

# TOWNSHIP OF PEMBERTON

## REGULAR MEETING

APRIL 15, 2009

6:30 P.M.

1. Council President Stinney announced that notice of this meeting was given in accordance with the Open Public Meetings Act and led the assembly in the Pledge of Allegiance, followed by roll call.

### PRESENT

Richard Prickett  
Tom Inge  
Ken Cartier  
Diane Stinney

### ABSENT

Sherry Scull

Also present: Mayor David Patriarca, Business Administrator Chris Vaz, Township Solicitor Andrew Bayer, Township Engineer Representative Dave Cella, Deputy Township Clerk Amy Cosnoski

2. Meeting called to order.
3. Closed Session Res. No. 104-2009

#### RESOLUTION NO. 104-2009

WHEREAS, SECTION 8 OF THE OPEN PUBLIC MEETINGS ACT, CHAPTER 231, P.L. 1975 PERMITS THE EXCLUSION OF THE PUBLIC FROM A MEETING IN CERTAIN CIRCUMSTANCES; AND  
WHEREAS, THIS PUBLIC BODY IS OF THE OPINION THAT SUCH CIRCUMSTANCES PRESENTLY EXIST;  
NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON AND STATE OF NEW JERSEY, AS FOLLOWS:

1. THE PUBLIC SHALL BE EXCLUDED FROM DISCUSSION OF AND ACTION UPON THE HEREINAFTER SPECIFIED MATTERS.
2. THE GENERAL NATURE OF THE SUBJECT MATTERS TO BE DISCUSSED IS AS FOLLOWS:  
NONE
3. IT IS ANTICIPATED AT THIS TIME THAT THE ABOVE-STATED SUBJECT MATTERS WILL BE MADE PUBLIC WHEN THE MATTERS HAVE BEEN RESOLVED.

Mr. Bayer informed he did not have anything for Closed Session.

#### 4. CLOSED SESSION

Mrs. Stinney recessed the meeting at approximately 6:32 pm for a break and recovered the meeting at approximately 7:02 pm.

5. Formal action as necessary pursuant to closed session.

Mrs. Stinney thanked everyone and the Burlington County Times for coming out this evening. Mrs. Stinney advised there was not a Closed Session tonight, so there will not be any formal action.

6. Public comments on consent agenda items only.

Council President Stinney opened the meeting to public comments on Consent Agenda items only. There being no members of the public wishing to comment, Mrs. Stinney closed the meeting to public comments.

- \*7. **Consent Agenda: All items listed with an asterisk (\*) are considered to be routine by the Township Council and will be enacted by one motion. Should a Council Member wish to discuss a consent agenda item**

separately, that item can be removed from the consent agenda and considered in its normal sequence on the regular agenda.

**\*8. MINUTES FILED BY MUNICIPAL CLERK**

**\*a.** Special Budget Meetings, March 7, 11, & 14, 2009.

**\*9. CONSENT AGENDA RESOLUTIONS**

**RESOLUTION NO. 105-2009**

BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON, STATE OF NEW JERSEY THAT THE CHIEF FINANCIAL OFFICER IS HEREBY AUTHORIZED AND DIRECTED TO REFUND MONIES TO THE FOLLOWING PERSONS FOR THE AMOUNTS AND REASONS SET FORTH:  
BLOCK 1102 LOT 16, WELLS FARGO REAL ESTATE TAX SERVICES, MORTGAGE COMPANY PAID TAXES ON PROPERTY WITH TOTAL DISABLED VET STATUS, \$786.70  
BLOCK 1126 LOT 16, COUNTRYWIDE TAX SERVICE, INADVERTENTLY PAID PROPERTY TAX IN ERROR, \$770.82  
BLOCK 233 LOT 25, SURETY TITLE COMPANY, OVERPAYMENT OF FIRST QUARTER 2009 TAXES, \$820.11  
BLOCK 261 LOT 1, COUNTRYWIDE TAX SERVICE, INADVERTENTLY PAID PROPERTY TAX IN ERROR, \$688.15  
BLOCK 262 LOT 23, GROUP 21 TITLE AGENCY, OVERPAYMENT OF FIRST QUARTER 2009 TAXES, \$867.85  
BLOCK 623 LOT 6, CITIMORTGAGE, OVERPAYMENT OF FIRST QUARTER 2009 TAXES, \$815.19  
BLOCK 681 LOT 32, PETER & POK STANGO, OVERPAYMENT OF THIRD QUARTER 2008 TAXES, \$920.46  
BLOCK 808 LOT 41, FIRST AMERICAN, OVERPAYMENT OF FIRST QUARTER 2009 TAXES, \$665.83  
BLOCK 703 LOT 20, SETTLEMENT EXPRESS, OVERPAYMENT OF FIRST QUARTER 2009 TAXES, \$804.76

**RESOLUTION 106-2009**

A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON AUTHORIZING 2009 EMERGENCY TEMPORARY APPROPRIATIONS  
WHEREAS, PURSUANT TO N.J.S.A. 40A: 4-19 THE TOWNSHIP COUNCIL ADOPTED A TEMPORARY MUNICIPAL BUDGET ON JANUARY 7, 2009; AND,  
WHEREAS, ADDITIONAL BUDGETARY AUTHORIZATIONS ARE NECESSARY TO CONTINUE GOVERNMENTAL OPERATIONS PRIOR TO THE 2009 PERMANENT BUDGET BEING ADOPTED; AND,  
WHEREAS, N.J.S.A. 40A: 4-20 PERMITS MUNICIPALITIES TO AUTHORIZE SUPPLEMENTAL TEMPORARY APPROPRIATIONS BY ADOPTING EMERGENCY TEMPORARY AUTHORIZATIONS BY RESOLUTION APPROVED BY 2/3 VOTE OF THE FULL COUNCIL MEMBERSHIP,  
NOW THEREFORE, BE IT RESOLVED THAT THE FOLLOWING EMERGENCY TEMPORARY APPROPRIATIONS ARE HEREBY MADE:

	CURRENT FUND:	
100	GENERAL APPROPRIATIONS:	
	MAYOR/BUSINESS ADMIN.	
	SALARY & WAGES	50,000.00
	OTHER EXPENSE	
110	TOWNSHIP COUNCIL	
	SALARIES & WAGES	
	OTHER EXPENSES	2,000.00
120	TOWNSHIP CLERK	
	SALARIES & WAGES	40,000.00
	OTHER EXPENSE	
130	FINANCE	
	SALARY & WAGES	50,000.00
	OTHER EXPENSE	30,000.00
135	AUDIT SERVICES	
	OTHER EXPENSE	13,800.00
144	LIQUIDATION OF TAX LIENS	
	OTHER EXPENSE	25,000.00
145	COLLECTION OF TAXES	
	SALARY & WAGES	30,000.00
	OTHER EXPENSE	5,000.00
146	SOLID WASTE BILLING	
	SALARY & WAGES	10,000.00
	OTHER EXPENSES	2,010.00
150	ASSESSMENT OF TAXES	
	SALARY & WAGES	25,000.00
	OTHER EXPENSE	2,000.00
155	LEGAL SERVICES & COSTS	
	OTHER EXPENSE	75,000.00
165	ENGINEERING	
	OTHER EXPENSE	35,000.00
170	URBAN ENTERPRISE ZONE	
	SALARY & WAGES	15,000.00
	OTHER EXPENSE	26,200.00
180	PLANNING BOARD	
	SALARY & WAGES	3,400.00
	OTHER EXPENSES	850.00
185	ZONING BOARD OF ADJUSTMENT	
	SALARY & WAGES	10,000.00
	OTHER EXPENSES	1,000.00
195	CODE ENFORCEMENT	
	SALARY & WAGES	30,000.00

	OTHER EXPENSES	5,000.00
	INSURANCE	
210	OTHER INSURANCE PREMIUMS	44,197.00
240	POLICE	
	SALARY & WAGES	1,000,000.00
	OTHER EXPENSES	25,000.00
262	AMBULANCE CONTRACT	
	OTHER EXPENSES	9,400.00
265	FIRE HYDRANT RENT	
	OTHER EXPENSES	(8,000.00)
275	PROSECUTOR	
	OTHER EXPENSE	8,000.00
290	STREETS & ROADS	
	SALARY& WAGES	102,000.00
	OTHER EXPENSES	25,000.00
300	TRAFFIC SIGNALS	
	OTHER EXPENSES	2,000.00
305	SOLID WASTE COLLECTION	
	OTHER EXPENSE	80,000.00
310	BUILDINGS & GROUNDS	
	SALARY & WAGES	80,000.00
	OTHER EXPENSES	40,000.00
315	FLEET MAINTENANCE	
	SALARY & WAGES	50,000.00
	OTHER EXPENSES	75,000.00
340	ANIMAL CONTROL	
	SALARY AND WAGES	24,900.00
	OTHER EXPENSES	
370	RECREATION	
	SALARY & WAGES	50,000.00
	OTHER EXPENSES	10,000.00
371	SENIOR CITIZEN SERVICES	
	SALARY & WAGES	20,000.00
	OTHER EXPENSES	5,000.00
	UNCLASSIFIED	
430	ELECTRICITY	25,000.00
435	STREET LIGHTING	75,000.00
445	WATER	(1,000.00)
446	NATURAL GAS	10,000.00
455	SEWER	1,000.00
460	GASOLINE	75,000.00
465	SOLID WASTE DISPOSAL COSTS	100,000.00
472	SOCIAL SECURITY & MEDICARE	
	OTHER EXPENSES	100,000.00
490	MUNICIPAL COURT	
	SALARY & WAGES	25,000.00
	OTHER EXPENSES	2,000.00
	2009 TEMPORARY MUNICIPAL BUDGET -	
		2,540,757.00
	CURRENT FUND	
	DEBT SERVICE	
935	BOND ANTICIPATION NOTES	
	INTEREST	(164.00)
930	BOND INTEREST	28.00
940	STATE & COUNTY LOANS	(48,301.25)
	TOTAL - CURRENT DEBT SERVICE	(48,437.25)
	<b>WATER UTILITY FUND</b>	
500	SALARY & WAGES	100,000.00
	OTHER EXPENSES	75,000.00
512	WATER CAPITAL OUTLAY	97,000.00
541	SOCIAL SECURITY	24,000.00
	TOTAL - WATER UTILITY	296,000.00

**RESOLUTION NO. 107-2009**  
A RESOLUTION APPROVING PARTICIPATION WITH THE STATE OF NEW JERSEY IN A SAFE AND SECURE COMMUNITIES PROGRAM ADMINSTRERED BY THE DIVISION OF CRIMINAL JUSTICE, DEPARTMENT OF LAW AND PUBLIC SAFETY  
WHEREAS, THE TOWNSHIP OF PEMBERTON WISHES TO APPLY FOR A PROJECT UNDER THE SAFE AND SECURE COMMUNITIES PROGRAM, AND  
WHEREAS, THE PEMBERTON TOWNSHIP COUNCIL HAS REVIEWED THE APPLICATION AND HAS APPROVED SAID REQUEST, AND

WHEREAS, THE PROJECT IS A JOINT EFFORT BETWEEN THE DEPARTMENT OF LAW AND PUBLIC SAFETY AND THE TOWNSHIP OF PEMBERTON, FOR THE PURPOSE DESCRIBED IN THE APPLICATION;  
THEREFORE, BE IT RESOLVED BY THE PEMBERTON TOWNSHIP COUNCIL THAT

1. AS A MATTER OF PUBLIC POLICY THE TOWNSHIP OF PEMBERTON WISHES TO PARTICIPATE TO THE FULLEST EXTENT POSSIBLE WITH THE DEPARTMENT OF LAW AND PUBLIC SAFETY.
2. THE ATTORNEY GENERAL OF NEW JERSEY WILL RECEIVE FUNDS ON BEHALF OF THE APPLICANT.
3. THE DIVISION OF CRIMINAL JUSTICE SHALL BE RESPONSIBLE FOR THE RECEIPT AND REVIEW OF THE APPLICATIONS FOR SAID FUNDS.
4. THE DIVISION OF CRIMINAL JUSTICE SHALL INITIATE ALLOCATIONS TO THE APPLICANT AS AUTHORIZED BY LAW.

**RESOLUTION NO. 108-2009**

A RESOLUTION HONORING OUR TROOPS AND "SUPPORT OUR TROOPS DAY"

WHEREAS, THE PEOPLE OF THIS MUNICIPALITY SUPPORT THE NEW JERSEY NATIONAL GUARD AND RESERVE IN THE STRONGEST POSSIBLE TERMS, ARE IMMENSELY PROUD OF THEIR ACCOMPLISHMENTS, AND ARE EXTREMELY GRATEFUL FOR THEIR SERVICES TO THIS STATE AND TO THE NATION OVER THE YEARS;

WHEREAS, IN THE HIGHEST AMERICAN TRADITION, THE PATRIOTIC MEN AND WOMEN OF THE GUARD AND RESERVE SERVE VOLUNTARILY IN AN HONORABLE AND VITAL PROFESSION BY RESPONDING TO THEIR COMMUNITY AND THEIR COUNTRY IN TIME OF NEED,

WHEREAS, IT IS RIGHT AND PROPER THAT WE SET ASIDE TIME TO HONOR THESE FINE MEN AND WOMEN FOR THE SACRIFICES THEY MAKE FOR EVERY ONE OF US,

WHEREAS, THE NEW JERSEY NATIONAL GUARD STATE FAMILY READINESS COUNCIL IS HONORING THEM WITH A CONCERT BY THE BLAWENBURG BAND AT THE NATIONAL GUARD ARMORY IN LAWRENCEVILLE ON "SUPPORT OUR TROOPS DAY" ON SUNDAY, APRIL 19, 2009,

THEREFORE BE IT RESOLVED, THAT THE GOVERNING BODY OF PEMBERTON TOWNSHIP, COUNTY OF BURLINGTON, HEREBY RESOLVES THAT IT HONORS THESE SERVICE MEMBERS AND THE DAY OF APPRECIATION SET ASIDE FOR THEM,

AND BE IT FURTHER RESOLVED, THAT COPIES OF THIS RESOLUTION BE SENT TO THE NEW JERSEY NATIONAL GUARD STATE FAMILY READINESS COUNCIL, AND THE NEW JERSEY LEAGUE OF MUNICIPALITIES.

**RESOLUTION NO. 109-2009**

WHEREAS, THE TOWNSHIP OF PEMBERTON OWNS NUMEROUS AND VARIOUS PIECES OF PERSONAL PROPERTY NOT NEEDED FOR PUBLIC USE; AND

WHEREAS, N.J.S.A. 40A:11-36 PROVIDES THAT ANY CONTRACTING UNIT BY RESOLUTION OF ITS GOVERNING BODY MAY AUTHORIZE BY SEALED BID OR PUBLIC AUCTION THE SALE OF ITS PERSONAL PROPERTY NOT NEEDED FOR PUBLIC USE; AND

NOW, THEREFORE BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON, AND STATE OF NEW JERSEY, THAT THE PERSONAL PROPERTY LISTED IN SCHEDULE A ATTACHED HERETO AND MADE A PART OF THIS RESOLUTION, ARE HEREBY AUTHORIZED TO BE SOLD IN ACCORDANCE WITH THE FOLLOWING:

1. THE PERSONAL PROPERTY IDENTIFIED IN SCHEDULE A SHALL BE SOLD BY PUBLIC AUCTION METHOD AT A PUBLIC SALE TO BE HELD ON MAY 9, 2009, AT 9:00 A.M. AT THE PUBLIC WORKS GARAGE, LOCATED BEHIND THE PEMBERTON TOWNSHIP MUNICIPAL BUILDING, LOCATED AT 500 PEMBERTON-BROWNS MILLS ROAD, NEW LISBON, NEW JERSEY.
2. ANY PERSONS WHO DESIRE TO INSPECT THE PERSONAL PROPERTY SET FORTH ON SCHEDULE A ARE INVITED TO ARRIVE AT THE PUBLIC WORKS GARAGE NO EARLIER THAN 8:00 A.M. ON THE DATE OF THE AUCTION FOR PURPOSES OF SAID INSPECTION.
5. NOTICE OF THIS PUBLIC SALE SHALL BE PUBLISHED IN THE BURLINGTON COUNTY TIMES.
6. THE TOWNSHIP'S BUSINESS ADMINISTRATOR OR HIS DESIGNEE ARE HEREBY AUTHORIZED TO CONDUCT THE PUBLIC SALE PROVIDED FOR IN THIS RESOLUTION.
7. THE TOWNSHIP'S BUSINESS ADMINISTRATOR SHALL HAVE THE RIGHT TO REJECT ANY AND ALL BIDS IF THE TOWNSHIP'S BUSINESS ADMINISTRATOR DETERMINES THAT SUCH REJECTION IS IN THE PUBLIC'S INTEREST.

**RESOLUTION NO. 110- 2009**

A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, BURLINGTON COUNTY, STATE OF NEW JERSEY, TO AFFIRM THE TOWNSHIP'S CIVIL RIGHTS POLICY WITH RESPECT TO ALL OFFICIALS, APPOINTEES, EMPLOYEES, PROSPECTIVE EMPLOYEES, VOLUNTEERS, INDEPENDENT CONTRACTORS, AND MEMBERS OF THE PUBLIC THAT COME INTO CONTACT WITH MUNICIPAL EMPLOYEES, OFFICIALS AND VOLUNTEERS

WHEREAS, IT IS THE POLICY OF PEMBERTON TOWNSHIP TO TREAT THE PUBLIC, EMPLOYEES, PROSPECTIVE EMPLOYEES, APPOINTEES, VOLUNTEERS AND CONTRACTORS IN A MANNER CONSISTENT WITH ALL APPLICABLE CIVIL RIGHTS LAWS AND REGULATIONS INCLUDING, BUT NOT LIMITED TO THE FEDERAL CIVIL RIGHTS ACT OF 1964 AS SUBSEQUENTLY AMENDED, THE NEW JERSEY LAW AGAINST DISCRIMINATION, THE NEW JERSEY CIVIL RIGHTS ACT, THE AMERICANS WITH DISABILITIES ACT AND THE CONSCIENTIOUS EMPLOYEE PROTECTION ACT, AND WHEREAS, THE GOVERNING BODY OF PEMBERTON TOWNSHIP HAS DETERMINED THAT CERTAIN PROCEDURES NEED TO BE ESTABLISHED TO ACCOMPLISH THIS POLICY.

NOW, THEREFORE, BE IT ADOPTED BY THE TOWNSHIP COUNCIL THAT:

SECTION 1: NO OFFICIAL, EMPLOYEE, APPOINTEE OR VOLUNTEER OF PEMBERTON TOWNSHIP BY WHATEVER TITLE KNOWN, OR ANY ENTITY THAT IS IN ANY WAY A PART OF THE PEMBERTON TOWNSHIP LOCAL GOVERNMENT STRUCTURE SHALL ENGAGE, EITHER DIRECTLY OR INDIRECTLY IN ANY ACT INCLUDING THE FAILURE TO ACT THAT CONSTITUTES DISCRIMINATION, HARASSMENT OR A VIOLATION OF ANY PERSON'S CONSTITUTIONAL RIGHTS WHILE SUCH OFFICIAL, EMPLOYEE, APPOINTEE, VOLUNTEER, OR ENTITY IS ENGAGED IN OR ACTING ON BEHALF OF PEMBERTON TOWNSHIP OR USING THE FACILITIES OR PROPERTY OF PEMBERTON TOWNSHIP.

SECTION 2: THE PROHIBITIONS AND REQUIREMENTS OF THIS RESOLUTION SHALL EXTEND TO ANY PERSON OR ENTITY, INCLUDING BUT NOT LIMITED TO ANY VOLUNTEER ORGANIZATION OR INTER-LOCAL ORGANIZATION, WHETHER STRUCTURED AS A GOVERNMENTAL ENTITY OR A PRIVATE ENTITY, THAT RECEIVES AUTHORIZATION OR SUPPORT IN ANY WAY FROM PEMBERTON TOWNSHIP TO PROVIDE SERVICES THAT OTHERWISE COULD BE PERFORMED BY PEMBERTON TOWNSHIP. THIS INCLUDES, BUT NOT BY WAY OF LIMITATION OR EXCLUSION OF OTHER VOLUNTEER ORGANIZATIONS, ALL VOLUNTEER FIRE COMPANIES AND VOLUNTEER EMERGENCY MEDICAL SERVICE ORGANIZATIONS THAT RECEIVE AUTHORIZATION OR SUPPORT IN ANY WAY FROM PEMBERTON TOWNSHIP.

SECTION 3: DISCRIMINATION, HARASSMENT AND CIVIL RIGHTS SHALL BE DEFINED FOR PURPOSES OF THIS RESOLUTION USING THE LATEST DEFINITIONS CONTAINED IN THE APPLICABLE FEDERAL AND STATE LAWS CONCERNING DISCRIMINATION, HARASSMENT AND CIVIL RIGHTS.

SECTION 4: THE BUSINESS ADMINISTRATOR SHALL ESTABLISH WRITTEN PROCEDURES FOR ANY PERSON TO REPORT ALLEGED DISCRIMINATION, HARASSMENT AND VIOLATIONS OF CIVIL RIGHTS PROHIBITED BY THIS RESOLUTION. SUCH PROCEDURES SHALL INCLUDE ALTERNATE WAYS TO REPORT A COMPLAINT SO THAT THE PERSON MAKING THE COMPLAINT NEED NOT COMMUNICATE WITH THE ALLEGED VIOLATOR IN THE EVENT THE ALLEGED VIOLATOR WOULD BE THE NORMAL CONTACT FOR SUCH COMPLAINTS.

SECTION 5: NO PERSON SHALL RETALIATE AGAINST ANY PERSON WHO REPORTS ANY ALLEGED DISCRIMINATION, HARASSMENT OR VIOLATION OF CIVIL RIGHTS, PROVIDED HOWEVER, THAT ANY PERSON WHO REPORTS ALLEGED VIOLATIONS IN BAD FAITH SHALL BE SUBJECT TO APPROPRIATE DISCIPLINE.

SECTION 6: THE BUSINESS ADMINISTRATOR SHALL ESTABLISH WRITTEN PROCEDURES THAT REQUIRE ALL OFFICIALS, EMPLOYEES, APPOINTEES AND VOLUNTEERS OF PEMBERTON TOWNSHIP AS WELL AS ALL OTHER ENTITIES SUBJECT TO THIS RESOLUTION TO PERIODICALLY COMPLETE TRAINING CONCERNING THEIR DUTIES, RESPONSIBILITIES AND RIGHTS PURSUANT TO THIS RESOLUTION.

SECTION 7: THE BUSINESS ADMINISTRATOR SHALL ESTABLISH A SYSTEM TO MONITOR COMPLIANCE AND SHALL REPORT AT LEAST ANNUALLY TO THE GOVERNING BODY THE RESULTS OF THE MONITORING.

SECTION 8: AT LEAST ANNUALLY, THE BUSINESS ADMINISTRATOR SHALL CAUSE A SUMMARY OF THIS RESOLUTION AND THE PROCEDURES ESTABLISHED PURSUANT TO THIS RESOLUTION TO BE COMMUNICATED WITHIN PEMBERTON TOWNSHIP'S FACILITIES. THIS COMMUNICATION SHALL INCLUDE A STATEMENT FROM THE GOVERNING BODY

EXPRESSING ITS UNEQUIVOCAL COMMITMENT TO ENFORCE THIS RESOLUTION. THIS SUMMARY SHALL ALSO BE POSTED ON PEMBERTON TOWNSHIP'S OFFICIAL WEB SITE.

SECTION 9: THIS RESOLUTION SHALL TAKE EFFECT IMMEDIATELY.

SECTION 10: A COPY OF THIS RESOLUTION SHALL BE PUBLISHED IN THE OFFICIAL NEWSPAPER OF PEMBERTON TOWNSHIP IN ORDER FOR THE PUBLIC TO BE MADE AWARE OF THIS POLICY AND PEMBERTON TOWNSHIP'S COMMITMENT TO THE IMPLEMENTATION AND ENFORCEMENT OF THIS POLICY.

## **12. NEW BUSINESS**

\*c. Request from Police Department to go out to bid for police uniforms.

\*d. Applications submitted for memberships, licenses, permits:

\*1. **Acknowledgement/Consent:** The South Jersey Enduro Riders, within the bounds of Brendan Byrne State Forest which at some points run through Pemberton Township, 6/14/09.

\*2. **Loud Speaker Permit Application:** Catherine Peterson: Birthday Party at 90 Tecumseh Trail, w/radio and speakers, from 9AM-11PM, 4/24-26/09.

\*13. Approval by Council required for payment of vouchers on bill list dated 4/9/09.

Motion by Cartier and Prickett to approve the Consent Agenda. Cartier, yes; Prickett, yes; Inge, yes; Stinney, yes. Motion carried.

## **10. ORDINANCES FOR INTRODUCTION**

a. **ORDINANCE NO. 11-2009 (Title Read By Mrs. Stinney)**

AN ORDINANCE TO AMEND CHAPTER 190 OF THE CODE OF THE TOWNSHIP OF PEMBERTON "AMENDING RECREATION STANDARDS AND REGULATIONS".

Mr. Prickett advised that his copy of the ordinance does not show the additions noted in bold or the deletions noted in strike out. Mr. Bayer informed that it came from his office and generally this came out of the Builder's League objections to the ordinances that the Council adopted in 2006. Mr. Bayer continued that they worked to avoid litigation and have tried to work out the differences with the Builder's League and this was the last one. Mrs. Cosnoski informed that she will email Council the ordinance that shows the additions and strike outs. Mr. Cartier asked Mr. Prickett if he is comfortable introducing the ordinance tonight or if he would rather wait. Mr. Prickett replied he is comfortable introducing this tonight as Council has been over this a number of times. He knows what the changes are but would just like to be able to see them. Mr. Cartier agreed.

Motion by Prickett and Cartier to introduce Ordinance No. 11-2009 with the public hearing advertised accordingly for May 6<sup>th</sup>. Prickett, yes; Cartier, yes; Inge, yes; Stinney, yes. Motion carried.

## **11. ORDINANCES FOR SECOND READING, PUBLIC HEARING AND/OR FINAL ADOPTION**

a. **ORDINANCE NO. 9-2009 (Title Read By Mrs. Stinney)**

AN ORDINANCE TO AMEND RELEVANT SECTIONS OF CHAPTER 182 OF THE CODE OF THE TOWNSHIP OF PEMBERTON REGARDING EMERGENCY NO-PARKING SIGNS.

Mrs. Stinney opened the meeting to the public. There being no members of the public wishing to comment, Mrs. Stinney closed the meeting to public comments.

Mr. Prickett and Mr. Inge did not have any comments. Mr. Cartier noted that he looks forward to seeing the temporary no parking signs posted whenever an emergency is declared.

Motion by Prickett and Cartier to adopt Ordinance No. 9-2009. Prickett, yes; Cartier, yes; Inge, yes; Stinney, yes. Motion carried.

**b. ORDINANCE NO. 10-2009 (Title Read By Mrs. Stinney)**  
AN ORDINANCE DETERMINING POSITIONS ELIGIBLE FOR THE  
DEFINED CONTRIBUTION RETIREMENT PROGRAM.

Mrs. Stinney opened the meeting to the public for public comments. There being no members of the public wishing to comment, Mrs. Stinney closed the meeting to public comments. Mr. Cartier and Mr. Inge had no comments. Mr. Prickett asked who the Pension Certification Officer will be. Mr. Vaz informed it is Mrs. Eden right now but Administration will be doing a transfer of that to Mrs. Brown within the next month. Mr. Prickett commented there is going to be some kind of program put together for the DCRP people and if there is an investment program that is put together or something in the future. Mr. Vaz responded once it applies to somebody.

Motion by Prickett and Cartier to adopt Ordinance No. 10-2009. Prickett, yes; Cartier, yes; Inge, yes; Stinney, yes. Motion carried.

**12. NEW BUSINESS**

**a. Discussion of possible amendments to the No Smoking ordinances.**

Mrs. Stinney read a memorandum from Administration, "Township Administration requests that Township Council amend the ordinance as follows: 1. Prohibit smoking within all public buildings and a specified distance around the perimeter of every public building and place (e.g., 150'). 2. Establish a smoking area for employees only in specified locations (e.g., outside the exit door in the employee break room in the Municipal Building). 3. The volunteer Fire and EMS buildings should be expressly included in the definition of "public building" because they are insured by Pemberton Township. Smoking by people who have business at the Municipal Building has been a developing problem, especially during Municipal Court sessions. The goal is to direct smokers away from the building to the area just outside the parking lot". Mr. Prickett conveyed there are two aspects involved; public buildings and 150' perimeter around every building of non-smoking. But we're talking about a designated area where employees can smoke at municipal building. Mr. Prickett reported that his question is that in the memorandum it references volunteer fire and EMS buildings as having that same 150' perimeter because they are public buildings. Mr. Prickett asked if they will also be able to have a designated smoking area because they are quasi employees. Mr. Vaz informed a question had come up when he was talking to some of the Chiefs regarding this and the Chiefs support having a restriction on smoking and in large part, we have that now. The only concern the Chiefs would have is not so much for their own members as much as it is for bingo; to afford people that go to bingo the opportunity to have a place outside of the building to smoke. Mr. Vaz conveyed Administration is not proposing that it be the same 150' or whatever the number winds up being, but to have it such so that there is no smoking in the building. Anybody that wants to smoke would have to step outside of the fire house or the EMS building. Mr. Vaz conveyed that Administration came up with 100, 150' at the municipal building simply because of the parking lot and know a distance of that sort is needed to get the people beyond the parking area but it wouldn't have to be the same for the fire and EMS buildings. Mr. Prickett commented that would be a part of the ordinance then. Mr. Prickett asked if

Administration is imagining the people attending court would be smoking in one parking lot as opposed to the other parking lot. Mr. Vaz responded that Administration is saying to carve out an objective number of feet and push them as far away from the building area as possible because that's where the problem is noted when all of the people are smoking and the cigarette butts. Mr. Vaz reported an incident at the last court session that involved marijuana. It is believed to be marijuana and it is being tested. Mr. Prickett commented that he would just like to be more specific about where, and he does support this. Mr. Vaz remarked that Administration is not suggesting create a smoking area for persons who are not employees but they want to have an objective criteria so that if they are within that boundary, the Police have an enforcement mechanism. Mr. Prickett commented that Mr. Vaz is stating that it's the perimeter and that's a whole circle and a person could go in any direction. Mr. Prickett asked Mr. Vaz if there has been any thought about marking where 150' is so people would know how far they have to go. Mr. Prickett remarked that voting has a mark at 100' from the polling place. Mr. Vaz replied it would probably be easier to create a smoking area that is outside of the 150' if that's what Mr. Prickett has in mind because if it's done the other way, we would have to actually draw a line, a circle around the building and we don't want to get in to that. Mr. Vaz noted he doesn't know how it could be done if 150' is in the woods but we would want to probably designate an area that is outside of the 150'. The problem that we're having now is they do what they want no matter what they're told and there's no real enforcement ability right now. Mr. Prickett remarked this might make it easier; perimeter is all the way around the building and someone could go over in this direction or only go 100' or go up to the window or whatever; if it's clear, it might make it easier to enforce. Mr. Prickett commented he is glad Council had an opportunity to brainstorm the first phase of this. Mr. Inge commented that if we are saying that we insure the fire departments and will make an exception for the fire departments, how can we make exceptions for some Township buildings and not all of the buildings and isn't that going to be brought up. Mr. Cartier stated that technically the Township doesn't own the building, the Township only insures them. Mr. Vaz agreed. Mr. Inge then asked why do we put stipulations on them at all. Mr. Vaz explained that they have a policy now that he has been told by the Fire Chiefs was the no smoking policy in the building that the town created years ago and they have honored it for the most part and want to maintain that and they support that. Their only concern was the bingo and they have a large number of people who smoke that go to bingo. It's one thing to say they can't smoke in the building but they want to have some means for the people that go outside of the building and smoke. As far as there being an exception for that, Council has the right to create those exceptions. Mayor Patriarca commented the question comes do we have the right to create the enforcement; should we be creating that enforcement on that property that we don't own. Mr. Vaz replied that he doesn't know if this is lawful or not but if reading the ordinance, it actually covers the school property. It was enacted in 1999 and assuming the powers that be at the time or whoever the attorneys were at the time researched it, but the existing ordinance is very broad. It covers a lot of areas that he was surprised to find in the ordinance but maybe that is just the way it is and maybe that's allowed by law. Our particular problem is there is no enforcement mechanism for the police to go outside and issue a summons for somebody smoking at the front door. Mr. Inge reminded that when the grading ordinance was passed and asked if it could just be applied to new construction instead of when a homeowner applies for a permit and Council was told that we cannot discriminate against new construction compared to old construction. Mr. Vaz replied he doesn't personally remember that but just thinking about it, it probably has to do with the fact that if somebody already owns a piece of property that is already developed would have a hard time complying with the lot grading ordinance than somebody who hasn't built something yet. As far as carving out an exception for the fire company, Council has a lot of flexibility to draft this without discriminating against anybody. Mr. Vaz added that he is not personally

concerned about it unless Mr. Bayer feels that there is a red flag about carving something out. Mr. Vaz reiterated that you can get in to the minutia of here's all of your buildings and list them in the ordinance and specify on a per building basis and that would not be discriminatory. Mr. Cartier noted that Mr. Vaz commented that there is no ability for the Police to write summons or violations and asked why. Mr. Vaz replied that there should have been a resolution designating areas in the building that were permissible and that was not done and it left a question mark and the Police Department flagged that for Administration and every time there was an issue at municipal court, the Police Department kept telling Administration that they need to amend the ordinance before the Police can start issuing a summons. Mr. Vaz added that's on the exterior of the building; they can't smoke in the building. Mr. Vaz advised that to provide a smoking optional area outside of the building, there would have needed to be a Council resolution and there does not appear to have been one done. That is why they can not enforce anything that is going on outside because the outside areas were never clarified by resolution. Mrs. Stinney asked Mr. Vaz where would those cigarette butt containers be posted at 150'. She recalled when the college was looking to enforce and had enforced the no smoking boundaries, they moved those containers at those certain areas and posted them. Mrs. Stinney noted that the college said before they started the enforcement it cost them more to sweep up those butts that they were putting out in different areas than enforcing the law. Mr. Vaz replied it would depend on what the final ordinance looks like. If you're going to go with an objective distance as an example 150', if that's the route we're going to go, the question would be do we even want to bother setting up some kind of smoking station. We might not even own the property that will be 150' from the building. Mr. Inge commented that will be in the middle of the parking lot. Mrs. Stinney agreed. Mr. Vaz continued if that's the enforcement mentality, what we're really trying to do is get people in the frame of mind that they won't smoke if they have to walk all the way out there. Mrs. Stinney interjected that she doesn't think that will happen. Mr. Vaz continued that it will give us the ability to have a Police Officer step outside and tell them they can't be smoking where they are. Clearly, we will have no smoking signs but as far as a place to put butts, that will have to be determined. Mr. Vaz advised the other option is to designate a spot and tell the residents that is where they are going to smoke and place the butt containers in the clearly defined smoking area. Mrs. Stinney commented there will be cigarette butts all over the parking lot. Mr. Vaz stated if it's within the area, there's enforcement where there is not enforcement now. Mrs. Stinney remarked that it's like Mr. Inge stated, it's right in the middle of the parking lot and there will be cigarette butts all out there. Mr. Cartier asked what is to keep people from sitting in their personal vehicles smoking in a designated no smoking area. Mr. Vaz replied smoking in their parked cars, they would still smoking within the 150' area. Mrs. Stinney commented that occurs. Mr. Vaz noted that the reality is that we don't have smoking Police. It's to give the Township a tool; particularly on court day. We're not going to be sending Police Officers out on no smoking patrols. When they see it happening, they need a tool to stop it. Mr. Prickett commented that with the ordinance the way it is, we could actually designate an area without creating a new ordinance. Mr. Vaz replied yes, if Council wanted to go that route and according to the ordinance Council would adopt a resolution designating a certain area. Mr. Prickett asked if it is any municipal building, any fire company or library and as far as he can see in the ordinance, Council should be able to do that. Mr. Inge noted the simplest thing is to put up no smoking signs and enforce if you have to. Mr. Vaz reiterated that right now the ordinance reads there is no smoking in the building. Mr. Inge suggested to go ahead through with this ordinance but not make a real big thing out of it. He wouldn't put up anything for smoking areas and such. Mr. Inge noted in State buildings, you can't smoke on the property. Mayor Patriarca conveyed that the College actually went to a smoke free environment. The Mayor reported that he personally believes we should be a smoke free environment entirely here but it may create some disruption immediately with the



work force and the employees and Administration is looking to come to a happy medium where if an area is designated, people are still afforded the opportunity to smoke but we control where it's at. The Mayor stated that we have to take the gauntlet down that's out there every court day and that's what Administration is trying to achieve. Mr. Bayer commented that it seems that Administration can accomplish what they are suggesting through the resolution. Mr. Vaz responded if the idea is to designate areas, then yes. Mr. Bayer stated recommendations can be gotten from the Police or DPW for particular buildings of where they think they would want with recommendations back to Council and this way it could be done by building. Mr. Bayer remarked it can be done through resolution as opposed to going through the ordinance if you're picking particular locations as opposed to a distance. The Mayor suggested looking at the College and how their program worked. As the Mayor understands it, it is a smoke free environment. Mrs. Stinney informed it was done slowly, in two phases. The Mayor continued that their employees had to go through the same process that our employees would eventually have to go through and it may be the way to go. All Township properties are smoke free environments and you can't smoke on them; it's that simple. Mrs. Stinney asked the Mayor if he would through Mr. Gonzalez to find out how the college went through their program. Mrs. Stinney reiterated that it was done in two phases and the college gave a warning for about nine months in certain areas and after that about a year later in January it was smoke free. Mrs. Stinney asked the Mayor to do that and then come back to Council with the information. The Mayor replied that Administration can certainly reach out to the College and find out how their program went and he knows they recently went through it and they've had to monitor the success of the program. Mrs. Stinney thanked Council for their comments. Mr. Cartier suggested that in the meantime Council could have a resolution for the next agenda designating a no smoking area until this can be resolved. Mr. Prickett added for the municipal building. Mayor Patriarca commented that would certainly help on our end as far as being able to administer the smoking problems that we are having.

**b. Discussion of possible amendments to the Noise ordinances.**

Mrs. Stinney read a memo from Mr. Vaz that was sent to Council, "Attached hereto is a copy of Pemberton Township's noise ordinance and copies of noise ordinances from other municipalities for your reference. I also enclosed a copy of the New Jersey Noise Control Statute as an additional reference. One of the most common resident complaints we receive pertains to loud noise, usually from a neighbor's property or off-road vehicles. The Police Department has found it difficult to enforce the current ordinance because it applies a generally subjective standard of enforcement. Often, this requires that the resident who is making the noise complaint file a criminal complaint with the Municipal Court rather than the Police Officer or, in the alternative, the resident must act as a witness. Residents have expressed displeasure with having to become too involved in enforcing the existing noise ordinance". Mrs. Stinney stated to Mr. Vaz that he informed there would be a memorandum prepared with some suggestions. Mr. Vaz replied yes but not for tonight's meeting; the Chief is on an extended Easter vacation. The idea would be to get the sentiment of the Township Council as to whether an amendment would be something they want to consider and then have the Chief prepare the report to explain what the law enforcement problem is enforcing the existing ordinance. One of the problems that they have now is the way it is written, there are some words that are used that are subjective in nature. When an Officer shows up a lot of times to a noise call, because they have a lower priority than other types of calls, the noise is sometimes gone and it's transient. The Police Officer has to tell the resident that they can file their own report in Court and the residents typically don't want to get involved in doing that. They want the Police Officer to write the complaint. Another problem is the ordinance sets up as one way of enforcing a noise ordinance, a 50' distance so anything that is loud within

that 50' distance is presumed to be a violation of the ordinance and the Police feel uncomfortable using such a standard and they would prefer at least consideration of a more objective standard like a noise meter and having somebody certified in reading the noise meter. It's a tool that other towns, particularly beach towns that have problems with summer rentals and the kids at prom season, have a noise decibel reader and if it's over a certain decibel reading, it's a violation and that's an objective standard. That's one route to go. Mrs. Stinney commented that she would hope Council would look at this very carefully because even a lawn mower can be loud. If someone is starting it early in the morning and someone just came in from work and is trying to get some rest. Mr. Prickett commented that in reading the document and listening to what Mr. Vaz stated, it is important to quantify the noise whenever possible. Take that to a court and ask for some kind of a fine from the court. In the ordinance that he is reading, there is a noise control officer, someone that is trained in measuring noise and sound in the community. Mr. Prickett thinks the Township needs someone like that so that we can quantify the noise. We also need to determine where most of the complaints are coming from. Is it moving noise or stationary noise? There is a mention about off road vehicles that might not have mufflers or any sound muffling devices on them. It might be easy to control off road vehicles. It would be easier to just say they need to have a muffler; all motion vehicles need some kind of a muffler to control the sound. Whereas, noise that is coming from a neighbor or building in the area, that is where you need to be able to measure the sound and have someone qualified to do that so that it's not a he said, she said situation. There is some definitive data that is collected that can be used to determine that. It's kind of like a speeding ticket. If a noise gets over a certain level for a certain period of time at a certain time in the day, then the person that is violating the ordinance should be called on that. There should be no vagueness as to what is happening. Now what happens is the Police might go to a house and they turned the radio off or they turned the music down and it's really hard to say that was pretty loud and they woke everybody up; the Police don't hear anything now and as soon as they leave, the music goes back up again. Mr. Prickett expressed he is certainly in support of quantifying the noise and we should have an Officer that is trained in measuring sound in the community. We also have to be careful on what the situations are where the Police have the most complaints so that we can deal with them in a specific manner in an ordinance. Mrs. Stinney thanked Mr. Prickett and asked him if he was finished. Mr. Prickett replied he was but added that this is very technical with the decibels and noise levels and that's why we need a noise control officer. Mrs. Stinney agreed and added that she would like to see the report that Mr. Vaz will be providing from the Chief. Mr. Inge conveyed that recently he received an email from a resident that stated the noise ordinance is unconstitutional and doesn't meet the constitution. Mr. Vaz asked if he is referring to Mr. Faunce's email, Mr. Faunce was quoting him but it was a misquote. Mr. Vaz informed he was talking to Mr. Faunce similar to what Mr. Prickett mentioned regarding needing to quantify this for a court proceeding. With the concerns of the Police Department being in part that somebody could challenge that on constitutional grounds in the court system because it has a rather subjective standard applied rather than an objective standard. Mr. Vaz commented that he didn't tell Mr. Faunce that it was unconstitutional, rather he told him there could be a challenge on constitutionality. Mr. Inge asked if the ordinances that are on the books for noise and people have to get a loud speaker permit if they are going to have a party or something on their property, if we complain specifically about vehicles, mufflers, racing on another person's property and basically since it was the other person's property that the Police Officer didn't have any jurisdiction. Mr. Vaz replied that is one of the problems the Police have in his particular case and another problem that exists in that case, a lot of times the Police show up and the noise is gone. The Police have encouraged Mr. Faunce to file a complaint and he keeps saying he doesn't want to do that. He believes that the Police Officer should be able to do it. Obviously if they are not there to hear it, they can't act as the complainant and they have said

that he would need to come in as a witness and he doesn't have the time with his work schedule and so on. Mr. Faunce is trying to put the burden on the Police Department to do it and to the extent that we can, we would. The Police Department would like some better tool than the ordinance that exists now. Mr. Inge added he might also be worried about what might happen to his property when he is not home. Mr. Vaz commented retribution and added that every time we receive a complaint, we do send Police Officers out but most of the time it hasn't been helpful because the noise is transient. Mr. Cartier did not have any comments. Mrs. Stinney remarked that Council will wait for the report. Mr. Prickett commented on what Mr. Vaz was talking about in regard to the resident, he thinks the resident probably feels a lot like the Police in that you're going to have to go in and say it was so loud but there is no measurement there. Both the resident and the Police Officer are in the same boat on that. Mrs. Stinney thanked Mr. Prickett. Mrs. Stinney commented that Council authorized a loud speaker permit tonight for 9:00 am to 11:00 pm.

### **GENERAL PUBLIC COMMENTS:**

Mrs. Stinney opened the meeting to general public comments. Those wishing to comment were:

**Ardith Bowers: 1.** Was before Council at the last Council meeting. Expressed concern regarding the on going problem with Skips Bar and Grill, LLC. Skips is a nuisance business in our community and deserves the immediate attention of Council. Ms. Bowers lives in the home that is directly behind Skips Bar. Since November, she has complained of loud music, noise, fighting and illegal parking almost every Friday and Saturday evening. Ms. Bowers suggested Council check the Police logs to see how many times the Police have been there. Last Friday she was awakened by dogs barking and found out it was Police dogs at 4:00 am. She looked out her window just in time to witness an arrest and approximately six Police vehicles in the parking lot and on the next street. She has called and complained three times since the last Council meeting. Ms. Bowers thanked the Township Police for their quick responses and their continued efforts to reacting to the many situations arising at the bar because of the unruly crowd the bar is attracting. This business is in clear and continued violation of General Code E every Friday and Saturday when the bar has entertainment. Ms. Bowers is concerned for her child's safety. Ms. Bowers stated that obviously something sinister is going on at this business or the Police would not have to be there every single weekend. This bar is open until 4:00 am. The crowd that is coming to the bar arrives after midnight and stays until 4:00 am, closing. When other bars close, this bar is just getting started. Ms. Bowers has to believe that most of the patrons are already drinking prior to arriving at Skips. She does not understand why this establishment can continue to operate until 4:00 am especially when it is surrounded by homes. Ms. Bowers asked Council to change the ordinance and require Skips Bar to close at 2:00 am. This would alleviate a lot of the problems that are happening there. Ms. Bowers has signed complaints which is a lengthy process through the courts. Her case has been postponed three times already. She has called the Police and she is at her wits end again. This situation cannot continue to escalate. It is costing this Township a lot of money to send our Police Officers every Friday and Saturday evening to this bar let alone the cost of the surrounding communities and districts that have to support them. Sometimes the crowd is so large on a Friday evening that she is sure the bar is over capacity as far as fire regulations are concerned. Someone needs to check it out. The bar patrons are parking in front of the homes and surrounding businesses and is attracting an unruly crowd. Most of which are not even Township residents. Ms. Bowers pleaded with Council to act now and require Skips to close at 2:00 am. Do not let these violations continue to disturb the law abiding citizens any longer. Mrs. Stinney informed Ms. Bowers that Council had the ordinance at the last meeting and looked at the timeframe and Mr. Prickett asked for documentation from the Mayor to see what the other surrounding bars are doing. Mrs. Stinney asked the

Mayor if he had anything. The Mayor advised that Administration requested this information from the Police Department and he was given a report today on this particular establishment and one other former problem establishment. It wasn't quite the information that he was looking for in the breakdown that he was looking for and he has spoken to the Lieutenant about this and will be getting together tomorrow and actually go over what he needs specifically. What he received was too general and didn't break down enough of the incidents so that Administration can identify that bar as the problem as opposed to other bars. The Mayor noted that Administration is working on this and will continue to send the Police there whenever they are called or to monitor them during operating hours. The Police will continue to do the enforcement. Mayor Patriarca acknowledged that the case has been postponed and they have also been charged with violations at the Township level. The Police continually puts the pressure on them to abide by the law but as Ms. Bowers can see it's not always the case. Mayor Patriarca informed Administration will have that documentation by the next Council meeting. Mr. Prickett noted their license is up for renewal in June and Mr. Bayer was asked to look at that. Mr. Bayer commented that is one way to regulate it. Ms. Bowers asked if that is the only time that the time frame can be changed, at renewal and if it can be changed any other time. Mrs. Stinney informed she will ask the Solicitor. Mr. Bayer responded there are two things and there is an ordinance also. Mr. Vaz informed the ordinance can be changed at any time but it would apply to everybody that has a license or there could be a restriction on this particular licensee at the renewal process. Mrs. Stinney remarked that Mr. Prickett was stating and invited Mr. Prickett to jump in if she is wrong, that all will close at 2:00 am and are there any problems in other surrounding bars that would be affected by this statute. Mrs. Stinney agreed with Ms. Bowers with the 2:00 am closing time. Mrs. Stinney commented that she has been invited to go out for herself and see at 2:00 am in the morning to see the riff-raff that is going on after 2:00 am and she is sure they are coming in from surrounding areas and bars. A resident called her and informed they went there and received a ticket and went in the door to pay the ticket and they were screaming and hollering. They came all the way from Newark, New Jersey to pay the ticket and wasted all their time to pay the ticket. Mrs. Stinney agreed with Ms. Bowers that no one should have to live under those type of circumstances. Mr. Prickett asked if there are contingencies that Council can place on the license and if there can be over capacity or too many people in the building and that is true of every building. Mr. Prickett continued and asked if there is something in particular such as parking. Mr. Bayer responded that violations of municipal ordinances as they relate to the operation of the bar could be a violation of the license. This was discussed previously that an action could be brought for a violation of a license. Mr. Bayer suggested to check with the Police and he's not sure what actions can be taken. Ms. Bowers interjected that one of the stipulations that is currently on their license is that the rear of the building is not suppose to be used as a smoking area or a parking area which both are happening. There is now a picnic table at the rear entrance of the building with a smoking container that is used for cigarettes currently at the rear door where people go out the rear door, which is only suppose to be an emergency exit, they sit at the picnic table and smoke which is in clear violation of the stipulation that is on their license and not the ordinance. Mrs. Stinney remarked that Ms. Bowers also stated that the doors were being held open with bungee cords because of the capacity and according to the license that she reviewed, it stated that those doors were to be closed. Mrs. Stinney did not know what type of violations have been written up through the Police Department and suggested Council check with the Mayor. Ms. Bowers reiterated that she truly appreciates the Police Department and their response has been wonderful. One Policeman came out and he was scared himself and stated he can't do anything right now because he is outnumbered. It is a problem, not only for herself as a resident but it's also a problem for the Police. Until he could get back up he had to wait until he could go in and do whatever needed to be done. Ms. Bowers informed that she appreciates anything Council

can do and she appreciates the continued support of the Council and the Police Department in this matter. Mrs. Stinney thanked Ms. Bowers for coming forward. There being no additional members of the public wishing to comment, Mrs. Stinney closed the meeting to public comments.

**SOLICITOR'S REPORT:**

Mr. Bayer did not have anything to report for public session.

**ENGINEER'S REPORT:**

Township Engineer representative did not have anything to report:

**MAYOR'S REPORT:**

David Patriarca: 1. Recently had the opportunity to go down to Fort Sill, Oklahoma to see off the 1-150<sup>th</sup> helicopter assault battalion out of Mercer. The Mayor attended not only for the fact that New Jersey had the most individuals deploying in that unit along with Illinois and Pennsylvania out of 400 soldiers, New Jersey had almost 250 soldiers in that unit. Pemberton Township actually had the largest amount of individuals in that unit; 13 of our residents were deploying and going to Kuwait. They are in Kuwait now and will be going to Iraq shortly after. The Mayor was able to go to Oklahoma and greet our residents, spend the day and have lunch with them and bid them farewell and a safe return. It was a very enjoyable event for him.

**COUNCIL MEMBER'S COMMENTS:**

**Diane Stinney:** 1. Attended a foreclosure summit with the Mayor on April 7<sup>th</sup> and has made copies of the information for Council. There is some good general information in that packet. It was very informative. 2. On Saturday, April 11<sup>th</sup>, the Pemberton Township Little League Baseball had their opening ceremony and she had the portion of entertainment by throwing out the ceremonial with the Recreation Director, Paula Redmond. Thanked Pemberton Voice for having some very nice pictures of the children and herself on their webpage. Mrs. Stinney gave a special thanks to Mr. Balas who is attending tonight for his continued dedication to the program. There were hundreds of children and parents attending and it was a really great. Mrs. Stinney also thanked the coaches and team moms. She sometime back was a team mother for over 17 years and she knows the involvement made by the team mom. 3. Acknowledged a newly organized organization called the Browns Mills Social Club and they contributed and presented to the Little League Baseball Team a \$500 check. It was really, really nice. Mrs. Stinney thanked the organization. 4. Thanked the Lions Club for their efforts in the rain on Saturday giving out baskets to the children. People brought their vehicles up to the Lions truck and the children didn't have to get out. The Lions club came to their vehicles to hand them their baskets and it was really nice. Mrs. Stinney had an opportunity to participate with that. 5. Recognized the Lake Valley Civic Association for their Easter Egg Hunt with the children. 6. The Nesbitt Center, Thelma and Jerry for always being there with the children, for their Easter giveaway baskets. The Mayor took some of the left over baskets from the Lions Club to the Nesbitt Center for those children. Reminded that the Nesbitt Center is on their break this week. There will be a spring break flea market from 10:00 am to 2:00 pm all week and it will be ending on Saturday. A family came down and got about twenty bags of things that they needed and only paid a little bit of money for it. Mrs. Stinney gave a special thanks to those that are involved in that spring break. 7. Recognized the Country Lakes Fire Company for their outreach to the children's ward at Virtua Hospital. They took their Easter baskets over to Virtua and it certainly put a smile on many of the faces of the children. They also handed out baskets at the Children's Home in Mount Holly. 8. Presidential Lakes postponed their Easter egg hunt and are having it this Saturday. Mrs. Stinney apologized if she omitted anyone's activities. This is the only

information that she has. **9.** Gave a special thanks to the Pemberton Township Class of 2003. They gave the Imagination Kingdom a check for \$1,200. Mr. Vaz asked Mrs. Stinney if she has the check. Mrs. Stinney replied she does not have the check. Mrs. Stinney asked Mr. Vaz if a thank you could be placed on the web page. Mayor Patriarca stated when we get the check. **10.** Reminded that Wednesday, April 29<sup>th</sup>, is the Senior Prom at St. Ann's in Browns Mills from 3:00 to 7:00. The children at the high school do a wonderful job. She hopes to see everyone there. Those are all of her updates and appreciation for all of the things that our town has done. Mrs. Stinney stated that we very rarely hear a lot of good things about what is going on in Pemberton Township and this is nothing against the paper but there's always something plastered on the front page. There are a lot of good things going on in Pemberton. Mrs. Stinney used to tell the parents when she served on the Board of Education when they came forward at the board meetings and complain that she hears their complaint but can't they once in a while come forward and thank the teacher or business administrator. Mrs. Stinney thanked everyone involved in making Pemberton what Pemberton is and there are some good things going on in Pemberton Township. It's not always the negative things that is plastered in the newspaper. Mrs. Stinney apologized to the Burlington County Times. She does not usually visit the website of the Pemberton Voice but when she recently went on there the first thing she saw was the children and she emailed that all over the place. Look what is happening, hundreds of kids are out there. It's not because she was in a photo. The truth being told, she hates photos and hates taking a picture. She feels obligated that she has to let people know that we have good things going on in Pemberton Township. Mrs. Stinney is proud of all of those that are involved, those that want to get involved and those that can get involved and she is appreciative of that and we should spread the news once in a while to let them know that we do have some stuff coming out of Pemberton and it's not always the negative. **11.** Thanked everyone for coming out this evening. It's always so nice to see everyone.

**Tom Inge:** **1.** Asked Mr. Bayer as a sitting Council member of Pemberton Township what are his rights. Mr. Inge provided the background and went back to February 4<sup>th</sup> when he had a complaint filed against him by a Public Works' Supervisor. Shortly thereafter that he received a letter from Mr. Vaz with details of that complaint and in that letter it states that since he is a sitting Council member, that usually he handles all Administration complaints. Since he is a Council member, Mr. Vaz referred it to Mr. Bayer's office. Mr. Inge stated that letter from the Business Administrator was sent to him on February 10<sup>th</sup>. He received a letter from our Solicitor on February 12<sup>th</sup> and he'll provide that letter for Mr. Bayer where he alternately asked for a Conflict Attorney to handle the matter. Mr. Bayer responded that he remembers that letter. Mr. Inge asked Mr. Bayer to explain to him why this was sent to a Conflict Attorney. Mr. Bayer responded that there was an investigation being done and it was not to provide legal advice but the attorney in that instance was acting as an investigator and as the attorney for the Mayor and Council, he didn't think it was appropriate to be charged personally with conducting an investigation in to an employee complaint against a Council person. He though somebody who did not do regular work for the Township would be better suited for that position. Mr. Inge asked Mr. Bayer if on April 2<sup>nd</sup> if he participated in phone correspondence with Judge Bookbinder and his attorney, Patrick McAndrew. Mr. Bayer stated he is talking about a different matter. Mr. Inge responded yes, it is a different matter but again asked Mr. Bayer if he participated in that. Mr. Bayer responded that so the record is clear, there is a matter pending before the Township Planning Board that is a lawsuit Mr. Inge brought against the Township Planning Board. Mr. Bayer continued that in that matter he was asked to participate in the matter by the Planning Board attorney and Judge Bookbinder and he participated in a call pursuant to that request related to a matter that was going on in that litigation that he was not representing the Planning Board or the town in. Mr. Inge asked Mr. Bayer if he wasn't representing the

Planning Board or the town, who was he representing. Mr. Bayer responded that he was asked to participate in the matter as he stated by Mr. Hardt and with the Judges' suggestion because there was a dispute going on between Mr. Inge and the Mayor concerning that matter; concerning the underlying litigation as between Mr. Inge and the Planning Board. Mr. Inge commented the Planning Board attorney is Mr. Hardt. Mr. Bayer responded Fred Hardt. Mr. Inge asked Mr. Bayer if Mr. Hardt is the attorney for the Planning Board. Mr. Bayer replied yes. Mr. Inge forwarded another letter to Mr. Bayer and to each Council member, a letter from Patrick McAndrew, his attorney, on April 7, 2009, expressing his (Mr. Inge) feelings with Mr. Bayer participating in any litigation concerning a Council member since Mr. Bayer is here to serve the Council of the Township. By Mr. Bayer doing this, Mr. Inge thinks Mr. Bayer has violated his rights as a Council person. Mr. Bayer replied that he would respectfully disagree with that. Mr. Bayer continued that as he stated earlier, the Judge and Mr. Hardt asked him to participate in a phone conference involving the matter and actually the matter was resolved the other day and he advised the court and Mr. McAndrew that there was actually not a pending motion before the court but rather a letter was sent to the court requesting that by Mr. Inge's attorney requesting court intervention, the court ultimately the issue was resolved without Mr. McAndrew having to file any motion before the court. Mr. Bayer had advised both Mr. McAndrew and Judge Bookbinder that if the matter proceeded through formal litigation and a formal motion, he would not be representing the Township in that matter. He was asked to participate to avoid litigation as between the Planning Board, Mr. Inge and the Mayor. Mr. Bayer conveyed he thinks he achieved that result without actually participating in the litigation as there was no pending motion before the court. Mr. Bayer respectfully disagreed with Mr. Inge and noted that his attorney, Mr. McAndrew, did not object nor did the court in him participating in two phone calls on the matter where he did not assert a position on behalf of the Township, the Mayor or Mr. Inge but rather acted sort of as a conduit between everybody to attempt to resolve the dispute which actually he thinks worked. Mr. Bayer reiterated that he would respectfully disagree. Mr. Inge commented that he would like Council President, Diane Stinney, to ask for an investigation to see if his rights as a Council person have been violated by either the Planning Board's attorney, Fred Hardt, or the Township's attorney, Mr. Bayer. Mrs. Stinney clarified with Mr. Inge that he is asking that she have his rights investigated and, of course, Mr. Bayer cannot do that and asked Mr. Inge if that is correct. Mr. Inge commented that he would believe that Mr. Bayer could not do that. Mrs. Stinney noted that we would have to hire in a Conflict Attorney. Mr. Vaz asked to interject as it pertains to Mr. Bayer's comments in response to Mr. Inge's questions earlier. Mr. Vaz noted that Mr. Bayer did not answer something and it might add an element to this and it might at least put an idea in to Mr. Inge's head that maybe he could withdraw the request if he hears the other piece of the information as to why Mr. Bayer was involved in the phone call. Mr. Vaz informed that in addition to being asked by Mr. Hardt and the Judge to participate in the phone call, he very strongly opposed and asked Mr. Bayer to intervene on behalf of the Township and not on behalf of the Mayor or an individual Council person, but he vehemently opposed the Planning Board attorney and Mr. Inge's attorney going back to the Judge and requesting what he believed was another advisory opinion without there being a formal amendment to the complaint that was filed in 2007 or 2008. This was the second time the attorneys had gone to the Judge to seek an advisory opinion. Mr. Vaz conveyed that those that have the training in law know that advisory opinions are not permissible in the law and he very strongly opposed it and he asked Mr. Bayer to intervene on behalf of the Township to insist that if there was going to be further court action, that it demanded that Mr. Inge's attorney amend the complaint, set forth what the specific allegation was so that it can be defended as opposed to picking up the phone and calling a Judge and saying we need your opinion on this. Mr. Vaz added that is the reason why Mr. Bayer was involved, it was on his request on behalf of Pemberton Township on that issue. Then he found

out that Mr. Bayer had been asked to participate in the conference but Mr. Bayer was asked to participate in any event on that issue. Mr. Vaz wanted to clear the record. Mr. Bayer added that he was actually successful because Judge Bookbinder ended up writing a short letter which stated that there was nothing that basically that there had to be a motion filed before the court, there was nothing pending. Mr. Vaz noted that was the very specific issue that he had been objecting to for the last couple of months because this was the second time it happened and he wasn't going to authorize another nickel of Planning Board legal fees without insisting this be done the correct way and thankfully Mr. Bayer argued it and it was a successful argument. Mr. Bayer remarked it was really a resolution on the issue because the details of it are really more of a Planning Board issue but at the end of the day, it wasn't fully litigated, it was resolved and as he stated earlier, Mr. McAndrew who is Mr. Inge's representative, never objected to his participation. Mr. Inge interjected that he thinks Mr. McAndrew did object to it in the letter. Mr. Bayer stated he didn't and he doesn't say he objects but he comments upon a potential that he may view as a conflict. Mr. Bayer is representing to Mr. Inge that Mr. McAndrew never raised that issue with Judge Bookbinder nor objected to his participation in two calls with Judge Bookbinder regarding the matter at all. In fact, based on a conversation Mr. Bayer had with Mr. McAndrew before the call with Judge Bookbinder, they were able to resolve the matter without the Township having to engage in any further litigation as between Mr. Inge and the Planning Board and it was a fruitful exercise. The court had no objection to his participation but had rather asked him to do so. Mr. Inge stated that he heard the Business Administrator give his statement on what transpired he thought on his part and Mr. Bayer with his explanation. Mr. Inge is still asking the Council President to do an investigation in to if his rights as a Council person have been violated. Mrs. Stinney remarked that she is just one person and just conducts the meetings here. Mrs. Stinney stated that Mr. Inge would like to hire a Conflict Attorney to see if his rights were violated. Mr. Prickett asked if this is in just this one instance or if this is throughout the whole effort of the Planning Board and what are we talking about here. Mrs. Stinney replied to Mr. Prickett that she is not sure if Mr. Prickett heard him or not but Mr. Inge seems to think that his rights were violated during the time of the letters were forwarded back and forth and the conversation not the entire Planning Board. Mrs. Stinney asked Mr. Bayer to correct her if she is right, in terms exactly of what Council is going to hire a Conflict Attorney for, Mr. Inge seems to think that his rights were violated through when he stated that Mr. Bayer came and intervened with the Judge and the attorney. Mr. Bayer stated just so we are clear, he is not representing the Township in except for this limited participation in two conference calls with respect to a discreet issue which was never formally litigated but resolved through his intervention. Mr. Bayer continued that Mr. Hardt and Mr. Hardt's predecessor has been the attorneys of record in the matter of Inge vs. the Pemberton Township Planning Board and not himself. Mr. Inge commented that it should have been a Planning Board matter and if Mr. Hardt could not handle it then we do have Conflict Attorneys that could step in. Mrs. Stinney stated to Mr. Inge that he is speaking of the conference call that Mr. Bayer participated in and he would like to have investigated if his rights were in fact violated as a sitting Council member. Mr. Prickett commented that if Mr. Inge is looking for a second opinion on this, a more objective opinion on this, he should be able to get it; an objective opinion from a Conflict Attorney. Mrs. Stinney stated she just wanted to make it clear. Mr. Inge did not have any further comments.

**Ken Cartier: 1.** Nice to see everyone that came out. Wished them a safe trip home and to enjoy the weekend.

Mrs. Stinney asked for a motion to adjourn. Council stated that Mr. Prickett did not comment. Mrs. Stinney apologized.



**Rick Prickett:** **1.** Mrs. Stinney already expressed all of those things that we had wanted to talk about and are proud of. We certainly have a lot to be proud of living in Pemberton Township and we have a lot of opportunity here to do some fun and interesting things here with our neighbors and residents of the Township. **2.** Mr. Prickett is particularly proud of the innovation of the Lions Club and in particular the Jenkins during the Easter Egg Hunt. He wasn't able to participate this year but last year he attended and the kids love it. This year, he looked out and it was raining. But he was so glad to hear that through some miraculous idea to get the baskets out to the kids and they were able to receive them that day at the allotted time. It was terrific and he is very proud of that. **3.** Glad to see everybody and looks forward to seeing them the next time. Mrs. Stinney thanked Mr. Prickett.

Motion to adjourn at approximately 8:20 pm.

Respectfully submitted by:

Amy P. Cosnoski, RMC  
Deputy Township Clerk