

TOWNSHIP OF PEMBERTON

REGULAR MEETING

JULY 7, 2010

6:30 P.M.

1. Mrs. Cosnoski 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
Diane Stinney
Ken Cartier
Tom Inge

ABSENT

Sherry Scull

Also present: Mayor David Patriarca, Business Administrator Chris Vaz, Township Solicitor Andy Bayer, Township Engineers Chris Rehmann and Kelly Willis, Deputy Township Clerk Amy Cosnoski

Stinney and Prickett nominated Councilman Cartier as Acting Chairman for tonight's meeting. Stinney, yes; Prickett, yes; Cartier, yes; Inge, yes. Nomination carried.

2. Acting Chairman Cartier called the meeting to order at 6:30 PM
3. Closed Session Res. No. 155-2010

RESOLUTION NO. 155-2010

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:
PBA CONTRACT NEGOTIATIONS
3. IT IS ANTICIPATED AT THIS TIME THAT THE ABOVE-STATED SUBJECT MATTERS WILL BE MADE PUBLIC WHEN THE MATTERS HAVE BEEN RESOLVED.

Motion by Prickett and Stinney to approve Resolution No. 155-2010.
Prickett, yes; Stinney, yes; Inge, yes; Cartier, yes. Motion carried.

4. CLOSED SESSION

Mr. Cartier recessed the meeting at approximately 6:33 pm to go in to Closed Session and reconvened the meeting at approximately 7:01 pm.

5. Formal action as necessary pursuant to closed session.

Mr. Cartier advised no formal action is necessary pursuant to closed session.

6. **PUBLIC HEARING (Public Hearing - 7PM-7:30PM, regarding Well No. 11)**

Mr. Cartier introduced Mr. Edward Post from the State of New Jersey, Department of Environmental Protection, Southern Bureau of Water Compliance and Enforcement. Mayor Patriarca advised that Administration determined it was

necessary to clear up some erroneous and malicious misinformation that is being provided to the public. The Mayor deferred to the Township Engineer to explain where the status. Mr. Rehmann explained that tonight's public hearing is on an Administrative Consent Order issued by the Southern Bureau of Water Compliance and Enforcement. It is the state's responsibility to ensure that the Township complies with their series of rules and regulations. During February 2009, December 2009 and January 2010, the DEP issued violation notices to the Township for noncompliance for exceeding the maximum contamination level for radium 226 and radium 228 in Well #11. Well #11 has been operating since 1993 and it is one of the Township's major producers of water. Mr. Rehmann provided a background on the various aquifers and informed that Pemberton Township is using the Englishtown aquifer on Well #11. Mr. Rehmann advised that radium is a naturally occurring metal that is in the sand in very low concentrations. The State of New Jersey has adopted regulations known as the maximum contaminant limit allowed in any of the water supply wells; one is gross alpha emissions and radium 226 and 228. Mr. Rehmann explained there are 15 picocuries per liter for gross alpha and 5 picocuries per liter for radium 226 and 228. Well #11 exceeded 15 picocuries during the fourth quarter of 2008. There have been four separate violations of radium in the fourth quarter of 2008 and three times in 2009. The former Water Superintendent was the only person in the Township that is authorized to sign the forms submitted to the State because he is licensed by the State. The radium levels were 6.1, 6.2, 6.5 and 8.2 which is just above the maximum contaminate limit. The impact to one's health for drinking water with these levels of contamination is a long term impact. The level of 5 picocuries is set at a level of drinking two liters of water everyday for 70 years and there is a 1 in 10,000 chance of contracting cancer. Mr. Rehmann advised that the Administrative Consent Order allows them to use Well #11 during emergency situations as a last well on, first well off situation for a short period of time until they can recover with the other wells. Due to the extreme heat, they are asking people to conserve water as much as possible during this time. There is a longer term impact. Well #11 has been turned on twice. The Water Superintendent was instructed to test the well and each time the well was tested the radium did not exceed 5 picocuries. The amounts were 3.3, 3.6, 1.5, and 4.1. It is not known why the levels are low now when they were much higher in December. Systems installed in other towns cost approximately \$1.2 - \$1.3 million. In the Administrative Consent Order, the Township was told to do specific things in order to provide enough safe water for the residents. Well #13 has received approval to be operational. The problem is Well #13 and Well #6 were designed to be close to each other and there is not enough time for the chlorine contact time to protect against any possible cross contamination. A contract was awarded on June 16th to increase the detention time so that they can operate both wells at the same time safely and have adequate contact time. They will have a 72% increase in capacity, and this is being done to eliminate Well #11. The Superintendent does not want Well #11 taken off line at the moment because there are people that need the water in this extreme heat. This will probably be done within the next two weeks. They have obtained approval from the DEP for a diversion right from Well #11 to Well #12. Mr. Rehmann explained that a diversion permit and change of this nature normally takes 3 to 5 years, but they have had this done since January through the cooperation of the DEP and Pinelands; and with this they will get an additional 400 gallons per minute. Well #12 had been drilled about 10 years ago and had a test well put in and got water but the contract never went forward, and there is an outstanding appropriation for this. They will take that appropriation, fix the well, put the well pump on, put the treatment facility in the well #8 building and get it in to compliance. ARH is seeking approval from Council to issue a \$192,000 contract to complete the facility that should have been completed 10 years ago. Well #13 and Well #6 have been added at the same time and that contract was approximately \$60,000. Mr. Rehmann advised he is under continuing negotiations with the DEP to ensure the Township is under compliance with all

other testing results. Approximately a total of \$270,000-\$275,000 will be spent to correct the issue. ARH will also have all of the testing requirements met every quarter. There was an issue in 2008 regarding a test not being completed for volatile organics and the Township was fined for that. Mr. Rehmann continued that all of the fines that Mr. Post has put in the order are the minimum mandatory fines. Volatile organics are found more in individual wells that have a septic system. Although they missed a test, a subsequent test showed no violations; the end result is there were no volatile organics in the Lake Valley water system. Mr. Vaz questioned how the one well in question relates to the entire system and it is his understanding that all of the water is mixed together. Mr. Rehmann explained how the well system works. Mr. Cartier asked who is currently authorized to sign off on the tests. Mayor Patriarca replied that currently the Water Supervisor is the licensed operator in the Township who signs off on the tests. Mr. Cartier asked where the \$275,000 is coming from. Mr. Rehmann answered that part of it is coming from the old contract; the old bond for Tiger Construction for the construction of Well #12 that was never spent. Mr. Vaz informed that approximately \$57,000 is left. The CFO pulled it from various places to allow her to certify funds. There are two separate 2010 budget line items that total \$194,000. There was \$57,000 of an outstanding contract from nearly ten years ago and the 2005 capital lease had \$58,000. The CFO can certify the funds because the funds were specifically allocated for well improvements and water system types of improvements. Mr. Prickett noted having received a document in his packet dated June 11, 2010 that is a summary of the Administrative Consent Order that indicates the radium levels were not available for the first and second quarters of 2010. Mr. Prickett asked if the values given by Mr. Rehmann earlier represent the first and second quarter. Mrs. Willis explained they are not exactly the first and second quarters, rather they are values for the month. Mrs. Willis provided an updated copy to Council with values from today. Mrs. Willis explained in January 2010, there was a radium value of 3.35; April 2010 had a value of 3.57; May 2010 had a value of 1.5; and June 2010 had a value of 4.16. Mrs. Willis added that every time the well was turned on, a test was performed. Mr. Prickett noted that it does change; and referred to it as taking one picture in time. Mr. Prickett commented that the Administrative Consent Order is a document that requires a public hearing to execute the document. Mr. Rehmann stated that is what is being done tonight. Mr. Prickett asked for an explanation on an Administrative Consent Order and stated it is an agreement with the DEP and the Township on how to resolve issues and violations for example that took place in 2009 but were not remediated in 2009. By having an Administrative Consent Order, it gives the Township extra time to address the issues, violations and make sure the Township has the water capacity that it needs to provide the residents and asked Mr. Rehmann if that is true to which Mr. Rehmann answered yes. Mr. Post commented that the plan that Pemberton Township's consultants have put forward also deals with an issue called firm source capacity. It's not just remediating any quality violations but the water supply has to have the capacity that if the biggest source has to be taken off line, there is still enough source capacity to take care of the water supply. What they are dealing with is not just the radium issue but to also have enough firm source capacity. The DEP will not issue any water main extensions unless there is quality and firm source capacity. Mr. Post introduced Mr. Matt Wilson from the Water Supply DEP. As a condition of any type of consent agreement moving forward to resolve the issues, if it requires more time than one year from a maximum contaminate level violation to implement all of the measures necessary, there has to be a public hearing and a consent agreement. Mr. Rehmann explained a water main extension is where water would not have existed on a roadway and residents are interested in having Township water and the extension would allow that to happen by constructing the pipe. Mr. Rehmann added if there is not firm source capacity, new developments would not be allowed in town because they would require extensions of water mains to the new streets they were building and that would not be possible unless the firm source capacity

was met.

Mr. Cartier opened the meeting to public comments. Those indicating a desire to be heard were: **Leonard Gittens:** Has lived in Lake Valley for 41 years. It seems like everything falls in Lake Valley and nothing gets done but promises. Mr. Gittens asked Mr. Prickett why he waited to put his editorial out now when he knew about it a long time ago. Mr. Prickett advised that the minutes will reflect that he did bring that out and talked about it. One of the reasons why he wrote the letter to the editor is because of tonight's meeting. It was not advertised very well and there are legal requirements for advertisement, and he doubts anyone in the audience read the advertisement in the classified section. Mr. Prickett referred to tonight's agenda in that it is not clear what this meeting is about. His hopes in writing the letter to the editor to peak the interest of residents in Pemberton Township to come out and find out for them selves what the issues are. Mr. Gittens expressed hope this is not for votes in November. Mr. Prickett replied this has nothing to do with votes, but it has to do with getting the public to come out.

Richard Bizov: He is the Director of Water Programs for the Pinelands Preservation Alliance. Mr. Bizov conveyed that firm capacity is currently 512,000 gallons per day. The potential solution to solve the water companies' lack of firm capacity are listed in number 15 of the ACO. Mr. Bizov commented that the ACO does not have any language regarding new connections. He suggested there should be some explicit language in the ACO that new permits are not permitted until the firm capacity issue has been resolved. Mr. Bizov commented that people have the right to know when Well #11 is going to be on. He suggested putting information on the Township website so the public can decide if they want to use the public water or purchase bottled water for the short period of time the well may be on. Mr. Bizov noted the ACO is for a one year extension until September 1, 2010; therefore it is retroactive from September 1, 2009 and asked for clarification. Mr. Bizov commented on Well #12 and Well #13 being used as a substitute for Well #11 and assumes those wells have been sampled for them to go on line. Mr. Bizov commented on the gravel pack of a well being up to the ground surface which means the well is intercepting a few different water bearing zones including the shallow water bearing zone. When the well is turned on, water is going to be entering the well from the shallow aquifer; the aquifer which is the most vulnerable to surface contamination. Mr. Bizov expressed concern whether the shallow aquifer has been sampled so that there isn't contamination being pulled in to the well. It would be a shame for the well that is going to be used eventually to run in to problems before it is even put in to service in the future. Mr. Bizov commented on the radium in Well #11 and noted the private well testing act, and the individual wells have high levels of alpha are probably in the shallow zone. Mr. Bizov commented the contamination coming in to Well #11 may be from the ground surface and could be a leaky seal along the well that perhaps could be fixed relatively cheaply. Cross contamination is certainly something to look into; that there may be cross contamination from shallow, natural contamination from the shallow water bearing zone entering Well #11. Mr. Post answered the compliance deadline would have been during September 2009 and it is now moved to 2010. Mr. Post clarified that Well #12 still has a permitting process that has to be followed and that is spelled out in #24 of the ACO. It is technically a transferred allocation. Pinelands will look at it also. Mr. Rehmann informed that the as built provided to ARH from the Township which was part of the record of the installation of the well ten years ago, indicates the gravel pack is one foot above the screen. The DEP required ARH to determine whether that was true and it was actually 200 feet above. Mr. Rehmann commented to Mr. Bizov that he made an excellent point regarding the surface ground water. Mr. Rehmann also noted Mr. Bizov made another good point referring to checking the seal which he will take care of.

Charles Bland: Has lived in Lake Valley for over 30 years. Asked why the water is so brown in Lake Valley and when the fire hydrants should be flushed because they never have been. Mr. Rehmann answered that normally there would

be a spring and fall flushing season which is routine. Mr. Bland reiterated that it has never been done. Mr. Rehmann noted he will speak to the Superintendent and added that normally brown water is an indication of iron in the water. He will also review the test files. Mr. Bland stated that Lake Valley did not have brown water until the Township took over. When they were under the Lake Valley Water Company, they had very clear water; however, the price has gone down by less than half what it was before. **Darlene White:** Also lives in Lake Valley. She expressed concern regarding past work that was supposed to have been completed and for some reason it was not done. She asked what assurances the public will have as they move forward that there will be monitoring and accountability of the corrections that need to be made and where the funds will come from to pay the fines. She questioned that as the repairs and monitoring are done, will the general public have access to what is being done in order to improve the situation. Mr. Cartier replied that the DEP will be monitoring any construction and remediation that goes on with the projects. Mr. Cartier stated that Administration has informed where the funds will be taken from. Mr. Vaz again explained the two separate line items in the 2010 budget that were for the water project. Ms. White asked if the funds were just sitting there. Mr. Vaz replied there is no explanation as to why the Tiger Contract was not completed at the time. Mr. Vaz informed he and Mr. Bayer spent two full years trying to schedule a meeting with Tiger Construction's attorney. They are still negotiating, trying to close the contract out with the contractor. Mr. Vaz noted that the contractor is alleging that he is owed money. Mr. Vaz relayed that he was informed that a prior Business Administrator put the brakes on the project and now they are fixing it. As far as internal accountability, one of the problems is they are not licensed water operators and therefore they don't get a copy of the notices of non-compliance until the water operator provides them. For the most part, they rely on what they were told. As far as they knew, everything was going well until the December 17th non-compliance letter which generated the Mayor making the decision at the end of December to temporarily put Well #11 off line and generate the notice that went out in the newspaper. There was an exit conference with the outgoing Superintendent and other than this issue with Well #11 which they then had knowledge of because of that notice that was provided, none of the bigger issues were presented to Administration. Administration became aware of the major issues such as the firm capacity and other problems that are all coming together when he went to a meeting in Trenton in January or February thinking he would be meeting with Matt Wilson on the one separate issue of not reporting and the radium issue and there were at least 13 Bureau of Safe Drinking Water personnel in the conference room. He very quickly learned of the other issues that none of them knew about including the \$3,500 penalty involving the Lake Valley System. At the end of the meeting, he was informed of the ACO. Mr. Vaz advised they immediately implemented the working team effort with ARH and the DEP. The new license water operator is more aggressive with Administration in keeping them involved. He is documenting all of the dates when things are due. Mr. Rehmann commented that what they are voting on tonight is an order from the State of New Jersey that says by August 1st, Pemberton water shall apply to the department for approval. By September 1st, Pemberton shall complete the conversion of Well #2. These are orders that must be followed and further on are the fines they would pay if they do not follow them. They are going to agree tonight to meet this schedule and also meet the requirements to pay for the improvements that are here. Mr. Bayer added it's like a court order; it's an agreement with the DEP. The DEP has powers to enforce it under state law. If the Township doesn't comply with the provisions of the order, DEP under state law would have the power to take actions. The Township has basically agreed to stipulated amounts for failing to meet deadlines. There would be severe consequences if they didn't do it. Ms. White expressed concerned that as a tax payer those penalties will end up coming out of her pocket. Ms. White was not happy when she received a notice in the mail explaining that the Township has already been faced with one fine and is potentially looking at

another one. She suggested being proactive in preventing some of the cost measures. Mr. Cartier asked Mr. Rehmann how they are going to comply with the August 1st deadline. Mr. Rehmann answered that Council is being asked to approve a contract tonight and that is an indication to Mr. Post that they have moved as expeditiously as possible. They have to rely upon Jersey Central Power & Light company to bring power to the site, and they have no control over their schedule. For issues beyond their control, they can apply to Mr. Post to adjust that as long as they can show him they are doing their due diligence to move this forward. **Michelle Forman:** Commented on a recreation center in Lake Valley that had a lot of work done on it. She noted that the Mayor had the brush removed in Lake Valley as promised at a previous Council meeting. She stated that she has been attending Council meetings for many years, and it is not fair for someone to come forward who doesn't really attend Council meetings and accuse Mr. Prickett of why he let them know of this now because there is an election coming up. Ms. Forman stated Mr. Prickett has always written articles in the paper and has always put himself out on a limb and his neck on the line for the residents of the Township. Ms. Forman asked why the Township did not inform the residents regarding the radium in the water until one year after it was discovered and noted that it was not Mr. Prickett's job. Mr. Vaz stated he answered part of it to Ms. White's question regarding accountability. Mr. Vaz continued that in the last quarter of 2008, there was a test result for radium that exceeded the pCi/L. The Water division was advised of that and made the proper notification and it was in the Burlington County Times for two days in March 2009. Ms. Forman asked if letters had to be mailed to residents regarding that or if the Township only had to advertise it in the newspaper. Mr. Vaz stated he does not know if letters were or were not done, but he could check to see if there was a requirement to do more than put it in the newspaper. Mr. Vaz continued that Well #11 was shut off from February 2009 to June 15, 2009 because Pemberton Township did a major redevelopment of Well #11 at that period of time. There were no samples taken for the first quarter of 2009. There was no decision to not take samples for any reason other than the well was down. They were doing a major repair; it went out to bid; Council approved it and approved the bills for the Contractor, AC Schultes. The project took them up to June 15, 2009 when the well was finally put back on line. At that time, the former water division licensed water operator had it tested again, and the individual test came back under that 5 pCi/L maximum limit. Another test was done during the third quarter of 2009, and that test again came back below the 5 pCi/L maximum limit. For the last quarter of 2009, the test came back above 5 pCi/L to 9.11 and that generated the violation notice of December 17, 2009. Two weeks later, the Mayor decided to take it off line. Mr. Vaz conveyed he knows why the licensed water operator may not have done what he was required to do because although those individual results came back below the 5 pCi/L maximum, the problem is that is not how the regulations are set up to generate the notices. The violations are based on the running annual average. Although those individual tests came back below the maximum, when looking at the average the last quarter of 2008 that had the violations and was at 15.83 and that is something they live with in bringing up their running annual average. He does not know why the licensed water operator was focused on the middle number that was below the limit and not the number they should have been focusing on; he is retired now. It is helpful to know that during those periods of time when notices were not being generated, during those periods of times the water itself was not contaminated above the level. It is contaminated in the sense that on average in the way the regulation was set up; it was above the 5 pCi/L. Ms. Forman commented that she just wants to know why the public was not informed until January 22, 2010. Mr. Vaz stated the public was informed. For the violation at the end of 2008, a notice was done in March 2009. Ms. Forman commented it was just an article in the newspaper and asked why residents did not receive an actual letter like they were supposed to until January 22, 2010. Mr. Vaz replied he does not know if that was required, but he will answer it later. Mr. Cartier asked Mr.

Post what is required by law. Mr. Post conveyed that what the Township did by putting the notice in the newspaper is what was legally required. Ms. Forman commented that she spoke on the phone today with Mr. Post and was informed that Pemberton Township was supposed to inform the residents on January 7, 2009 about the high levels of radium in the water but that Pemberton Township did not inform the public until March 15, 2009. Ms. Forman stated the minimum requirement is not good enough. Mr. Cartier suggested to Ms. Forman to take that up with the state. Ms. Forman commented that she would have liked to have known sooner that there was radium in the drinking water that she feeds her kids and herself. Ms. Forman noted she has an article on tritium which is a form of radioactive and causes cancer in humans. Ms. Forman asked Mr. Rehmann if the aquifer he was talking about included Whiting. Mr. Rehmann replied he does not know and stated the Englishtown aquifer is a large under-laying of sand in South Jersey. Ms. Forman suggested looking into that because there was a lot of titanium leaked into Oyster Creek from Oyster Creek radium. Ocean County has an investigation underway for specific childhood cancers in that area. Someone in that town thought radioactivity in the water is not a good thing and researched and looked into it. She does not buy that radium in the water is no big deal. Ms. Forman asked why the Township is being fined if it's no big deal. Mr. Rehmann apologized to Ms. Forman if that is the impression he gave her and added that radium is a big deal, and they are going to deal with it. He wanted her to understand that the type of radium they are talking about is a long term impact. He also stated that he does not know the impact to a smaller child so the Mayor shut the well off and is operating the well only as necessary and mixing it with the rest of the water in the system. Ms. Forman commented that Mr. Rehmann stated earlier when the aquifer is low all of the water mixes together. Mr. Rehmann corrected Ms. Forman in that he did not state that but rather the aquifer is not part of the discussion. When pumping water in to the water mains in the Township, they mix together with the rest of the wells that are also being pumped in to those same water mains. What she is referring to is contamination that is part of the Oyster Creek nuclear power plant. Mr. Rehmann noted that is a completely different topic that is not impacting Pemberton at this time. Ms. Forman informed according to the weather station in Mount Holly, there has been two inches of rain in the month of June for the Philadelphia area and almost one inch of rain for the Trenton area in the entire month of June. Ms. Forman asked if that meant the aquifer is very low at this time. Ms. Forman commented there has not been any rain in July and questioned why we weren't dealing with this a year ago before the drought season. Mr. Vaz commented it's a matter of the tanks. Mr. Rehmann expressed that it is his understanding from an article in the Philadelphia Inquirer that there is again concern that people will pump water out of the Kirkwood Cohansey Aquifer because of the amount of snowfall that this winter, they are at their highest levels. The aquifers move up and down because they are surface aquifers and they have a tendency to drop if they do not have water. The wells that they are familiar with what they call the static levels in the well where the water rises when the pump is off are higher now than they have been for a while. Ms. Forman asked if the \$4,500 fine was for not testing the well or for not telling the public in a timely fashion. Mr. Post informed that part of the penalty was for late notification to the DEP that radium exceeded the maximum contaminate level and part of it was for delayed public notification that the maximum contaminate level had been exceeded and another part of the penalty was for not monitoring and reporting nitrate nitrogen during the calendar year of 2009 for well #11. Ms. Forman commented that on Newcomb Drive just as they were almost forgotten for gypsy moths and they were forgotten for the recycling bins, they did not receive the letter of January. The Township did hand deliver the letter when they were informed that the letter was not received. Ms. Forman expressed that she doesn't get a good feeling about this and that all that had to be done was to advertise in the newspaper and she doesn't know if she should drink the water or boil it out or get something on her faucet to purify her water. Mr. Post informed he will provide a

copy of the South Jersey Homeowner's Guide to Radioactivity in Drinking Water (Radium) and one of the items states that an ion exchange water softener can be installed; copies have been provided at the entrance to the meeting room. **Tony Miehle:** Stated that those of them who pay to have their water provided by the Township have a certain expectation that they will receive safe drinking water. Mr. Miehle expressed that if the limits set by the DEP have been exceeded for over one year, there is a problem. Mr. Miehle asked why this happened, noting that Mr. Vaz did address some of it with his timeline. Mr. Miehle questioned the long term effects on children and asked for scientific evidence. Mr. Rehmann advised that they do not have that information. Mr. Rehmann continued that is why the well was shut off and why it will only be used in emergency situations. It is a concern he would have as a grandfather and would only use bottled water for them if they were infants. Mr. Rehmann added that choosing to use bottled water is an individual choice. Mr. Miehle referenced a newspaper article stating the well was only turned off in December. Mayor Patriarca clarified that the test with the high number of 15 was for the last quarter of 2008. In the first quarter of 2009, the well was off for redevelopment and that is why there was no testing for that quarter. When the well came back on line, it was immediately tested and it was under the level set by the DEP, 3.07. The next quarter was also under, 4.83. The well was functioning properly and under the contaminate levels set by the DEP. It wasn't until the last quarter, and it appears that they are getting high numbers in the winter months, they had a high number of 9.11 and the decision was made to shut the well down. The exceeded numbers are referring to the running annual average. The number is taken from the last quarter of 2008, there were a few quarters where there were not any tests because the well was not running, two low numbers were received after that, 6.21 and 6.56 and those numbers still exceed the DEP's limits. The Mayor reiterated the DEP's limits are the running annual average and it doesn't mean that the water being consumed at that time is above the legal limit that they allow. It means that they are still above the average based on previous numbers that were generated by previous reports. The Township was supplying water that was under the limits set by the DEP. It was not until the limit was exceeded again that the well was shut off. The Mayor stated it was not held one year before the public was told they were drinking contaminated water. The public was notified after the first 15 level and the legal notice was met by the water superintendent at that time. Mayor Patriarca clarified that the water superintendent was a tremendous individual. Mr. Williams was a very good employee who did his job as well as anyone could have done that job. Without going in to too many details, Mr. Williams had some serious personal issues in his last year and whether that involved this and it's not an excuse, but he wanted to make it clear that Administration is not throwing a former employee under the bus. He was a good employee and is a good man. The Township was not knowingly providing water that was contaminated. He reiterated that when they found out the water was contaminated, the well was shut off. **George Petronis:** Stated there are still several questions that remain unanswered. He commented that based on the ACO there are three separate incidents that the Township is being sited on for failure to notify the public. Mr. Matt Wilson clarified that there were three separate notices of violations; not three separate violations. Mr. Petronis asked where the funds are coming from to pay the fines. Mr. Cartier answered that they will be paid from the water department fund. Mr. Petronis stated that as a rate payer he has been buying possibly under quality water and now is going to pay a fine for as well as the other 4,000 rate payers. He noted that Mr. Vaz mentioned \$194,000 of the repair costs are going to come from two line items in the budget. He asked what two items in the budget are being sacrificed to pay for the repair work. Mr. Vaz clarified they were water project line items in the water utility budget. Mr. Vaz clarified that other public services are not being sacrificed for the \$194,000. Mr. Petronis noted it seems like there was some failure of due diligence on the part of the water department supervisor. He asked what the oversight is over the water department; why did it occur and what assurances there are. Mr. Petronis stated the extension

of the deadline for the penalty is September 2010 and asked if the original deadline for correcting is September 2009. Mr. Post replied that is correct. Mr. Petronis reminded that last summer there was a debate regarding \$1.5 million for new water meters for the water department. He gave credit to Administration and the Council for the open debate and giving the public plenty of opportunity to speak out and the issue was given full consideration. Mr. Petronis reminded that borrowing money was talked about and putting in improved water meters with no proven benefit to doing it while this issue was being presented to the Township for correction by the DEP. He would like to know what measures are being taken to ensure this sort of failure on the part of the water department does not occur in the future. Mr. Vaz reiterated that the new licensed water operator has set up a system of dates of when specific tests are to be done. That individual is more aggressive about it and Administration meets with the water supervisor as well as the DPW Superintendent twice a week. Mr. Petronis asked Mr. Vaz if that is because Administration has the power and authority to require that of the water supervisor or because the water supervisor has an independent position but is willing to give up his independence as an act of "forthcomingness". Mr. Vaz replied that the water supervisor does not have independence as a municipal employee; he still has to be accountable to the Township in that regard but as a licensed water operator for the state he has obligations under the state regulations and law and he takes those very seriously and has been working very hard to develop a system so that this does not happen again. He doesn't want to have to walk into the Mayor's office with a notice of non-compliance and explain why or why not there wasn't compliance in the first place. The water supervisor cannot control a positive radium result in a test sample. What is in his control is to comply with the public notification aspect. Mr. Vaz commented that they have to work through the radium issue. Mr. Petronis relayed that he has not heard anyone blame the local government for the existence of the radium. Clearly they can't control it and it's not their fault the radium is there. Mr. Petronis wanted to know the degree of independence that the water department has from the general administration of the Township. Mr. Petronis noted the current supervisor is cooperating with Administration very closely but questioned if that is because he is being cooperative or because Administration has the power to compel him to do that. Mr. Vaz remarked that Administration compels him to do this in the sense that he is accountable to the Administration. Mr. Vaz added that the water supervisor is really no different than a lot of other positions in this town and other towns across the state. Mr. Cartier asked Mr. Post what kind of accountability the DEP holds over the license holder. Mr. Post replied that the license holder has to be qualified to obtain the license and then they have to comply with requirements to provide information on how they run the system and the test results to their water system or municipality or sewer authority. They have a responsibility to ensure operations and maintenance are performed on systems and that there are standard operating procedures. They also should be training additional people in the system to be their backups. When an operator is not there on a day for a large system, the backup operator has to be there. Mr. Cartier asked what happens to that license holder if there is a failure in any of those things to do that. Mr. Post answered it doesn't happen too often, but the DEP can take action against the licensed operator. There have been instances where operators have been sanctioned and lost their licenses for a while because they were not doing their jobs properly. Mr. Cartier conveyed that it is in their own best interest to make sure it is done properly because it falls back on them. Mr. Vaz conveyed if the present licensed water operator is not getting his job done, they may not seek to have the state pull his license, but they would have the ability to discipline the employee or file a charge against the employee with the state. Mayor Patriarca asked Mr. Post if they take a test and a well comes back positive above the levels set for a test, who gets notified. Mr. Post answered that the licensed water operator gets notified. The Mayor pointed out that the licensed water operator could hold that notification back from Administration. He is not suggesting that is going to happen or did

happen but rather that it could happen. Mr. Prickett noted that Mayor Patriarca makes a good point of where the DEP notice goes. Mr. Prickett suggested the notification go to the Township Clerk so the information can be disseminated to the appropriate parties in municipal government. Mr. Prickett commented that the Administration Consent Order was made out to Mayor and Council but it was addressed to the Mayor and it was sent out May 28, 2010 but the Council did not receive it until yesterday from the Clerk's office at 2:58 in the afternoon. Sometimes these documents get lost in the bureaucracy and it has been his experience that if it is sent to the Township Clerk, they will make sure all of the affected parties get a copy of the information. Mr. Post added that the notices of non-compliance are sent from Mr. Wilson's group as opposed to enforcement. Mr. Wilson informed that Mr. Vaz would have to send him that request. Mr. Vaz commented that one of the notices was specifically addressed to the licensed operator and it was copied internally to the agency but it was not copied to anyone else. Also, in regard to Mr. Prickett's comments regarding the date, there was a later date of ACO. Mr. Prickett stated he doesn't know anything about that. Mrs. Willis advised June 8th is the date the ACO was officially signed. Mr. Prickett informed he received his ACO from the DEP thanks to Mr. Post after having a conference call with the DEP and answered his questions and serves a wonderful function. Mrs. Willis advised the DEP has been fantastic through the entire process. Mr. Vaz relayed that Administration spent a lot of time this morning responding to a Councilperson's phone call asking the question as to why it wasn't in the meeting package. The person that would have a better answer is not here tonight because she is on vacation. There were multiple copies of it; it was sent here certified and received from the state. The expectation was that it would be in the meeting package but it was not. **Theresa Lettman:** Asked if the public will know if Well #11 is turned back on. Mayor Patriarca responded that Administration is not going to notify the public every time Well #11 is turned on because they don't know when it will be turned on and when it is turned on it may be only for a short time. The legal requirements are met and the public will be notified when it exceeds the limit and shut the well off. The water being provided meets the DEP's standards. The public has been drinking radium all of the time for years under the standards set by the DEP. It may be in other wells under the legal limit. Ms. Lettman asked if it does go over the limit, the only notice to the public is the little notice in the paper and not mailed. Mr. Vaz informed that in the recent case, Administration did mail letters and took a lot more steps than required to do, including going door to door. The notices were posted in the Library and the Country Lakes Clubhouse. Ms. Lettman stated to the DEP that they now know there is a problem with the well and chances are it could happen again and if they require there be more of a notification process. The DEP responded that the Township has met the notification requirements of the DEP. Mr. Rehmann stated as soon as Well #12 goes on line, the diversion rights for Well #11 cease. It can't be turned on again. By September 1st of this year, Well #12 should be activated and they lose the right to turn Well #11 on. It doesn't help in the rest of July and August. **Shem Miller:** Asked the engineer to explain the half life of radium 226 and 228. Mr. Rehmann answered he cannot explain that. Mr. Miller stated the half life is 1,600 years and it diminishes very little after that. He is totally lost on how to cure this problem. He asked what is the easiest solution to the problem. Mr. Rehmann answered the most assured way is to put a treatment system on Well #11 and remove the radium to 90-95% of what is in the system. That would provide assurances that what is coming out of the system is not radium free but well below the standard on which the state and federal government have set. Mr. Miller asked if it would be cheaper to drill a new well. Mr. Vaz stated the solution being pursued is to get Well #12 on line at the cost of \$192,000 versus a new well which would be over \$1 million. Mr. Rehmann added there is always a risk of drilling a well where there is more radium in the ground water. These are risks that they try to minimize when doing these projects by putting down a pilot well and testing the water before construction. They are attempting to take water where

they know the quality at this time, ground water moves from the Delaware River out to the continental shelf in general and that water quality changes over time and that's why they must test it quarterly. **Steven Skulimoski:** When the well was shut off at the end of December 2009, the running annual average was 8.21 pCi/L and two quarters have passed since then and asked if the wells have been sampled and has that taken the running annual average down to the 5 pCi/L that it needs to be at. Mrs. Willis commented that the well is not constantly running so she can't say the test results they have can be put towards the running annual average. These test results were pulled because they turned the wells on for that little bit of time and the water division kept up on at least testing that to make sure what they were using at that point was under the limit. Mr. Skulimoski questioned that as soon as the well is turned on, will the public have to be notified if the running average is still above 5 pCi/L. Mr. Vaz conveyed what if they end up in the intervening period of time if they do another. Mr. Skulimoski commented right now if the well is turned on and they are below their running average, no notice would be required. Mrs. Willis stated that timeline was at the end of 2008 so every four quarters the running annual average is calculated by the last four quarters. Once they got over the hump of the last quarter of 2008, that high number that was driving everything up has actually been taken off and they are looking at far lower values. Mr. Skulimoski commented that the ending number was 8.21 at the end of the year so that is the target point. Mrs. Willis agreed. **Jim Wasnewski:** Spoke of the exposure level and risk of radium. He stated it is not an exposure problem but rather a time risk. He suggested what needs to be communicated to the residents of the Township is that the children have a greater potential of developing a disease because there are no standards for children and there are no safe levels for children, and no one can argue that fact because they don't know. Mr. Wasnewski noted that individuals that have well water send their children to public schools that use the contaminated drinking water and the parents don't know anything about it. The children of the Township are potentially at risk and that risk increases with every year they are alive and with every exposure they have. He stated this particular radioactive element does stay in the body long enough to give off radiation to cause damage.

There being no additional members of the public indicating a desire to be heard, Mr. Cartier closed the meeting to public comments.

Mr. Prickett commented on the document that was mailed out on January 22, 2010 which covers the document that should have been sent out or advertised for the first quarter of 2009. The document shows the first quarter not being tested for radium and water was pumped from Well #11 during the month of January so February and March was when the well was shut down at that point. Mr. Prickett stated the running average is above the maximum level for radium. It peaks at 8.21. His question has to do with the annual drinking water quality report that was put in the paper a few weeks ago. For Well #11, the radium detected ranges between 3 and 9 and the average is 5. It indicates there is no violation for radium in Well #11. Mr. Prickett asked how the average for the annual level is determined and is the average for the four quarters divided by four. Also, what was the method used when there was a missing first quarter; a zero value would drop down the average. Mr. Rehmann added they would divide by 3 as opposed to 4. Mr. Prickett stated the public needs to be kept informed. The document that was produced on January 22, 2010 did that, and the Township has done a good job. The Township has also done a good job to a degree since that time letting the public know at least when Well #11 is on. Mr. Prickett conveyed he would like a better idea when Well #11 is on and suggested it be on the website. He expressed that they need to also let parents know that they have an option since they are not really sure of what the levels of radium are in their water system because of the constant changing that they might consider using bottled water. Mr. Cartier confirmed that it is being requested of Council to approve the ACO and in doing so

would approve the funds.....Mr. Rehmann interjected that in doing so would approve the schedule. If there are funds needed, Council is saying they are willing to appropriate those funds. ARH has laid out what they are attempting to do in the program and Mr. Vaz has provided information as to where those funds would come from but Mr. Post is stating here is the order and comply to the order and whatever funds it takes to do it. They have done the minimum part to try to get back in to compliance with the least expensive way of doing it. Mr. Prickett asked Mr. Cartier if there is indication on the agenda or in the document that a vote is to be taken. Mr. Cartier replied no, just a public hearing. Mr. Prickett conveyed a public hearing is required before the Mayor can sign and execute the agreement. Mr. Prickett expressed he is glad to hear it requires a vote from Council. Mr. Bayer informed it would be a resolution authorizing the Mayor to execute the ACO. Mr. Prickett asked if the resolution has been prepared. Mr. Vaz replied no but that Mr. Bayer can prepare something by title and fax it to Council in the morning. Mr. Bayer agreed and informed he prepared a resolution and sent it to ARH awarding a contract for the construction. Mrs. Willis advised it is on the agenda. Mr. Cartier expressed concern putting out that kind of money now but is more concerned about walking away from the capital sitting out there and letting it sit there stagnant. He would like to come up with some sort of solution of having Well #11 available and a solution to fix that well. Mayor Patriarca conveyed that is addressed in Resolution No. 170-2010 where Council would authorize the awarding of the contract. Mrs. Willis explained that they are looking at some other outstanding capital items such as Well #13 and Well #12. Mr. Cartier disagreed and stated Resolution No. 70-2010 is for Well #8A and 12 and he is talking about Well #11. Mayor Patriarca agreed and noted that is why they are doing 8A and 12 to rectify the problem with Well #11 so it can be taken off line. Mr. Cartier added and walk away from Well #11. Mr. Vaz noted they will keep the option under the table of bringing Well #11 back. Mr. Cartier commented that they put money out to build that well however long ago it was, but it is still a capital investment to the Township and he would hate to see them walk away from it. Mr. Vaz advised the first six months in 2009, the Township spent a lot of money to redevelop Well #11, approximately \$80,000. Mr. Prickett recalled Mr. Rehmann, Mr. Post or Mr. Vaz state that once Well #12 was turned on, Well #11 couldn't be turned back on because of some permitting or water allocation. Mr. Cartier commented that we could apply to the DEP to do that. Mr. Prickett advised there is a proposal to find some type of remediation system for Well #11. Mrs. Willis advised they have investigated some options that they are still looking into but by bringing Well #12 on line it provides more time to investigate them more thoroughly. ARH wants to make sure that anything they recommend to the Township and Council is going to be the best option to get Well #11 back on line. That's what Well #12 is going to give us; a little bit of time. Eventually they will have to go in and get a full BSDW permit for Well #12. Now, on an emergency provision, they are allowing them to borrow the rights from Well #11 to turn Well #12 on. They will still have to do a full application to the DEP to get those rights on Well #12. At that point, once Well #12 has their rights, Well #11 then will have theirs back. What they are doing this summer and with what is on the agenda to award tonight with Well #8A and Well #12 is an emergency provision. This is a temporary provision to give them more time to look at Well #11 and make a very educated judgment on how they are going to suggest the Township move forward. Mr. Cartier commented that he is glad to hear that because that is not what was presented earlier. What was presented earlier is that they bring Well #12 up to the standards of Well #11 and then walk away from Well #11; shut Well #11 off and walk away and he would rather not see that done. Mrs. Willis apologized if that is the way it came across but in part of the ACO there is a provision that a full application will need to be done for Well #12. The August 1st deadline is the emergency application to turn Well #12 on then the full application to turn Well #12 on to keep it on a permanent basis. Mr. Cartier acknowledged the problems with Well #11 but to go out and dig a new well.....they know what they have in Well #11 now and that the

problem can be remediated. There is a system that can be put on line to remediate that problem and they don't know what kind of problems they'll encounter with digging a new well. Mr. Rehmann expressed this also gives them the opportunity to look for funding to offset some of the costs associated with that. It cannot be done in this short timeframe.

Mr. Cartier recessed the meeting at approximately 9:10 pm and reconvened the meeting at approximately 9:31 pm.

Mr. Cartier read Resolution No. 173-2010 by title as produced by Mr. Bayer during the break.

Motion by Prickett and Stinney to add Resolution No. 173-2010 to the Consent Agenda. Prickett, yes; Stinney, yes; Inge, yes; Cartier, yes. Motion carried.

RESOLUTION NO. 173-2010

A RESOLUTION OF THE TOWNSHIP OF PEMBERTON AUTHORIZING THE MAYOR TO EXECUTE AN ADMINISTRATIVE CONSENT ORDER WITH THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION WHEREAS, PEMBERTON TOWNSHIP OWNS AND OPERATES THE PEMBERTON TOWNSHIP DEPARTMENT OF PUBLIC WORKS – WATER DIVISION, A PUBLIC COMMUNITY WATER SYSTEM; AND WHEREAS, THE WATER DIVISION SUBMITTED MONITORING DATA TO THE NJDEP INDICATING THAT THE TOWNSHIP EXCEEDED THE MAXIMUM CONTAMINANT LEVEL ("MCL") FOR COMBINED RADIUM 226 + 228 FOR WELL #11; AND WHEREAS, THE NJDEP HAS ALLEGED THAT THE TOWNSHIP DID NOT PROVIDE APPROPRIATE NOTIFICATION TO THE NJDEP AND THE PUBLIC REGARDING THE MCL FINDING AS REQUIRED BY NJDEP REGULATION; AND WHEREAS, PURSUANT TO NJDEP REGULATION, THE TOWNSHIP IS REQUIRED TO PROVIDE FOR SUFFICIENT WATER FOR THE DEMAND OF ITS RESIDENTS; AND WHEREAS, THE TOWNSHIP ENGINEER HAS DEVISED A REMEDY SUCH THAT THE TOWNSHIP WILL BE ABLE TO PROVIDE ADEQUATE WATER TO ITS RESIDENTS; AND WHEREAS, TO RESOLVE THE ALLEGED VIOLATIONS OF ITS REGULATIONS AND TO ENSURE A SUFFICIENT AND SAFE WATER SUPPLY IS PROVIDED TO ITS RESIDENTS, THE NJDEP HAS REQUIRED THAT THE TOWNSHIP SIGN AND ADMINISTRATIVE CONSENT ORDER. NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, IN THE COUNTY OF BURLINGTON, STATE OF NEW JERSEY, THAT THE MAYOR IS AUTHORIZED TO EXECUTE AN ADMINISTRATIVE CONSENT ORDER WITH NJDEP, A COPY OF WHICH AGREEMENT IS ATTACHED HERETO AND INCORPORATED HEREIN, BE IT FURTHER RESOLVED, THAT A CERTIFIED COPY OF THE WITHIN RESOLUTION BE FORWARDED BY THE TOWNSHIP CLERK TO THE FOLLOWING:

1. NJDEP

7. Public comments on consent agenda items only.

Mr. Cartier opened the meeting to public comments on Consent Agenda items only. Those indicating a desire to be heard were: **Steve Skulimoski:** Mr. Skulimoski asked what the settlement is for and the dollar amount regarding Resolution No. 161-2010. Mr. Bayer informed it is a settlement of a workers compensation claim which is based on the employee's injuries; 22.5% of partial disability that amounts to \$33,523. Mr. Vaz commented to Mr. Bayer that in paragraph 2 in the Now, therefore, section, it should not say upon receipt of a release because it is a comp case and is not really a release. Mr. Bayer agreed and stated to add receipt of all documents required by Workers Compensation Counsel. Mr. Vaz noted there will be an order approving settlement. Mr. Skulimoski commented that immediately upon execution of the consent order, Pemberton Township shall immediately give public notice that a local water emergency exists and shall impose mandatory water use restrictions commencing upon execution exists ACO. Mr. Skulimoski asked when this goes into effect and is it in effect as soon as the resolution is passed and they are under a water emergency which would tie in to the ordinance that is going to be passed tonight stating residents can't water lawns. Mr. Cartier conveyed the Mayor would have to sign the ACO and then declare a water emergency. Mr. Cartier, Mrs. Willis and Mr. Vaz discussed levels of a water emergency. Mr. Skulimoski noted that the ordinance being talked about tonight is being done because the state is saying they have to comply with the ordinance by a certain time which leaves him to believe that the state already has some idea of what those restrictions should be. They have to be at least equal to or more stringent than what the state guidelines are. Mrs. Willis added this ordinance is

mimicked off of an ordinance that has already gone through a town with a very similar issue with an ACO. Mr. Skulimoski noted that as it stands now, their existing ordinance might not be in compliance with what the state restrictions are. Mrs. Willis agreed and added that the state understands that they are working to put one in place. Mr. Skulimoski asked what the restrictions are once the consent order is signed even if no action is taken on the ordinance tonight. Mrs. Willis replied it will be the odd and even days which are already in the Township code.

There being no additional members of the public indicating a desire to be heard, Mr. Cartier closed the meeting to public comments on the Consent Agenda.

***8. 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.**

***9. MINUTES FILED BY MUNICIPAL CLERK**
Regular meeting, June 16, 2010.

***10. CONSENT AGENDA RESOLUTIONS**

RESOLUTION NO. 156-2010

WHEREAS, APPLICATIONS HAVE BEEN MADE TO THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON FOR RENEWAL OF PLENARY RETAIL CONSUMPTION LICENSES, CLUB LICENSES AND LIMITED RETAIL DISTRIBUTION LICENSES FOR THE PERIOD OF JULY 1, 2010 TO JUNE 30, 2011; AND

WHEREAS, THE SAME HAVE BEEN DULY ADVERTISED AND NO OBJECTIONS HAVE BEEN FILED WITH THE TOWNSHIP CLERK; AND

WHEREAS, THE RENEWAL APPLICATIONS HAVE BEEN COMPLETED IN ALL RESPECTS AND ALL OF THE BELOW-NAMED APPLICANTS ARE QUALIFIED TO BE A LICENSEE IN ACCORDANCE WITH ALL STATUTORY, REGULATORY, AND LOCAL GOVERNMENTAL ABC LAWS AND REGULATIONS;

NOW, THEREFORE, BE IT RESOLVED, BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON, STATE OF NEW JERSEY, THAT THE FOLLOWING LICENSES BE RENEWED FOR THE PERIOD OF JULY 1, 2010 TO JUNE 30, 2011, EFFECTIVE UPON ADOPTION OF THE RESOLUTION HEREIN:

PLENARY RETAIL CONSUMPTION LICENSES:

JET LLC

#0329-33-012-004

T/A JAMISONS BAR & GRILL

SGSL ENTERPRISES, INC.

#0329-33-010-005

T/A PIG'N WHISTLE

RESOLUTION NO. 157-2010

WHEREAS, THE UNIFORM CONSTRUCTION CODE ACT, A SUB-CHAPTER ENTITLED "ELEVATOR SAFETY SUB-CODE" N.J.A.C. 5:23-12, AND SPECIFICALLY N.J.A.C. 5:23-12.2 (A) PROVIDES THAT "PERIOD, ROUTINE AND ACCEPTABLE TEST AND INSPECTION, IF APPLICABLE, SHALL BE REQUIRED ON ALL NEW AND EXISTING POWER ELEVATORS, ESCALATORS, DUMBWAITERS, MOVING WALKS, WHEELCHAIR LIFTS, MAN LIFTS AND STAIRWAY CHAIR LIFTS"; AND

WHEREAS, THERE ARE EXISTING IN THE TOWNSHIP OF PEMBERTON VARIOUS ELEVATORS, WHEELCHAIR LIFTS, ETC., SUCH AS TO INVOKE THE PROVISIONS OF THE ABOVE QUOTED SECTION; AND

WHEREAS, THE TOWNSHIP CONSTRUCTION CODE OFFICIAL HAS INDICATED THAT HE IS NOT CERTIFIED TO PERFORM THESE INSPECTIONS, AND HAS RECOMMENDED THAT THE TOWNSHIP ENTER INTO A CONTRACT WITH EIC INSPECTION AGENCY CORP., 3705 KENNEDY BLVD., JERSEY CITY, NJ 07307, WHICH AGREEMENT IS ATTACHED HERETO AND MADE A PART HEREOF; AND

WHEREAS, THE PURPOSE OF SAID AGREEMENT IS TO EMPLOY THE SERVICES OF EIC INSPECTION AGENCY CORP., TO PERFORM THE INSPECTION REQUIRED UNDER THE UNIFORM CONSTRUCTION CODE ACT; AND

WHEREAS, THE LOCAL PUBLIC CONTRACTS LAW, AND SPECIFICALLY N.J.S.A. 40A:11-15(11) PERMITS SAID CONTRACT TO BE AWARDED FOR A TERM NOT TO EXCEED THREE (3) YEARS; AND

WHEREAS, THE CONSTRUCTION CODE OFFICIAL HAS RECOMMENDED EIC INSPECTION AGENCY CORP., BASED UPON THEIR ABILITY TO PROVIDE ELEVATOR RELATED SERVICES AND THEIR AVAILABILITY TO THE TOWNSHIP AND IN ACCORDANCE WITH THE APPLICABLE REGULATIONS RELATIVE TO THE AWARD OF A CONTRACT FOR THIRD PARTY INSPECTION; AND

WHEREAS, THE TOWNSHIP COUNCIL DEEMS IT APPROPRIATE TO AWARD THIS CONTRACT BASED UPON THE CONSTRUCTION CODE OFFICIAL'S RECOMMENDATION;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON, STATE OF NEW JERSEY THAT THE MAYOR AND CLERK BE AND ARE HEREBY AUTHORIZED AND DIRECTED TO EXECUTE THE ATTACHED CONTRACT BETWEEN THE TOWNSHIP OF PEMBERTON AND EIC INSPECTION AGENCY CORP., FOR THE PERFORMANCE OF CERTAIN INSPECTION SERVICES RELATING TO ELEVATORS WITHIN THE TOWNSHIP OF PEMBERTON, SAID CONTRACT TO BE FOR A TERM OF THREE YEARS COMMENCING JULY 8 2010, FOR 75% OF THE DCA FEES.

RESOLUTION NO. 158-2010

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:

DAVID & LINDA BURMASTER, \$1,155.84, OVERPAYMENT OF SECOND QUARTER TAXES DUE TO TDV IN 2009, BLOCK 645, LOT 3.

LAWRENCE & CHRISTINE WEBRE, JR., \$1,017.34, OVERPAYMENT OF SECOND QUARTER TAXES DUE TO TDV IN 2009, BLOCK 48, LOT 1.

BRIAN MULLEN, \$120.00, REFUND FOR SUMMER REC PROGRAM
SAMUEL GILES, SR., \$120.00, REFUND FOR SUMMER REC PROGRAM

RESOLUTION NO. 159-2010

RESOLUTION SUPPORTING THE OVER THE LIMIT UNDER ARREST 2010 STATEWIDE CRACKDOWN
WHEREAS, IMPAIRED DRIVERS ON OUR NATION’S ROADS KILL SOMEONE EVERY 30 MINUTES, 50 PEOPLE PER DAY, AND ALMOST 18,000 PEOPLE EACH YEAR; AND
WHEREAS, 26% OF MOTOR VEHICLE FATALITIES IN NEW JERSEY ARE ALCOHOL-RELATED; AND
WHEREAS, THE END OF SUMMER SEASON IS TRADITIONALLY A TIME OF SOCIAL GATHERINGS WHICH OFTEN INCLUDE ALCOHOL; AND
WHEREAS, THE STATE OF NEW JERSEY, DIVISION OF HIGHWAY TRAFFIC SAFETY, HAS ASKED LAW ENFORCEMENT AGENCIES THROUGHOUT THE STATE TO PARTICIPATE IN THE OVER THE LIMIT UNDER ARREST 2010 STATEWIDE CRACKDOWN; AND
WHEREAS, THE PROJECT INVOLVES INCREASED IMPAIRED DRIVING ENFORCEMENT WHICH BEGAN ON AUGUST 20, 2010 AND WILL CONTINUE THROUGH SEPTEMBER 6, 2010; AND
WHEREAS, AN INCREASE IN IMPAIRED DRIVING ENFORCEMENT AND A REDUCTION IN IMPAIRED DRIVING WILL SAVE LIVES ON OUR ROADWAYS;
NOW, THEREFORE, BE IT RESOLVED THAT PEMBERTON TOWNSHIP DECLARES IT’S SUPPORT FOR THE OVER THE LIMIT UNDER ARREST 2010 STATEWIDE CRACKDOWN FROM AUGUST 20TH THROUGH SEPTEMBER 6TH, 2010 AND PLEDGES TO INCREASE AWARENESS OF THE DANGERS OF DRINKING AND DRIVING.

RESOLUTION NO. 160-2010

AUTHORIZING THE REFUNDING AND/OR CLOSING OF TREASURER’S ESCROW SUB-ACCOUNTS
WHEREAS, PEMBERTON TOWNSHIP REQUIRES FOR VARIOUS CONSTRUCTION AND OR HOME IMPROVEMENT PROJECTS, THAT A TREASURERS ESCROW SUB-ACCOUNT BE ESTABLISHED, AND
WHEREAS, THE CHIEF FINANCIAL OFFICER HAS DETERMINED THAT NUMEROUS PROJECTS ARE NOW COMPLETE; AND
WHEREAS, THE CHIEF FINANCIAL OFFICER WISHES TO REFUND THE REMAINING MONIES TO THE APPLICANTS, AND CLOSE OR MERGE THE RELATED ESCROW SUB ACCOUNTS.
NOW THEREFORE BE IT RESOLVED, THAT THE TOWNSHIP COUNCIL OF PEMBERTON TOWNSHIP, IN THE COUNTY OF BURLINGTON, STATE OF NEW JERSEY HEREBY APPROVES THE FOLLOWING REFUNDS TO THE APPLICANTS AND AUTHORIZES THE CHIEF FINANCIAL OFFICER TO CLOSE THE RELATED TREASURERS ESCROW SUB-ACCOUNTS.

| REFUND AMT. | ACCT# | ACCT. NAME | MAILING ADDRESS | BLOCK & LOT |
|------------------|--------|--|--|-------------|
| TO BE DETERMINED | 1227 | PRIMAX PROPERTIES, ADVANCED AUTO PARTS | 1065 EAST MOREHEAD STREET, CHARLOTTE NC 28204-2812 | 551-5-8 |
| TO BE DETERMINED | 1205 | FARMERS & MECHANICS BANK/BENEFICIAL BANK | 25 FT. DIX ROAD PEMBERTON, NJ 08068 | 799 2.02 |
| 57.50 | 130019 | EDWARD WYSZYNSKI | 154 CHESTERFIELD GEORGETOWN ROAD, CHESTERFIELD, NJ 08515 | 803-10 |
| 0 | 1316 | NANCY PRICKET AKA EDWARD PAEGNKOPF | TO CLOSE ACCOUNT | 778-2.02 |
| 0 | 250137 | ROBYN FASS WALTERS BARBER | 16 DREXEL STREET, BROWNS MILLS NJ 08015 | 864-9 |
| 0 | 1158 | THOMAS INGE | TO CONSOLIDATE ACCOUNT | 854-74.01 |
| 0 | 250069 | THOMAS INGE | TO CONSOLIDATE ACCOUNT | 854-74.01 |
| 0 | 250024 | DANITON DEVELOPMENT | TO CONSOLIDATE ACCOUNTS | 750-2+12 |
| 0 | 1168 | DANITOM DEVELOPMENT | TO CONSOLIDATE ACCOUNTS | 711-5 |
| 0 | 250073 | DANITOM DEVELOPMENT | TO CONSOLIDATE ACCOUNTS | 1228/1238/ |
| TO BE DETERMINED | 1224 | FARMERS & MECHANICS BANK/BENEFICIAL BANK | 101 PEMBERTON BROWNS MILLS ROAD, PEMBERTON NJ 08068 | 569-42 |
| 192.50 | 130006 | AMIANO CUSTOM HOMES | 52 WASHINGTON WAY, VINCENTOWN, NJ 08088 | 89 31 |
| 2094.50 | 250116 | COMCAST OF GARDEN STATE | 1250 BERLIN ROAD CHERRY HILL, NJ 08002 | 571-9 |
| 741.25 | 250136 | BCC STORAGE & GREENHOUSE | 601 PEMBERTON BROWNS MILLS ROAD, PEMBERTON, NJ 08068 | 843-1-10 |
| 250.00 | 130004 | KEVIN & JAMES LUKER | 24 RIDGE ROAD BROWNS MILLS NJ 08015 | 605-23 |
| 60.00 | 130020 | BRIAN & JENNIFER POWELL | 102 LOUISANNA TRAIL BROWNS MILLS NJ 08015 | 717-3 |
| 2.50 | 130024 | JANICE KUCAK | 4 ISLETA LANE BROWNS MILLS NJ 08015 | 640-6 |

RESOLUTION NO. 161-2010

A RESOLUTION AUTHORIZING SETTLEMENT IN THE MATTER ENTITLED DENNIS LALUMIERE V. TOWNSHIP OF PEMBERTON AND AUTHORIZING THE MAYOR TO EXECUTE ANY DOCUMENTS NECESSARY TO EFFECTUATE THE TERMS OF THE SETTLEMENT
WHEREAS, DENNIS LALUMIERE, AN EMPLOYEE OF THE TOWNSHIP OF PEMBERTON (THE “TOWNSHIP”), FILED A WORKER’S COMPENSATION CLAIM AGAINST THE TOWNSHIP (THE “CLAIM”); AND
WHEREAS, MR. LALUMIERE HAS PRESENTED MEDICAL REPORTS ALLEGING THAT HE HAS PARTIAL DIMINISHED RANGE OF MOTION IN HIS SHOULDERS; AND
WHEREAS, MR. LALUMIERE HAS PROPOSED SETTLING THE CLAIM FOR 22.5% OF PARTIAL TOTAL DISABILITY IN EXCHANGE FOR A RELEASE OF HIS CLAIMS AGAINST THE TOWNSHIP; AND
WHEREAS, THE TOWNSHIP’S WORKER’S COMPENSATION ATTORNEY HAS RECOMMENDED THAT THE TOWNSHIP COUNCIL APPROVE THIS PROPOSED SETTLEMENT; AND
WHEREAS, AT THE 2008 WORKER’S COMPENSATION LAW RATES, 22.5% OF PARTIAL TOTAL DISABILITY EQUATES TO 135 WEEKS OR \$29,523.00 WITH THE TOWNSHIP’S SHARE OF COSTS AND FEES BEING \$4,000, THEREFORE MAKING THE TOTAL PAYMENT \$33,523.00; AND
WHEREAS, THE MAYOR HAS RECOMMENDED THAT THE TOWNSHIP COUNCIL APPROVE THE SETTLEMENT OF THE CLAIM.
NOW THEREFORE, BE IT RESOLVED, BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, IN THE COUNTY OF BURLINGTON AND STATE OF NEW JERSEY, AS FOLLOWS:
1. THE SETTLEMENT OF THE CLAIM FOR 22.5% OF PARTIAL TOTAL DISABILITY IS HEREBY APPROVED.
2. THE CHIEF FINANCIAL OFFICER OF THE TOWNSHIP IS HEREBY AUTHORIZED TO ISSUE A CHECK IN THE AMOUNT OF \$33,523.00 TO DENNIS LALUMIERE IN FULL SETTLEMENT OF THE CLAIM.
3. THE MAYOR IS HEREBY AUTHORIZED TO SIGN ANY AND ALL DOCUMENTS NECESSARY TO EFFECTUATE THE TERMS OF THE SETTLEMENT OF THE CLAIM SO LONG AS SUCH DOCUMENTS ARE IN A FORM ACCEPTABLE TO THE TOWNSHIP SOLICITOR.

BE IT FURTHER RESOLVED, THAT A CERTIFIED COPY OF THIS RESOLUTION SHALL BE PROVIDED TO EACH OF THE FOLLOWING:

- A. THOMAS E. KUNZ, ESQ.
- B. TOWNSHIP CHIEF FINANCIAL OFFICER

RESOLUTION NO. 164-2010

PEMBERTON TOWNSHIP FINAL APPROVAL OF FARMLAND APPLICATION(S)

WHEREAS, THE TOWNSHIP OF PEMBERTON IS COMMITTED TO PRESERVING, TO THE EXTENT POSSIBLE, FARMLAND WITHIN THE TOWNSHIP FOR THE BENEFIT OF THE CITIZENS OF THE TOWNSHIP OF PEMBERTON AS WELL AS FOR THE COUNTY OF BURLINGTON AND FOR THE STATE OF NEW JERSEY; AND

WHEREAS, THE BURLINGTON COUNTY AGRICULTURE DEVELOPMENT BOARD IS PROCEEDING WITH THE PRESERVATION OF THE FOLLOWING FARMS: DETRICK FARM BLOCK 800, LOT 6.03 & BLOCK 801, LOT 3 THROUGH THE FARMLAND PRESERVATION EASEMENT PURCHASE PROGRAM; AND

WHEREAS, THE COUNTY REQUESTS THAT THE TOWNSHIP RECOGNIZE THAT IN THIS INSTANCE, THE 20% MUNICIPAL COST-SHARE IS NOT REQUIRED; AND

WHEREAS, IT IS IN THE BEST INTERESTS OF THE CITIZENS OF THE TOWNSHIP OF PEMBERTON TO GIVE FINAL APPROVAL ON THE COUNTY'S ACQUISITION OF DEVELOPMENT EASEMENTS FOR THE ABOVE FARM THROUGH THE FARMLAND PRESERVATION EASEMENT PURCHASE PROGRAM;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON, AND STATE OF NEW JERSEY THAT THEY GRANT FINAL APPROVAL FOR THE ACQUISITION OF DEVELOPMENT EASEMENTS ON THE AFOREMENTIONED PROPERTY THROUGH BURLINGTON COUNTY FARMLAND PRESERVATION PROGRAM.

RESOLUTION NO. 165-2010

A RESOLUTION OF THE TOWNSHIP OF PEMBERTON AUTHORIZING AN EMERGENCY FOR AN AWARD OF A COMMUNITY DEVELOPMENT BLOCK GRANT WITH LOCAL MATCH NOT ANTICIPATED IN THE 2010 MUNICIPAL BUDGET

WHEREAS, AN EMERGENCY HAS ARISEN WITH RESPECT TO THE AWARD OF THE COMMUNITY DEVELOPMENT BLOCK GRANT IN THE AMOUNT OF \$200,000.00 AND THE LOCAL MATCH REQUIRED IN THE AMOUNT OF \$20,000.00 NOT ANTICIPATED IN THE 2010 MUNICIPAL BUDGET. PEMBERTON TOWNSHIP COUNCIL WISHES TO UTILIZE THIS GRANT TO HELP THE RESIDENTS OF PEMBERTON TOWNSHIP WITH HOUSING REHABILITATION TO INCREASE THE SUPPLY OF SAFE, DECENT, AND AFFORDABLE HOUSING UNITS.

WHEREAS, N.J.S. 40A:4-46 PROVIDES FOR THE CREATION OF AN EMERGENCY APPROPRIATION FOR THE PURPOSE ABOVE MENTIONED, AND

WHEREAS, THE TOTAL AMOUNT OF EMERGENCY APPROPRIATION CREATED INCLUDING THE APPROPRIATION TO BE CREATED BY THIS RESOLUTION IS \$20,000.00, AND THREE PERCENT OF THE TOTAL OPERATIONS IN THE BUDGET FOR THE YEAR IS \$710,626.50.

NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON, STATE OF NEW JERSEY, (NOT LESS THAN TWO-THIRDS OF ALL THE MEMBERS THEREOF AFFIRMATIVELY CONCURRING) THAT IN ACCORDANCE WITH NJSA 40A:4-48 THAT:

1. AN EMERGENCY APPROPRIATION BE THE SAME AS HEREBY MADE FOR IN THE AMOUNT OF \$20,000.00.
2. THAT SAID EMERGENCY APPROPRIATION SHALL BE PROVIDED FOR IN FULL IN THE 2011 BUDGET.
3. THAT THE CHIEF FINANCIAL OFFICER HAS CERTIFIED THAT THE EXPENDITURES TO BE FINANCED THROUGH THIS RESOLUTION ARE RELATED TO THE AFOREMENTIONED EMERGENCY.
4. THAT TWO CERTIFIED COPIES OF THIS RESOLUTION BE FILED WITH THE DIRECTOR OF LOCAL GOVERNMENT SERVICES.

RESOLUTION NO. 166- 2010

A RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON

AUTHORIZING THE INSERTION OF SPECIAL OF ITEMS OF REVENUES AND APPROPRIATIONS, N.J.S. 40A:4-87

WHEREAS, N.J.S. 40A:4 - 87 PROVIDES THAT THE DIRECTOR OF THE DIVISION OF LOCAL GOVERNMENT SERVICES MAY APPROVE THE INSERTION OF ANY SPECIAL ITEM OF REVENUE IN THE BUDGET OF ANY COUNTY OR MUNICIPALITY WHEN SUCH ITEM SHALL HAVE BEEN MADE AVAILABLE BY LAW AND THE AMOUNT WAS NOT DETERMINED AT THE TIME OF ADOPTION OF THE BUDGET: AND

WHEREAS, THE DIRECTOR MAY ALSO APPROVE THE INSERTION OF AN ITEM OF APPROPRIATION FOR EQUAL AMOUNT, AND

WHEREAS, THE TOWNSHIP OF PEMBERTON HAS RECEIVED NOTICE OF THE FOLLOWING AWARD FOR A TOTAL OF \$ 200,000.00 FROM THE NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS, SMALL CITIES, COMMUNITY DEVELOPMENT BLOCK GRANT AND WISHES TO AMEND THE 2010 BUDGET TO INCLUDE THIS AMOUNT AS REVENUE.

NOW, THEREFORE, BE IT RESOLVED, THAT THE COUNCIL OF THE TOWNSHIP OF PEMBERTON, IN THE COUNTY OF BURLINGTON, STATE OF NEW JERSEY, HEREBY REQUESTS THE DIRECTOR OF THE DIVISION OF LOCAL GOVERNMENT SERVICES TO APPROVE THE INSERTION OF AN ITEM OF REVENUE IN THE BUDGET OF THE YEAR 2010 FOR THE FOLLOWING SUM:

1. NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS SMALL CITIES
COMMUNITY DEVELOPMENT BLOCK GRANT - \$200,000.00

BE IT FURTHER RESOLVED, THAT THE LIKE SUM OF \$ 200,000.00 IS HEREBY APPROPRIATED UNDER THE CAPTION:

GENERAL REVENUE:

MISCELLANEOUS REVENUES: SECTION F SPECIAL ITEMS ANTICIPATED WITH PRIOR WRITTEN CONSENT OFFSET WITH APPROPRIATIONS:

1. NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS SMALL CITIES
COMMUNITY DEVELOPMENT BLOCK GRANT - \$200,000.00

BE IT FURTHER RESOLVED, THAT THE SAME AMOUNTS BE APPROPRIATED AS FOLLOWS:

GENERAL APPROPRIATIONS:

(A) OPERATIONS EXCLUDED FROM "CAPS"

PUBLIC AND PRIVATE PROGRAMS OFFSET BY REVENUE:

1. NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS SMALL CITIES
COMMUNITY DEVELOPMENT BLOCK GRANT - \$200,000.00

*** PLEASE NOTE THE MATCHING FUNDS REQUIRED FOR THIS GRANT OF \$20,000.00 WILL BE RAISED IN THE 2011 TOWNSHIP OF PEMBERTON MUNICIPAL BUDGET UNDER SECTION 8 GENERAL APPROPRIATIONS (E) DEFERRED CHARGES & STATUTORY EXPENDITURES – MUNICIPAL WITHIN “CAPS” (1) DEFERRED CHARGES – EMERGENCY AUTHORIZATIONS

RESOLUTION NO. 167-2010

AUTHORIZATION FOR MAYOR TO EXECUTE AGREEMENT FOR INSTALLATION OF ELECTRIC DISTRIBUTION FACILITIES (WELL #12)

WHEREAS, THE TOWNSHIP OF PEMBERTON IS IN THE PROCESS OF MAKING NUMEROUS IMPROVEMENTS TO THE WATER DISTRIBUTION SYSTEM; AND

WHEREAS, IN REGARD TO IMPROVEMENTS THAT ARE NECESSARY AT WELL #12, IT IS NECESSARY FOR THE TOWNSHIP TO ENTER INTO AN AGREEMENT WITH JERSEY CENTRAL POWER & LIGHT FOR THE INSTALLATION OF ELECTRIC DISTRIBUTION FACILITIES; AND

WHEREAS, THE CHIEF FINANCIAL OFFICER HAS CERTIFIED THAT FUNDS ARE AVAILABLE FOR THIS CONTRACT IN THE ACCOUNT INDICATED ON THE CERTIFICATION OF FUNDS IN THE AMOUNT OF \$7,605.04;

NOW, THEREFORE, BE IT RESOLVED, THAT THE GOVERNING BODY OF THE TOWNSHIP OF PEMBERTON HEREBY APPROVES ENTERING INTO AN AGREEMENT WITH JERSEY CENTRAL POWER & LIGHT FOR THE INSTALLATION OF ELECTRIC DISTRIBUTION FACILITIES.

BE IT FURTHER RESOLVED, THAT THE MAYOR AND CLERK BE AND ARE HEREBY AUTHORIZED TO SIGN FOR AND ON BEHALF OF PEMBERTON TOWNSHIP THE CONTRACT IN THE PRESCRIBED FORM FOR SAID PROJECT AND THAT THE CLERK OF THIS BODY BE AND IS HEREBY DIRECTED TO SEAL SAID CONTRACT WITH THE CORPORATE SEAL OF THIS BODY.

RESOLUTION NO. 168-2010

A RESOLUTION OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON, STATE OF NEW JERSEY, ACCEPTING THE REPORT & RECOMMENDATIONS FOR A FIVE-YEAR CAPITAL ROAD PROGRAM SUBMITTED BY ARH ASSOCIATES, INC.

WHEREAS, AT THE REQUEST OF TOWNSHIP ADMINISTRATION, THE TOWNSHIP ENGINEERS PREPARED A PLAN TO SYSTEMATICALLY ADDRESS THE ONGOING MAINTENANCE OF THE TOWNSHIP'S ROADWAY INFRASTRUCTURE; AND WHEREAS, THE OBJECTIVE OF THE PLAN IS TO COMPREHENSIVELY APPROACH ROADWAY CONSTRUCTION, RECONSTRUCTION, AND RESURFACING ON A YEARLY BASIS FOR A FIVE-YEAR BASIS; AND WHEREAS, THE THREE MAJOR VARIABLES INVOLVED IN THE PRODUCTION OF THE PLAN INCLUDED CONDITION OF ROADWAY, LOCATION OF ROADWAY, AND COST OF THE IMPROVEMENTS; AND WHEREAS, THE TOWNSHIP ADMINISTRATION HAS PRESENTED THE REPORT & RECOMMENDATION TO THE TOWNSHIP COUNCIL FOR ACCEPTANCE.

NOW, THEREFORE, BE IT RESOLVED, BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON, STATE OF NEW JERSEY, AS FOLLOWS:

1. THAT THE GOVERNING HAS REVIEWED THE REPORT & RECOMMENDATIONS AND ACCEPTS THE PLAN; AND
2. THAT THE GOVERNING BODY EXPRESSLY RESERVES ITS RIGHTS UNDER THE FAULKNER ACT.

RESOLUTION NO. 170-2010

A RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT TO A.C. SCHULTES, INC. FOR THE UPGRADING OF WELL # 12 FROM A TEST WELL TO A PRODUCTION WELL IN THE AMOUNT OF \$192,330.00

WHEREAS, AFTER THE DISCOVERY OF RADIUM CONTAMINATION AT WELL #11, THE TOWNSHIP OF PEMBERTON (THE "TOWNSHIP"), AUTHORIZED ADAMS, REHMANN & HEGGAN (THE "TOWNSHIP ENGINEER") TO PERFORM A DETAILED ANALYSIS OF THE ENTIRE WATER SYSTEM TO GENERATE A STRATEGIC PLAN FOR IMMEDIATE ACTION; AND

WHEREAS, THE TOWNSHIP ENGINEER HAS IDENTIFIED A COURSE OF ACTION THAT WILL ALLOW FOR THE ABILITY TO INCREASE THE YIELD OF EXISTING WELLS IN THE TOWNSHIP AS EXPEDITIOUSLY AS POSSIBLE WITH A GOAL TO MINIMIZE THE NEED AND DURATION OF HAVING TO RE-ACTIVATE WELL #11 TO MEET SYSTEM DEMANDS; AND

WHEREAS, THE TOWNSHIP HAS AUTHORIZED A REQUEST FOR STATEMENT OF QUALIFICATIONS AND PROPOSALS ("RFP") FOR QUALIFIED CONTRACTORS TO UPGRADE THE EXISTING WELL #12, WHICH IS CURRENTLY A TEST WELL, TO A PRODUCTION WELL THAT YIELDS 400 GALLONS PER MINUTE ("GPM") UTILIZING THE EXISTING WELL BUILDING AT WELL #8A UNDER AN EMERGENCY DIVERSION PERMIT GRANTED BY THE NJDEP (THE "PROJECT"); AND

WHEREAS, THE TOWNSHIP COUNCIL AUTHORIZED THIS CONTRACT TO BE PROCURED ON AN EMERGENCY BASIS AND WITHOUT PUBLIC BIDDING PURSUANT TO RESOLUTION 125-2010 AND N.J.S.A. 40A:11-6 DUE TO THE NEED TO MINIMIZE THE POTENTIAL OF HARM TO RESIDENTS DURING THE PEAK SUMMER SEASON AND TO MEET THE DEADLINES IMPOSED BY THE NJDEP TO CONVERT WELL # 12 TO A PRODUCTION WELL FOR USE ON AN EMERGENCY BASIS BY SEPTEMBER 1, 2010; AND

WHEREAS, A.C. SCHULTES, INC. IS A CONTRACTOR WHICH HAS SUBMITTED A PROPOSAL TO PERFORM THE PROJECT (THE "PROPOSAL") IN AN AMOUNT NOT TO EXCEED \$192,330.00, IN ACCORDANCE WITH A FAIR AND OPEN CONTRACTING PROCESS SUBJECT TO N.J.S.A. 19:44A-20.5 ET SEQ.; AND

WHEREAS, THE TOWNSHIP FINDS A.C. SCHULTES, INC. TO BE QUALIFIED TO COMPLETE THE PROJECT; AND

WHEREAS, THE TOWNSHIP SOLICITOR HAS REVIEWED THE PROPOSAL AND FINDS IT TO BE LEGALLY SUFFICIENT.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, IN THE COUNTY OF BURLINGTON AND STATE OF NEW JERSEY THAT A CONTRACT TO UPGRADE THE EXISTING WELL #12, WHICH IS CURRENTLY A TEST WELL, TO A PRODUCTION WELL THAT YIELDS 400 GPM UTILIZING THE EXISTING WELL BUILDING AT WELL #8A UNDER AN EMERGENCY DIVERSION PERMIT GRANTED BY THE NJDEP BY THE TOWNSHIP BE AND HEREBY IS AWARDED TO A.C. SCHULTES, INC. IN AN AMOUNT NOT TO EXCEED \$192,330.00 AND THAT THE MAYOR IS AUTHORIZED TO EXECUTE A CONTRACT, IN A FORM LEGALLY ACCEPTABLE TO THE TOWNSHIP SOLICITOR, BETWEEN THE TOWNSHIP OF PEMBERTON AND A.C. SCHULTES, INC.; AND

BE IT FURTHER RESOLVED, THAT THE CHIEF FINANCIAL OFFICER HAS EXECUTED A CERTIFICATION OF FUNDS FOR THIS CONTRACT, WHICH IS ATTACHED HERETO, AND THAT SUFFICIENT FUNDS ARE AVAILABLE FOR SAID CONTRACT FROM ACCOUNT NUMBER 05-2010-0001-0512-2-05502 AND 05-2010-001-0512-05503; AND

BE IT FURTHER RESOLVED, THAT A CERTIFIED COPY OF THIS RESOLUTION SHALL BE PROVIDED TO EACH OF THE FOLLOWING:

- A. A.C. SCHULTES, INC.
- B. TOWNSHIP ADMINISTRATOR
- C. TOWNSHIP CHIEF FINANCIAL OFFICER
- D. GLUCKWALRATH LLP

RESOLUTION NO. 171-2010

WHEREAS, THE TOWNSHIP OF PEMBERTON IS A SECONDARY MORTGAGEE UNDER A MORTGAGE DATED OCTOBER 30, 2006, BETWEEN WALTER & CONNIE ANDERSON, 25 NEW LISBON RD., PEMBERTON, NJ 08068, IN THE AMOUNT OF \$20,500.00, AS A RESULT OF FUNDS PROVIDED BY THE TOWNSHIP TO OWNER OF SAID PROPERTY UNDER THE REGIONAL CONTRIBUTION AGREEMENT (RCA) WITH FLORENCE; AND

WHEREAS, WALTER & CONNIE ANDERSON HAVE AGREED TO SELL THEIR HOME TO ANTHONY & AMBERLEE MIRANDA, AND ANTHONY & AMBERLEE MIRANDA HAVE QUALIFIED UNDER 2010 COAH GUIDELINES TO ASSUME THE SECOND MORTGAGE UNDER THE RCA AGREEMENT.

NOW, THEREFORE, BE IT RESOLVED, BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, COUNTY OF BURLINGTON, AND THE STATE OF NEW JERSEY, THAT THE MAYOR AND CLERK ARE HEREBY AUTHORIZED TO SIGN SAID AGREEMENT ON BEHALF OF PEMBERTON TOWNSHIP.

RESOLUTION NO. 172-2010

WHEREAS, THE TOWNSHIP OF PEMBERTON IS A SECONDARY MORTGAGEE UNDER A MORTGAGE DATED OCTOBER 30, 2006, BETWEEN WALTER & CONNIE ANDERSON, 25 NEW LISBON RD., PEMBERTON, NJ 08068, IN THE AMOUNT OF \$20,500.00, AS A RESULT OF FUNDS PROVIDED BY THE TOWNSHIP TO OWNER OF SAID PROPERTY UNDER THE REGIONAL CONTRIBUTION AGREEMENT (RCA) WITH FLORENCE; AND

WHEREAS, WALTER & CONNIE ANDERSON, HAVE AGREED TO SELL THEIR HOME TO ANTHONY & AMBERLEE MIRANDA, AND ANTHONY & AMBERLEE MIRANDA HAVE QUALIFIED UNDER 2010 COAH GUIDELINES TO ASSUME THE SECOND MORTGAGE UNDER THE RCA AGREEMENT.

WHEREAS, ANTHONY & AMBERLEE MIRANDA HAVE SECURED A LOAN FOR A FIRST MORTGAGE WITH USDA, AND USDA HAS REQUESTED PEMBERTON TOWNSHIP EXECUTE A SUBORDINATION AGREEMENT TO ALLOW THE OWNER TO SECURE A LOAN; AND

WHEREAS, THE TOTAL ASSESSED VALUE OF THE PROPERTY KNOWN AS BLOCK 826, LOT 3.02, 25 NEW LISBON RD., PEMBERTON, NJ 08068, IS CURRENTLY ASSESSED AT \$84,400.00 PER THE ASSESSOR'S OFFICE AND AN APPRAISAL IS ATTACHED IN THE AMOUNT OF \$145,000.00, AND THE ADMINISTRATION HAS DETERMINED THAT THERE IS SUFFICIENT EQUITY IN THE PROPERTY TO PROTECT THE TOWNSHIP'S RCA INTEREST; 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 MAYOR AND TOWNSHIP CLERK ARE HEREBY AUTHORIZED TO EXECUTE THE SUBORDINATION AGREEMENT FOR ANTHONY AND AMBERLEE MIRANDA AS ATTACHED HERewith WITH USDA.

13. NEW BUSINESS

***a. Purchases at \$3,900.00 or over:**

- *1. Public Works Dept.: Two new trucks for Water Division from State contract vendor Warnock, in the total amount of \$60,000.00
- *2. Public Works Dept.: Siding and accessories for Mirror Lake Lifeguard Building from Brooks Supply, Inc. in the total amount of

\$5,100.35

*b. Fire Company Memberships: (Council confirmation/acknowledgement of new members) Country Lakes Fire Co.: Firefighter Jonathan Dengler; Browns Mills Fire Co.: Firefighter Rebecca Force

*14. Approval by Council required for payment of vouchers on bill list dated 7/2/10.

Mr. Prickett requested to pull Resolution No. 169-2010. Mrs. Stinney requested to pull Resolution Numbers 162-2010 and 163-2010 because she would like these two resolutions read out loud to be reflected in the minutes. Mr. Inge requested to pull Resolution No. 163-2010 also.

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

ITEMS PULLED FROM THE CONSENT AGENDA:

Resolution No. 162-2010

Mr. Cartier read Resolution No. 162-2010 for the record.

RESOLUTION NO. 162-2010

A RESOLUTION OF THE PEMBERTON TOWNSHIP COUNCIL IN APPRECIATION OF THE DEDICATED PUBLIC SERVICE BY ARLENE MOLLER

WHEREAS, ARLENE MOLLER HAS SERVED WITH DISTINCTION IN THE PEMBERTON TOWNSHIP TAX ASSESSOR'S OFFICE FOR NEARLY FORTY-THREE YEARS, AND

WHEREAS, ARLENE MOLLER, DURING HER TENURE WITH PEMBERTON TOWNSHIP HAS GIVEN OF HER TIME AND KNOWLEDGE IN SERVICE TO THE RESIDENTS OF THE TOWNSHIP OF PEMBERTON;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, ASSEMBLED IN PUBLIC SESSION ON THIS 7TH DAY OF JULY, 2010, THAT THE TOWNSHIP COUNCIL DOES HEREBY COMMEND ARLENE MOLLER FOR HER CONTRIBUTIONS AND DEDICATED SERVICE TO THE TOWNSHIP OF PEMBERTON, AND

BE IT FURTHER RESOLVED THAT A COPY OF THIS RESOLUTION SHALL BE PRESENTED TO ARLENE MOLLER ON BEHALF OF THE TOWNSHIP COUNCIL.

Motion by Stinney and Inge to approve Resolution No. 162-2010. Stinney, yes; Inge, yes; Prickett, yes; Cartier, yes. Motion carried.

Resolution No. 163-2010

Mr. Cartier read Resolution No. 163-2010 for the record.

RESOLUTION NO. 163-2010

A RESOLUTION OF THE PEMBERTON TOWNSHIP COUNCIL IN APPRECIATION OF THE DEDICATED PUBLIC SERVICE BY CHIEF ROBERT LEWANDOWSKI

WHEREAS, ROBERT LEWANDOWSKI HAS SERVED WITH DISTINCTION AS A PEMBERTON TOWNSHIP POLICE OFFICER FOR OVER THIRTY-THREE YEARS, AND OF WHICH HE HAS SERVED A LITTLE OVER TWO YEARS AS PEMBERTON TOWNSHIP CHIEF OF POLICE; AND

WHEREAS, ROBERT LEWANDOWSKI, DURING HIS TENURE ON THE PEMBERTON TOWNSHIP POLICE FORCE HAS GIVEN OF HIS TIME AND KNOWLEDGE IN SERVICE TO THE RESIDENTS OF THE TOWNSHIP OF PEMBERTON;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, ASSEMBLED IN PUBLIC SESSION ON THIS 7TH DAY OF JULY, 2010, THAT THE TOWNSHIP COUNCIL DOES HEREBY COMMEND ROBERT LEWANDOWSKI FOR HIS CONTRIBUTIONS AND DEDICATED SERVICE TO THE TOWNSHIP OF PEMBERTON AS A PEMBERTON TOWNSHIP POLICE OFFICER, AND CHIEF OF POLICE; AND

BE IT FURTHER RESOLVED THAT A COPY OF THIS RESOLUTION SHALL BE PRESENTED TO ROBERT LEWANDOWSKI ON BEHALF OF THE TOWNSHIP COUNCIL.

Mr. Inge asked Administration what the procedure is when a Police Officer retires. Mr. Inge advised it was brought to his attention by several residents that the Chief of Police would not be receiving a gold badge from the Township. Mayor Patriarca explained that the issue came across his desk as a purchase over \$500 which was generated by the retirement of the Chief of Police. That purchase was denied because it was not for a gold badge for the Chief of Police for retirement; it was for every person in line that would have been promoted to fill the Lieutenant's position, the Sergeant's position and the Chief's position. The Mayor continued that this is public property that a department took upon themselves to decide to give to employees and each person in succession would have taken public property. His noted that Ms. Moller just left after 44 years and did not take her typewriter. Ray Williams left and did he not take a fire hydrant. The Mayor reiterated it is public property, and they just can't give away public property like

that. If the request was to give the Chief a retirement badge, that would have probably been approved and it would have been an acceptable request; but the request from the Police Department was not that. The Mayor informed he has not seen a request to ask for that retirement badge. Mr. Inge asked if Council can make that request now. Mayor Patriarca replied that Council can but it's not a proper way of requesting and purchase order requests are done by Department Heads, and Council is not a department head. The Mayor continued that the Police purchased a replacement badge for the Chief. Mayor Patriarca added that it wasn't a request and the rumor that Mr. Inge heard that the Mayor is denying the Chief a retirement badge is inaccurate. The Mayor further noted that this time of year being an election year will result in a lot of inaccurate information. Unfortunately there is not something in place and there should be that when someone retires they receive a gold watch. The Mayor remarked on the luncheon put together by employees for one of the individuals retiring. Mr. Cartier reminded that Mrs. Stinney actually brought this up which is why Council now has resolutions. Mr. Cartier noted that Council does not have the authority to tell Administration that they need to do something but Mrs. Stinney brought it up some months back that something should be done for retirees. Mayor Patriarca advised that the time to add a line for the funding would be during the budgeting process. Mr. Inge expressed that three employees retired that served the Township well and it should be brought up at the next budget. Mrs. Stinney suggested going back to the last three that retired and at least recognize them within the budget.

Motion by Stinney and Inge to approve Resolution No. 163-2010. Stinney, yes; Inge, yes; Prickett, yes; Cartier, yes. Motion carried.

Resolution No. 169-2010:

Mr. Prickett asked how much the contract is for the specialized parks and downtown street/sidewalk sweeper. Mr. Cartier replied \$63,887. Mr. Prickett commented that he does not support this.

RESOLUTION NO. 169-2010

A RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT FOR THE PROVISION OF A SPECIALIZED PARKS & DOWNTOWN STREET/SIDEWALK SWEEPER FOR USE BY THE TOWNSHIP
WHEREAS, THE TOWNSHIP OF PEMBERTON HAS AUTHORIZED THE ACCEPTANCE OF BIDS FOR A SPECIALIZED PARKS AND DOWNTOWN STREET/SIDEWALK SWEEPER (COLLECTIVELY "SWEEPER") FOR USE BY THE TOWNSHIP OF PEMBERTON IN ACCORDANCE WITH NEW JERSEY'S LOCAL PUBLIC CONTRACTS LAW; AND
WHEREAS, THE TOWNSHIP RECEIVED THREE (3) BIDS WITH THE LOWEST RESPONSIBLE BIDDER BEING H.A. DEHART & SONS, OF 311 CROWN POINT ROAD, THOROFARE, NJ 08086 ("H.A. DEHART") WITH A BID OF \$63,887.00; AND
WHEREAS, THE ADMINISTRATION RECOMMENDS THAT THE CONTRACT BE AWARDED TO H.A. DEHART AS THE LOWEST QUALIFIED BIDDER SUBMITTING A CONFORMING BID; AND
WHEREAS, THE TOWNSHIP SOLICITOR HAS REVIEWED H.A. DEHART'S BID AND FINDS IT TO BE LEGALLY SUFFICIENT;
NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, IN THE COUNTY OF BURLINGTON AND STATE OF NEW JERSEY THAT THE CONTRACT FOR THE PROVISION OF A NEW LOADER BACKHOE FOR USE BY THE TOWNSHIP OF PEMBERTON BE AND HEREBY IS AWARDED TO H.A. DEHART, AND THAT THE MAYOR IS AUTHORIZED TO EXECUTE A CONTRACT, IN A FORM LEGALLY ACCEPTABLE TO THE TOWNSHIP SOLICITOR, BETWEEN THE TOWNSHIP OF PEMBERTON AND H.A. DEHART FOR THE PROVISION OF A NEW SPECIALIZED PARKS AND DOWNTOWN STREET/SIDEWALK SWEEPER IN AN AMOUNT NOT TO EXCEED \$63,887.00 AND IN ACCORDANCE WITH THE BID PROPOSAL SUBMITTED BY H.A. DEHART; AND
BE IT FURTHER RESOLVED, THAT THE CHIEF FINANCIAL OFFICER HAS EXECUTED A CERTIFICATION OF FUNDS FOR THIS CONTRACT, WHICH IS ATTACHED HERETO, AND THAT SUFFICIENT FUNDS ARE AVAILABLE FOR SAID CONTRACT FROM ACCOUNT NUMBER _____; AND
BE IT FURTHER RESOLVED, THAT A CERTIFIED COPY OF THIS RESOLUTION SHALL BE PROVIDED TO EACH OF THE FOLLOWING:

- A. H.A. DEHART & SONS
- B. TOWNSHIP ADMINISTRATOR
- C. TOWNSHIP CHIEF FINANCIAL OFFICER

Motion by Prickett and Stinney to approve Resolution No. 169-2010.

Mr. Inge asked Mr. Prickett what his suggestion would be. Mr. Prickett expressed that they do not need to spend \$63,000 on a sidewalk sweeper. Mr. Inge confirmed this is paid for through the UEZ. Mr. Vaz reminded that this was attempted last summer and the bid was rejected.

Prickett, no; Stinney, yes; Inge, yes; Cartier, yes. Motion carried.

11. ORDINANCES FOR INTRODUCTION

a. **ORDINANCE NO. 11-2010 (Title Read By Mr. Cartier)**

AN ORDINANCE AMENDING AN ORDINANCE ESTABLISHING SALARIES, COMPENSATION AND BENEFITS WITHIN THE TOWNSHIP OF PEMBERTON

Motion by Stinney and Inge to introduce Ordinance No. 11-2010 with a public hearing to be held on August 4th.

Mr. Prickett noted that in the past the salary ordinances had ranges. In this case the Business Administrator is between \$65,000 and \$107,000. In these times with the economy the way it is and the effort to reduce costs in municipalities, the Council should not give up their right to authorize the yearly salary of these individuals. Mr. Prickett is opposed to a range and is in support of a yearly salary ordinance. Mr. Prickett advised he does not support this ordinance as it is written. Mr. Cartier commented that Council does have the right to implement salaries and that is at budget time when they limit what those individuals will get. Mrs. Stinney agreed. Mr. Prickett acknowledged that may be true but Council also has the opportunity to change this ordinance, so Council has two opportunities. Mr. Inge asked what the CAP is for the Administrator. Mr. Cartier informed the maximum is \$107,000. Mr. Inge asked what was approved....Mayor Patriarca notified the maximum salary line in the ordinance is what the approved budget reflects. The only thing the ordinance is asking for is flexibility to reduce that number and not pay as much as what would reflect what Mr. Prickett commented on in these hard times, they might want to pay less. This ordinance would give that option to pay less. If not, the budgeted items approved would be in the maximum column, and they would have to take out the minimum column which ties their hands in saving money. Mr. Prickett noted he sees the Mayor's perspective and commented there are some ranges and not some ranges such as the Township Council at \$6,200 which there is no range. Mayor Patriarca explained in the budget process Council approved \$6,250 as their salary. That was Council's option, and it is not Administration's option. Mr. Prickett recommended there be a minimum salary of \$5,000 and a maximum salary like the Mayor's range between \$9,000 and \$12,500. Mr. Prickett asked why Council is set at \$6,210 in both cases. Mayor Patriarca recommended the maximum for the Mayor's salary be changed to \$9,000 because that is the budgeted item in that line. The minimum could also be lowered. Mr. Prickett confirmed the Mayor is suggesting lowering the maximum from \$12,500 to \$9,000. Mr. Prickett conveyed that is not what he is suggesting and it's fair that there is a range. Mayor Patriarca interjected that he is suggesting that so it doesn't occur so that for some reason they end up paying the Mayor more than they budget and that's not going to happen. Mr. Prickett suggested changing the minimum for Council to \$5,000 and at next year's budget process, Council has the right to decide if it's between \$5,000 and \$6,200.

Motion by Prickett and Inge to amend previous motion to introduce by amending Ordinance No. 11 to change Council's minimum salary to \$5,000 and to change the Mayor's maximum salary to \$9,000. Prickett, yes; Inge, yes; Stinney, no; Cartier, yes. Motion carried.

Motion by Stinney and Inge to introduce Ordinance No. 11 as amended. Stinney, yes; Inge, yes; Prickett, yes; Cartier, yes. Motion carried.

b. **ORDINANCE NO. 12-2010 (Title Read By Mr. Cartier)**

BOND ORDINANCE PROVIDING FOR VARIOUS 2010 ROADWAY IMPROVEMENTS, BY AND IN THE TOWNSHIP OF PEMBERTON, IN THE COUNTY OF BURLINGTON, STATE OF NEW JERSEY (THE "TOWNSHIP"); APPROPRIATING \$1,000,000 THEREFORE AND AUTHORIZING THE ISSUANCE OF \$952,000 BONDS OR NOTES OF

THE TOWNSHIP TO FINANCE PART OF THE COSTS THEREOF

Motion by Prickett and Stinney to introduce Ordinance No. 12-2010 with a public hearing on August 4th. Prickett, yes; Stinney, yes; Inge, yes; Cartier, yes. Motion carried.

- c. **ORDINANCE NO. 13-2010 (Title Read By Mr. Cartier)**
AN ORDINANCE TO AMEND ORDINANCE 19-2007 ESTABLISHING SALARIES AND WAGES WITHIN PEMBERTON TOWNSHIP

Motion by Prickett and Inge to introduce Ordinance No. 13-2010 with a public hearing on August 4th. Prickett, yes; Inge, yes; Stinney, yes; Cartier, yes. Motion carried.

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

- a. **ORDINANCE NO. 10-2010 (Title Read By Mr. Cartier)**
AN ORDINANCE OF THE TOWNSHIP OF PEMBERTON REPLACING CHAPTER 186, ARTICLE II OF THE CODE OF THE TOWNSHIP OF PEMBERTON ENTITLED “WATER CONSERVATION” TO RESTRICT THE USE OF WATER FOR CERTAIN PURPOSES

Mr. Cartier opened the meeting to public comments. Those indicating a desire to be heard were: **Tony Miehle:** Referenced paragraph 186-18 and expressed concern that the ordinance does not mention a warrant be required and it appears to be a clear violation of the 4th amendment. Mr. Bayer noted if for civil enforcement reasons, a Township official would need to go on to a private resident’s property, they would need to obtain an Administrative search warrant. The ordinance does not state that but any Township ordinance is subject to general law. Mr. Bayer explained the purpose of this provision was who was going to be responsible. Originally it stated the Mayor’s representative and after discussion Council decided based on recommendations by Mr. Vaz, the Water Supervisor would be the inspector and Code Enforcement would actually enforce the code. A discussion ensued between Mr. Bayer, Mr. Vaz and Mr. Miehle regarding a homeowner refusing to allow the inspector on their property and the requirement of an Administrative Consent Order. Mr. Bayer suggested deleting that sentence in section 186-18 Inspections to which Mr. Vaz agreed. **George Petronis:** Would like to hear how the ordinance now reads because the entire paragraph is objectionable. Mr. Bayer respectfully disagreed and noted the first sentence indicates who within the Township is responsible to perform inspections and conduct enforcement, and the second sentence will be eliminated. Mr. Cartier read section 186-18 with the second sentence deleted. Mr. Petronis pointed out that the ordinance does not state an Administrative Consent Order would be needed. Mr. Petronis expressed understanding that Mr. Bayer made the point it would not happen that way. Mr. Bayer and Mayor Patriarca informed that an Administrative Consent Order is required if one does not allow the inspector in the home. Additionally, all of the Township’s ordinances are subject to both state law and federal law. Mr. Petronis advised he has an extreme sensitivity about his constitutional rights. Mr. Petronis doesn’t see any reason why a water conservation ordinance would lead anyone to have reason to look inside his house unless they see something outside of his house that gives them that reason, and he would like to see that notation. Mr. Petronis stated he wants his privacy guaranteed. Mr. Rehmann stated that is a policy decision and there is not a way that someone can do an unreasonable search in this case. Mr. Vaz advised that the Code Enforcement office knows an Administrative Consent Order is required when someone says they can’t have access. Mr. Petronis remarked he finds the wording disturbing. **Ray Wells:**

Stated he has his own well and with or without an Administrative Consent Order, he would not allow them in his house. Mr. Cartier explained it is for the Township's water system, however, in section 186-18 Inspections, it states all places and premises consuming water within the Township. It does not limit them to the Township water supply system. Mr. Cartier stated the two paragraphs contradict themselves. Mr. Rehmann expressed the intent of the ordinance is only to reflect what happens on the Township water system and it refers specifically to water due to outside uses such as sprinkling lawns and filling swimming pools and not related to domestic or sanitary purposes, fire protections or reasonably necessary commercial or industrial use. Mr. Rehmann does not see why this requires anyone to go in to a house. Mr. Cartier interjected that the point he is trying to make is in paragraph 186-18, it states all places and premises consuming water. Every household consumes water whether it's on a Township public system or not. Mr. Vaz informed it does say based on if the Code Enforcement Officer has reason to believe that any section of the article has been violated. Mr. Vaz added that they are only violating the article if they are subject to the article and they are only subject to the article if they are in the public water system. Mr. Rehmann expressed proclamation of the emergency says that an emergency exists with respect to the potable water resources of the Township. It would be difficult as an expert witness to find it difficult to be able to say to anyone that it's not on the public water supply system that this ordinance applies to them. In fact he has a home that is connected to the public water supply system and has an individual well that he uses for outside irrigation purposes and he is not subject to the emergency provisions of an ordinance in Hammonton. He complies because he is the town engineer and it doesn't look good if he is watering and no one else in his neighborhood can. Mr. Rehmann expressed it is solely for the potable water system. **John Hiros:** He disagrees and stated if there is an emergency and one is using their well to water their yard and that ground water goes down and your neighbors wells don't work anymore that they are using for their house, they are violating their rights and taking away their water. If there is really an emergency other than what is being thought of now, which is a bad well. If there is a drought like what has happened in the past month or so continues. There are quite a few very shallow wells in parts of the town and several parts of the community. If they allow someone with a well to water their yard or fill their swimming pool and their neighbors don't have any water to drink, that's a problem. Council needs to expand and address other than just the Township's water system. Mr. Rehmann commented that the Township has no authority to regulate individual wells. That is done solely through the County Board of Health and well permitting system by the DEP. If they don't regulate it, they don't have authority over it. Mr. Hiros replied then they shouldn't be including well owners in the ordinance. Mr. Rehmann agreed that some people have very shallow wells that are drought sensitive, and if he is pumping a larger well next door, he could very well dry their well up. **George Petronis:** Commented that they are all discussing what reasonable people would do. There is a historic precedence from about one third of a century ago when the state of New Jersey attempted to tax private well owners because they were depleting the water resources that the state could use as a source of revenue. He expressed that they can't base the law on the assumption that there will always be reasonable people having a reasonable discussion. The law has to protect them against unreasonable people. There being no additional members of the public indicating a desire to be heard, Mr. Cartier closed the meeting to public comments.

Motion by Prickett and Inge to adopt Ordinance No. 10-2010.

Mr. Prickett asked Mr. Bayer if one is subject to something, it means they are subject to it but there are certain rules in place in order for that action to take place. If they are subject to this it means that they have the protection of a search

warrant being issued to search their property. Mr. Bayer concurred. Mr. Prickett asked if the words “subject to” mean there are other criteria that may regulate that. Mr. Bayer expressed he was addressing the concern of a resident regarding this ordinance giving the power to come in to their house. His point was the Township of Pemberton is a municipality in the state of New Jersey that is subject to the laws of the state and is subject to as well the United States constitution and the federal laws to the extent they are applicable to whoever they are talking about. Whenever a municipality takes action with respect to ordinances, those laws are always going to be subject to the greater laws with that being that of the state and the federal government. Mr. Prickett asked if something to that effect was added; expanding on “subject to”, would that change the ordinance. Mr. Prickett suggested adding to the end of the first sentence, “subject to the inspection of the Water Supervisor”.....Mr. Prickett expressed he is looking for an Administrative Order. Mr. Vaz expressed they want people to open their doors and know that they are subject to inspection. If they say no, then they say no. If they put a clause in there stating they can only inspect with an Administrative Consent Order, they would then not need this ordinance because it would simply not work. They can’t burden the staff and court with having to always get Administrative Consent Orders. It involves a statement of probable cause which is an affidavit and it wouldn’t make any sense to have an ordinance that went that far. Mr. Bayer agreed. Mr. Prickett suggested putting in, inspection of with the consent of the owner, of the Water Supervisor or something to that effect. Mayor Patriarca added if they do not give consent, an Administrative Consent Order can be issued and then they can lawfully come on their property. If they put that in there they are taking away the option of voluntary search. Mr. Bayer stated it’s almost like limiting the enforcement capabilities of the Township like by Ordinance regulating how Police would conduct. Mr. Inge added it is going to cost money to get a consent order. Mayor Patriarca explained it is an application to a judge and an order can be granted. Mr. Inge stated it’s not an easy thing to do. Mr. Prickett expressed a resident might not want someone on their property but they might have to let them on their property. They may not know they have the right to say get off of my property. They could research that and know that they don’t have to allow anybody on their property without some sort of search warrant. Mr. Inge commented that most residents know that a public official can’t just come on their property for no reason whatsoever. Mrs. Stinney agreed with Mr. Inge and added that she would not want to say that she would challenge the intelligence of their local residents to not know that they don’t have to allow someone on their property. Mr. Inge informed they have to put door knockers up if there is a violation and commented on going on a persons’ property to put a door knocker up to give them a certain amount of time to take care of it. They’re still going on their property and they are not doing anything but giving them notice. That’s stopping the procedure of just giving them a summons to appear in court. Mrs. Stinney agreed with Mr. Inge and added that she would not belittle the residents’ intelligence for them to not to know their rights.

Mr. Prickett amended his initial motion to include the deletion of the second sentence in section 186-18 Inspections.

Motion by Prickett and Inge to adopt Ordinance No. 10-2010 as amended by deleting the second sentence in 186-18 Inspections. Prickett, yes; Inge, yes; Stinney, yes; Cartier, yes. Motion carried.

Mr. Bayer informed the ordinance will not go in to effect under state law for twenty days. The Mayor signs it, the Clerk advertises it and it goes in to affect twenty days after that. He advised that there is a provision under state law that would allow them to declare an emergency and have the ordinance go in to effect immediately. He explained that may help in terms of implementation of the

ACO, if an ordinance is adopted declaring an emergency. He noted they awarded a contract for the construction of Well #12 on an emergent basis. Mr. Inge commented that should have been done before Council voted on it. Mr. Bayer informed he could provide a resolution declaring an emergency and the ordinance could go in to effect upon the Mayor's approval of the ordinance or they could wait the twenty days. Mr. Prickett suggested looking into that. Mr. Bayer recommended the Council add a resolution 174-2010 to the agenda declaring an emergency pursuant to NJSA40:69A-181(b) thereby having ordinance 10-2010 take effect immediately upon the Mayor's approval of the ordinance.

Motion by Prickett and Inge to add Resolution No. 174-2010 to the agenda.

RESOLUTION NO. 174 -2010

A RESOLUTION AUTHORIZING THE ADOPTION OF ORDINANCE NO. 10-2010 (IMPOSING WATER CONSERVATION RESTRICTIONS) ON AN EMERGENT BASIS PURSUANT TO N.J.S.A. 40:69A-181(B) WHEREAS, THE TOWNSHIP OF PEMBERTON (THE "TOWNSHIP") LOSS THE USE OF WELL # 11 DUE TO WATER QUALITY TESTS THAT INDICATED RADIUM LEVELS WHICH EXCEED NJDEP SAFE DRINKING WATER STANDARDS; AND WHEREAS, TO RESOLVE THE ALLEGED VIOLATIONS OF ITS REGULATIONS AND TO ENSURE THAT A SUFFICIENT AND SAFE WATER SUPPLY IS PROVIDED TO ITS RESIDENTS, THE NJDEP HAS REQUIRED THAT THE TOWNSHIP SIGN AN ADMINISTRATIVE CONSENT ORDER ("ACO"); AND WHEREAS, THE NJDEP, THROUGH THE ACO, HAS ORDERED THAT THE TOWNSHIP IMPOSE MANDATORY WATER USE RESTRICTIONS COMMENCING UPON THE EXECUTION OF THE ACO; AND WHEREAS, THE ACO REQUIRES THE TOWNSHIP TO IMMEDIATELY DECLARE A LOCAL WATER EMERGENCY AND TO IMPOSE MANDATORY WATER USE RESTRICTIONS; AND WHEREAS, THE TOWNSHIP COUNCIL INTRODUCED ORDINANCE NO. 10-2010 ON JUNE 16, 2010 TO IMPOSE WATER CONSERVATION RESTRICTIONS ON THE TOWNSHIP; AND WHEREAS, AFTER PUBLIC HEARING AND SECOND READING, THE TOWNSHIP COUNCIL ADOPTED ORDINANCE NO. 10-2010 ON JULY 7, 2010; AND WHEREAS, THE TOWNSHIP COUNCIL SEEKS TO AUTHORIZE THE ADOPTION OF ORDINANCE NO. 10-2010 ON AN EMERGENT BASIS AS AUTHORIZED UNDER N.J.S.A.40:69A-181(B) SO THAT THE TOWNSHIP MAY COMPLY WITH THE REQUIREMENTS OF THE ACO. NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF PEMBERTON, IN THE COUNTY OF BURLINGTON AND STATE OF NEW JERSEY, THAT AS A RESULT OF THE REASONS SET FORTH HEREIN AND THE IMPORTANT PUBLIC POLICIES ENUNCIATED, ORDINANCE NO. 10-2010 SHALL TAKE EFFECT IMMEDIATELY AS AN EMERGENCY IN ACCORDANCE WITH N.J.S.A.40:69A-181 (B).

Mr. Bayer advised it will only be effective if two thirds of all Council members approve.

Prickett, yes; Inge, yes; Stinney, yes; Cartier, yes. Motion approved.

Motion by Prickett and Inge to approve Resolution No. 174-2010.
Prickett, yes; Inge, yes; Stinney, yes; Cartier, yes. Motion carried.

GENERAL PUBLIC COMMENTS:

Council President Scull opened the meeting to general public comments. Those indicating a desire to be heard were: **John Hiros:** Noted he has a problem with uncontrolled development in New Lisbon. Mr. Hiros spoke of a shed project started a number of years ago that was sited by the Zoning Officer as being in violation for being too close to the property line; the lot was substandard and the owner was instructed to move it or be fined \$2,000 a day. Neither happened and the shed remained for two years. He again spoke with the Zoning Officer who didn't have any idea of what had happened. He asked that the Township Construction Official call him which he did not. Mr. Hiros then asked for copies of all of the paperwork. The fines were never paid and a permit was issued. The application had numerous errors in it, the size of the building, location, distance from side properties and nothing was done for two years after a building permit was issued. The Township regulations indicate that after 6 months of no progress, it becomes null and void. Unfortunately after two years with nothing being done and it still being a tar paper shack, it received approval. Mr. Hiros then asked to meet with the Business Administrator and within 3 days of receiving his materials, siding was put on the building. When he applied for a stockade fence many years ago, he had to go to the Zoning Department because the Township doesn't normally approve stockade fences. Mr. Hiros provided pictures of the shed as well

as the stock aid fence and garage. Mr. Hiros questioned permits being issued and spoke of zoning meetings. Mr. Hiros asked why the Township is allowing these types of buildings without permits which are in violation of the codes within the Township. Mr. Hiros does not live in New Lisbon to be in an industrial area. He was not happy when Mr. Marlin had four house trailers on his property for three or four months over the winter. This is not a construction area or storage yard. Mr. Hiros asked why the Township is letting this go on. He expressed that someone is not doing their homework and they are not following up. He does not want to live in an area like this and questioned why he should have to put up with that if he lives in a residential zone. It's a matter of management being watchful. This information was provided one year ago, and he has only received a one sentence letter stating it has not been resolved and he has no idea what is going to be done. Mr. Cartier asked Mr. Vaz if he is familiar with this. Mr. Vaz answered he is. Mr. Hiros commented that more needs to be done and Mr. Vaz is overworked. Mr. Hiros continued that he saw Mr. Vaz on May 1, 2009 and was supposed to hear back from him in two weeks and he is still waiting. Mr. Vaz responded that he can discuss the zoning aspect of it but not the construction part of it publicly. There are two Zoning Officers involved, one who was previously working for the Township and the current Zoning Officer and they have two different opinions as to whether this is or is not permitted. Administration has asked the Planner, Mr. McCabe to look in to this for them. Mr. Vaz noted that he was persuaded by the former Zoning Officer's opinion as to why it was permitted and he pointed out a very specific part of the zoning code. The current Zoning Officer had his opinion as well. It can't be resolved until the construction end is resolved. Mr. Hiros stated it's been 14 months and he has called and called the Business Administrator and never received a call back. Mr. Vaz stated that certain things take time when they are not in their hands. Mr. Hiros asked if he could get a response when he calls. Mr. Vaz stated he did forward a letter stating it was not resolved and he can't resolve it any faster. Mr. Hiros reminded Mr. Vaz that he told him he would contact him in two weeks and he did not. Mr. Hiros continued that he sent Mr. Vaz a certified letter which he did not respond to and then sent him a one sentence letter in July 2009 that said he talked to a previous Zoning Officer and will meet with the Construction Officer. Mr. Hiros asked Mr. Vaz if he has not had time to meet with the Construction Officer since July 2009. Mr. Vaz reiterated that the zoning aspect is separate and apart from the construction part. Mr. Hiros then asked why Mr. Vaz didn't contact him to at least tell him he is working on it. Mr. Vaz recalled the last thing he remembers is contacting him and stating it is not resolved. Mr. Hiros provided a file containing correspondence and phone calls to Mr. Vaz' office. Mr. Hiros expressed he is unhappy about this and the ball has been dropped. As one can see, it's multiplied and there are now five additional situations and no one is doing anything about it. Mr. Cartier expressed land use is near and dear to him and he will personally look into it and ask Mr. Vaz regarding this. Mr. Hiros stated he would like to know as well. Mr. Prickett asked Mr. Cartier to report back at the next meeting to let Council know. Mr. Cartier will let Council know what he can. Mrs. Stinney read Mr. Hiros' letter for the record (Mr. Hiros' letter is attached to and made a part of these minutes). **Ray Wells:** announced that approximately 300 students recently graduated. He congratulated the community, parents and volunteers for Project Graduation where 65% of the kids attended. He provided copies of a letter from Michael R. Gorman, Ed.D, Superintendent of Schools to Dr. Willa Spicer, Deputy Commissioner, Department of Education. The school board was asked how they were able to bring the scores at the Helen Fort Middle School up so rapidly. Mr. Wells asked the Mayor if the police officers have a badge number. Mayor Patriarca replied no, that would be very unusual for a municipality. Mr. Wells asked what an Administrative Order is. Mr. Cartier explained it is not an Administrative Order, it is an Administrative Search Warrant by the courts. Mrs. Stinney thanked Mr. Wells for coming forward often to highlight the students and the schools in Pemberton Township. She knows the Superintendent is working on the positives and the highlights of

Pemberton Township and she also serves on that committee and is very pleased with the outcome of the funding which is over \$1.5 million for scholarships. Mr. Wells is compiling a list of all of the colleges the graduates will be attending. **Michelle Forman:** Noted that she ran into some Police Officers and spoke of the noise ordinance with them. The Officers informed her if there is a complaint, the Police can issue a warning and if they are called back again, they can issue a summons. The way it stands now, if there is music bothering a resident, they have to go to the Police Department and file a complaint against their neighbor. Mr. Cartier informed that is incorrect; the Police can now enforce the ordinance. Mr. Vaz advised the Officers and Code Enforcement Officers went through a four day training course. The noise machine has also been purchased and the training is now done. Mr. Cartier conveyed the police do have to be called to let them know there is a problem. Mr. Vaz added now there is an objective test to determine if the noise that is causing the complaint violates the standard in the ordinance. The Police Officer would then be a witness to it and is certifying it based on those test results. Mrs. Forman asked if the Police Department has all of the equipment necessary to measure sound. Mr. Vaz advised the former Police Chief was ordered to put the purchase order in to get all of the equipment done and the approvals were done. Mr. Vaz confirmed the ordinance is in effect now. Mr. Vaz advised there were approximately 14 police officers and code enforcement officers trained.

There being no additional members of the public indicating a desire to be heard, Mr. Cartier closed the meeting to public comments.

SOLICITOR'S REPORT:

Andy Bayer: 1. Nothing to report.

ENGINEER'S REPORT:

Chris Rehmann: 1. Nothing to report.

MAYOR'S REPORT:

David Patriarca: 1. Nothing to report.

BUSINESS ADMINISTRATOR'S REPORT:

Chris Vaz: 1. Nothing to report.

COUNCIL MEMBERS' COMMENTS:

Rick Prickett: 1. Suggested drinking a lot of water and staying hydrated.

Diane Stinney: 1. Thanked everyone for coming out and noted she was educated on a lot of things that she didn't know about. She thanked Mr. Rehmann for a job well done doing a presentation to the residents. She expressed hope to see everyone at the Water Carnival on the 17th.

Tom Inge: 1. Expressed he is glad Ray Wells is in the audience. He thanked the teachers of Pemberton Township for a great job they are doing with the students. He has two children in school and is fortunate this year with Mrs. Robinson who taught his son in Kindergarten. Mr. Inge advised he went to school with her Mrs. Robinson's husband from second grade through high school. His daughter went to school in first grade with Mr. Pillows, and he also went to school with him from second grade through high school. He spoke of his conversation with Mrs. Scull at

the last Council meeting regarding the amount of homework Mr. Pillows gives to first graders. **2.** Noted he rented the recreation center in Country Lakes for his son's fifth birthday party. He forgot to pick up the key for the building, but Ms. Kosko was working and was able to provide him with the key. He thanked Ms. Kosko for her efforts. Mr. Inge noted that individuals that have rented Township buildings have forgotten to pick up the key often but yet they are provided with a key in time for their event, noting there was a \$25.00 per hour charge for the rental of the building. He commented that it's a beautiful building and the Mayor also worked on it. The residents need to know they can rent the building for events, and the summer is perfect because the lake is right across the street. **3.** He wished everyone a safe trip home.

Ken Cartier: **1.** Announced that along with the Water Carnival, this Saturday at Mirror Lake Beach there is a program, Life Opportunities, directed at kids. A picnic will be held from 12:00 noon to 4:00 for all kids in the Township to spend the day. Mrs. Stinney advised it's about giving back; the organization has been reaching out to do things for many of the residents and students not only in Pemberton Township but also in Burlington County. There were students going to a mentoring program speaker, Paula Redmond. They have been meeting at the BMIA and mentoring students and the program has been working great. Saturday is a day of celebration to open up the beach and have a day of fun. Wished everyone a safe trip home.

The meeting was adjourned at approximately 11:12 pm.

Respectfully submitted:

Amy P. Cosnoski, RMC
Deputy Township Clerk

ATTACHMENT OF LETTER READ INTO THE RECORD

May 20, 2009
PO Box 46
New Lisbon, NJ 08064

Pemberton Township Administrator
Pemberton-Browns Mills Rd.
Pemberton, NJ

Dear Sir:

I am a resident of Pemberton Twp., living in the village of New Lisbon. I have a complaint concerning an illegal building that was constructed on an adjoining property, 55 Four Mile Rd./Bl. 845 Lot 9.

The building was constructed soon after the property was purchased at the end of 2003. The building was never finished, does not meet the setback requirements, is over-sized in length, width, height and does not meet foundation requirements.

On September 2, 2004 the owner was cited for an illegal building. The building was not removed and there is no record of the owner being fined, as is stated in the notice of violation. The owner was issued a zoning permit on 7/22/04 and a

building permit on 7/27/04. A certificate of approval was issued on 11/22/06 although no work had been done on the building since January of 2004.

About two years ago I visited the Zoning Office inquiring about the status of the building since no work had been undertaken since January of 2004 and the building was still in place. After two and a half years I was tired of looking at a tar paper shack and didn't believe it belonged in a residential neighborhood. I was told the building was illegal and at the very least it would have to be moved at least 50 feet from the property line. I was given a SHED INFORMATION sheet which highlighted what is a shed and what the requirements are and restrictions. The information provided indicated that the building was not a shed and did not meet basic requirements and should not have been built. I was told it would be taken care of. In the intervening two plus years nothing has changed.

Over the past two week I have made several trips to the Township building to gather information regarding this building. I asked the Code Enforcement Officer call me. When I did not hear from him, I called him. He said he would talk to the building inspector and have him call me. That has not happened either.

Just today, when I received all the documentation from the Township I found a CERTIFICATE of APPROVAL for the building issued by the Construction official, dated 11/22/06. How did this happen? No work had been done on the building since January of 2004, it has numerous violations and was never finished. Yesterday, siding was put on the building. Why would that happen if it was approved two and a half years ago?

I am not pleased with what has transpired and the lack of objective enforcement of Township zoning regulations. I have provided a list of the irregularities which I have noted and hope you can enlighten me as to why they took place or didn't take place.

Sincerely,

John E. Hiros