

**Approved Minutes
Open Session
Of the Mayor and Council of the Borough of Princeton
One Monument Drive
Princeton, New Jersey
October 25, 2011
Regular Meeting
Closed Session 7:00 P.M.
Open Session 7:30 P.M.**

Present: Council President Kevin Wilkes (*arrived 7:04 P.M.*), Councilwoman Jo Butler, Councilwoman Jenny Crumiller, Councilman David Goldfarb, Councilman Roger Martindell, Councilwoman Barbara Trelstad, Mayor Mildred Trotman

Absent: None

Staff Present: Borough Administrator Robert W. Bruschi, Borough Engineer John M. West, Borough Attorney Maeve E. Cannon, Land Use Development Official Derek Bridger, Police Chief David J. Dudeck, Planning Board Director Lee O. Solow, Deputy Borough Clerk Delores A. Williams

Mayor Trotman called the meeting to order at 7:00 P.M. and read the open public meetings statement as follows:

“This meeting is called to order pursuant to the provisions of the Open Public Meetings Law. This meeting of October 25, 2011, was included in a list of meetings sent to and advertised in the Princeton Packet and Trenton Times, posted on the bulletin board in the Borough of Princeton municipal building and has remained continuously posted as the required notices under the statute. In addition a copy of this notice is and has been available to the public and is on file in the Office of the Borough Clerk. Proper notice having been given, the Borough Clerk is directed to include this statement in the minutes of this meeting.”

Mayor Trotman read **Agenda Item C, Resolution 2011-R251**, as follows:

**RESOLUTION 2011-R251
OF THE MAYOR AND COUNCIL OF THE BOROUGH OF PRINCETON
INTO CLOSED SESSION ON OCTOBER 25, 2011**

WHEREAS, the Open Public Meetings Act, P.L. 1975, Chapter 231 permits the exclusion of the public forum from a meeting in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances may presently exist; and

WHEREAS, the Governing Body wishes to discuss the following issues:

1. Negotiations — Princeton University (PU)

WHEREAS, minutes will be kept and once the matter involving confidentiality of the above no longer requires that confidentiality, then minutes can be made public; and

NOW THEREFORE BE IT RESOLVED that the public be excluded from this meeting.

October 25, 2011

Councilwoman Trelstad moved to approve; Councilman Goldfarb seconded. Council members Wilkes, Butler, Crumiller, Goldfarb, Martindell, and Trelstad voted in the affirmative. Hearing no nay votes, Mayor Trotman proclaimed the resolution approved.

Borough Council recessed into closed session.

At 7:40 P.M. Council reconvened into open session.

Mayor Trotman asked all present to rise for **Agenda Item D, Salute to the Flag.**

Mayor Trotman read by title **Agenda Item I, New Business (2) — Introduction and Authorization to Publish Ordinance 2011-25** BOND ORDINANCE OF THE BOROUGH OF PRINCETON, IN THE COUNTY OF MERCER, NEW JERSEY PROVIDING A SUPPLEMENTAL APPROPRIATION OF \$340,000 FOR THE FUNDING OF THE BOROUGH'S SHARE OF THE ADDITIONAL COST FOR THE INSTALLATION OF A NEW POOL AND AUTHORIZING THE ISSUANCE OF \$323,000 BONDS OR NOTES OF THE BOROUGH FOR FINANCING PART OF THE APPROPRIATION.

Mayor Trotman announced that discussion of the community pool is tabled pending further information as outlined by Councilman Martindell as follows: (1) Has demolition (nearly complete) uncovered any condition detrimental to completion of pool construction? (2) Is a current and comprehensive budget for entire project available?

Councilman Goldfarb noted that the Township has already awarded the contract and construction has begun. Borough's contribution is expected in a timely fashion.

Mayor Trotman indicated that Ordinance 2011-25 will be placed on the agenda of November 9, 2011, for introduction.

Mayor Trotman read **Agenda Item E, Approval of Minutes.**

Presented for approval were the minutes of the open session of August 23, 2011.

Councilwoman Trelstad moved to approve the minutes of the open session of August 23, 2011, Councilman Goldfarb seconded, and Council approved unanimously five to zero, with Council President Wilkes abstaining.

Mayor Trotman read **Agenda Item F, Public Presentation**, and asked if anyone present wished to address Council with an issue not on the agenda. Mayor Trotman explained the five-minute limit for public presentations; no dialogue with Council members is permitted during this portion of the agenda. If so indicated, Council will take action at a later date.

Councilwoman Butler requested an update on expenses incurred by Bob Goldsmith. Borough Administrator Robert Bruschi answered that the original \$10,000 contracted has been exceeded by twice plus; the contract will be amended after the November 1 statutory deadline. (As agreed, Mr. Goldsmith notified Mr. Bruschi when 80% of appropriation was reached while working on

E-5 zoning and the Memorandum of Understanding [MOU] three-way agreement.) Mr. Bruschi said very little time was spent pursuing a special improvement district (SID), a concept reintroduced every three to four years with participation of citizens and businesses.

Councilwoman Crumiller proposed a re-vote on the MOU because of secret MOU talks that included the side issue of an SID. Mr. Bruschi remarked that the usual public process must occur for creation of an SID by the governing body.

Councilman Goldfarb clarified proper contact with attorneys by members of Council. He said Council should always be aware of attorney contract status.

Seeing no one further, Mayor Trotman closed the public portion.

Mayor Trotman read **Agenda Item G, Discussion (1) — World Trade Center Steel** – *Deputy Fire Chief Roy James*.

Chief James described a 1000-person motorcycle run to deliver World Trade Center steel along a route from New York City to Washington, D. C. Rachel Herman of the Intrepid Sea and Air Museum offered Chief James a segment of the remaining steel for a 9/11 memorial to be erected in Princeton. Cost of the memorial (steel itself is free) will depend on the size of the monument and architectural and landscaping expenses. Chief James targeted September 11, 2012, for completion and dedication.

Councilwoman Butler thought such a memorial would be ideal for a public-private partnership.

Mayor Trotman read **Agenda Item H, Report (1) — Monthly Police Report** — *David Dudeck, Chief of Police*.

**RESOLUTION 2011-R252
OF THE MAYOR AND COUNCIL
OF THE BOROUGH OF PRINCETON
APPROVING THE MONTHLY CHIEF OF POLICE REPORT**

WHEREAS, David Dudeck, Chief of Police of the Borough of Princeton prepared a comprehensive report detailing the police activity for the month of August 2011; and

WHEREAS, the Mayor and Council reviewed said report at their Regular Meeting attended by Police Chief Dudeck and made various inquiries.

NOW THEREFORE BE IT RESOLVED that the Mayor and Council hereby accept the August 2011 Monthly police report prepared by the Borough Police Administration.

Chief Dudeck reported **zero** alcohol-related cases during August 2011.

Chief Dudeck said Borough police accreditation is nearly complete; certainly by year-end.

Councilman Goldfarb referred to a Mercer County Prosecutor letter arguing emphatically against use of civilian detectives by local police forces.

Council President Wilkes moved to approve the police report, Councilwoman Trelstad seconded, and Council accepted unanimously.

Mayor Trotman read **Agenda Item I, New Business (3 - 10) — Resolutions 2011-R253, 2011-R254, 2011-R255, 2011-R256, 2011-R257, 2011-R258, 2011-R259, and 2011-R260** as follows:

**RESOLUTION 2011-R253
OF THE MAYOR AND COUNCIL
OF THE BOROUGH OF PRINCETON
APPROVING THE PLACEMENT OF A BANNER AS REQUESTED BY THE
PRINCETON FAMILY YMCA**

WHEREAS, The Princeton Family YMCA wishes to advertise their 4th Annual Conquer The 5K's Road Race/Walk and One S-Mile Fun Run held on November 5; and

WHEREAS, The Princeton Family YMCA has requested permission to install a banner over Washington Road and has received the approval of the Office of Community and State Affairs at Princeton University and pending all conditions and insurance requirements set forth are met for the period beginning Friday, October 28 through Friday, October 28 2011; and

WHEREAS, this banner will be promptly removed after its use as required by Borough ordinances; and

WHEREAS, in accordance with Borough Ordinance 3-17 any banner that is removed by the Borough will be held by the Borough for thirty (30) days and then disposed of; and

WHEREAS, in accordance with Borough Ordinance 3-17 any applicant failing to remove a banner will not be permitted to display any banner for the succeeding two years; and

NOW THEREFORE BE IT RESOLVED that the Mayor and Council hereby approve placement of said banner on Washington Road in accordance with Borough Ordinances 3-14-3-17.

**RESOLUTION 2011-R254
OF THE MAYOR AND COUNCIL
OF THE BOROUGH OF PRINCETON
APPROVING THE PLACEMENT OF POLE BANNERS
AS REQUESTED BY THE
PRINCETON UNIVERSITY ART MUSUEM**

WHEREAS, The Princeton University Art Museum is planning an exhibition, *Object of Devotion: Medieval English Alabaster Sculpture from the Victoria and Albert Museum* beginning December 3 2011; and

WHEREAS, The Princeton University Art Museum has requested permission to install eight pole banners on Nassau Street with the approval of the Office of Community and State Affairs at Princeton University beginning November 26, 2011 through February 11, 2012 to advertise the Art Exhibition; and

WHEREAS, the pole banners will be promptly removed after use as required by Borough ordinances; and

WHEREAS, in accordance with Borough Ordinance 3-17 any banner that is removed by the Borough will be held by the Borough for thirty (30) days and then disposed of; and

WHEREAS, in accordance with Borough Ordinance 3-17 any applicant failing to remove a banner will not be permitted to display any banner for the succeeding two years; and

NOW THEREFORE BE IT RESOLVED that the Mayor and Council hereby approve placement of said pole banners on Nassau Street in accordance with Borough Ordinances 3-14-3-17.

**RESOLUTION 2011-R255
OF THE MAYOR AND COUNCIL**

**OF THE BOROUGH OF PRINCETON
APPROVING RAFFLE LICENSE RA:343
TO CORNER HOUSE FOUNDATION**

WHEREAS, CORNER HOUSE FOUNDATION has submitted a raffle application to the Borough Clerk; and

WHEREAS, N.J.A.C. 13:47-4.1 requires seven (7) days to elapse before the Governing Body makes its findings and determinations; and

WHEREAS, the required waiting period is satisfied on October 25, 2011; and

WHEREAS, Corner House Foundation, in accordance with N.J.A.C. 13:47-3 et seq, has submitted the required fees, four copies of their application, and the Legalized Games of Chance Control Commission (LGCCC) registration form with identification number.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Princeton that bingo license RA: 343 for CORNER HOUSE FOUNDATION be approved; and

BE IT FURTHER RESOLVED that the Municipal Clerk will forward the Finding and Determinations for RA: 343 to the LGCCC in accordance with N.J.A.C. 13:47-4.1.

**RESOLUTION 2011-R256
OF THE MAYOR AND COUNCIL
OF THE BOROUGH OF PRINCETON
APPROVING RAFFLE LICENSE RA:344
TO MCCARTER THEATRE OF THE PERFORMING ARTS**

WHEREAS, MCCARTER THEATRE OF THE PERFORMING ARTS has submitted a raffle application to the Borough Clerk; and

WHEREAS, N.J.A.C. 13:47-4.1 requires seven (7) days to elapse before the Governing Body makes its findings and determinations; and

WHEREAS, the required waiting period is satisfied on October 25, 2011; and

WHEREAS, MCCARTER THEATRE OF THE PERFORMING ARTS, in accordance with N.J.A.C. 13:47-3 et seq, has submitted the required fees, four copies of their application, and the Legalized Games of Chance Control Commission (LGCCC) registration form with identification number.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Princeton that bingo license RA: 344 for MCCARTER THEATRE OF THE PERFORMING ARTS approved; and

BE IT FURTHER RESOLVED that the Municipal Clerk will forward the Finding and Determinations for RA: 344 to the LGCCC in accordance with N.J.A.C. 13:47-4.1.

**RESOLUTION 2011-R257
OF THE MAYOR AND COUNCIL
OF THE BOROUGH OF PRINCETON
REJECTING BIDS FOR CAPITAL PROJECT 11-06
SECURITY CAMERAS**

WHEREAS, the Borough of Princeton has determined the need for security cameras at the Spring Street Garage, PSOC facility on River Road and at Hines Plaza; and

WHEREAS, the Borough has solicited bid proposals for same which were publicly opened on October 4, 2011; and

WHEREAS, the Borough received the following bids:

Triad Security Systems	\$17,650.00
Integrated Systems & Services	\$17,878.00
Kratos-HBE	\$20,078.50
Audio Café	\$23,944.72
OBS	\$27,645.78
Office Solutions	\$28,184.59

WHEREAS, pursuant to N.J.S.A. 40A:13.2(d), the Borough seeks to substantially revise the specifications for the services; and,

WHEREAS, the Borough Council desires to approve the rejection of all bids pursuant to N.J.S.A. 40A:11-13.2 and authorize a re-bid of the security cameras pursuant to the revised specifications.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Princeton that the Borough hereby rejects all bids for the security camera for the reasons cited above.

**RESOLUTION 2011-R258
OF THE MAYOR AND COUNCIL
OF THE BOROUGH OF PRINCETON
APPROVING FIRE DEPARTMENT APPLICATION FOR
WILLIAM R. RAY**

WHEREAS, William R. Ray has met all requirements of Borough of Princeton Code of Laws, Chapter 14, Section 25(a) through 25(f) as a member of the Princeton Hook and Ladder Fire Company

WHEREAS, the membership application has been reviewed by the municipal officers; and

NOW THEREFORE BE IT RESOLVED that the Mayor and Council of the Borough of Princeton hereby approve the application for membership to the Office of the Borough Administrator, the Fire Chief and Fire Company.

**RESOLUTION 2011-R259
OF THE MAYOR AND COUNCIL
OF THE BOROUGH OF PRINCETON
APPROVING FIRE DEPARTMENT APPLICATION FOR
ENGUANG FANG**

WHEREAS, Enguang Fang has met all requirements of Borough of Princeton Code of Laws, Chapter 14, Section 25(a) through 25(f) as a member of the Princeton Hook and Ladder Fire Company

WHEREAS, the membership application has been reviewed by the municipal officers; and

NOW THEREFORE BE IT RESOLVED that the Mayor and Council of the Borough of Princeton hereby approve the application for membership to the Office of the Borough Administrator, the Fire Chief and Fire Company.

**RESOLUTION 2011-R260
OF THE MAYOR AND COUNCIL
OF THE BOROUGH OF PRINCETON
CHAPTER 159- SPECIAL BUDGET ITEM – COPS IN SHOPS**

WHEREAS, N.J.S.A. 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 thereof was not determined at the time of the adoption of the Budget; and

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

SECTION 1.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Princeton hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the sum of \$2,800.00 is now available as a miscellaneous revenue anticipated from “**State of New Jersey - Division of Alcoholic Beverage Control – Cops in Shops**” and

SECTION 2.

BE IT FURTHER RESOLVED, that a like sum \$2,800.00 be and the same is hereby appropriated under the caption of “**State of New Jersey – Division of Alcoholic Beverage Control – Cops in Shops**”

Councilwoman Trelstad moved to approve Resolutions 2011-R253, 2011-R254, 2011-R255, 2011-R256, 2011-R257, 2011-R258, 2011-R259, and 2011-R260; Council President Wilkes seconded; Borough Council approved unanimously.

Mayor Trotman read **Agenda Item I, New Business (11) — Resolution 2011-R261** as follows:

**RESOLUTION 2011-R261
OF THE MAYOR AND COUNCIL
OF THE BOROUGH OF PRINCETON
CHAPTER 159- SPECIAL BUDGET ITEM – JAGS GRANT**

WHEREAS, N.J.S.A. 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 thereof was not determined at the time of the adoption of the Budget; and

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

SECTION 1.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Princeton hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the sum of \$11,180.00 is now available as a miscellaneous revenue anticipated from **“City of Trenton – JAGS Grant”** and

SECTION 2.

BE IT FURTHER RESOLVED, that a like sum \$11,180.00 be and the same is hereby appropriated under the caption of **“City of Trenton – JAGS Grant ”**

Council President Wilkes moved to approve Resolution 2011-R261, Councilwoman Trelstad seconded, and Borough Council approved unanimously.

Mayor Trotman read **Agenda Item K, Bill List for October 25, 2011 — Resolution 2011-R262** as follows:

**RESOLUTION 2011-R262
OF THE MAYOR AND COUNCIL OF THE BOROUGH OF PRINCETON
APPROVING THE OCTOBER 25, 2011 BILL LIST**

WHEREAS, Finance Officer Sandra L. Webb has forwarded the bills received for payment by the Borough of Princeton for review and approval by the Mayor and Council; and

WHEREAS, the Borough Clerk has certified that the vouchers listed on the attached register are a follows:

CURRENT ACCOUNT (11-01)	2,071,290.70
RESERVE ACCOUNT (10-01)	60.00
PARKING UTILITY OPERATING FUND (11-05)	17,091.22
PARKING UTILITY OPERATING FUND (10-05)	
AFFORDABLE HOUSING OPERATING ACCT (11-24)	
AFFORDABLE HOUSING OPERATING ACCT (10-24)	
IMPROVEMENT ASSESSMENT (11-11)	
ANIMAL CONTROL TRUST (A-14)	
CAPITAL ACCOUNT (C-04)	170,327.63
PARKING UTILITY CAPITAL FUND (P-06)	
ESCROW (E-30)	282.09
TRUST FUND (T-13)	1,295.00
GENERAL INSURANCE	

October 25, 2011

FLEXIBLE SPENDING FUND (11-22)	
MANUAL	1,675,964.25
ASSESSMENT TRUST FUND (11-11)	
GRANT (G-02)	2,093.78

NOW THEREFORE BE IT RESOLVED that the Mayor and Council of the Borough of Princeton approve the bill list as presented.

Councilwoman Trelstad moved to approve Resolution 2011-R262, Council President Wilkes seconded, and Council approved unanimously.

Mayor Trotman read by title **Agenda Item I, New Business (1) — Introduction and Authorization to Publish Ordinance 2011-24** AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 17A OF THE CODE OF THE BOROUGH OF PRINCETON, NEW JERSEY, 1974 TO CREATE A NEW ZONE DISTRICT TO BE KNOWN AS (E5) ZONE.

Councilman Goldfarb recused himself from discussion of Ordinance 2011-24 and left the chamber at 8:10 P.M.

Councilwoman Trelstad moved to introduce Ordinance 2011-24; Councilman Martindell seconded.

Councilwoman Crumiller offered an amendment to Ordinance 2011-24 that would include a transit zone to preserve the straight-shot publicly owned New Jersey Transit (NJT) right of way on Princeton University property. Councilwoman Butler seconded.

Councilman Martindell recapped earlier consideration of the amendment and repeated the legal difficulties and expense of enforcing such regulation. He hoped the amendment could be part of ongoing talks.

Councilwoman Crumiller retorted that the defense of the amended ordinance could be decided at the time of a legal challenge.

Councilwoman Trelstad questioned whether the transit-zone aspect should be considered as a separate entity from Ordinance 2011-24.

Noting Borough Attorney Maeve Cannon's conflict of interest over New Jersey Transit topics, Mayor Trotman requested guidance on properly incorporating an amendment into Ordinance 2011-24. Ms. Cannon opined that the amendment must be considered by the Planning Board prior to Council. Mr. Bruschi clarified that any ordinance, with or without amendment, will return to Planning for recommendations.

Mayor Trotman called the question on having the attorneys put the transit-zone amendment in proper ordinance format for Council vote at a later date. After a show of hands, Mayor Trotman proclaimed the motion failed three to two (Councilwoman Butler and Councilwoman Crumiller for; Council President Wilkes, Councilman Martindell, Councilwoman Trelstad against).

Reminding that Ordinance 2011-24 was moved and seconded, Mayor Trotman asked for comments from Council.

Mr. Bruschi reviewed versions of Ordinance 2011-24 leading to that presented here. He said the process is as follows:

- Public *discussion*
- Introduction by Council
- Revert to Planning (probably without substantive changes)
- Notification to people in affected zones (250 feet)
- Public *hearing* and consideration for adoption.

Mr. Bruschi reported that Township Committee passed a companion ordinance and the MOU (conditional upon a suitable Borough zone)

Planning Board Director Lee O. Solow said Planning has scheduled AET and E-5 topics—plus final report from the traffic consultant—for its agenda November 10.

Councilwoman Butler was frustrated that traffic data was not ready for review in conjunction with Ordinance 2011-24.

Mr. Solow referred to the memorandum of October 14, 2011, and outlined changes to Ordinance 2011-24:

1. No education-use garage parking in E-5
2. Rail stations with amenities
3. Parking for transit uses
4. No child care
5. Revised setbacks, height restrictions (four specific limitations on taller buildings)
6. Full treatment and windows on all façades
7. Enhanced commuter parking, including monthly and daily parkers
8. Public pedestrian access to a relocated rail station.

Councilman Martindell thought there will be *insufficient* parking without a garage. Mr. Solow responded that the Borough's portion was too small for garage parking (allowed in Township ordinance).

Mr. Solow outlined the boundaries of E-5.

Councilman Martindell opposed *forbidding* a garage in Ordinance 2011-24. Council President Wilkes agreed with Planning that the gateway nature of the district indicated prohibition of a parking structure. Mr. Solow pointed out that a new concert hall will have its own parking requirements that must be provided *somewhere*.

Councilman Martindell queried, again, *forbidding* childcare. Mr. Solow mentioned the primary concern of dropoff and pickup, with commensurate traffic dangers.

Councilwoman Trelstad voiced concern about 100-foot buildings. (She noted that the new fly tower is covered by Township portion and McCarter's existing fly tower is exempt.)

Councilwoman Crumiller and Councilwoman Butler agreed that 100 feet is too tall in E-5.

Council discussed visibility (that is, night safety) issues with wider setbacks and the station away from the road.

Council agreed that designated parking spaces for child care facilities will be established pending final decision to include or not include child care in Ordinance 2011-24.

Council President Wilkes thought that, conceptually, child friendliness should be included in all Borough ordinances.

Councilman Martindell moved to allow child care in E-5; Council President Wilkes seconded. Councilwoman Butler vehemently opposed due to the presence of "deadly" traffic.

Mayor Trotman called for a show of hands and proclaimed no provision for child care in E-5.

Council members wanted to broaden the term "heavy rail" to include any mode of transit to the northeast line and to make parking space requirements less specific in case of change to a system with more stops.

Council President Wilkes pointed out the need for loading docks in brand-new buildings.

Councilman Martindell moved to allow a wrap-around garage use (mirroring Township) and cited ordinance paragraphs affected. There was no immediate second.

Mayor Trotman opened the public discussion and asked if anyone wished to address Council on this issue.

After surveying the audience, Mayor Trotman limited each speaker's time to three minutes.

Anne Neumann, Borough, read a one-page statement, declaring that the E-5 ordinance conflicts with the Master Plan—especially as to the impact on the character of existing neighborhoods.

Peter Marks, Borough, agreed that parking should be provided on Borough lands. He endorsed 60 feet as tall enough—in fact too high. Mr. Marks identified the upcoming vote in two weeks as a referendum on the Dinky project—a possible outcome being that he will replace Councilwoman Trelstad on Council. Mr. Marks recommended waiting to hear from the voters.

Melanie Clark, 200 Mercer Street and Executive Director of Princeton Symphony Orchestra, reminded of the value of an arts center at University/Alexander.

Mimi Omiecinski, Borough, read a statement prepared by Lori Rabon of the Nassau Inn. The statement reads as follows: The PRCVB is excited, as well as me as the GM of the Nassau Inn, at the prospect of the University bringing another element of Arts and Cultural programming to Princeton. We will benefit

significantly from the opportunity to attract more visitors to our Region by offering them an experience similar to that which they would have in the top tier tourist cities. We currently work with the Princeton Area Arts and Cultural Consortium to enhance the experience of a visitor's time with us by packaging plays, recitals, exhibits with dining and overnight stays. As well, we work with the local business community to promote the offerings of the many unique stores and quality merchandise available in the downtown. The University's plan supports our mission of driving tourism and increasing economic growth for our stakeholders. Our campaign focusing on marketing the varying attractions of the Princeton Region includes posters at several NJ Transit stops and we would expand that to include the Dinky station as soon as the opportunity is available.

Another point I would like to make is regarding the current dinky station which is under-utilized. Many of our guests, particularly the females, are apprehensive about taking the dinky into town because of the fact that it is perceived as inactive during the non-peak hours and lacking in lighting. When we get calls at the Inn we encourage people to depart at the Princeton Junction station and take a cab over to the downtown. This is quite costly to the guest. It would be wonderful to announce to our patrons that the dinky station is open 24/7 with ATMs, TigerTracker visuals, promotional materials for local programming and discount offerings.

Ms. Omiecinski stated that the arts development will drive tourism and increase economic growth for stakeholders.

Brian McDonald, Township resident/Borough worker/McCarter Board of Trustees, restated McCarter's strong support for the PU proposal. He enumerated specific gains expected from the development.

Brad Corrodi, 220 Mercer Street, asked Council to fulfill arts *and* transit goals. He listed components of a thriving town center: Talent, working eco system, and transit. He wanted to avoid a legal battle, with sides looking to thwart each other's convictions.

Kip Cherry, 24 Dempsey Avenue in Township, stressed focus on the Dinky's survival—not on the arts.

Chip Crider, Borough resident and Township businessman, agreed to including parking and child care. He reminded of the inevitable "unintended consequences." He advised introducing the ordinance, knowing another hearing is forthcoming.

Fred Wass and his wife, Borough residents, supported the arts and transit village.

Anita Garoniak, One Harris Road and co-founder of "Save the Dinky", urged Council to vote against introduction of the revised zoning ordinance because: (1) specific problems with the ordinance already addressed, (2) ordinance must designate a public Dinky right-of-way area, (3) moving the Dinky is not good public policy, and (4) Planning has failed to evaluate the ordinance against the Master Plan.

Judy Sheide, Library Place resident and local arts activist, emphasized that there is not enough room for arts in Princeton.

Bob Durkee for Princeton University disagreed that the arts project was on a "fast track." Mr. Durkee noted traffic issues related to zoning; later, traffic issues related to site plan. He repeated expedition of traveling from Faculty to University (1:53 to 0:59 peak times) under the revised zoning that moves vehicles away from Alexander.

October 25, 2011

Mr. Solow asked if a specific setback change to the ordinance might be covered during public session, without further review by Planning. Ms. Cannon answered that it would depend on the magnitude of the change.

Seeing no one further, Mayor Trotman closed the public discussion. She invited Mr. Solow to respond to comments from Council and public.

- Parking: Planning Board envisioned parking for educational uses to be elsewhere. Councilwoman Butler said there is not enough room for parking in such a small zone. Councilman Martindell maintained a need to consider garage parking for transit uses. Council approved a garage that is either wrapped or screened.
- Building height: Introduce as is: 100 feet with four listed clarifications (plus one-foot setback per every one foot above 60 feet).
- Windows: Improve clarity of language to include “a significant proportion of windows . . . especially the ground floor.”
- “Heavy rail”: Change to “rail.”
- Child care with accompanying parking
- Loading: Change floor area.
- Public access: Improve wording.

Mr. Solow stated it is not uncommon to have food and/or convenience stores inside a depot.

Council discussed aspects of traffic changes from rezoning. Analysis from a traffic expert will be forthcoming.

Councilwoman Butler raised consistency with Master Plan and entered Carlos Rodrigues’ July 18, 2011, letter to the Planning Board for public record.

Gail Ullman
Vice-Chair, Princeton Regional Planning Board
400 Witherspoon Street
Princeton, New Jersey 08540

July 18, 2011

Re: Consistency of Proposed E5 and AET Zoning Ordinances with Regional Master Plan

Dear Ms. Ullman:

This letter will elaborate upon my oral comments to the Regional Planning Board (RPB) at its July 7, 2011 hearing on this issue.

Background

The RPB has been requested by Borough Council and Township Committee to provide input, pursuant to the Municipal Land Use Law into two ordinances which would change the zoning district boundaries, permitted uses and other development regulations in adjacent areas of the Borough (the E5 district) and Township (the AET district).

The zoning changes have been requested by Princeton University, a private not-for-profit educational institution, which owns considerable property in the area potentially affected by the zoning changes. The proposed zoning changes were written by professionals employed by Princeton University. Other landowners in the two proposed districts, who would also be affected by

the proposed zoning changes, have not to our knowledge expressed an opinion regarding these proposed changes. There is no evidence that these other landowners have even been notified of the proposed changes, or consulted with respect to them.

The proposed zoning changes would do the following:

- Create, in the Borough, an E-5 (Educational) district along University Place. This new district would entirely subsume an existing NB (Neighborhood Business) district, as well as portions of existing E-2, E-4 and R-3 districts.
- Create, in the Township, an AET (Arts-Education-Transit) district along a portion of Alexander Street. This new district would replace a portion of an existing S-1 (Service 1) district

Gail Ullman
Vice Chair, Princeton Regional Planning Board
July 18, 2011
Page 2

The proposed zoning amendments have not been requested by the RPB. They are not grounded in a community planning process. They have not been proposed by any civic or community groups, or by any agency, public or private, with community planning as its mission. Instead, the proposed zoning amendments have been requested by a large landowner, which undertook a private planning process that did not involve the community or the RPB – the Princeton community’s official planning agency – in any significant or meaningful way.

It is important to underline that real property ownership does not, by itself grant the landowner any inherent rights of development. The University can continue to acquire real estate through private transactions, but ownership does not give it the right to use that real estate for purposes not contemplated in the zoning and presumably based in the master plan. There is no substantive basis to justify any expectations on the part of the University or any landowner that it may use its properties in the areas subject to the proposed rezoning in ways or for uses other than those contemplated in the community’s planning and regulatory documents.

The RPB’s immediate mandate, as discussed in greater detail below, is to assess consistency between the master plan and the proposed ordinances. A narrow interpretation of this mandate involves a comparison between the actual language of the master plan and the substance of the proposed ordinances. A more expansive interpretation would involve an analysis of whether the actions contemplated under the proposed ordinances fit in with the “big picture” planning framework outlined in the master plan for the community, that is the master plan’s vision for the community. The statute and case law support planning boards taking on both interpretations.

Princeton University has submitted a memo to the RPB entitled “Ordinance Consistency with Princeton Community Master Plan” in which it seeks to convince the RPB that the proposed ordinances are consistent with the master plan. This memo outlines all the reasons why the proposed ordinance amendments are advantageous to the University and seeks to demonstrate that they would also be advantageous to the community.

This memo, however, reveals a fundamental misunderstanding on the part of the University of how the ordinance evaluation and master plan consistency process actually work in New Jersey. The memo never refers to actual language in the master plan. Instead, it refers to an inferred wish list of things that it claims the community master plan calls upon educational institutions to provide or achieve, such as “improve traffic flow”, address back-ups at key intersections”, “create safe and pleasant pedestrian environments” or “enhance public areas with art”. These objectives may all have merit, but they are hardly unique to educational institutions and addressing them does not make a proposed ordinance consistent with the master plan. Consequently, they are totally irrelevant for the RPB’s task at hand.

Gail Ullman
Vice Chair, Princeton Regional Planning Board
July 18, 2011
Page 3

Assessing Consistency Between the Master Plan and a Proposed Ordinance

The Municipal Land Use Law (NJS 40-55D) stipulates under “referral to planning board” (40:55D-64) that:

Prior to the hearing on adoption of a zoning ordinance, or any amendments thereto, the governing body shall refer any such proposed ordinance or amendment thereto the planning board pursuant to section 17a. of this act [40:55D-26]

Section 40:55D-26 (Referral Powers) stipulates that:

- a. *Prior to the adoption of a development regulation, revision or amendment thereto, the planning board shall make and transmit to the governing body, within 35 days after referral, a report including identification of any provisions in the proposed development regulation, revision or amendment which are inconsistent with the master plan and recommendations concerning these inconsistencies and any other matters as the board deems appropriate.*

As I mentioned in my oral testimony, in comparing the proposed ordinance amendments against the master plan, the planning board may reach one of three possible conclusions:

- The proposed ordinance is substantially consistent with the master plan;
- The proposed ordinance is substantially inconsistent with the master plan; or
- The proposed ordinance is neither substantially consistent nor substantially inconsistent with the master plan.

Conclusions 1 and 2 above are clear and relatively straightforward. Conclusion 3 is more complicated and nuanced. In this case, I don't believe the RPB will reach conclusion 3.

I should point out that the RPB's mandate is not, as has been suggested by some, to compare existing zoning against proposed zoning and discuss the potential advantages of one versus the other. This is not what was requested by the governing bodies and is not an appropriate role for a planning board in this context. The planning board's frame of reference for the purposes of this exercise is the master plan, not the zoning or land development regulations.

Gail Ullman
Vice Chair, Princeton Regional Planning Board
July 18, 2011
Page 4

The Princeton Community Master Plan

The community's most recent master plan was adopted in 1996, with subsequent amendments. The RPB adopted Reexamination Reports in 2001, and most recently in 2007, in order to satisfy the statutory requirement that a municipal master plan be reexamined at least every 6 years.

The 2007 Reexamination Report references earlier planning documents and constitutes the community's most recent official statement on planning issues. The sections of the report relevant to the issue at hand state:

The 1996 Master Plan and the 2001 Reexamination report recognized that the major educational institutions in Princeton will need to expand and/or improve their facilities. Insuring that these improvements are at an appropriate scale will continue to be a major objective for the community. Protecting the area around the many small scale neighborhoods that border these large institutions is an important community objective. The 2001 Reexamination report requested that all educational institutions update their long-range plans and insure that any development be compatible with the surrounding neighborhood. An additional objective regarding educational institutions was to limit expansion outside the educational zones as this can limit these lands for taxable uses and erode our tax base. (2007 Reexamination Report, page 3 – emphasis added)

While most of what Princeton University proposes is permitted under existing zoning, the area proposed to house the University's new "arts corridor" will require zoning changes along University Place and Alexander Road. The impact from any proposed land use change in this area must include an evaluation of the impacts to our circulation system. Similarly, The University's request to relocate the Dinky Station approximately 400 feet south of its existing location will need to be evaluated. (2007 Reexamination Report, page 7).

Princeton University has shared an ambitious new master plan for its campus. While most of its vision can be implemented without zoning changes the proposed Arts Corridor along Alexander Road will need additional study to assess the land use and circulation impacts before a change can be recommended. (2007 Reexamination Report, page 21)

Impacts from Princeton University's proposed Arts Corridor and other campus expansions will need to be evaluated and suitable transportation improvements made as warranted. (2007 Reexamination Report, page 22).

Gail Ullman
Vice Chair, Princeton Regional Planning Board
July 18, 2011
Page 5

Any relocation of the Dinky and improvements along University Place and Alexander Road must be carefully studied before any land-use changes are contemplated. (2007 Reexamination Report, page 22)

The permitted uses in the Borough and the Township's service zones should be reviewed and inappropriate uses removed. If necessary new service zones should be created to provide the community with areas for necessary service uses (2007 Reexamination Report, page 23 – emphasis added)

The 2007 Reexamination Report acknowledges the University's intention to seek regulatory changes for the general area affected by the current zoning proposals. It neither rejects nor endorses these proposals. Instead, it clearly cautions that they need to be carefully evaluated.

This approach is all the more important now, since an amendment to the Municipal Land Use Law modifying New Jersey's controversial "time of decision" doctrine went into effect May 5 of this year. This amendment precludes a governing body from amending the zoning and land development regulations affecting a previously filed development application for reasons other than public health and safety. Previously, the burden of proof was on the applicant for development, who had to demonstrate that the conforming application would not be detrimental to the community. Now the community is legally held responsible for its zoning, regardless of whether it fully understands the implications and impacts of development. Without the previously available safety net, amending a zoning ordinance, without fully understanding its potential impacts, would be irresponsible and a dereliction of the public trust. Since the comprehensive evaluations called for by the RPB in the master plan have not been conducted and appropriately vetted with the community, amending the zoning ordinance to enable substantial changes would be irresponsible.

Questions related to the potential impacts of development that might occur following a rezoning are no longer deferrable to site plan review of a development application, as was suggested by RPB staff at the 7/7 meeting. At best, site plan review can seek to mitigate adverse impacts. It can no longer prevent adverse impacts – even if they are recognized as such – because the burden now lies on the municipality to troubleshoot these potentially adverse impacts prior to authorizing the development through zoning.

Are The Proposed Ordinances Substantially Consistent with the Princeton Community Master Plan?

In order for the proposed ordinances to be substantially consistent with the master plan one would have to demonstrate that they are contemplated in the master plan

Gail Ullman
Vice Chair, Princeton Regional Planning Board
July 18, 2011
Page 6

And that they effectuate master plan goals and objectives. This is not the case. The proposed ordinances are not substantially, or even remotely contemplated in the master plan. The Master Plan does not call for an E-5 district at the proposed location, or in any other location; nor does it call for an AET district at the proposed location, or in any other location. The master plan does not call for a substantial expansion of the university's arts program, at this or in any other location.

As such, the two proposed ordinances can not, in my opinion be deemed substantially consistent with the master plan.

Are The Proposed Ordinances Substantially Inconsistent with the Princeton Community Master Plan?

I believe this is the case. Two major inconsistencies relative to the proposed zoning changes immediately jump out:

- The elimination of the NB district and its replacement with an E-5 district violates the policy of limiting expansion of educational institutions outside the existing educational districts. The replacement of a neighborhood commercial district with a tax-exempt educational district will clearly erode the tax base. As such, this proposal is clearly and substantially inconsistent with the master plan.

- The proposed replacement of the S-1 district in the Township with the AET district goes well beyond what the master plan contemplates. The master plan contemplates that the S-1 zoning be re-examined with a view towards eliminating or restricting those uses currently permitted which may no longer be desirable.

The S-1 district allows the following permitted uses:

- a) uses conducive to heavy trucking and to bus transportation;
- b) uses characterized by a moderate amount of dust and noise, such as storage, handling, sale and delivery, either retail or wholesale, of lumber, coal, mason materials, grain and feed, solid and liquid fuels and similar goods;
- c) storage of inflammable materials other than explosives;
- d) storage warehouses;
- e) public utility structures and uses;
- f) freight yards, railroad sidings and other necessary railroad uses;
- g) commercial garages and gasoline service stations;
- h) printing establishments and newspaper offices;
- i) banks and savings institutions;
- j) retail stores and bakeries;

Gail Ullman
Vice Chair, Princeton Regional Planning Board
July 18, 2011
Page 7

- k) hotels and motels; and
- l) business offices.

The AET district would allow the following uses:

- a) classrooms;
- b) offices;
- c) library;
- d) theaters;
- e) retail;
- f) housing;
- g) railroad sidings;
- h) rail, light rail and alternate modes of transit;
- i) bicycle sales and rentals;
- j) museums;
- k) restaurants;
- l) parking garages;
- m) banks;
- n) offices
- o) theaters; and
- p) child care.

The master plan clearly does not contemplate replacing the S-1 district wholesale with something completely different. The proposed AET zoning bears no resemblance to the existing S-1 zoning. As such, the proposed AET zoning, in my opinion is substantially inconsistent with the master plan.

The Big Picture Analysis

The RPB may also wish to take this opportunity to reflect on whether some or all of the proposals in question fit in with sound planning principles and with the RPB's overall vision for the future development of the Princeton community.

This requires stepping back from the minutia of the proposals (ie, the building with the "curved wall") and taking a look at the big planning picture. It might involve asking questions such as the following:

- What is the community's long-term vision for the Alexander Road corridor? Is this an appropriate corridor to plan for substantial new development? What types of uses would be appropriate? What types of uses would the community like to attract, or attract more of, that would make sense at this location? What scale (building height, massing) would be appropriate? What is an appropriate interface between campus and community?

- What is the long-term vision for transit in this corridor, and in town? Should we be planning for a future system that not only preserves what we have today but also seeks to expand it into town? Where else should we consider zoning changes to create a land use pattern that would justify a transit extension into town:
- How can the existing rail right-of-way be transformed to maximize the transportation, recreational and environmental benefits to the community? Is a “rail with trail” scenario feasible, to provide a bicycle and pedestrian connection from town to the D+R Canal and to Princeton Junction? (This would require a partnership with West Windsor and NJ Transit. Would they be supportive?)
- The area around the Dinky terminus is the only real “transit-oriented development (TOD)” opportunity we have today. How should this area be zoned to appropriately maximize it TOD potential, recognizing that the majority landowner seems uninterested in pursuing this at the moment?
- How should the Alexander Road corridor be positioned relative to the other corridors with redevelopment potential: Bayard Lane, North Harrison Street and Witherspoon Street?
- What technical studies and tools need to be available to appropriately evaluate alternative visions for the community’s future?

Conclusions

Based on the above, I believe a close reading of the master plan and a careful assessment of what is proposed under the E5 and AET districts strongly suggest that the two proposed ordinances are, in whole or in part, substantially inconsistent with the master plan.

With respect to the broader planning issues touched upon, I also believe the community needs to be more assertive in defining its vision for the future and its planning priorities, and needs an updated planning framework that can provide individual property owners, as well as the community at large, with a clear picture of what to expect.

I would be happy to answer any questions you may have regarding this.

Sincerely,

Carlos Rodrigues, PP / AICP
201 Moore Street

Councilwoman Trelstad thought that the Planning board should have looked at the E-5 from a wider perspective. She said Mr. Rodrigues’s comments were to the point and should have been carefully considered before the Planning board meetings. She preferred a holistic approach to overall development.

Councilwoman Trelstad asked Princeton University about the 10-year (and beyond) projection; in particular, Hibben and Magee improvements. She suggested “flipping” sites of Hibben/Magee and AET development areas.

Mr. Durkee repeated that moving the station south benefits development of the arts area with a driveway into Lot 7 garage. The area will be more attractive than currently. He said a primary consideration is pedestrian safety.

Mr. Durkee suggested that Master Planners would not have considered some new traffic patterns now possible. He said about 140 of the 730 cars in Lot 7 head north via Faculty Road.

October 25, 2011

Councilwoman Crumiller expressed support for the arts, for Princeton University's promotion of the arts, and for Princeton University. She felt strongly that the project can happen without moving the depot. She would approve E-5 with implementation of a transit zone

Councilwoman Butler wondered if her colleagues on Council who had run as incumbents had a different viewpoint.

Council President Wilkes reminded of a July 26, 2011, resolution unanimously opposing relocation of the terminal; copies to Princeton University, Governor Christie, and New Jersey Transit. New Jersey Transit replied on October 13, 2011 acknowledging receipt of the document.

Councilman Martindell made a motion for the wording of Section 17A-354.25 under (g). Design Standards, (B) Building Design Guideline, (5) the last sentence should state: A significant proportion of windows shall be provided on all sides of the building, including especially the ground floor. Councilwoman Trelstad seconded the amendment.

Hearing no further comment, Mayor Trotman called for a roll call vote. Deputy Borough Clerk called the roll. Council members Wilkes, Martindell, and Trelstad voted aye; Council members Butler and Crumiller were opposed. Mayor Trotman proclaimed the ordinance introduced by a vote of three to two, with a public hearing to be held November 22, 2011.

With consent from Councilwoman Crumiller, Mayor Trotman undertook to postpone discussion of a transit zone to November 1, 2011.

Council President Wilkes moved to adjourn; Councilwoman Trelstad seconded. There being no further business, Mayor Trotman adjourned the open session meeting at 11:30 P.M.

Respectfully submitted,

Delores A. Williams
Deputy Borough Clerk