

**Approved Minutes
Open Session
Of the Mayor and Council of the Borough of Princeton
February 14, 2012
Regular Meeting
Closed Session 6:30 P.M.
Open Session 7:30 P.M.**

Present: Council President Barbara Trelstad, Councilwoman Jo Butler, Councilwoman Jenny Crumiller, Councilwoman Heather Howard, Councilman Roger Martindell, Councilman Kevin Wilkes, Mayor Yina Moore

Absent: None

Staff Present: Borough Administrator and Acting Clerk Robert W. Bruschi, Borough Engineer John M. West, Land Use Development Official Derek Bridger, Assistant Borough Attorney Henry Chou, Planning Board Director Lee O. Solow, Deputy Borough Clerk Delores A. Williams

Mayor Moore called the meeting to order at 6:42 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 February 14, 2012, 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 Moore read **Agenda Item C, Resolution 2012-R87**, as follows:

**RESOLUTION 2012-R87
OF THE MAYOR AND COUNCIL OF THE BOROUGH OF PRINCETON
INTO CLOSED SESSION ON FEBRUARY 14, 2012**

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 — Profession appointments

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.

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

Borough Council recessed into closed session.

At 7:30 P.M. Council reconvened into open session.

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

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

Presented for approval were the minutes of the open session of December 20, 2011.

Council President Trelstad moved to approve the minutes of the open session of December 20, 2011; Councilman Wilkes seconded. Councilwoman Howard recused herself. Councilwoman Butler suggested more formal language be employed in minutes. Council approved unanimously five to zero.

Presented for approval were the minutes of the open session of January 3, 2012.

Council President Trelstad moved to approve the minutes of the open reorganization session of January 3, 2012, Councilwoman Butler seconded, and Council approved unanimously.

Presented for approval were the minutes of the open session of January 10, 2012.

Council President Trelstad moved to approve the minutes of the open session of January 10, 2012, Councilman Martindell seconded, and Council approved unanimously.

Presented for approval were the minutes of the open special session of January 17, 2012.

Council President Trelstad moved to approve the minutes of the special open session of January 17, 2012, Councilwoman Butler seconded, and Council approved unanimously.

Mayor Moore read **Agenda Item F, Public Presentation**, and asked if anyone present wished to address Council with an issue not on the agenda. Mayor Moore 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.

Alan Kornhauser, Princeton, observed that, despite Borough Council's unanimous opposition, Princeton University (PU) is moving forward with its plans for the Dinky area. Borough now must:

1. Immediately place Dinky station complex on Borough's list of historic sites.
2. Zone the station complex and track alignment as "transit only" for future generations.

Ted Horodinski, Lawrenceville, mentioned the large number of distracted drivers around Princeton Borough. He asked for a dedicated police officer and vehicle to spot and ticket distracted drivers.

Kip Cherry, Township, was surprised to learn the Dinky station was on the National Register. She said it was essential for Council to pursue the transit zone concept. Ms. Cherry was concerned about congestion, circulation, and access to the main northeast line.

Councilman Martindell asked legal counsel to investigate historical designation for Dinky station. He proposed amending the circulation element of the Master Plan to make available the Dinky right-of-way for future use.

Planning Board Director Lee O. Solow discussed with Council the impact of historical status.

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

Council President Trelstad read by title and moved **Agenda Item G, Old Business (1) — Public Hearing and Adoption: Ordinance 2012-01, BOND ORDINANCE PROVIDING A SUPPLEMENTAL APPROPRIATION OF \$2,000,000 FOR THE REHABILITATION OF THE SEWER SYSTEM IN AND BY THE BOROUGH OF PRINCETON, IN THE COUNTY OF MERCER, NEW JERSEY AND AUTHORIZING THE ISSUANCE OF \$2,000,000 BONDS OR NOTES OF THE BOROUGH FOR FINANCING PART OF THE APPROPRIATION.**

Councilwoman Butler seconded.

Borough Administrator Robert Bruschi said Ordinance 2012-01 represents Borough's share of costs outside of environmental infrastructure financing from New Jersey (under a single project number for all Borough work).

Mayor Moore opened the public discussion and asked if anyone wished to address Council on this issue. Seeing no one, she closed the public discussion and returned to Council. Hearing no comment, Mayor Moore called for a roll call vote. Deputy Borough Clerk called the roll. Council members Trelstad, Butler, Crumiller, Howard, Martindell, and Wilkes voted in the affirmative. Mayor Moore proclaimed the ordinance adopted.

Council President Trelstad read by title and moved **Agenda Item G, Old Business (2) — Public Hearing and Adoption: Ordinance 2012-02, AN ORDINANCE AUTHORIZING THE ACCEPTANCE OF CERTAIN PARCELS FROM PRINCETON UNIVERSITY.**

Councilman Wilkes seconded.

Mr. Bruschi repeated that the properties in question are "slivers" abutting Harrison Street Park; the tiny lots will become part of the park's grounds.

Mayor Moore opened the public discussion and asked if anyone wished to address Council on this issue. Seeing no one, she closed the public discussion and returned to Council. Hearing no comment, Mayor Moore called for a roll call vote. Deputy Borough Clerk called the roll.

Council members Trelstad, Butler, Crumiller, Martindell, and Wilkes voted in the affirmative. Councilwoman Howard recused herself. Mayor Moore proclaimed the ordinance adopted five to zero.

Council President Trelstad read and moved **Agenda Item G, Old Business (3) — Final Improvement Assessment, Project 10-01 – Resolution 2012-R88** as follows:

**RESOLUTION 2012-R88
OF THE MAYOR AND COUNCIL OF THE BOROUGH OF PRINCETON
CONFIRMING THE IMPROVEMENT REPORT AND FINAL ASSESSMENTS
FOR CAPITAL PROJECT 2010-01**

WHEREAS, by Ordinance No. 2010-16, entitled, **“BOND ORDINANCE PROVIDING FOR SIDEWALK AND SANITARY SEWER IMPROVEMENTS IN AND BY THE BOROUGH OF PRINCETON, IN THE COUNTY OF MERCER, NEW JERSEY, APPROPRIATING \$70,000 THEREFOR, AUTHORIZING THE ISSUANCE OF \$66,500 BONDS OR NOTES OF THE BOROUGH FOR FINANCING PART OF THE COST THEREOF AND DIRECTING THE SPECIAL ASSESSMENT OF THE COST THEREOF”**, adopted October 26, 2010, sanitary and sidewalk improvements were authorized to be undertaken and the cost thereof was directed to be assessed against the properties in accordance with law; and

WHEREAS, pursuant to said ordinance said local improvements were completed and referred to the Borough Engineer of the Borough of Princeton and to the Engineer of the Princeton Sewer Operating Committee for the making of such assessments, all in accordance with the provisions of Chapter 65 of Title 40 of the Revised Statutes; and

WHEREAS, said Engineers did thereafter make such assessments and report thereon to the Mayor and Council of the Borough of Princeton as required by law; and

WHEREAS, said report, entitled **“IMPROVEMENT REPORT AND FINAL ASSESSMENTS FOR CAPITAL PROJECT 2010-01”** is provided as an attachment hereto; and

WHEREAS, said Mayor and Council has examined said assessments and report and has considered the same at a hearing after publication and notice to the owner or owners named in said report as required by law, and has found said report in all respects properly made;

NOW, THEREFORE, BE IT RESOLVED that the said assessments and report are hereby confirmed and that such report be forthwith filed with the Collector of Taxes of the Borough of Princeton;

BE IT FURTHER RESOLVED, that the amounts shown in said report apportioning the costs and expense of said improvements be and the same hereby are assessed upon the said owners of the lands fronting or bordering on said improvements as follows, and that said assessments shall each be paid in not more than ten (10) equal, annual, consecutive installments, with interest thereon at the rate of one point seven five percent (1.75%) per annum on the 14th day of April of each year beginning 2012. The first of said installments shall be due and payable sixty (60) days after the confirmation of the assessment. In the case of any such installment which remains unpaid for thirty (30) days from and after the date it shall become due and payable, the whole assessment or balance thereof shall become due and payable and shall draw interest at the rate imposed upon the arrearages of taxes in the Borough and shall be collected in the same manner provided by law for other past due assessments.

Councilman Martindell seconded. Mayor Moore opened the public discussion and asked if anyone wished to address Council on this issue. Seeing no one, she closed the public discussion and returned to Council. Borough Council approved unanimously.

Council President Trelstad read and moved **Agenda Item G, Old Business (4) — Final Improvement Assessment, Project 07-01 – Resolution 2012-R89** as follows:

**RESOLUTION 2012-R89
OF THE MAYOR AND COUNCIL OF THE BOROUGH OF PRINCETON
CONFIRMING THE IMPROVEMENT REPORT AND FINAL ASSESSMENTS
FOR CAPITAL PROJECT 2007-01**

WHEREAS, by Ordinance No. 2010-01, entitled, **“BOND ORDINANCE PROVIDING FOR SEWER, SIDEWALK AND CURB IMPROVEMENTS IN AND BY THE BOROUGH OF PRINCETON, IN THE COUNTY OF MERCER, NEW JERSEY, APPROPRIATING \$115,000 THEREFOR, AUTHORIZING THE ISSUANCE OF \$109,250 BONDS OR NOTES OF THE BOROUGH FOR FINANCING PART OF THE COST THEREOF AND DIRECTING THE SPECIAL ASSESSMENT OF THE COST THEREOF”**, adopted March 2, 2010, sanitary and sidewalk improvements were authorized to be undertaken and the cost thereof was directed to be assessed against the properties in accordance with law; and

WHEREAS, pursuant to said ordinance said local improvements were completed and referred to the Borough Engineer of the Borough of Princeton and to the Engineer of the Princeton Sewer Operating Committee for the making of such assessments, all in accordance with the provisions of Chapter 65 of Title 40 of the Revised Statutes; and

WHEREAS, said Engineers did thereafter make such assessments and report thereon to the Mayor and Council of the Borough of Princeton as required by law; and

WHEREAS, said report, entitled **“IMPROVEMENT REPORT AND FINAL ASSESSMENTS FOR CAPITAL PROJECT 2007-01”** is provided as an attachment hereto; and

WHEREAS, said Mayor and Council has examined said assessments and report and has considered the same at a hearing after publication and notice to the owner or owners named in said report as required by law, and has found said report in all respects properly made;

NOW, THEREFORE, BE IT RESOLVED that the said assessments and report are hereby confirmed and that such report be forthwith filed with the Collector of Taxes of the Borough of Princeton;

BE IT FURTHER RESOLVED, that the amounts shown in said report apportioning the costs and expense of said improvements be and the same hereby are assessed upon the said owners of the lands fronting or bordering on said improvements as follows, and that said assessments shall each be paid in not more than ten (10) equal, annual, consecutive installments, with interest thereon at the rate of one point seven five percent (1.75%) per annum on the 14th day of April of each year beginning 2012. The first of said installments shall be due and payable sixty (60) days after the confirmation of the assessment. In the case of any such installment which remains unpaid for thirty (30) days from and after the date it shall become due and payable, the whole assessment or balance thereof shall become due and payable and shall draw interest at the rate imposed upon the arrearages of taxes in the Borough and shall be collected in the same manner provided by law for other past due assessments.

Councilman Martindell seconded. Mayor Moore opened the public discussion and asked if anyone wished to address Council on this issue. Seeing no one, she closed the public discussion and returned to Council. Borough Council approved unanimously.

Council President Trelstad read and moved **Agenda Item H, New Business (1) — Discussion-Possible Zoning Amendment – Hospital Property.**

Mayor Moore stated that, at request of Council, staff and proposed developer have prepared draft documents for consideration. She requested outcomes from Princeton Environmental Commission (PEC) investigations. After presentations, Mayor Moore will seek comment from Council and members of the public. She stated today’s findings will not lead to a vote.

Mr. Solow presented a joint memorandum from Borough Engineer John West, Land Use Development Official Derek Bridger, and himself discussing two requests from potential developer Avalon Bay: (1) increase density from 280 units to 324 units and (2) reduce affordable unit requirement from 20% to 17.3%.

Mr. Solow listed follow-up points needed from Avalon: (1) give the reason for the two requested changes, (2) explain how changes further the Master Plan goals, (3) demonstrate no negative impact, and (4) show site can accommodate new parking demands.

Mr. Solow quoted PEC's comments: (1) recommend granting Avalon's variance for higher density housing only if Avalon complies with standard green building ratings, (2) recommend the development be a model of green building, (3) recommend Avalon submit its plan for safe removal of asbestos and toxic materials, (4) recommend no reduction of affordable percentage, (5) recommend Avalon respect the neighborhood streetscape, and (6) recommend Avalon advance citizen participation in community activities.

Assistant Borough Attorney Henry Chou stated that COAH has been abolished, possibly leading to legislative changes in the future.

Steve Miller, PEC member, mentioned Avalon's two LEED certified architects with green rating experience qualified in: Site orientation; minimal use of impervious coverage; demolition and construction waste management; landscaping, irrigation, native non-invasive plantings, and organic pesticides; site remediation (asbestos and lead abatement); renewable, geothermal, and solar energy.

Councilwoman Crumiller, PEC member, added that, with the public pool across the street, Avalon's proposed pool area be converted to gardens, greenhouse, or open space for ice skating.

Avalon Bay representative Ron Ladell reviewed his conversations with Borough's interested parties.

Mr. Ladell offered the affordable calculation that 20% of the original density equals 17.3% of the expanded density—both provide 56 units. Avalon is also interested in constructing work-force housing (higher average median income) with Princeton Preference for residents and workers.

Avalon hopes to be permitted signage and a leasing and management office onsite. Avalon plans to use the natural gradient from Franklin to Henry for a five-story building on the interior, with four stories outside. Avalon is interested in loft apartments that might be precluded by ordinance language defining "story"—loft should be considered in the roof line.

Council President Trelstad cited regional AMI (Mercer, Monmouth, Ocean) for a three-person household as \$82,000; 50%-120% of AMI for work-force housing equals \$41,000 to \$98,000.

Mr. Solow stressed that work-force units cannot be recognized as "affordable."

Councilman Wilkes thought Borough could create some leadership policy by designating nine units for use by community public safety volunteers (fire fighters, rescue squad members).

Mr. Solow summarized Princeton Preference rezoning for Merwick (as might guide policy here): Current residents and their parents and children, teachers, Borough and Township employees, emergency service providers, residents within the last five years, and employees of joint agencies.

Mr. Ladell emphasized that Avalon absolutely will not limit market-rate units to Princeton Preference. As to timing, Mr. Ladell thought the first phase (demolition, asbestos remediation,

new construction) would begin with decommission of the hospital, with parallel phase (approvals) occurring simultaneously. He estimated asbestos removal will take four to five months; demolition permits follow certification that remediation is complete and will take another four to five months. Avalon hopes that full site plan and zoning approvals will permit building to begin in spring 2013.

Council talked about number, size, style, and location of signs for an Avalon property.

Councilman Martindell feared a private pool across from the public pool would emphasize disparity between haves and have-nots.

Mr. Ladell provided details as to appearance of the exterior, variations on the façade, and disparate materials to be used.

Councilwoman Butler observed that today's meeting had yielded no new information.

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

Victoria Airgood, 35 Jefferson Road (two blocks from site in question), asked about the impact of the Avalon plan on the surrounding neighborhood; in particular, increased traffic from 325 new families. Mr. Ladell amended that there will be 324 renters, not 325 families. (He reminded that the area was zoned for 280 units five years earlier.) Mr. Ladell said Avalon's traffic impact pales against the hospital's 500,000 visitors per year.

Peter Marks, corner of Moore and Hawthorne, stated residential growth at this site is another example of Borough's rewriting the Master Plan to suit large-scale developers. He preferred demolishing the hospital building in favor of 90 single-family lots.

Michael Floyd, Quarry Street, had assumed Council will decline Avalon's proposal. He said 324 units will negatively affect downtown, as will expansion at Merwick and Palmer Square.

Alexi Assmus, 32 Maple Street, questioned salary ranges for work-force housing. Mr. Ladell replied that Avalon is awaiting feedback from staff and Council to determine appropriate levels.

Ms. Cherry remarked that green building practices must be executed from the beginning of the work. She admired the nonexclusive, walk-through aspect of Borough neighborhoods.

Heidi Fichtenbaum, 38 Carnahan Place, commented that affordable need must be based on actual data. She referred to Mercer County analysis of impediments to fair housing (May 12, 2010), which stated the real need for assistance is found at the lower end of the income scale.

Joe Bardzilowski, 18 Henry Avenue, was wary of smoke and mirrors behind the scenes. He stated that everything proposed here is counter to actions of five years earlier. He predicted the Avalon development will be a nightmare for the surrounding streets.

Seeing no one further, Mayor Moore closed the public discussion and asked Council to advise staff as to next steps for effectuating an ordinance that reflects the community's thoughts.

Councilwoman Crumiller wanted Council to pursue work-force housing versus affordable. She feared the work-force element gave the appearance that Borough had less regard for lower-income people.

Council President Trelstad repeated Councilwoman Butler's observation that Council decided unanimously on November 9, 2011, to remand the project to Planning. Council President Trelstad commented that when zoned five years ago, the site was to include the standing seven-story hospital building that would contain some luxury apartments and townhouses. Council President Trelstad defended the Avalon proposal as more compatible to the surrounding neighborhood than earlier designs. She called it smart growth—placing people in walking distance of work, school, and downtown stores—while encouraging shop development on Witherspoon Street.

Council President Trelstad moved to instruct staff to draft an ordinance adopting ideas expressed today in order to avoid a vacant eyesore at the site.

Councilwoman Howard shared Council President Trelstad's worry about risks of not moving ahead and Councilwoman Crumiller's thoughts on affordability provisions.

Councilwoman Butler asked the timing of a traffic study. Mr. Ladell responded that Avalon is nearly eligible to submit a full site plan application including concept plan, elevations, limited floor plans, traffic study, parking study—all the documents pursuant to Council's checklist. He stated that introduction of a draft zoning ordinance will advance their timetable.

Councilwoman Crumiller continued to worry that work-force housing will supplant affordable.

Councilman Wilkes reviewed key points for the ordinance, stressing availing public safety workers of sleeping quarters.

Councilman Wilkes seconded Council President Trelstad's motion for a draft ordinance, adding key points as elucidated.

Councilman Martindell added child care as a permitted use. He asked staff to include a provision that the façade will not be monolithic.

Mayor Moore cautioned Council to achieve a balanced approach to the hospital development on issues of actual remuneration of Princeton Preference candidates; impact on neighbors; residential density. She wondered if Council can affect the asking price of the property.

Mayor Moore called the question for a draft ordinance (Council to review on February 28). Borough Council approved unanimously.

Council President Trelstad read and moved **Agenda Item H, New Business (2) — Introduction and Authorization To Publish 2012-03 AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE BOROUGH OF PRINCETON CONCERNING SALARIES AND COMPENSATION OF CERTAIN PERSONNEL OF THE BOROUGH OF PRINCETON.**

Councilwoman Howard seconded.

Mr. Bruschi explained that three current Borough functions have been fulfilled by contractors, who should be compensated as employees for insurance purposes.

Mayor Moore called for a roll call vote. Deputy Borough Clerk called the roll. Council members Trelstad, Butler, Crumiller, Howard, Martindell, and Wilkes voted in the affirmative. Mayor Moore proclaimed the ordinance introduced with a public hearing to be held March 6, 2012.

Council President Trelstad read and moved **Agenda Item H, New Business (3) — Resolution 2012-R90** as follows:

**RESOLUTION 2012-R90
OF THE MAYOR AND COUNCIL
OF THE BOROUGH OF PRINCETON
APPROVING THE 2012 COMMITTEE APPOINTMENT
FOR A FOUR YEAR TERM**

NOW BE IT RESOLVED that those listed below are appointed to the Borough of Princeton committees for a three year term through January 1, 2016 as follows:

HISTORIC PRESERVATION REVIEW

Peter Marks
(Replaces Regan Causey Tuder-
filling an unexpired term)

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to each committee and the Office of the Municipal Clerk.

Councilman Martindell seconded. Borough Council approved unanimously.

Council President Trelstad read and moved **Agenda Item H, New Business (4) — Resolution 2012-R91** as follows:

**RESOLUTION #2012-R91
RESOLUTION OF THE BOROUGH OF PRINCETON,
IN THE COUNTY OF MERCER, NEW JERSEY
DECLARING ITS OFFICIAL INTENT TO REIMBURSE EXPENDITURES
FOR PROJECT COSTS FROM PROCEEDS OF DEBT OBLIGATION
IN CONNECTION WITH THE BOROUGH'S PARTICIPATION IN THE
2012 NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE FINANCING PROGRAM**

WHEREAS, the Borough of Princeton, in the County of Mercer, New Jersey (the "Borrower") intends to provide for the Infiltration/Inflow Reduction Program and System-Wide Rehabilitation Program more fully described in Exhibit A attached hereto (the "Project");

WHEREAS, the Borrower intends to finance the Project with debt obligations of the Borrower (the "Project Debt Obligations") but may incur and pay for certain costs of the Project ("Project Costs") prior to the issuance of the Project Debt Obligations with funds of the Borrower which are not borrowed funds;

WHEREAS, the Borrower reasonably anticipates that obligations, the interest on which is excluded from gross income under Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”), will be issued by the New Jersey Environmental Infrastructure Trust (the “Issuer”) to finance the Project on a long-term basis by making a loan to the Borrower with the proceeds of the Issuer’s obligations (the “Project Bonds”); and

WHEREAS, the Borrower desires to preserve its right to treat an allocation of proceeds of the Project Debt Obligations to the reimbursement of Project Costs incurred and paid prior to the issuance of the Project Debt Obligations as an expenditure for such Project Costs to be reimbursed for purposes of Sections 103 and 141 through 150, inclusive, of the Code.

NOW THEREFORE, BE IT RESOLVED by the Members of the governing body of the Borrower, in the County of Mercer, New Jersey as follows:

Section 1. The Borrower reasonably expects to reimburse its expenditure of Project Costs paid prior to the issuance of the Project Debt Obligations with proceeds of its Project Debt Obligations.

Section 2. This resolution is intended to be and hereby is a declaration of the Borrower’s official intent to reimburse the expenditure of Project Costs incurred and paid prior to the issuance of the Project Debt Obligations with the proceeds of a borrowing to be incurred by the Borrower, in accordance with Treasury Regulations Section 150.2

Section 3. The maximum principal amount of the Project Debt Obligations expected to be issued to finance the project at this time is \$2,000,000.

Section 4. The Project Costs to be reimbursed with the proceeds of the Project Debt Obligations will be “capital expenditures” in accordance with the meaning of Section 150 of the Code.

Section 5. No reimbursement allocation will employ an “abusive arbitrage device” under Treasury Regulations Section 1.148-10 to avoid arbitrage restrictions or to avoid the restrictions under Sections 142 through 147 of the Code. The proceeds of the Project Bonds used to reimburse the Borrower for Project Costs, or funds corresponding to such amounts, will not be used in a manner that results in the creation of “replacement proceeds,” including “sinking funds,” “pledged funds,” of funds subject to a “negative pledge” (as such terms are defined in Treasury Regulations Section 1.148-1) of the Project Debt Obligations or another issue of debt obligations of the Borrower, other than amounts deposited into a “bona fide debt service fund” (as defined in Treasury Regulations Section 1.148-1).

Section 6. All reimbursement allocations will occur not later than 18 months after the later of (i) the date the expenditure from a source other than the Project Debt Obligations is paid, or (ii) the date the Project is “placed in service” (within the meaning of Treasury Regulations Section 1.150-2) or abandoned, but in no event more than three (3) years after the expenditure is paid.

Section 7. This resolution will take effect immediately.

EXHIBIT A

The Infiltration/Inflow Reduction Program and System-Wide Rehabilitation Program

Mr. Bruschi said Resolution 2012-91 undertakes to pay appropriate expenses in connection with environmental infrastructure financing program.

Councilman Wilkes seconded. Borough Council approved unanimously.

Council President Trelstad read and moved **Agenda Item H, New Business (5) — Resolution 2012-R92** as follows:

**RESOLUTION 2012-R92
OF THE MAYOR AND COUNCIL**

**OF THE BOROUGH OF PRINCETON
APPROVING AN ADDENDUM TO THE COLLECTIVE NEGOTIATIONS AGREEMENT WITH
NEW JERSEY STATE POLICEMEN'S BENEVOLENT ASSOCIATION, INC., LOCAL 130,
SUPERIOR OFFICERS' ASSOCIATION – LIEUTENANTS FOR THE PERIOD JANUARY 1, 2010
THROUGH DECEMBER 31, 2012**

WHEREAS, there is a need for the Borough of Princeton Police Lieutenants to enter into a Collective Negotiations Agreement; and

WHEREAS, the parties entered into negotiation and as such an agreement was made for the Princeton Borough Police Lieutenants for the period of January 1, 2009 through December 31, 2012.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Princeton that the Mayor and Clerk are hereby authorized and directed to execute the attached "Memorandum of Understanding" with PBA Local 130, Superiors-Lieutenants, Princeton Borough Police, New Jersey as an addendum to the Lieutenants Superior Officers Association contract substantially in the form attached hereto.

1. A notice of this action shall be published in the Princeton Packet as required by law within ten (10) days of its passage.
2. An executed copy of this "Memorandum of Understanding" between the Borough and the New Jersey State Policemen's Benevolent Association, Inc. Local 130, Superiors-Lieutenants, Princeton Borough Police, New Jersey and a copy of this Resolution shall be on file and available for public inspection in the Office of the Borough Clerk.
3. An executed copy of this Agreement between the Borough of Princeton and the State Policemen's Benevolent Association, Inc. Local 130, Superiors-Lieutenants, Princeton Borough Police, New Jersey and a copy of this Resolution shall be forwarded to State of New Jersey Public Employers Relations Commission.

Mr. Bruschi explained Resolution 2012-92 specifies salaries for superior officers, as agreed with Local 130. Councilman Martindell questioned justification of these increases, and Mr. Bruschi cited consistency in managing police contracts.

Councilman Wilkes seconded. Borough Council approved five to zero, with Councilman Martindell abstaining.

Council President Trelstad read and moved **Agenda Item H, New Business (6) — Resolution 2012-R93** as follows:

**RESOLUTION 2012-R93
OF THE MAYOR AND COUNCIL
OF THE BOROUGH OF PRINCETON
FOR APPROVAL OF CHANGE ORDER NO. 1
TO THE CONTRACT KNOWN AS
"EMERGENCY STABILIZATION OF THE 12" DIAMETER SANITARY SEWER ALONG THE
STONY BROOK"**

WHEREAS, by Resolution 2011-R294, the Mayor and Council of the Borough of Princeton awarded a contract known as "Emergency Stabilization of the 12" Diameter Sanitary Sewer Along the Stony Brook" to Integrated Construction & Utilities of NJ" in the amount of \$248,750.00; and

WHEREAS, change orders are regulated by Local Finance Board Regulations (N.J.A.C. 5:30-14.4); and

WHEREAS, during the construction additional anchors were required at the direction of the Princeton Sewer Operating Committee to properly and successful complete the stabilization work; and

WHEREAS, Change Order No. 1 in the amount of \$22,500.00 has been prepared and is recommended for approval by Robert A. Hough, P.E., the Princeton Sewer Operating Committee Manager / Engineer, resulting in a new Contract Price of \$271,250.00; and

WHEREAS, the Mayor and Council of the Borough of Princeton is satisfied that the requested change order is necessary.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Princeton as follows:

1. Change Order No.1to the Contract between the Borough of Princeton and Integrated Construction & Utilities of NJ for the “Emergency Stabilization of the 12” Diameter Sanitary Sewer Along the Stony Brook”, in the amount of \$22,500.00, is hereby approved.
2. The Princeton Sewer Operating Committee Manager / Engineer and the Borough Clerk are hereby authorized to sign the Change Order on behalf of the Borough.

Councilman Wilkes seconded. Borough Council approved unanimously.

Council President Trelstad read and moved **Agenda Item H, New Business (7) — Resolution 2012-R94** as follows:

**RESOLUTION # 2012-R94
OF THE MAYOR AND COUNCIL OF THE BOROUGH OF PRINCETON
FOR
APPROVAL OF CHANGE ORDER #1 – FINAL TO S. BROTHERS**

WHEREAS, change orders are regulated by Local Finance Board Regulations (N.J.A.C. 5:30-14,4) and;

WHEREAS, there is a need to amend the contract with S. Brothers as outlined in the change order prepared by the Borough Engineer and;

WHEREAS, through field changes agreed to and accepted by the Engineer and Contractor a net savings of \$1,501.34 has been realized; and

WHEREAS, the Mayor and Council of the Borough of Princeton is satisfied that the requested change order is necessary.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Princeton as follows:

1. Change Order #1 – Final to the Contract between the Borough of Princeton and S. Brothers for the Improvements to Lincoln Court, South Tulane Street, and Spring Street in the amount of - \$1,501.34 is hereby approved.
2. The Borough Engineer and Clerk are hereby authorized to sign the Change Order on behalf of the Borough

Councilwoman Howard seconded. Councilman Martindell opposed purchase of gratuitous project signs. Mr. Bruschi clarified that such signage is a grant requirement that cannot be ignored (the cost reduces amount of grant received). Borough Council approved unanimously.

Council President Trelstad read and moved **Agenda Item H, New Business (8) — Resolution 2012-R95** as follows:

**RESOLUTION 2012-R95
OF THE MAYOR AND COUNCIL
OF THE BOROUGH OF PRINCETON**

**AUTHORIZING THE AMENDMENT OF CONTRACT
FOR PROFESSIONAL SERVICES TO
HARRY HAUSHALTER, ESQ**

WHEREAS, the Borough wishes to amend a certain professional services agreement with Harry Haushalter to provide legal services for special tax counsel in connection with certain activities being conducted by the Borough, as hereafter more particularly stated.

WHEREAS, the services to be performed are professional services which are exempt from public bidding under the Local Public Contracts Law.

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Princeton as follows:

The Mayor and Clerk are hereby authorized to enter into an addendum to a contract for professional services with Harry Haushalter, Esq. (hereinafter referred to as "Provider") said contract being dated January 3, 2011.

1. The addendum so authorized shall require the Provider to provide services and other related duties, as follows: Provider shall serve as special counsel for SPECIAL TAX COUNSEL to the Borough of Princeton to handle such matters as requested by the Borough through December 31, 2011.

2. The Borough shall pay the Provider the following **additional compensation**: An amount not to exceed **\$2,300**; for a total amount of \$33,300 the Chief Financial Officer has certified that funds are available under Current Account Nos. 1-01-20-151-299; and

3. This contract shall be awarded without competitive bidding as a contract for professional services under the provisions of the Local Public Contracts Law because the subject services will be performed by a person or persons authorized by law to practice a recognized profession and whose practice is regulated by law.

4. A notice of this action shall be published in the Princeton Packet as required by law within ten (10) days of its passage.

Councilwoman Butler seconded. Borough Council approved unanimously.

Council President Trelstad read and moved **Agenda Item H, New Business (9) — Resolution 2012-R96** as follows:

**RESOLUTION 2012-R96
OF THE MAYOR AND COUNCIL
OF THE BOROUGH OF PRINCETON
AWARDING A PROFESSIONAL SERVICES AGREEMENT TO
KAREN CAYCI, ESQ. TO SERVE AS THE ATTORNEY
FOR THE PRINCETON BOROUGH ZONING BOARD OF ADJUSTMENT**

WHEREAS, the Borough desires to enter into a professional services agreement in connection with certain activities as hereafter more particularly stated, and

WHEREAS, the services to be performed are professional services which are exempt from public bidding under the Local Public Contracts Law.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Princeton as follows:

The Mayor and Clerk are hereby authorized to enter into a contract for professional services with Karen L. Cayci, Esq. (hereinafter referred to as "Provider") to provide professional services for the Princeton Borough Zoning Board of Adjustment from February 1, 2012 through December 31, 2012, hourly rate of \$165.00 per hour and a flat rate of \$335 for attending Zoning Board of Adjustment Meetings as hereafter more particularly stated.

1. The contract so authorized shall require the Provider to provide services and other related duties, as follows:

Provider shall serve as regular legal counsel to the Princeton Borough Zoning Board of Adjustment to review various Borough land development applications as filed with the Board, and specifically authorized by the Zoning Officer, the Borough Engineer or their designees. The Provider shall complete all its work in a timely fashion and within the statutory review period as provided for the New Jersey Municipal Land

Use Law, NJSA 40:55D-1 et seq., and Chapter 17A of the "Code of the Borough of Princeton, New Jersey, 1974." The Provider shall also meet with the representatives of the Borough and the applicant as may be necessary in order to discuss with said representatives, as well as with members of the respective Boards or their staff, the various issues associated with the development application forwarded to the Provider for review and comment.

Under this Agreement, Provider shall at all times act as an independent professional contractor and not as an employee of the Borough, and shall have no authority to act as an agent or representative of the Borough or to enter into any financial or other contractual commitment on behalf of the Borough without the prior written approval of same granted in accordance with law. The Borough shall pay the Provider pursuant to the contract with the Provider.

Payment of fees will be made upon the submission to the Provider to the Borough of invoices in duplicate in the form prescribed by the Borough not later than the tenth (10th) day of the month following that covered by the invoice, and shall specify in detail the periods for which fees are claimed for the services performed. The provider shall give written notice to the Borough when the Provider has billed eighty (80%) of the compensation set forth in paragraph I of the Agreement.

2. The form of contract shall include standard provisions common to professional service agreements entered into by the Borough and shall be subject to approval by the Borough Attorney.

3. The contract shall be awarded without competitive bidding as a contract for professional services under the provisions of the Local Public Contracts Law because the subject services will be performed by a person or persons authorized by law to practice a recognized profession and whose practice is regulated by law.

4. A notice of this action shall be published in the Princeton Packet as required by law within ten (10) days of its passage.

Councilwoman Crumiller seconded.

Councilman Martindell moved to table, as Council has no role in Zoning Board appointments. Mr. Bruschi stated that Zoning pursued all appropriate search procedures and vetting. Mayor Moore stressed that Council should not cripple Zoning's ability to pay their Counsel. Councilman Martindell objected, not to payment but to appointment, in which Council has no say. There was no second to table.

Borough Council approved Resolution 2012-96 five to one. Councilman Martindell opposed.

Council President Trelstad read and moved **Agenda Item H, New Business (10) — Resolution 2012-R97** as follows:

**RESOLUTION 2012-R97
OF THE MAYOR AND COUNCIL OF THE BOROUGH OF PRINCETON
SUPPORTING ACCEPTANCE OF ENGINEERING AND INSTITUTIONAL CONTROLS
FOR A PORTION OF SOUTH TULANE STREET,
LOCATED BETWEEN LINCOLN COURT AND SPRING STREET**

WHEREAS, pursuant to N.J.S.A. 40A:12A *et al.*, the Borough Council has authorized the Planning Board to accept Engineering and Institutional Controls (i.e., Deed Notice and Engineered Cap) for a portion of the Property identified as South Tulane Street positioned between Lincoln Court and Spring Street (see attached map); and

WHEREAS, the Borough Council has determined that there has been, a discharge of hazardous substances or a hazardous waste on the Property; and the New Jersey Department of Environmental Protection (NJDEP) recognizes the Property via Site Remediation Program ID# 163810, and NJDEP Case Number 04-06-09-1002-08; and

WHEREAS, the effected portion of Property has undergone environmental investigation and remediation compliant with the applicable NJDEP regulatory requirements set forth in the New Jersey Administrative Code (N.J.A.C) 7:26E, and now includes an Engineering Control (i.e. roadway and sidewalk

improvements), and an Institutional Control (i.e. Deed Notice) until such time the aforementioned impacts are removed, remediated, and/or are below the applicable media specific criteria set forth by the NJDEP; and

WHEREAS, the effected portion of Property is documented and reported to the NJDEP via a Remedial Action Report (RAR) dated October 2011; and

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Princeton, County of Mercer, State of New Jersey, that the Borough of Princeton has accepted the implementation of Engineering and Institutional Controls (i.e. Deed Notice, and Engineered Cap) for a portion of the Property identified as South Tulane Street positioned between Lincoln Court and Spring Street; and hereafter accepts the responsibilities associated with the protecting and maintenance of the Engineering and Institutional Controls as determined by the applicable regulations established by the NJDEP.

Councilman Wilkes seconded. Borough Council approved unanimously.

Council President Trelstad read and moved **Agenda Item H, New Business (11, 12, 13) — Resolution 2012-R98, Resolution 2012-R99, Resolution 2012-R100**, as follows:

**RESOLUTION 2012-R98
OF THE MAYOR AND COUNCIL
OF THE BOROUGH OF PRINCETON
APPROVING THE PLACEMENT OF A BANNER AS REQUESTED
BY HOMEFRONT**

WHEREAS, the HomeFront for their 4th Annual HomeFront Run “Hope 5K Run/1 Mile Walk” to be held on May 12, 2012 at ETS, Princeton, New Jersey; and

WHEREAS, the HomeFront has requested permission to install a banner over Washington Road in Princeton Borough with approval of the Office of Community and Regional Affairs at Princeton University beginning Monday, April 30, 2012 through Monday, May 7, 2012 to advertise this program to the entire Princeton Community; 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 2012-R99
OF THE MAYOR AND COUNCIL
OF THE BOROUGH OF PRINCETON
APPROVING THE PLACEMENT OF A BANNER AS REQUESTED
BY ROTARY CLUB OF PRINCETON**

WHEREAS, the Rotary Club of Princeton for their Annual Pancake Breakfast; and

WHEREAS, the Rotary Club of Princeton has requested permission to install a banner over Washington Road in Princeton Borough with approval of the Office of Community and Regional Affairs at Princeton University beginning Monday, May 21, 2012 through Tuesday, May 29, 2012 to advertise this program to the entire Princeton Community; 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 2012-R100
OF THE MAYOR AND COUNCIL
OF THE BOROUGH OF PRINCETON
APPROVING THE PLACEMENT OF A BANNER AS REQUESTED
BY JUNIOR LEAGUE OF GREATER PRINCETON**

WHEREAS, the Junior League of Greater Princeton for their 17th Designer Showhouse and Gardens; and

WHEREAS, the Junior League of Greater Princeton has requested permission to install a banner over Washington Road in Princeton Borough with approval of the Office of Community and Regional Affairs at Princeton University beginning Monday, May 7, 2012 through Monday, May 14, 2012 to advertise this program to the entire Princeton Community; 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.

Councilman Wilkes seconded Resolution 2012-R98, Resolution 2012-R99, Resolution 2012-R100. Borough Council approved unanimously.

Council President Trelstad read and moved **Agenda Item H, New Business (14) — Resolution 2012-R101** as follows:

**RESOLUTION 2012-R101
OF THE MAYOR AND COUNCIL
OF THE BOROUGH OF PRINCETON
SUBSTITUTION OF CASH MAINTENANCE GUARANTEE
WITH A MAINTENANCE BOND**

WHEREAS, the Regional Planning Board of Princeton approved a Major Site Plan for Block 49.01; Lot 7, Cap and Gown Club, which required the submittal of a \$37,182.60 Maintenance Guarantee; and

WHEREAS, On August 19, 2011 the applicant posted a Cash Bond in the amount of \$37,182.60; and

WHEREAS, the applicant has now submitted a Maintenance Bond in the amount of \$37,182.60 and is requesting the release of the \$37,182.60 Cash Bond; and

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Princeton, the Chief Financial Officer is hereby authorized to release the \$37,182.60 Cash Maintenance Bond to Cap and Gown Club.

February 14, 2012

Councilman Martindell seconded. Mayor Moore called for a roll call vote. Deputy Borough Clerk called the roll. Council members Trelstad, Butler, Crumiller, Howard, Martindell, and Wilkes voted in the affirmative. Mayor Moore proclaimed the motion passed.

Council President Trelstad moved to adjourn; Councilwoman Butler seconded. There being no further business, Mayor Moore adjourned the open session meeting at 10:40 P.M.

Respectfully submitted,

Delores A. Williams
Deputy Borough Clerk