in the amount of \$17,380;
2. This emergency appropriation shall be provided for in full in the 2024 Fire District budget;
3. Two (2) certified copies of this resolution shall be filed with the Director of the Division of Local Government Services;
4. This approval shall be certified to the Fire District.

**Record of Council Vote on Passage**

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

Council Member Chandler made a motion to approve Resolution 2023-6.18, second by Council Member Gnatt with all members present voting in favor with the exception of Mr. Marciante who abstained.

**BOROUGH OF PENNINGTON  
RESOLUTION 2023-6.19**

**RESOLUTION AUTHORIZING AMENDMENT OF AGREEMENT WITH PENN MEDICINE PRINCETON MEDICAL CENTER TO PROVIDE FOR ADDITIONAL SERVICES FOR CDL LICENSEES**

**WHEREAS**, by Resolution 2023-2.8, Borough Council has authorized an agreement with Penn Medicine Princeton Medical Center (Occupational Health) to provide for a Substance Abuse Testing Randomization Program for CDL (commercial driver license) drivers employed by the Borough in compliance with 49 CFR 382 and 49 CFR 40 (“Agreement”);

**WHEREAS**, the Borough now seeks to amend the Agreement in accordance with the attached Price Quotation to provide for the following additional services for its CDL licensees, relating to annual examinations required by law:

- Vision Examination, Hearing Examination and Urine Test, including completion of related paperwork for submission to the Department of Transportation .....Total Combined Fee: \$100
- Audiogram (only if abnormal hearing test) .....Additional Fee: \$45

**WHEREAS**, the total cost of these services shall not exceed \$1,000 without the prior written approval of Borough Council;

**WHEREAS**, the Chief Financial Officer of the Borough has certified that funds are available for this purpose in Account # 3-01-26-305-000-250;

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Pennington, that the Mayor is hereby authorized to accept the attached Price Quotation and to enter into an amended Agreement with Penn Medicine Princeton Medical Center (Occupational Health) on behalf of the Borough for the provision of the described services.

**Record of Council Vote on Passage**

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

Council Member Chandler made a motion to approve Resolution 2023-6.19, second by Council Member Gnatt with all members present voting in favor.

Mayor Davy stated that Resolution 2023-6.20 will be addressed after the Closed Session.

**PROFESSIONAL REPORTS**

**Borough Administrator** – Mr. Neiman reported that he had a conversation with Capital Health regarding ambulance services for 2024 and they are preparing a proposal for consideration. Mr. Nieman stated that AARP is working on the anchor tax credit and seeing if it could applied directly to taxes and also a caregiver’s credit to be applied towards taxes.

**Borough Attorney** – Mr. Bliss stated that he will report in closed session.

**Borough Clerk** – Mrs. Sterling had nothing further.

**Chief Financial Officer** – Mrs. Webb reported field work for the audit has been completed and we should be receiving our final audit report shortly.

**Chief Doug Pinelli** – Chief Pinelli reported that the two new vehicles are here and were present at Pennington Day. Chief Pinelli stated that Beigene trucks have begun to come through Pennington. Chief Pinelli reported that two officers have completed training for DID (Drug Intervention).

**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.

There were no comments from the public.

**CLOSED SESSION**

**AT, 9:09 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:

Litigation – Hopewell PILOT

Potential Litigation – Beigene

Mayor Davy stated that Borough Council anticipates returning to open session to take action on Resolution 2023-6.20.

At 9:57pm, Mayor and Council returned to Open Session.

**BOROUGH OF PENNINGTON  
RESOLUTION 2023-6.20**

**RESOLUTION AUTHORIZING THE FILING OF AN APPEAL OF THE TRIAL COURT  
DECISION IN HOPEWELL BOROUGH, PENNINGTON BOROUGH,  
ET AL VS HOPEWELL TOWNSHIP, US HOME AT HOPEWELL PARC URBAN RENEWAL  
LLC, ET AL. CONTESTING APPROVAL OF 30-YEAR TAX EXEMPTION FOR THE  
DEVELOPMENT.**

**WHEREAS**, Hopewell Borough and Pennington Borough have together filed an action in lieu of prerogative writs, captioned Hopewell Borough and Pennington Borough, et al v. Hopewell Township, US Home at Hopewell Parc Urban Renewal LLC., et al, Superior Court of New Jersey, Law Division – Mercer County, Docket No. L-497-22;

**WHEREAS**, this action challenges Hopewell Township Ordinance 22-1766 awarding a 30-year tax exemption for a US Home development consisting of 1,077 housing units with a 20% set-aside for affordable housing;

**WHEREAS**, the Boroughs maintain among other things that notwithstanding the inclusion of affordable housing, which is indeed a benefit of the project, the tax exemption does not meet the criteria for exemption and is not required for the success of the project, while nonetheless creating a windfall for the Township and shifting an estimated \$25 million in school taxes to the two Boroughs over the next 30 years;

**WHEREAS**, the Boroughs are represented by co-counsel, Joseph C. Tauriello, Esquire and Walter R. Bliss, Jr., Esquire;

**WHEREAS**, the matter was the subject of multiple briefs and oral argument before the trial court and on May 1, 2023, the Hon. Robert Lougy, A.J.S.C. entered an Order Dismissing Complaint With Prejudice and an accompanying opinion;

**WHEREAS**, the two Boroughs wish to authorize Mr. Tauriello and Mr. Bliss to file an appeal of the the trial court decision in the Superior Court Appellate Division, an appeal the Boroughs are entitled to file as of right;

**WHEREAS**, the estimated cost of the appeal is \$12,500, to be shared 50/50 by the two municipalities;

**WHEREAS**, the Chief Financial Officer of Pennington has certified that the funds for this Borough’s share of the cost is available for this purpose;

**NOW, THEREFORE, BE IT RESOLVED**, by Borough Council of the Borough of Pennington, that legal counsel Tauriello and Bliss are hereby authorized to file in the Appellate Division of Superior Court an appeal of the trial court decision of May 1, 2023 in the above-referenced matter, with the proviso that no fee or expense incurred shall exceed the Borough share of \$6,250 without prior written approval of this Borough Council.

**Record of Council Vote on Passage**

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

Council Member Valenza made a motion to approve Resolution 2023-6.20, second by Council Member Gnatt with all members present voting in favor.

At 9:58pm with no further business to address, Council Member Stern made a motion to adjourn, second by Council member Chandler.

Respectfully submitted,

Elizabeth Sterling  
Borough Clerk