

**Pennington Borough Council  
Special Meeting – January 17, 2023**

Mayor Davy called the Special Meeting of the Borough Council to order immediately following the Reorganization meeting. The meeting was held via Zoom due to the COVID19 pandemic. Borough Clerk Betty Sterling called the roll with Council Members Angarone, Chandler, Gnatt, Gross, Marciante, Stern and Valenza in attendance.

Also present were Borough Administrator Donato Nieman, Public Works Superintendent Rick Smith, Chief Doug Pinelli and Borough Attorney Walter Bliss.

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

**Open to the Public**

Mayor Davy read the following statement.

The meeting is now open to the public for comments. In an effort to provide everyone interested an opportunity to address his or her comments to the Governing Body, a public comment time limit has been instituted for each speaker. **Please raise your hand and when the Borough Administrator acknowledges you state your name and address for the record. Please limit comments to the Governing Body to a maximum of 2 minutes.**

There were no comments from the public.

**Mayor's Business**

Mayor Davy introduced Lawra Dodge and Dan Lawler from Excel Environmental who provided a very extensive report of the status of the landfill investigation, where they are and what still needs to be done. Mayor Davy stated that the following report was provided to Council Members.

**Pennington Landfill – Environmental Update as of 1/13/23**

On behalf of the Borough of Pennington (Borough), the Pennington Former Sanitary Landfill (SLF) is currently being investigated by Excel Environmental Resources, Inc, (Excel) utilizing grant funds jointly provided by the New Jersey Department of Environmental Protection (NJDEP) and the New Jersey Economic Development Agency (EDA) through the Hazardous Discharge Site Remediation Fund (HDSRF) program.

The property is identified as Block 206, Lots 4, 5, and 12 (herein the subject property or Site), with the Former SLF located exclusively on Lot 5. A Site Location Map is provided as Figure 1. Using funds from the HDSRF program, Excel previously conducted a Preliminary Assessment (PA) in 2017 which recommended additional investigation for several areas of environmental concern (AOCs) as follows:

- AOC 1 – Loading/Unloading Areas (specifically the former Nassau Oil Company loading/unloading area)
- AOC 4 – 275-Gallon Aboveground Storage Tank;
- AOC 9 – Tributary to Lewis Brook;
- AOC 16 – Former Landfill;
- AOC 17 – Documented Groundwater Impacts; and

A previous investigation conducted by Hill Environmental (Hill) was reviewed as part of Excel's PA and information and data generated by Hill was used by Excel in developing the work scope for investigation of soil, surface water, and groundwater quality at the Site. The environmental investigation is currently in the Remedial Investigation (RI) phase of work and has been fully funded by HDSRF grants.

On behalf of the Borough, Excel applied for and obtained the most recent round of HDSRF RI funding in 2021 to continue investigation at the SLF and, in accordance with NJDEP regulations, to evaluate whether any of the emerging contaminants in the family of Per- and Polyfluoroalkyl Substances (PFAS) occurred at the Site.

The following provides a summary of the scope of the RI investigation activities and the findings along with interim conclusions and general recommendations for additional work required for completion of the RI under a supplemental HDSRF Grant Application.

### **1.1 Site Setting**

The subject property is approximately 8.5 acres and is located along West Delaware Avenue in Pennington, Mercer County, New Jersey and is designated as Block 206, Lots 4, 5 and 12 within the Borough. It operated as a municipal solid waste landfill and public works facility from 1954 to 1980. Lots 5 and 12 were owned by the Borough from 1938 to 1942 and then again from 1953 to the present day. Lot 4 was first developed circa 1965 as a fuel distribution facility and operations ceased circa 1990. Lot 12 (located outside the area of landfill operations) was acquired by the Borough in 1996.

The subject property is in a mixed-use area and zoned R-80 – Residence Zone. It is bordered to the north, south and west by a mix of residential and commercial properties, and to the east by the Pennsylvania and Reading Railroads. The subject property is developed with a one-story Public Works garage with limited operations related to reclamation and recycling of household materials, two municipal pump house structures (one active and one abandoned), a former municipal solid waste landfill, and a gravel access road with surrounding vegetated areas.

### **1.2 Overview of Site-Specific Soil, Geology and Hydrology**

#### **1.2.1 Site-Specific Soil**

The site-specific soils at the subject property are different on and off the landfill portions of the property. The lateral extent of solid waste at the landfill is presented on Figure 2. Based on the findings of the RI, the site-specific soils in the landfill portion of the property are generally described as follows:

- Red-brown silty clay cover material with a thickness ranging from zero to 13 feet;
- A layer of municipal solid waste with a generally silty clay or sandy clay soil component (likely daily cover placed on the landfill while it was operational) with a thickness ranging from five to 22 feet:
  - Solid waste encountered in the landfill includes paper, metal, textiles, plastics, aluminum, cardboard, glass, wood, and other general municipal waste.
- The municipal solid waste is underlain in some areas by red, grey, or brown clay with a thickness of up to approximately five feet which may be continuous across all or most of the landfill; and
- Underlying the red, grey, or brown clay is the weathered shale and argillitic bedrock of the Passaic Formation which is encountered at depths ranging from 15 to 24 feet below grade;
- The weathered bedrock transitions vertically with depth to the competent shale bedrock of the Passaic Formation which is characterized by interbedded zones that are either water-bearing units or intervening aquitards (zones of low permeability or flow) which vary in thickness depending on location as further described in Section 1.2.3 below.

Based on information generated during this RI, the site-specific soils in the areas beyond the landfilled area are generally described as follows:

- A surficial vegetated or gravel-covered layer composed of reddish-brown sand and silty loam or a red brown to dark brown clayey silt/silty clay with a thickness ranging from one to nine feet underlain by weathered bedrock encountered at depths below grade of between 1.5 feet and 11 feet below grade, depending on location.
- The weathered bedrock transitions vertically with depth to the competent shale bedrock of the Passaic Formation which is characterized by interbedded zones that are either water-bearing units or intervening aquitards (zones of low permeability or flow) which vary in thickness depending on location as further described in Section 1.2.3 below.

#### **1.2.2 Site-Specific Overburden and Surface Water Hydrology**

Based on the May 2020 Topographic Survey prepared by Engineering and Land Planning, ground surface elevation at the subject property ranges between 170 and 200 feet above mean

sea level (MSL). The ground surface elevation is highest at the top of the former landfill near the southeastern corner of the Site and decreases to the west and north with the lowest elevations located in the northeastern corner of the Site. As shown in the Site Plan provided as Figure 2, there is a stormwater drainage ditch that discharges through a culvert under West Delaware Avenue along the western side of the Site connecting to a tributary of the Lewis Brook which runs along the northern section of the Site.

Groundwater occurs in the overburden soils within the landfill portion of the subject property under unconfined conditions at depths ranging from approximately six to 24 feet bgs based primarily on the thickness of the landfill material. As shown in Figure 9, groundwater in the unconfined water table aquifer at the Site flows in a radial pattern from the landfill area in the east and southeastern portion of the Site to the west and north towards the drainage ditch and the Lewis Brook.

Based on surface water elevation data in the Brook collected as part of the RI, the shallow groundwater at the Site discharges into the Brook. Given that the invert elevation of the Brook is shallower than the top of the underlying weathered bedrock, the overburden groundwater likely also flows underneath the Brook and in the downgradient direction to the west and north of the Site.

As also shown in Figure 9, the drainage ditch flows north to the Lewis Brook which then flows to the east before entering a culvert and continuing offsite. The Lewis Brook eventually discharges into the Stony Brook east of the Site.

### **1.2.3 Site-Specific Bedrock Geology and Hydrology**

The Site is located within the Triassic-Jurassic Newark Basin. Bedrock at the Site consists of fractured and jointed red shale, known as the Passaic Formation. Occasional grey argillite beds occur within the Passaic Formation in the vicinity of the Site. The bedrock has a northeasterly strike and gently dips between 10 and 25 degrees towards the northwest. There are two northeast trending faults located approximately 1,000 feet on either side of the landfill (one to the east and one to the west). Joints mapped in the vicinity of the landfill by the USGS trend roughly parallel to the faults.

Geologic Cross-Sections were prepared based on data generated during the RI to illustrate the relationship between the overburden soils, the landfill area, and the underlying weathered bedrock and competent bedrock of the Passaic Formation. The lines of Cross-Section are shown in Figure 3. As shown, two Cross-Sections were prepared, specifically Section A-A' which depicts the geology at the Site in the down dip direction and Section B-B' which depicts the geology along the northeastern/southwestern strike of the formation.

As shown in Figures 4 and 5, several water bearing zones were encountered in the bedrock underlying the subject property, designated WB-1 through WB-5 separated by competent rock zones designated as confining layers C-1 through C-4. As previously noted in Section 1.2.1 and as shown in both Geologic Cross-Sections, the Site is underlain by overburden soil which is underlain by weathered bedrock in hydraulic communication with the overburden groundwater. Groundwater occurs under unconfined water table conditions in this overburden aquifer. Underlying the overburden and weathered bedrock aquifer is more competent shale bedrock of the Passaic Formation that is water bearing and occurs under the landfilled portion of the Site. Although not shown in the Geologic Cross-Sections because of the large scale of these drawings, clay was encountered underneath the solid waste in the landfill area at thicknesses that range from one to over several feet. The data generated during the RI indicate that the clay is generally continuous underlying the solid waste in the landfill area.

Groundwater occurrence in the Passaic Formation is controlled by the abundance, orientation, and permeability of the fractures in the bedrock. As shown in Geologic Cross-Sections A-A' and B-B', the bedrock at the subject property exhibits a gently dipping, multi-unit, leaky aquifer system that consists of up to five water-bearing units designated WB-1 through WB-5, and four intervening aquitards (zones of low permeability or flow), designated C-1 through C-4, of varying thicknesses. The water-bearing units are associated with major bedding partings and/or intensely fractured seams.

The layered heterogeneity of such a dipping multi-unit aquifer system produces an anisotropic flow pattern with preferential flow along the strike of the beds. Therefore, regional groundwater within the Passaic Formation at and in the vicinity of the subject property flows in a northeasterly direction, along bedrock strike and is likely influenced by the pumping of production well in closest proximity to the Site. There is also a secondary component of groundwater flow in the bedrock that is parallel to the dip of the beds which, in the case of the subject property, is approximately 15 degrees to the north-northwest therefore groundwater in the bedrock water bearing zones likely also flows to the north-northwest in addition to the northeast.

Note that NJDEP initiated an investigation of groundwater in the bedrock in the vicinity of the Site due to the identification of chlorinated volatile organic compounds (CVOCs) in groundwater in private drinking water wells in the former Morningside Court residential development located southwest of the subject property and in the municipal production well located on the subject property. NJDEP suspected that the former Pennington landfill may be a source of the CVOCs in the bedrock aquifer and investigations were therefore conducted by consultants on behalf of the Borough prior to Excel's involvement.

NJDEP also acknowledged that a former dry cleaner, the Hourglass Cleaners, is also a potential source of CVOC impacts to groundwater, specifically the dry-cleaning fluid perchloroethylene (PCE) and its degradation products, given this site has had documented dry cleaning fluid discharges to the subsurface and was located just south of the landfill across West Delaware Avenue in an upgradient direction with respect to the regional groundwater flow gradient in the bedrock. Part of the objective of the RI is therefore to determine whether the former landfill could have, and/or is, contributing CVOCs to the subsurface, the shallow groundwater, and/or the bedrock aquifer and whether there is any indication of an offsite CVOC impact to the groundwater at the landfill from the former Hourglass Cleaners.

### 1.3 RI Work Scope and Preliminary Findings

The RI work scope included:

- A geophysical survey which extended across the entirety of the subject property to evaluate whether there was any evidence of buried metal drums, any large metallic debris or USTs, or any other subsurface anomalies of potential environmental concern. ○ Although several metallic anomalies were encountered, each was investigated using test pit excavation techniques and no issues of environmental concern were identified.

- No further action or investigation is warranted based on the results of the geophysical survey.

- ○ A soil gas survey which included both field soil gas screening and collection of soil gas samples for laboratory analysis across the entire landfill area to assess if, and at what levels, landfill gas occurs in the subsurface. The results are summarized on Figures 6A and 6B for field screening and laboratory analytical results, respectively. As shown the results indicate the following: ○ Various concentrations of hydrogen sulfide, carbon monoxide, carbon dioxide, oxygen, and methane. The soil gas samples were analyzed for methane and volatile organic compounds (VOCs) to identify any potential vapor intrusion concerns within the landfill.

- ○ The documented hydrogen sulfide, carbon monoxide, carbon dioxide, oxygen and methane concentrations are consistent with a municipal solid waste landfill with the highest methane concentrations reported a field screening level of methane in the central section of the landfill at a level of up to 36% which was confirmed by laboratory analysis at a level of 26.8%. ★ Future redevelopment of the subject property will require management of landfill gas as is generally anticipated for a site with solid waste deposits.
- ○ The laboratory reported VOC analytical results indicate that there is an isolated area of 1,4-dioxane and a separate isolated area of benzene soil gas concentrations; but, both are isolated within the landfill portion of the subject property, however, delineation is warranted for the benzene to ensure that there is no indication of lateral migration of this soil gas.

● A test pit investigation to verify the lateral limits of the municipal solid waste landfill through excavation of nine test pits using a backhoe. The test pits extended to a depth of approximately 13 feet bgs. The results indicate the following:

- The soil at the surface of the landfill is generally between three and five feet in thickness but was as thin as 0.5 feet in one location and as thick as 13 feet in a separate location. ○ The depth and thickness of solid waste was variable across the landfill and extends up to a maximum of 25 feet bgs (a thickness of 22 feet of waste) in the east-central portion of the landfill.
- Clay was encountered beneath the solid waste during soil borings conducted on the landfill at thicknesses that vary from one to more than 10 feet, however, so as not to create a vertical pathway from the landfill to the underlying groundwater, the clay was not fully penetrated, and the total thickness of the clay could not be determined.
- Based on the test pit investigation, the waste material is generally delineated laterally to the north by the banks/floodplain of the Lewis Brook Tributary, to the west by the public works garage building and the asphalt driveway, and to the south and east as shown in Figure 2.

● A soil quality investigation was conducted as part of the RI activities and included collection and analysis of representative soil samples to verify soil quality associated with AOC 1 – Loading/Unloading Areas (specifically the former Nassau Oil Company loading/unloading area), AOC 4 – 275-Gallon Aboveground Storage Tank, AOC 16 – Former Landfill, and a UST identified during the geophysical survey (AOC 18).

○ The objective of the soil quality investigation to address AOC 1, AOC 4 and AOC 18 was to determine whether the current/former features associated with these AOCs had adversely impacted Site soils. A total of 24 soil samples were collected from the surface (investigation of the ASTs) or subsurface (collection at the UST tank invert depth) for EPH and contingency analyses. The analytical results confirmed that no releases had occurred surrounding these AOCs. No additional investigation is recommended to address these areas. ○ The objective of the soil quality investigation to address the landfill (AOC 16) was to determine whether an adequate clean fill cap exists above the solid waste and whether the soil within and/or underlying the solid waste exhibits any contaminants of concern with respect to NJDEP Soil Remediation Standards and/or Migration to Groundwater Criteria. The work scope therefore included collection of soil samples for laboratory analysis to characterize soil quality. As summarized in Figure 7, the soil analytical results for the shallow and intermediate depth soil samples collected within the soil covering the landfill solid waste and within the waste material indicates various concentrations of polycyclic aromatic hydrocarbons (PAHs) and various heavy metals above the most stringent soil remediation standards (MSSRS) for the direct contact pathway with several PAHs and

- metals also exceeding the Migration to Groundwater Soil Remediation Standards (MGWSRS). • The data indicate that the soil overlying the landfill does not meet the most stringent direct contact standards and is not considered a “clean soil cap”.
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- Importantly with respect to the evaluation of whether or not the former landfill is a source of CVOCs to the bedrock aquifer at the Site and in the vicinity of the Site, the data indicate that CVOCs were either non-detect (ND) or reported at trace levels below the MSSRS and MGWSRS in the soil samples collected in the soil cover, the soil intermixed with the municipal solid waste, and soil beneath the solid waste indicating no evidence that soil at the Site, including soil in contact with the municipal solid waste, is a source of the CVOCs previously documented in the bedrock aquifer at the Site.

- Given the recent promulgation of groundwater quality criteria (GWQC) for PFAS and the anticipation that NJDEP would be promulgating soil remediation standards for these compounds, soil samples were collected for PFAS analysis as part of the supplemental RI phase of work. In fact, while the RI Report was being drafted, the NJDEP established interim ingestion/dermal soil remediation standards for three PFAS compounds, specifically perfluorononanoic acid (PFNA), perfluorooctanesulfonic acid (PFOS), and perfluorooctanoic acid (PFOA). Comparison of the soil analytical results to the NJDEP's recently adopted interim standards indicates the following:
  - All PFNA, PFOS, and PFOA concentrations in soil samples collected as part of the RI were either ND or below the applicable interim soil remediation standards.
  - Note that the NJDEP did not establish PFAS criteria for the migration to groundwater pathway, or MGWSRS, but instead, required that site-specific MGWSRS standards be calculated using data from soil samples subjected to the Synthetic Precipitation Leaching Procedure (SPLP) test.
    - Using the leachate analytical results generated by SPLP for site soil samples, a site-specific MGWSRS for PFAS compounds is to be established and the results compared to this standard to determine if soil at the Site poses a potential risk to future groundwater quality with respect to PFAS.
  - Since the PFAS soil standards and the SPLP recommendation were not in place at the time of Excel's PFAS sampling event, SPLP samples were not collected as part of the RI conducted to date therefore additional soil sampling is warranted to collect soil samples, conduct SPLP analysis, and calculate a site-specific MGWSRS for any of the PFAS compounds which were reported above detection limits in soil samples at the Site.
  - A supplemental RI work scope is therefore being prepared as part of a supplemental RI application for additional HDSRF funding
- ○ A supplemental groundwater investigation was conducted as part of the RI to further evaluate the overburden and bedrock aquifers at the Site and to evaluate whether the Site is a source of CVOCs or any other impacts to groundwater, including PFAS. The following work scope was conducted, and findings generated:
  - As shown on Figure 12, select overburden monitoring wells were sampled for the full Target Compound List (TCL)/Target Analyte List (TAL) and the results indicate no polychlorinated biphenyls (PCBs), or pesticides were reported above detection limits and various PAHs and heavy metals were reported in shallow groundwater at concentrations above their respective GWQC. Delineation of the downgradient extent of the shallow PAH groundwater quality exceedances is complete to the north but not to the west. Other than the arsenic concentrations reported in shallow groundwater, the metals exceedances are delineated.
- Resampling of groundwater as part of the supplemental HDSRF RI grant application will include total and dissolved metals to verify that the arsenic concentrations reported in shallow groundwater are reflective of particulates in groundwater and is not an issue of concern with respect to groundwater quality.
- ○ Importantly, there were no CVOCs reported in shallow groundwater at any well location other than well MW-1 located in the southwestern corner of the Site which the data indicate is likely reflective of an upgradient, offsite source, possibly the former Hourglass Cleaners which is a known contaminated site and a suspected source of PCE, a CVOC and dry-cleaning fluid.
- ○ Benzene was reported at levels just at or above its 1.0 microgram per liter (ug/l) GWQC at two wells located in the central section of the landfill, specifically wells MW-5 and MW-6, with no indication that the benzene is migrating laterally beyond the central section of the landfill. Delineation of the benzene is complete both horizontally and vertically.
- ○ As part of the supplemental RI conducted at the Site that was required to evaluate groundwater for PFAS, all 13 overburden monitoring wells were sampled for PFAS and the results compared to the GWQC established for PFNA, PFOS, and PFOA which are 13, 13 and 14 nanograms/liter (ng/L) or parts per trillion (ppt). The PFNA, PFOS and PFOA results are summarized in Figure 13 and indicate the following:
  - ✦ PFNA was not reported above its 13 ng/L GWQC in any of the 13 overburden monitoring wells;

• PFOS and PFOA were reported at concentrations above their respective GWQC at each of the 13 overburden well locations with the highest concentrations reported at well MW-6 located in the central section of the former landfill and lower concentrations but above GWQC at well locations in the downgradient direction. As previously discussed in Section 1.2.2, as shown in Figure 9, groundwater in the unconfined water table aquifer at the Site flows in a radial pattern from the landfill area in the east and southeastern portion of the Site to the west and north towards the drainage ditch and the Lewis Brook. As part of the RI, surface water samples and sediment samples were collected in the drainage ditch and the Lewis Brook and various concentrations of PFNA, PFOS and PFOA were reported in both sediment and surface water as shown in Figures 11 and 13. • Although there are no sediment or surface water criteria for PFAS established in NJ, an evaluation of these reported concentrations will be required as part of an ecological evaluation the scope of which is being developed and will be part of the supplemental RI work scope and HDSRF grant application. • The Supplemental RI work scope included installation of additional bedrock monitoring wells, performance of open hole geophysical testing during well drilling to evaluate water bearing and competent bedding planes in the Passaic Formation and to guide bedrock well design and installation, packer testing of water bearing bedrock intervals to evaluate for groundwater impacts, final well construction, and sampling of groundwater for the TCL/TAL organics and inorganics as well as a supplemental investigation for PFAS as required by NJDEP regulations. The key findings of the RI as summarized in the Geologic Cross-Sections provided as Figures 4 and 5 indicate the following: ○ There were no impacts to groundwater related to PCBs, semi-volatile organics, or cyanide, however, CVOCs were reported in bedrock well DEP-2 and well MW-8 reflecting groundwater quality in water bearing zones WB-2/WB-3 and the deeper water bearing zone WB-5. Based on its location in the southern section of the Site and the depth of water bearing zone WB-5, the data from MW-8 indicate that water bearing zone WB-5 is reflective of regional groundwater quality and CVOC concentrations are likely originating at a significant distance in the offsite, upgradient direction, likely south-southwest of the subject property. Packer test data at well MW-8 also indicated CVOCs at concentrations greater than GWQC within shallower water bearing zones WB-2/WB-3 and WB-4, respectively. Although additional investigation is needed to verify the distribution of these CVOC concentrations in the bedrock, the data suggest that the concentrations also originate from an offsite, upgradient source. This work will be incorporated into the supplemental RI application for additional HDSRF grant funds.

Well DEP-2 was previously installed by the NJDEP and, as shown in Figures 4 and 5, is straddling two water bearing zones (WB-2 and WB-3) and one confining layer (C-2) which is inconsistent with current NJDEP guidance for bedrock well construction.

- • Given the construction of this well, we cannot determine the origin of the CVOCs reported in groundwater in well DEP-2 and additional evaluation of these water bearing zones is warranted.
- • It is therefore recommended that well DEP-2 is modified through installation of a multi-level groundwater sampling system within the existing well to isolate water bearing zone WB-2 from WB-3 and enable collection of a separate water sample from each interval. This work will be incorporated into the supplemental RI application for additional HDSRF grant funds.
- A supplemental investigation of groundwater quality in the bedrock was conducted to include PFAS in compliance with NJDEP regulations given the potential for PFAS to be associated with various materials that could be deposited in a municipal solid waste landfill, including various plastics, carpeting, textiles, coatings on paper/paper plates, etc. therefore groundwater samples from packer test intervals were analyzed for PFAS was analyzed and the results indicate the following: • PFNA, PFOS and PFOA are detected at varying concentrations within the bedrock water bearing zones beneath the SLF but are predominantly less than the GWQC with the exception of PFOS and PFOA at monitoring well DEP-2;
- • As previously indicated, since DEP-2 is straddling two water bearing zones, the origin of the elevated PFOS and PFOA cannot be confirmed and further work is needed to enable collection of separate water samples from each water bearing interval;

- Based on the RI data generated to date, additional bedrock groundwater quality investigation is warranted to confirm the origin and lateral and vertical extent of CVOC and PFAS impacts to groundwater and the potential for the landfill to be contributing some or all of these constituents. This work will be included in the supplemental RI HSDSF grant application.
- A Baseline Ecological Evaluation (BEE) was conducted by Engineering and Land Planning and was provided to Excel in December 2022. The BEE confirmed the presence of Contaminants of Potential Environmental Concern (COPECs) and Environmentally Sensitive Natural Resources (ESNRs) on the Site and identified migration pathways from COPECs to ESNRs. A plan showing observed wetland areas, surface water bodies, and flood hazard areas on the Site is provided as Figure 14. Based on the completed migration pathway, the report recommended either ecological remedial action or completion of an Ecological Risk Assessment. ○ Note that permits can be obtained from the NJDEP to allow for redevelopment to proceed at the Site despite the identification of wetlands and flood hazard areas on the Site.

**1.4 Supplemental RI Work Scope**

Based on the RI findings to date as described above, a supplemental RI work scope is currently being developed for additional funding through a supplemental HDSRF application. The supplemental RI work scope will include the following:

- Installation of additional on- and offsite overburden monitoring wells to complete groundwater quality delineation in the overburden aquifer;
- Installation of additional on- and offsite bedrock monitoring wells within the various bedrock water bearing zones to complete delineation of groundwater quality within the bedrock aquifer and verify the origin of CVOC and PFAS concentrations within the bedrock aquifer;
- Supplemental soil quality investigation to collect soil samples for SPLP that will establish site-specific MGWSRS for PFAS;
- Supplemental rounds of both overburden and bedrock groundwater sampling and analysis to complete the groundwater quality investigation; and
- Completion of an Ecological Risk Assessment

Council Members had questions on specific areas of the report. Ms. Dodge summarized by saying that regardless of what the Borough decides to do, the landfill must be capped and must be remediated. Mayor Davy asked that the application to DEP for additional funds for the testing that needs to be done be prepared and read for the February 6<sup>th</sup> Council meeting.

Mayor Davy asked Borough Planner Jim Kyle to present is report on Affordable Housing and the Housing Plan Element and Fair Share Plan. Planning Board Chair Jim Reilly was also in attendance. Mr. Kyle provided the following summary to Council for the packages and briefly explained the highlights to Council.

January 12, 2023

Borough of Pennington  
Mayor and Council  
30 N. Main Street  
Pennington, NJ 08534

**Re: Affordable Housing Plan Compliance Mechanisms**  
Dear Mayor and Council:

As most of you are aware, our office has been working on the Borough’s affordable housing plan in earnest over the last few months. While this work was initially authorized in 2019, delays in assessing the landfill property meant we were unable to get a complete picture of vacant land within the Borough and finalize a potential compliance plan. Now that the landfill work has progressed sufficiently, we are able to complete the Borough’s plan. Below is a summary of issues for consideration by Mayor and Council, which has been discussed with the affordable housing subcommittee.



**Pennington’s Affordable Housing Obligation**

The first step in the process is to determine the Borough’s affordable housing obligation, which will form the basis for potential settlement with Fair Share Housing Center (FSHC) or in the alternative, for seeking Court-approval of the Borough’s plan without a settlement agreement.

Either way an obligation must be determined. Below is a summary of various obligations as calculated by FSHC and Econsult Solutions Inc (ESI). Note that the ESI numbers provided were calculated by applying the methodology set forth by Judge Jacobsen in her decision related to West Windsor and Princeton. While that decision was binding only on these two municipalities, FSHC has accepted the Jacobsen numbers in many communities as the basis for settlement and it offers the best number for the Borough.

**Prior Round Present Need (Rehab Obligation) Gap Present Need (1999- 2015) Third Round (2015-2025) Total (Prior + Gap Present + Third Round)**

FSHC July 2015 52 50 N/A 203 255

FSHC July 2016 52 38 89 94 235

ESI Jacobsen 2018 52 70 72 62 186

**Vacant Land Adjustment**

Reviewing the above numbers, it is clear the Borough does not have the ability to meet even the lowest obligation noted as we have limited vacant land to support new development. In cases such as this, COAH’s regulations permit the Borough to seek a “vacant land adjustment”, a process that results in identification of “Realistic Development Potential” (RDP), which is the portion of the affordable housing obligation that can presently be constructed, and “Unmet Need”, which is the portion that is deferred. We note the Borough received a vacant land adjustment as part of its Second Round substantive certification on June 5, 2002. Based on a Second Round Obligation of 52 units, RDP was 20 units and Unmet Need 32 units.

Our office has conducted updated analysis of vacant land and determined there are currently only two properties large enough to generate RDP, the Senior Center (Block 701, Lots 5, 6, 7 and 8) and land adjacent to the landfill on Broemel Place (Block 206, Lot 4). Both properties are owned by the Borough. While the landfill under normal circumstances would generate RDP, the environmental constraints present in combination with remediation that would need to occur all but eliminate residential development potential, and we are better off not including this property in calculation of RDP. Considering the two vacant properties noted, the Borough’s RDP is 7 units.

As the Senior Center is currently operating, there would be a basis to remove it from the analysis, which would reduce RDP to 1 unit, but given recent progress on the new Senior Center, it may be best to include it. Once RDP is determined, this is subtracted from the obligation and the remainder is classified as Unmet Need. In the Borough’s case, assuming a RDP of 7 units would result in Unmet Need of 179 units considering the entire obligation, comprised of both the Second and Third Round Obligations as determined by the Jacobsen methodology.

To address RDP as part of our compliance plan, the Borough is required to rezone properties to permit as-of-right inclusionary development with a minimum affordable housing setaside of 15% for rental projects and 20% for for-sale projects. Our suggestion would be to rezone the Senior Center site (number 5 on the attached map) to permit townhome and stacked townhome single family units at a density that would result in construction of a total of 46 units, with 7 of those units being affordable, thus addressing RDP. Allowing stacked townhomes provides the developer the ability to construct one bedroom units on the ground floor with a two or three bedroom unit above while maintaining a townhome appearance. An additional mechanism to address RDP is the group home previously proposed on Block 206, Lot 4, which the Borough could subsidize through affordable housing trust funds, potentially donating the property to a group home provider.

To address Unmet Need, the Borough is required to identify areas where overlay zoning can be implemented to permit inclusionary development. Given the magnitude of Unmet Need, there is no expectation that we identify overlay opportunities to address the entire obligation, but rather a few that make sense. To that end, we met with the affordable housing subcommittee and identified the following areas to focus on, which are shown on the attached map and identified by the number indicated below.

1. Block 201, Lots 1, 2 and 9 – West Franklin Avenue. These three properties total 4.78 acres and are currently occupied by 3 single family homes. The site is split between the R-100 Residence and O-B Office Building Zones. All three properties or the rear portions of these properties could be rezoned. If the rear portions were rezoned the total acreage available is approximately 2.5.
2. Block 201, Lot 6 – Route 31 and West Delaware Avenue. This property totals 2.36 acres and is currently occupied by the Wells Fargo bank and other office uses. In speaking with the property owner, he currently has an offer from Chase Bank and will likely sell, and the purchase price is such that residential development would not be competitive.
3. Block 601, Lot 2.01 – 65 S. Main Street. This property totals 3.8 acres and is currently occupied by Howe Commons, which contains 5 office buildings totaling 32,000 square feet of floor area. In speaking with the owner, there is interest in discussing the possibility of residential at the site, but they feel conversion of

existing office may be difficult from a code perspective. As the rear of the site fronts on Queens Lane, perhaps a portion of the site could be redeveloped with residential buildings.

4. Block 205, Lots 2, 4, 5 and 6 – Brookside Avenue. These properties total 3.7 acres and are currently occupied by single family dwellings and various nonresidential uses. Lewis Brook runs along and through the properties, which likely impacts development potential.

At this point, the only input our office needs to complete the Fair Share Plan is related to zoning for RDP and Unmet Need and whether we want to continue the proposal for the group home on Block 206, Lot 4. We will attend the Council meeting on January 17th to discuss this correspondence and the process going forward. We have included the current draft of the Housing Element, which is complete.

Following the presentation Council Members asked questions and provided input on what properties to include in the Vacant Land Adjustment and on other options for providing affordable housing. Mr. Kyle explained that once the report is finalized it will be presented to the Planning Board for inclusion in the Master Plan. Mr. Kyle stated that Borough Council will endorse the plan. Mr. Kyle stated that they will also prepare ordinances for Council to adopt. Mr. Kyle explained the importance of getting this finalized particularly with regard to the spending plan as the Borough is currently still collecting fees and using COAH funds without a spending plan in place. Mr. Kyle explained that once the plan is approved he will consult with Planning Board Attorney to have the plan filed with the Court. Mr. Kyle stated that without a court approved plan, the Borough is open for a Builders Remedy Suit though because Pennington Borough is primarily built out the possibility is low.

**MAYOR APPOINTMENTS**

**Economic Development**

Andy Hamlin – 1 year term ending December 31, 2023  
Michael Briehler – Alternate 1 – 1 year term ending December 31, 2023

Mayor Davy stated that he has asked Jen Tracy if she is interested in the Alternate position on the Planning Board.

**APPOINTMENTS (WITH COUNCIL APPROVAL)**

**Library Board**

David Newberry – Unexpired term ending December 31, 2024

Council Member Chandler made a motion to approve the appointment of David Newberry to the Library Board, second by Council Member Angarone with all members present voting in favor.

**ORDINANCES FOR INTRODUCTION**

Mayor Davy read Ordinance 2023-1 by title. Mrs. Chandler asked that this be held until the February meeting because the edits are not showing in the document attached with the Ordinance.

**BOROUGH OF PENNINGTON  
ORDINANCE NO. 2023-3**

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

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

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

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

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

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

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

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

Mayor Davy read Ordinance 2023-6 by title.

**BOROUGH OF PENNINGTON  
ORDINANCE NO. 2023 - 6**

**ORDINANCE AUTHORIZING AMENDED EMPLOYMENT AGREEMENT  
WITH DOUGLAS M. PINELLI AS CHIEF OF POLICE**

**WHEREAS**, by Ordinance 2020-14 adopted on September 8, 2020 and published September 11, 2020, Borough Council of the Borough of Pennington authorized a five-year employment agreement with Douglas M. Pinelli as Chief of Police;

**WHEREAS**, the Borough and Chief Pinelli executed the Agreement on September 11, 2020, to be effective as of May 4, 2020 and remain in effect to and including May 3, 2025 (“Original Agreement”);

**WHEREAS**, Borough Council now seeks to amend this Original Agreement in recognition of Douglas Pinelli’s meritorious service as Chief of Police and, further, to enable the Borough to compete effectively for people of his caliber in an area of critical need;

**WHEREAS**, the principal purpose of amendments to the Original Agreement is to adjust Chief Pinelli’s annual salary during the remaining twenty-nine months of the Original Agreement from January 1, 2023 through May 3, 2025, and except for updated language as appropriate, the substance of all other terms and conditions of the Original Agreement is intended to remain the same, and all accruals of sick, vacation and other leave shall be treated as if the Original Agreement remained in effect;

**WHEREAS**, a true copy of the proposed amended agreement (“Amended Agreement”) is attached to this Ordinance;

**WHEREAS**, the Salary provisions of the Amended Agreement, found in Article VII, establish a formula for computation of annual salary in 2023, 2024 and for the remaining months of 2025, incorporating the percentage increases awarded all salaried personnel not in bargaining units, folding into base salary the Chief’s existing EMT stipend and uniform allowance, and adding a variable additional base salary adjustment each year;

**WHEREAS**, the amended salary provisions will result in salary not to exceed \$134,754 in 2023, \$141,141 in 2024 and 149,383 for the remaining months of 2025;

**NOW, THEREFORE, BE IT ORDAINED**, by Borough Council of the Borough of Pennington, that the attached Amended Agreement is hereby approved and the Mayor, with the attestation of the Borough Clerk, is hereby authorized to enter into the Amended Agreement with Douglas M. Pinelli on behalf of the Borough, effective as of January 1, 2023 and extending through May 3, 2025. .

**AND BE IT FURTHER ORDAINED** that this Ordinance shall be effective upon its passage and publication as provided by law.

Council Member Chandler made a motion to introduce Ordinance 2023-6, second by Council Member Valenza with all members present voting in favor.

**COUNCIL DISCUSSION**

**Letter of Intent – Public Works Vehicle** – Mr. Smith stated that he is also having difficulties obtaining a build date for the hybrid vehicle that was authorized for the Public Works Department and he will likely be coming back to Council with a request similar to that of the Police Department if the vendor for the police vehicles is able to provide a vehicle that meets his specifications for the Public Works Department.

**NEW BUSINESS**

**BOROUGH OF PENNINGTON  
RESOLUTION 2023 – 1.34**

RESOLUTION AUTHORIZING PURCHASE OF NEW 2023 CHEVROLET TAHOE PURSUIT  
4WD PATROL VEHICLE FOR THE POLICE DEPARTMENT IN ACCORDANCE WITH  
QUOTATION BY MALL CHEVROLET THROUGH ESCNJ  
AND RESCINDING RESOLUTION 2022-9.5

WHEREAS, the Pennington Chief of Police has identified the need to purchase a new patrol vehicle and related equipment for the Police Department; and

WHEREAS, the Chief determined that the required vehicle and equipment was available from National Auto Fleet Group through Sourcewell (formerly the National Joint Powers Alliance); and

WHEREAS, the purchase of a 2023 Ford Police Interceptor Utility Patrol Vehicle was authorized by Resolution 2022-9.5; and

WHEREAS, due to supply issues, the vehicle will not be available until 2024; and

WHEREAS, the Pennington Chief of Police has identified a 2023 Chevrolet Tahoe Pursuit 4WD vehicle available at Mall Chevrolet through ECSNJ Cooperative Pricing Contract 20/21-09; and

WHEREAS, Pennington Borough joined ECSNJ effective August 14, 2013 by Resolution 2013-7.4; and

WHEREAS, Mall Chevrolet located in Cherry Hill, NJ is an authorized dealer for the desired vehicle and has provided the Borough with Quote # ESCNJ10/21-09 dated January 3, 2023, by which it would sell to the Borough One 2023 Chevy Tahoe Pursuit 4WD upfitted with related equipment to be supplied by Elite Vehicle Solutions for a total price to be financed of \$61,887.26; and

WHEREAS, the Patrol Vehicle is available to purchase through ECSNJ in compliance with the Local Public Contracts Law without further public bidding; and

WHEREAS, the Chief Financial Officer has certified that funds are available for this purchase in Budget Line 3-01-25-240-000-277;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Pennington (a) that the purchase of One (1) 2023 Chevrolet Tahoe w/Accessories for the price of \$61,887.26 for the Pennington Borough Police Department pursuant to the attached proposal from Mall Chevrolet (Quote #ESCNJ 20/21-09 dated 1/3/2 is hereby authorized; and (b) the Mayor and Borough Clerk are authorized to execute such purchase orders and other documents as are needed to effectuate this purchase; and

BE IT FURTHER RESOLVED, that Resolution 2022-9.5, authorizing the purchase of a 2023 Ford Interceptor Utility Vehicle is hereby rescinded.

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 2023-1.34, second by Council Member Marciante with all members present voting in favor.

BOROUGH OF PENNINGTON  
RESOLUTION 2023 – 1.35

RESOLUTION AUTHORIZING PURCHASE OF NEW 2023 CHEVROLET TAHOE PURSUIT  
4WD SUPERVISOR VEHICLE FOR THE POLICE DEPARTMENT IN ACCORDANCE WITH  
QUOTATION BY MALL CHEVROLET THROUGH ESCNJ  
AND RESCINDING RESOLUTION 2022-9.6

WHEREAS, the Pennington Chief of Police has identified the need to purchase a new supervisor vehicle for the Police Department; and

WHEREAS, the Chief determined that the required vehicle and equipment was available from National Auto Fleet Group through Sourcewell (formerly the National Joint Powers Alliance); and

WHEREAS, the purchase of a 2023 Ford Police Interceptor Utility Supervisor Vehicle was authorized by Resolution 2022-9.6; and

WHEREAS, due to supply issues, the vehicle will not be available until 2024; and

**WHEREAS**, the Pennington Chief of Police has identified a 2023 Chevrolet Tahoe Pursuit 4WD vehicle available at Mall Chevrolet through ECSNJ Cooperative Pricing Contract 20/21-09; and

**WHEREAS**, Pennington Borough joined ECSNJ effective August 14, 2013 by Resolution 2013-7.4; and

**WHEREAS**, Mall Chevrolet located in Cherry Hill, NJ is an authorized dealer for the desired vehicle and has provided the Borough with Quote # ESCNJ10/21-09 dated January 3, 2023, by which it would sell to the Borough One 2023 Chevy Tahoe Pursuit 4WD for a total price of \$44,223.24; and

**WHEREAS**, the Patrol Vehicle is available to purchase through ECSNJ in compliance with the Local Public Contracts Law without further public bidding; and

**WHEREAS**, the Chief Financial Officer has certified that funds are available for this purchase in the Capital Budget under Ordinance 2022-6;

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Pennington (a) that the purchase of One (1) 2023 Chevrolet Tahoe Supervisor Vehicle for the price of \$44,223.24 for the Pennington Borough Police Department pursuant to the attached proposal from Mall Chevrolet (Quote #ESCNJ 20/21-09 dated 1/3/2 is hereby authorized; and (b) the Mayor and Borough Clerk are authorized to execute such purchase orders and other documents as are needed to effectuate this purchase; and

**BE IT FURTHER RESOLVED**, that Resolution 2022-9.6, authorizing the purchase of a 2023 Ford Interceptor Utility Supervisor Vehicle is hereby rescinded.

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 2023-1.35, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2023-1.36**

**RESOLUTION AUTHORIZING PURCHASE OF RELATED EQUIPMENT TO BE INSTALLED IN  
2023 CHEVY TAHOE PURSUIT 4WD SUPERVISOR VEHICLE UNDER STATE CONTRACT T-  
0106 (17-FLEET-00749) FOR POLICE DEPARTMENT**

**WHEREAS**, the Pennington Borough Police Department has a need for a Supervisor Vehicle; and

**WHEREAS**, by Resolution 2023-1.35 Borough Council authorized the purchase of a 2023 Chevrolet Tahoe Pursuit 4WD Supervisor Vehicle from Mall Chevrolet under Cooperative Purchasing through ECSNJ; and

**WHEREAS**, the Chief of Police has obtained a quote for the required equipment to upfit the vehicle from Elite Vehicle Solutions, 1000 Bennett Blvd. Unit 6, Lakewood, NJ 08701; and

**WHEREAS**, Elite Vehicle Solutions is a qualified vendor under State Contract T-0106 (17-Fleet-00749); and

**WHEREAS**, the proposed purchase of related equipment and labor to upfit the 2023 Chevrolet Tahoe is subject to all the terms and conditions of the aforesaid State Contract; and

**WHEREAS**, a copy of the proposal from Elite Vehicle Solutions in the amount of \$17,664.02, is attached to this Resolution; and

**WHEREAS**, purchase of the equipment to upfit the vehicle including labor on 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 General Capital Account under Ordinance 2022-6;

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Pennington that the acquisition of equipment to upfit the 2023 Chevrolet Tahoe Pursuit 4WD for the Pennington Borough Police Department pursuant to the attached proposal from Elite Vehicle Solutions 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	X			
Chandler	M				Stern	X			
Gnatt	S				Valenza	X			

Council Member Chandler made a motion to approve Resolution 2023-1.36, second by Council Member Gnatt with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2023 – 1.37**

**RESOLUTION AUTHORIZING ONE-MONTH EXTENSION OF SHARED SERVICES  
AGREEMENT WITH THE TOWNSHIP OF MONTGOMERY  
FOR ANIMAL CONTROL SERVICES AND RESCINDING RESOLUTION 2022-12.21**

**WHEREAS**, pursuant to the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1, et seq.) and Title 8, Chapter 52 of the New Jersey Administrative Code, the Borough of Pennington entered into a three-year shared services agreement with the Township of Montgomery (“Montgomery”) for the provision of Animal Control Services to the Borough;

**WHEREAS**, the three-year contract, of which a copy is attached, became effective as of January 1, 2020 and extended through December 31, 2022 and has been renewed annually;

**WHEREAS**, Montgomery Township, by letter of its Administrator dated November 2, 2022, has advised the Borough that upon the expiration of the current contract it does not wish to continue the relationship for another term but will offer a three-month contract extension to permit the Borough to secure an agreement with another municipality;

**WHEREAS**, Borough Council approved Resolution 2022-12.21 which authorized a three month extension of the contract with Montgomery Township for Animal Control Services; and

**WHEREAS**, the price proposed by Montgomery Township for this extension is \$3,668.87 for the three months combined, with all other terms of the existing contract to remain the same;

**WHEREAS**, the Borough administration has secured with Hopewell Township a three-year shared services agreement for animal control services to be effective February 1, 2023; and

**WHEREAS**, Borough Council seeks to rescind Resolution 2022-12.21 authorizing a three month extension; and

**WHEREAS**, Borough Council seeks to enter into a one month extension for a prorated amount of \$1,222.96;

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Pennington, that the Mayor, with the attestation of the Borough Clerk, is hereby authorized to enter into an amended one month extension of contract with Montgomery Township, for the price of \$1,222.96 for the with all other terms of the existing animal control services contract to remain the same, subject to execution of a written document effecting the extension approved by the Borough Attorney; and

**BE IT FURTHER RESOLVED**, that Resolution 2022-12.21 is hereby rescinded.

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 2023-1.37, second by Council Member Stern with all members present voting in favor.

**BOROUGH OF PENNINGTON  
RESOLUTION 2023 – 1.38**

**RESOLUTION AUTHORIZING SHARED SERVICES  
AGREEMENT WITH HOPEWELL TOWNSHIP FOR ANIMAL CONTROL SERVICES**

**WHEREAS**, pursuant to the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1, et seq.), the Borough of Pennington seeks to enter into a contract with Hopewell Township for the provision of Animal Control Services to the Borough;

**WHEREAS**, Hopewell Township provides full-service Animal Control to its residents;

**WHEREAS**, Hopewell Township will provide Animal Control Services to the Borough equivalent to the services it provides its own municipality, using Hopewell’s own staff or through contracts with outside agencies;

**WHEREAS**, without limiting the generality of the foregoing, Hopewell will provide a licensed Animal Control Officer and Animal Control Investigator to perform services in accordance with Best Practices promulgated by the New Jersey Department of Health, including but not limited to:

1. respond timely to calls and complaints concerning lost, stray, injured or nuisance domestic animals, as well as suspect rabid wild or domestic animals and vicious dogs;
2. capture stray domestic animals;
3. capture wild animals rabies vectors (eg., raccoons, skunks, groundhogs, foxes and bats) threatening the safety and health of residents;
4. investigate reports of animal bite incidents and vicious dogs, with seizure and impoundment of dogs meeting criteria for being vicious dogs under State law;
5. transport captured animals to impoundment facility;
6. evaluate captured animals being transported as to need for emergency veterinary care and contact veterinarian when necessary;
7. care for, feed and maintain sanitation of animals in the public pound and observe their physical condition and behavior;
8. promote the adoption of animals and support their spaying and neutering;
9. capture, impound and arrange for humane destruction of suspect rabid animals;
10. transport suspect rabies specimens for analysis at the State Public Health Laboratory;
11. investigate animal neglect and cruelty incidents;
12. investigate complaints regarding stray animals and licensed and unlicensed domesticated animals;
13. follow-up of routine dog bites, monitoring and release from home confinement;
14. patrol as appropriate for stray cats and dogs;
15. keep records to document all calls, activities and animals picked up, including the disposition of each animal;
16. issue summons for violations of local or state animal control regulations.

**WHEREAS**, Hopewell will impound and otherwise house animals from the Borough as needed at the Township’s contracted kennel facility, and Hopewell shall provide all normal and customary kennel services that it provides to its own impounded animals;

**WHEREAS**, Borough residents redeeming or surrendering animals must pay applicable Hopewell shelter fees and these fees will be retained by Hopewell as a host community benefit;

**WHEREAS**, determination of adoptability or need for euthanasia of any animal will be at the discretion of Hopewell subject to applicable state laws;

**WHEREAS**, Hopewell will provide coverage for after-hours response to animal control emergencies, which shall include but not be limited to:

- 1. any sick or threatening animal;
- 2. animal cruelty;
- 3. bats in house, if there is possible exposure;
- 4. dogs at large that are being held by resident or police;

**WHEREAS**, Hopewell will provide veterinary and animal handling support for one annual rabies vaccination clinic for cats and dogs, at a time and location determined by mutual agreement, with the Borough responsible for providing clerical/administrative support for this clinic;

**WHEREAS**, Hopewell will provide a monthly report documenting its activities and will maintain associated files according to New Jersey Records Retention standards;

**WHEREAS**, all services performed under the contract will be performed in accordance with applicable State standards, laws and regulations;

**WHEREAS**, the following services are not to be covered by the contract:

- 1. issuance of dog licenses (which shall remain the Borough’s responsibility);
- 2. capture of nuisance wildlife not presenting a threat to health and safety;
- 3. deer carcass removal;
- 4. dog census (which would require an extra fee);
- 5. initial “Notice of Bite and Confinement” reports (usually prepared by Police Department and forwarded to Animal Control for follow-up);
- 5. activities commonly known as “Trap/Neuter/Release” or Managed Feral Cat Colonies (with the understanding that Hopewell animal control policy does not support feral cat colonies), Township policy does not recognize feral cat colonies, but encourages responsible pet ownership;

**WHEREAS**, it is understood that the services provided by Hopewell shall include manpower, vehicle costs, veterinarian bills, euthanasia costs, adoption costs and, except as otherwise specified, all other costs it incurs related to work under the contract;

**WHEREAS**, it is further understood that the fee for Hopewell’s services under the contract is based on a per capita allocation of direct costs associated with performing the services described above, including employee salary, office expenses, subcontractor agreements, equipment and supplies, and personnel training, with additional costs for excess mileage and overtime;

**WHEREAS**, the proposed shared services agreement is for a five year period with renewals annually, meaning that it can be effectively terminated, on notice, at the end of each year;

**WHEREAS**, the fees for services reflect an annual increase, with the understanding that if the actual cost of services exceeds the fee in a given year, or, conversely, there is a decline in costs, Hopewell reserves the right to provide the Borough a revised fee for the following year based upon such actual increase or decrease in costs;

**WHEREAS**, the annual fees agreed to be paid to Hopewell for services under the contract are as follows:

February 1, 2023 - December 31, 2023:	\$13,000.00 *
January 1, 2024 - December 31, 2024:	\$13,260.00
January 1, 2025 - December 31, 2025:	\$13,525.20
January 1, 2026 – December 31, 2026	\$13,795.50
January 1, 2027- December 31, 2027	\$14,071.41

- For the first year of the agreement the amount of \$13,000 per annum shall be prorated such that \$11,916 shall be paid to Hopewell Township in 2023.

**WHEREAS**, the form of agreement proposed by Hopewell Township is attached;

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of



Pennington, that the Mayor, with the attestation of the Borough Clerk, is hereby authorized to enter into a shared services agreement with Hopewell Township complying in substance with the form attached and the related contract proposal, incorporating Best Practices as aforesaid, and subject to approval as to form by the Borough Attorney.

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

Council Member Chandler made a motion to approve Resolution 2023-1.38, second by Council Member Gnatt with all members present voting in favor.

**PROFESSIONAL REPORTS**

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

**Chief Doug Pinelli** – Chief Pinelli had nothing further to report.

**Superintendent of Public Works** – Mr. Smith had nothing further to report.

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

**Chief Financial Officer** – Ms. Webb was not in attendance.

**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.

Mr. Marciante asked for an update on the status of the First Aid Squad. Mayor Davy stated that from what he understands they are going out of business effective March 1 and Hopewell Fire District is negotiating an agreement with Capital Health for ambulance services. Mayor Davy stated that there will be a cost involved which will be a budget discussion, but we don’t really have much of a choice. Ms. Angarone asked what happens to the building. Mayor Davy stated that he has heard several comments on this but he would like a legal opinion on what happens to the building. Some discussion took place with regard to response time if an ambulance has to come from Capital Health. Mr. Nieman stated that it could be negotiated to have an ambulance stationed in Pennington.

AT, 9:22 PM, with no further business to address Council Member Chandler made a motion to adjourn the meeting, second by Council Member Marciante with all members voting in favor.

Respectfully submitted,

Elizabeth Sterling  
Borough Clerk