

**PRINCETON COUNCIL MEETING**  
**August 18, 2014**

A meeting of the Mayor and Council was held on this date at 6:00 p.m. in the Main Meeting Room in the municipal complex, 400 Witherspoon Street, Princeton, NJ 08540.

NOTICE OF MEETING

The Clerk read the following statement.

The following is an accurate statement concerning the providing of notice of this meeting and said statement shall be entered in the minutes of this meeting. Notice of this meeting as required by Sections 4a, 3d, 13 and 14 of the Open Public Meetings Act has been provided to the public in the form of a written notice. On August 5, 2014 at 11:40 a.m., said schedule was posted on the official bulletin board in the Municipal Building, transmitted to the Princeton Packet, the Trenton Times, the Torontonionian, the Town Topics, and filed with the Municipal Clerk.

ROLL CALL

The Municipal Clerk then called the roll.

Present: Mesdames Butler, Crumiller, and Messer Liverman, Miller, Simon.

Absent: Mayor Lempert and Ms. Howard.

Also Present: Mr. Bruschi, Ms. Monzo, Mr. Kiser, Ms. Cecil and Mr. Yoskin.

6:00 p.m.

14-227 CLOSED SESSION

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

BE IT RESOLVED by the Mayor and Council of Princeton:

1. This body will now convene into a closed session that will be limited only to consideration of an item or items with respect to which the public may be excluded pursuant to section 7B of the Open Public Meetings Act.

The general nature of the subject or subjects to be discussed in said session is as follows:

Personnel: Litigation/ AvalonBay

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

Within 90 days or upon settlement of litigation, if applicable

The above referenced issue was discussed by the Princeton Council.

7:00 p.m. Regular Session

#### PLEDGE OF ALLEGIANCE

The audience participated in the Pledge of Allegiance.

#### COMMENTS FROM THE PUBLIC - Regarding Items Not on the Agenda

Daniel Harris, 28 Dodds Lane, spoke to the Mayor and Council about the recent murder of Mike Brown in Ferguson, Missouri. He said that he was in the process of organizing a rally and some expression of outrage which would happen sometime in the next week and details would follow.

#### DISCUSSION – AVALONBAY, Resolution 14-228

Mr. Miller opened the discussion regarding AvalonBay by saying that we would not be engaging in debate and asked that the public limit comments to three minutes each.

Ms. Cecil said that the discussion began back in January, 2014 when AvalonBay proposed specific testing protocols to Council. During the March meeting, Dr. Ira Whitman presented his own recommendations. AvalonBay made it clear that they would not do anything beyond what was recommended in March and rather than sign the developers agreement from April, they filed a lawsuit over the newly imposed environmental standards. AvalonBay said that it did not need to comply with standards beyond those called for in the planning board approval of the project which recommended only the DEP's requirements. Mr. Yoskin and Ms. Cecil went to court in July and the judge could not find any legal authority to support what Princeton had done. Ms. Cecil said that if we pursued this to conclusion we would not be happy with the outcome. She said that the mediation session is what got us to where we are now.

Mr. Yoskin stated that the judge said she could not find any ordinance to support Princeton and that AvalonBay had engaged in due diligence in the process.

Ms. Cecil said that the proposed amended agreement is the best result that we could achieve given the legal ramifications. Ms. Crumiller asked what the problem would be in delaying the agreement. Ms. Cecil responded by saying that if Council were to delay the vote, the risk is that there would be no agreement and the

court has encouraged us to settle. AvalonBay is ready to move ahead and needs demolition permits. She said that if you want an agreement than you have to act.

Mr. Liverman asked Ms. Cecil if we go back to court would the municipality be left with nothing. Ms. Cecil said that is the likely outcome. She said that the only option would be to appeal.

7:45 p.m. Mr. Miller opened public comment.

Dr. Sam Hammod, 282-284 Witherspoon Street, said that he applauded Council's diligence with the AvalonBay project but questioned the wisdom in voting now without Ms. Howard and Mayor Lempert. He said that we appreciate your work, but remember this, you represent the members of Princeton, not AvalonBay and I know that you want to be fair to them, but you have to be fair to us and to yourselves. Dr. Hammod also said that he was disturbed that Judge Jacobson ruled against us.

Victoria Airgood, 35 Jefferson Road said that she thought that this looked like a necessary and beneficial settlement.

Paul Driscoll, Harris Road, asked that Council delay the vote until residents have had time to review the amended agreement. He said that he did not understand the rush and asked if the Council has done everything that they could to ensure the safety of Princeton's citizens. He asked what have you done to ensure the safety of our children, our children's children and the workers on the site that are at risk.

Areta Pawlynski, Harris Road said that last week 11 trucks came out of Franklin and went out Harris Road.

Evan Yaskey, Hawthorn Avenue said that a year ago AvalonBay received Planning Board approval and asked if we had an estimate of the legal fees. Ms. Butler said that since June approximately \$20,000. Mr. Yaskey said that he was a bit taken aback by Ms. Cecil's comments and felt rushed into the agreement with AvalonBay. He asked Mr. Yoskin what his concerns about the agreement might be. Mr. Yoskin said that he lived in Lawrenceville. He said that you cannot put aside the law and that he didn't view the hospital site as a particularly troubling location.

Linda Auerbach, Lytle Street asked why the town is paying for something that should be paid for by the hospital and by AvalonBay.

Jan Weinberg said that he read the judges timetable and said that there is no rush. He said that Ms. Cecil is wrong and that the representation is wrong.

Dr. Sam Hammond said that he was really concerned and felt that Ms. Cecil and her colleague were wrong.

Mr. Miller stated that Ms. Howard and Mayor Lempert participated in closed session this evening prior to open session via Skype and phone and both expressed full support for the document before Council this evening.

Mr. Liverman thanked everyone for their participation in this discussion.

Mr. Simon said that as he looked over this agreement, hears people's comments and looks over the time line, it accomplishes the same goals we set out with. He thanked the members of the public that have been so diligent, and the staff with what can seem like a thankless task.

Ms. Butler said that she wanted to assure everyone that the mediator was clear that we needed to move expeditiously and that this was in our best interest and that she felt it was advice we could afford not to heed. Ms. Butler apologized to Ms. Cecil for the abuse that she got.

Mr. Miller said that he supported the amended developer's agreement noting that he participated with Ms. Butler in the mediation.

Mr. Liverman offered a motion to approve resolution 14-228 Amendment to AvalonBay Developer's Agreement as presented. The motion to approve the resolution was seconded by Ms. Butler and carried unanimously present.

(Resolution appended to this set of minutes)

There being no further business the meeting was adjourned at 9:00 p.m.

Linda S. McDermott  
Municipal Clerk