

PRINCETON COUNCIL MEETING
June 24, 2013

A meeting of the Mayor and Council was held on this date at 7:00 p.m. in the Main Meeting Room in the municipal complex, 400 Witherspoon Street, Princeton, NJ 08540.

NOTICE OF MEETING

The Clerk read the following statement.

The following is an accurate statement concerning the providing of notice of this meeting and said statement shall be entered in the minutes of this meeting. Notice of this meeting as required by Sections 4a, 3d, 13 and 14 of the Open Public Meetings Act has been provided to the public in the form of the 2013 Schedule of Regular Meetings. On January 1, 2013 at 2:15 p.m., said schedule was posted on the official bulletin board in the Municipal Building, transmitted to the Princeton Packet, the Trenton Times, the Trentonian, the Town Topics, and filed with the Municipal Clerk.

ROLL CALL

The Municipal Clerk then called the roll.

Present: Mesdames Butler, Crumiller, Howard and Messers Liverman, Miller and Simon and Mayor Lempert.

Absent: None.

Also Present: Mr. Bruschi, Ms. Monzo Mr. Kiser, and Mr. Schmierer.

COMMENTS FROM THE PUBLIC

Daniel Harris, 28 Dodds Lane and Alexi Assmus, 32 Maple Street, Princeton Citizens for Sustainable Neighborhoods both spoke in regard to the proposed AvalonBay project.

(Written comments attached to this set of minutes)

ASSESSMENT CONFIRMATION PUBLIC HEARINGS

- 13-186: Resolution Confirming Grover Sidewalk Assessment
- 13-187: Resolution Confirming Hillside Avenue Sidewalk Assessment
- 13-188: Resolution Confirming Roper Road Sidewalk Assessment
- 13-189: Resolution Confirming White Pine Curbing Assessment

Ms. Crumiller offered a motion to authorizing in block confirmation of the above referenced assessments. Ms. Butler seconded the motion which was carried unanimously.

(Resolutions appended to this set of minutes)

WORK SESSION**PBA Agreement January 1, 2013 – December 31, 2015**

Mr. Bruschi discussed with Council the proposed PBA agreement and explained to Council that the proposed agreement will set the tone for future negotiations in areas such as step plans, longevity payments and the need for the position of Corporal.

Mayor Lempert said that the proposed agreement will be added to the July 8, 2013 Council agenda for approval.

Police Department Organizational Study and Leadership Analysis

Ms. Howard discussed with Council a Police Department Organizational Study and Leadership Analysis. Captain Sutter said that he welcomed such a review of the department. Mr. Bruschi said that the proposal for the review is with The Rodgers Group and the kickoff will take place at the next public safety meeting. The analysis will cover every aspect of the police department with the hope of reinstilling communications and confidence.

Mr. Simon asked what the process for approval of the proposal would be. Mr. Bruschi said that he would need consensus of Council and then a resolution authorizing the agreement with the Rodgers Group would be on the July 8, 2013 agenda.

Ms. Howard said that there might be a confidential part of the report with extent to personnel issues.

Mayor Lempert said that she was very excited about the study and it was the consensus of Council to move forward.

REPORTS

Ms. Howard said that the Human Services Commission has an ambitious agenda.

Ms. Crumiller reported that NJTransit will be holding hearings in Newark to discuss the approvals to move the DINKY.

Mr. Miller said that the Planning Board met to consider applications for the Princeton Day School and Fountain Ridge LLC (Copperwood).

(Mr. Miller's notes attached to this set of minutes)

Ms. Butler said that busy season for the parks has begun with the opening of Mary Moss Park and park inspections.

Mayor Lempert said that she is part of a delegation opposing 2586 in Trenton and would be drafting a letter stating the opposition. She also announced that there would be a Firefighter picnic at Princeton University.

RESOLUTIONS

- a. 13-190: Continuing Former Princeton Borough and Princeton Township Codes

Ms. Butler offered a motion to approve resolution 13-190 as presented. The motion was seconded by Ms. Crumiller and carried unanimously.

- b. 13-191: Adopting Personnel Manual

Ms. Butler offered a motion to approve resolution 13-191 as amended. The motion was seconded by Ms. Crumiller and carried unanimously.

- c. 13-192: Liaison Appointment to the Housing Authority

Ms. Butler offered a motion to approve resolution 13-192 as presented. The motion was seconded by Ms. Crumiller and carried unanimously.

- d. 13-193: Appointments to Boards and Commissions

Ms. Butler offered a motion to approve resolution 13-193 as presented. The motion was seconded by Ms. Crumiller and carried unanimously.

- e. 13-194: DRS Imaging for Archival Scanning of Permit Files, Plans and Documents for an amount not to exceed \$99,900.

Ms. Butler offered a motion to approve resolution 13-194 as presented. The motion was seconded by Mr. Miller and carried unanimously.

- f. 13-195: Authorizing a Professional Services Agreement with Atlantic Traffic and Design, Inc., for the completion of a Speed and Vehicle Study along Terhune Road for an amount not to exceed \$3,000.

Ms. Butler offered a motion to approve resolution 13-195 as presented. The motion was seconded by Ms. Howard and carried unanimously.

- g. 13-196: Authorizing a five-year agreement with Zipcar, for two Zipcar dedicated parking spaces within the Spring Street Garage.

Ms. Butler offered a motion to approve resolution 13-196 as presented. The motion was seconded by Ms. Crumiller and carried unanimously.

- h. 13-197: Authorizing an agreement with Rehabco, Inc., to administer the Rehabilitation Home Loan Program for low and moderate income households for 2013, not to exceed \$1,500. per unit.

Mr. Miller offered a motion to approve resolution 13-197 as presented. The motion was seconded by Ms. Crumiller and carried unanimously.

(Resolutions appended to this set of minutes)

ORDINANCE PUBLIC HEARINGS

No Parking Zone, Alexander Street

Mayor Lempert read by title an ordinance entitled AN ORDINANCE CREATING A NO PARKING ZONE ON A PORTION OF ALEXANDER STREET AND AMENDING THE "CODE OF THE TOWNSHIP OF PRINCETON, NEW JERSEY, 1968".

Mayor Lempert opened the public hearing.

There being no public comment, the public hearing was closed.

Ms. Crumiller offered a motion to approve the proposed ordinance on second reading. The motion was seconded by Mr. Simon and carried unanimously.

Rental Housing Code and Rent Registration

Mayor Lempert read by title an ordinance entitled AN ORDINANCE BY PRINCETON CONCERNING RENTAL HOUSING CODE AND RENT REGISTRATION AND AMENDING THE "CODE OF THE BOROUGH

OF PRINCETON, NEW JERSEY, 1974” AND THE “CODE OF THE TOWNSHIP OF PRINCETON, NEW JERSEY, 1968”. Mayor Lempert opened the public hearing.

There being no public comment, the public hearing was closed.

Ms. Butler offered a motion to approve the proposed ordinance on second reading. The motion was seconded by Mr. Miller and carried unanimously.

Stormwater Drainage and Utility Easement

Mayor Lempert read by title an ordinance entitled AN ORDINANCE BY PRINCETON AUTHORIZING ACCEPTANCE OF A STORMWATER DRAINAGE AND UTILITY EASEMENT AND RIGHT-OF-WAY OVER, UPON AND WITHIN LOT 44 IN BLOCK 28.02, PRINCETON TAX MAP.

Mayor Lempert opened the public hearing.

There being no public comment, the public hearing was closed.

Mr. Liverman offered a motion to approve the proposed ordinance on second reading. The motion was seconded by Ms. Butler and carried unanimously.

ORDINANCE INTRODUCTIONS

Sewer Services Charges

Mayor Lempert read by title on first reading a proposed ordinance entitled AN ORDINANCE BY PRINCETON CONCERNING SEWER SERVICE CHARGES AND AMENDING THE “CODE OF THE BOROUGH OF PRINCETON, NEW JERSEY, 1974”AND THE “CODE OF THE TOWNSHIP OF PRINCETON, NEW JERSEY, 1968”

Mr. Miller offered a motion to approve the proposed ordinance on first reading. Ms. Butler seconded the motion, which was carried unanimously. The public hearing was set for July 8, 2013.

Salaries and Wages

Mayor Lempert read by title on first reading a proposed ordinance entitled ORDINANCE 2013-OF THE MAYOR AND COUNCIL OF PRINCETON CONCERNING SALARIES AND COMPENSATION OF CERTAIN PERSONNEL OF THE MUNICIPALITY OF PRINCETON.

Mr. Simon offered a motion to approve the proposed ordinance on first reading. Mr. Miller seconded the motion, which was carried unanimously. The public hearing was set for July 8, 2013.

CONSENT AGENDA

- a. Bills and Claims
- b. Maintenance and Performance Guarantees
 - Debbie Monn, Westerly Road Church, Performance Guarantee Reduction
 - William Bell, Tenacre Foundation, Storm Water Management Project – Release of Maintenance Guarantee
 - William Bell, Tenacre Foundation, Service Yard – Release of Maintenance Guarantee
- c. 13-198: Resolution authorizing Westerly Road Curb Installation Funding Agreements with 12 Pardoe Road and 28 Pardoe Road.
- d. 13-199: Resolution authorizing the filing of the 2012 Recycling Tonnage Grant

Ms. Butler offered a motion to approve items “b-d” as proposed. The motion was seconded by Ms. Crumiller and carried unanimously.

Mr. Simon offered a motion to approve item “a” Bills and Claims as proposed. The motion was seconded by Ms. Howard and carried unanimously.

(Resolutions appended to this set of minutes.)

13-200 CLOSED SESSION RESOLUTION

RESOLUTION
TO GO INTO CLOSED SESSION
(Open Public Meetings Act Sec.3)

BE IT RESOLVED by the Mayor and Council of Princeton:

1. This body will now convene into a closed session that will be limited only to consideration of an item or items with respect to which the public may be excluded pursuant to section 7B of the Open Public Meetings Act.
2. The general nature of the subject or subjects to be discussed in said session is as follows:

Negotiations - Review of Not for Profit Tax Exempt Institutions

3. ted as precisely as presently possible, the following are the time when and the circumstances under which the discussion conducted at said session can be disclosed to the public:

Within 90 days or upon settlement of litigation, if applicable

The above referenced issue was discussed by the Princeton Council.

There being no further business the meeting was adjourned at 10:30 p.m.

Linda S. McDermott
Municipal Clerk

Report to Council - 24 Jun '13

Planning Board

The Planning Board met on 20 Jun to consider two applications.

The first, an application by the Princeton Day School to replace two existing signs at the main entrance to the school on The Great Road with two 26' curved stone and brick walls, each with an inserted illuminated sign with the words Princeton Day School was approved by the Planning Board.

The second, was an application by Fountain Ridge LLC (Copperwood), that involved two variances from the approved application for the development. Both involved a level of detail that was not anticipated in the approved application. The first entailed a need to bring electricity into the development by an overhead line across Bunn Drive. As approved, all utilities were to be brought in underground. This problem resulted from a requirement on the developer by PSEG that the site be served by two separate circuits for the purposes of redundancy, one coming in underground from north of the development on Bunn Drive and the second coming in from East of the development from an overhead line on the east side of Bunn Drive. After some discussion, the Planning Board requested that the developer and the municipal engineering staff work with PSEG to try and find a solution that would bring both separate circuits into the development underground as had originally been approved. The second variance involved a request by the developer for a waiver from the (previous) Township engineering practice for the location and/or limit on the electro-magnetic radiation emitted by the transformers to be located in the development. The Township practice has been to require that transformers be located at least 50' away from inhabited buildings, or the radiation emitted from the transformer be less than 2 milli-gauss. The developer claimed that the distance requirement could not be met on the site and that the radiation requirement would require as built measurements and would be too costly to rectify if the measured radiation exceeded the 2 milli-Gauss level. The developer also questioned the science underlying the Township engineering

practice. The arguments of the developer were not accepted by the Planning Board and the developer was requested to work with the municipal engineering staff to find a solution that satisfied (previous) Township practice.

Bernie

Remarks to PC, 6/24/13

drafted by Daniel A. Harris, vetted and revised by Alexi J. Assmus and Kate J. Warren
--trustees, Princeton Citizens for Sustainable Neighborhoods.

The PEC Report on AvalonBay expresses "concern" about "the unprecedented review process for this application. Because the consent order agreed to by the municipality requires a condensed review time frame, the PEC has not received the municipal staff and zoning reports for this Project to better inform us prior to issuing our position. We question why this application is not subject to standard operating procedures, and we believe the process has been compromised as a result." SPRAB's Report will express Harry Cooke's view that "all comments were given without input from staff" and that "the Planning Board will be hearing information from staff without benefit of SPRAB analysis." This situation, as Bill Wolfe said (6/19/13), "sets a very bad precedent."

PCSN concurs with these judgments that the process has been subverted. Granted the unreasonable terms of the Consent Order presented by AvalonBay, neither Princeton Council nor the Planning Board was obligated to sign off on this document without either full review or revision. As you know, PCSN refused to sign the Consent Order and generated instead a fair-minded revision which leveled the playing field both for time-lines now compromised and for kinds of evidence AvalonBay chooses to submit. Both municipal bodies could have instructed Trisha Cecil or Gerry Muller to redline, revise, and negotiate. Responsibility for the compromised review process (PEC) and the setting of "a very bad precedent" (SPRAB) rests with you. Civic and municipal trust cannot long survive without due process conscientiously observed.

Notwithstanding past history, PCSN still seeks the best development we can help Princeton get. Without in any way endorsing Plan B, PCSN draws your attention to the following areas of focus:

- 1) A voluntary commitment by AvalonBay to install a renewable solar energy system now, not later, by way of a Power Purchase Agreement with a third party. In a PPA, the third party installs the solar system at no cost to the owner or developer, and the developer agrees to buy power from the third party at significant discount over conventional costs. Social justice requires that AvalonBay make this commitment, particularly because 56 units will be inhabited by people

Alexi Assmus, Trustee PCSN, 32 Maple Street
Public comment, Borough Council, June 19, 2013

This past October, Princeton Citizens for Sustainable Neighborhoods came before the Princeton Environmental Commission (PEC) to request more information on environmental investigations that had been performed by AvalonBay's consultant EcolSciences on the former hospital site. We very much thank the PEC for requesting these reports and AvalonBay for providing the EcolSciences Phase I Environmental Assessment and the Limited Phase II Site Investigation Report to the Planning Board in response. After reviewing these reports, the PEC recommended that an independent consultant be hired by the municipality to assess the reports and this was done. PCSN would like to briefly review the discussion surrounding these reports and the independent assessment and explain our continued advocacy for a Preliminary Assessment at the former hospital site to Council tonight.

The existence of chemicals in the soil and groundwater at the hospital property is well documented (AvalonBay consultant, EcolSciences, Limited Phase II, Nov 8, 2011, "Sampling Results", pp 8-10 provided along with these remarks); however, the appropriate investigation and remedial response is the subject of much expert dispute. PCSN's experts have publically testified that additional environmental testing is necessary in light of future residential development at the former hospital site.

PCSN had several experts review these reports: our environmental attorney, Aaron Kleinbaum of the Eastern Environmental Law Center; environmental expert and local resident; James Peterson of Princeton GeoSciences, a Princeton resident environmental attorney with 30 years experience who does environmental due diligence on sales and purchases of properties, Vincent Giordano (testimony included with these remarks, Planning Board Hearing, December 13, 2012, p. 150, lines 19-25, p. 151, 1-25, p. 152, 1-25, and p. 153, 1-9); and a Princeton resident and pharmaceutical scientist with experience working at hospital laboratories, Marco Gottardis, PhD. All believe that further investigation of the former hospital site is warranted. The latter three testified at the Planning Board Hearings on the AvalonBay site application on December 10th and 13th, 2012, regarding environmental concerns.

At the Planning Board Hearing on December 10, 2012, devoted to the environmental concerns regarding the former hospital site, the independent consultant David Volz of Sovereign Consulting retained by the Planning Board concluded that no further investigation was needed at the former hospital site.

PCSN disagrees with the opinion by Sovereign Consulting and continues to advocate for a Preliminary Assessment, as defined by the NJ Site Remediation Reform Act, N.J.S.A. 58:10C-1 et seq.

It is important to point out that AvalonBay's own consultant, Ecolsciences, recommended that a "subsurface investigation should be performed to determine if the underlying soils and ground water have been impacted by sewer lines and/or historic septic systems discharges." [EcolSciences Phase 1, Sept 15, 2011, p 27. Conclusions and Recommendations]

The EcolSciences *Limited* Phase II Site Investigation Report states in its Scope of Work, "As directed by AvalonBay Communities, the scope of work proposed is limited to the investigation of operating underground storage tanks and two abandoned underground tanks." (title, our emphasis, quote, p. 2).

One concern PCSN has is that the independent environmental consultant David Volz of Sovereign Consulting, Inc, testified that there would be no soil testing on the former hospital site without first observing contaminated soil by "visual" or "olfactory" means. He further testified that any potential contaminants would be visible or smellable in the soil.