

**Approved Minutes
Open Session
Of the Mayor and Council of the Borough of Princeton
May 6, 2008
Regular Meeting
Closed Session 7:00 P.M.
Open Session 7:30 P.M.**

Present: Council President Margaret Karcher, Councilman Andrew Koontz, Councilman Roger Martindell, Councilwoman Barbara Trelstad, Councilman Kevin Wilkes, and Mayor Mildred Trotman

Absent: Councilman David Goldfarb

Staff Present: Borough Administrator Robert W. Bruschi, Borough Attorney Karen L. Cayci, Borough Engineer Christopher M. Budzinski, 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 May 6, 2008, 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 2008-R137**, as follows:

**RESOLUTION 2008-R137
OF THE MAYOR AND COUNCIL OF THE BOROUGH OF PRINCETON
INTO CLOSED SESSION ON MAY 6, 2008**

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 — NHKT
2. Negotiations — 4Connections

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.

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Council President Karcher moved to approve, Councilman Koontz seconded. Council members Karcher, Koontz, Martindell, Trelstad, and Wilkes voted in the affirmative. Hearing no nay votes, Mayor Trotman proclaimed the resolution approved.

Borough Council recessed into closed session.

At 7:30 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 **Agenda Item E, Approval of Minutes.**

Presented for approval were the minutes of the open session of April 22, 2008.

Councilman Koontz moved to approve the minutes of the open session April 22, 2008, as amended. Councilwoman Trelstad seconded. Council approved unanimously.

Mayor Trotman read **Agenda Item F, Summary — Closed Session Discussion — Robert W. Bruschi, Borough Administrator**

Robert Bruschi, Borough Administrator, reported that Council discussed NHKT negotiations and Resolution 2008-R131 regarding dark fiber connections.

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

Marvin Israel, 20 Willow Street, presented to Council a paper containing suggestions for the Spring Street Municipal Garage. He noted damage in the ceiling of the lower level and on-going patching efforts as related to NHKT. Mr. Israel recommended:

1. Borough sever all relations with NHKT and engage in no further projects with them
2. Pursue legal remedies for costs from NHKT.
3. Obtain engineering evaluation of the state of the garage (in particular air quality and reduced life due to underground water)
4. Sponsor a design competition for Phase II.

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

Mayor Trotman read **Agenda Item H, Discussion — Cleveland Lane-Granite Curbing — Robert W. Bruschi, Borough Administrator, & Christopher M. Budzinski, Borough Engineer**

Mayor Trotman reviewed the Cleveland Lane project to date. Issues are:

- Replacement of concrete curbing with granite
 - If yes, who will pay for the upgrade?
- Relocation of a sidewalk

Mayor Trotman noted three public meetings with Mayor and Council to discuss Cleveland (third meeting because a majority of homeowners initially did not support granite, but later 16 of 22 owners did). Contractor informed Borough that a change order would not delay the project if presented by May 16, 2008. With an *initial* decision to pave with concrete, Borough would assume 50% of the cost with 50% to be borne by the owners. Special material replacement at owners' request requires owners to pay 100%. Mr. Bruschi, stating that staff had been unable to find a "public benefit" from assessing those opposed to granite curbs, recommended to Council that property owners who support granite subsidize the other six at approximately \$1600 (each) more than assessed.

Councilman Koontz stressed that Council needs to be mindful of the 20% contingency allowance. Mr. Budzinski explained that New Jersey permits amending bid contracts up to 20% to cover, primarily, underground surprises such as an unmarked gas main.

Mayor Trotman asked if anyone in the public wished to address Council on Cleveland Lane curbing.

David Meadow, 51 Cleveland Lane, informed Council that, at a recent neighborhood meeting, residents determined that there had *always* been a majority in favor of granite curbs. Knowing that a survey had been done showing a clear majority for granite, many did not respond to the second survey. The second survey did not indicate that "any nonrespondent would be counted as a vote for cement." When the second survey yielded 10 to 5 for granite, Borough concluded the count was 10 of 22 and went ahead with concrete.

Mark Glasgold, 45 Cleveland Lane, commented that owners of two houses for sale on the street are not vested in Cleveland's future.

John Ricliff, 5 Cleveland Lane, questioned "aesthetic improvement" as a block norm.

Kirk Williamson, 11 Cleveland Lane, noted the dangerous precedent of permitting majority funding of the no voters.

David Jacobus, 37 Cleveland Lane, noted that gutters of a different color (white or yellow) slow traffic. Attractiveness is also important.

Dennis Langer, 12 Cleveland Lane, said he had always understood that paving based on a majority vote would be paid by everyone. He questioned the concept of *majority of eligible voters*. He favored the idea that the majority of those who vote decide, and everyone bears the cost equally. Mr. Langer pointed out that the up-graded material does benefit everyone as neighborhood values rise and future replacement will be with *like kind* material.

Marlene Doyle, 10 Cleveland Lane, asked what other blocks on Cleveland Lane use for curbing. Christopher Budzinski, Borough Engineer, replied concrete.

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Nancy Greenspan, 5 Cleveland Lane, detailed the history of discussions with owners on other blocks of Cleveland.

Kathryn McIsaac, 65 Cleveland Lane (middle section—not in the “22” at the top end) said that the middle section may want to revisit the curbing issue.

Claire Jacobus, 37 Cleveland Lane, noted the more important civic issue of governance.

Seeing no one further, Mayor Trotman closed the public discussion and returned to Council. Mayor Trotman asked Mr. Budzinski about the consequences of revisiting the seven *middle* houses’ needs. Mr. Budzinski replied that such action would certainly set the project in “delay” mode and add cost to the Borough.

Councilwoman Trelstad stressed that she had voted for concrete on October 9, 2007, based on the information that 10 of 22 owners — clearly not a majority — wanted granite. She feared that Council had failed in clear communication to residents. Councilwoman Trelstad recalled for Council the calendar of events leading up to Cleveland neighbors contacting Council April 18, 2008, to meet with them. She pledged to clarify the process for the future.

Mayor Trotman requested a motion on whether or not to replace the curbing with concrete in kind or granite.

Councilman Koontz moved to assess all property owners, proportionally, for the incremental cost of upgraded material. Councilman Wilkes seconded the motion.

Councilman Martindell questioned the precedent of such an assessment as it might affect other neighborhoods throughout the Borough.

Council President Karcher agreed that assessing everyone for the upgrade to granite is an arbitrary action by Borough. She refused to support that assessment.

Councilman Wilkes supported granite curbs as an improvement over concrete.

Councilwoman Trelstad was concerned that such late reversal of the decision for concrete could cost *all* Borough taxpayers more.

Councilman Wilkes favored making the change within the time window suggested by Mr. Budzinski.

Councilman Martindell suggested cobbling together a position among the neighbors themselves.

Councilman Koontz pointed out that he not had heard any *opposition* to granite in earlier Council meetings. He noted it would be a policy change to require unanimity for upgrades. Councilman Koontz supported his own motion as the fairest way to proceed.

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Councilman Wilkes observed that the most recent neighborhood vote was 75% in favor of granite — close enough to unanimity to be considered “evidence of neighborhood support.”

Karen Cayci, Borough Attorney, stated there may be a need for an additional assessment bond.

At Mayor Trotman’s request, Ms. Cayci repeated that the motion is to “authorize the scheduling of a first reading of a bond/assessment ordinance by which the 22 property owners that have been identified in your agenda package tonight would be assessed based on their frontage for the added cost between concrete and granite curbing and that that would be done pursuant to the appropriate statutory noticing and ordinances and that would be paid back over a 10-year period as the Borough normally does with other assessments for sidewalks.” Mayor Trotman called the question and asked for a show of hands. Mayor Trotman stated that the motion did not carry.

Councilman Koontz suggested an alternative: The 16 owners who want granite will voluntarily pay for all of it. Mayor Trotman stressed that Council must act on the subject at next week’s meeting.

Councilman Koontz moved to direct Mr. Bruschi’s staff meet with neighbors and return to Council as soon as possible with new information and, if possible, signatures of compliance. Councilman Martindell seconded and suggested naming a deadline.

Mayor Trotman opened discussion of the motion to the public.

Mr. Jacobus confirmed that the incremental assessment would be due over 10 years. Ms. Cayci noted a different issue — that the Borough must find the funds for the contractor *now*.

Mr. Budzinski reported that May 16, 2008, is the absolute last day to inform the contractor of a change.

Mayor Trotman closed the public discussion and reminded Council of a motion on the floor.

Council President Karcher differentiated between public policy and neighborhood benefit when it comes to majority of *eligible* voters versus *participating* voters.

Mayor Trotman called the question and asked for a show of hands. Mayor Trotman stated that the motion passed unanimously.

Mr. Bruschi updated Council on the issue of Cleveland Lane sidewalks. The roadway has already been shifted to accommodate sidewalks at 75 Cleveland; storm drains were installed for that road shift. In order to provide appropriate crosswalks, further shifting of the roadway may be required to work around trees, telephone poles, and so forth. Issues arise of grading, retaining walls, extensive landscaping. Mr. Bruschi went on to note that certain actions might mean transferring problems from one property to another: Two houses across the street would be affected. There is no remembered history of diverting foot traffic across a Borough street because a sidewalk stopped.

Reed Gusciora, 20 Maclean Street, speaking on behalf of his friend Kristina Johnson, noted that there was no sidewalk on the block in question for 100 years. (For safety, there should be sidewalks on both sides of streets.)

Mr. Gusciora observed that a sidewalk by Mrs. Johnson's house would abut upon the building's windows, directly affecting the history of the house itself and the privacy of the residents. Mr. Gusciora showed photographs of mid-block crossings throughout the Borough.

Mr. Gusciora suggested a mid-block crossing, moving the sidewalk across the street, or having no sidewalk at all. He opined that the best compromise is to end the sidewalk.

Mr. Gusciora recommended that the Borough begin a green sidewalk program using recycled products.

Dino Spadaccini, attorney for Mrs. Johnson, said he had sent letters to Mr. Budzinski, DOT, and two property owners across Cleveland from Mrs. Johnson. He stated that DOT cooperation is expected and that there should be little delay to create a mid-block crosswalk. Mr. Spadaccini felt that obstacles mentioned by Mr. Bruschi — such as trees, poles, gradings, and so forth — would not develop into problems.

Mr. Spadaccini defended Mrs. Johnson's right to maintain the unique character of her home and her right to privacy.

Kristina Johnson, 75 Cleveland Lane, spoke emotionally of the issues of privacy and respect for her ancient plantings. She read aloud a letter of thanks for her hospitality from a Wellesley College group.

Council President Karcher asked if tall plantings installed in the 11-foot break between sidewalk and house would provide privacy. Mrs. Johnson replied that that would darken the rooms and result in a prison-like feeling.

Councilwoman Trelstad stated she walks on the curb at Mrs. Johnson's house on a regular basis. A sidewalk there would be safer for pedestrians.

Councilman Martindell offered:

1. Statement of principles
 - a. Constituent who is a public institution
 - b. Proposed change is extraordinarily intrusive
2. Discussion of facts
 - a. \$50 – 75,000 change order to deal with grades, storm drains, and so on
 - b. Borough engineering drawings show present plan
3. Strategies to conclude debate
 - a. Permit Mrs. Johnson's team to present their perspective
 - b. Determine *actual* costs involved in change

- c. Council decide at a later date (sidewalks the last piece of a project) with more information at hand
- d. Council determine that no sidewalk is necessary.

Noting a safety issue, Mr. Budzinski pointed out that drivers expect pedestrians to cross at predictable locations; i.e., intersections. Introducing a mid-block crosswalk for the consideration of a single house does not make planning sense, while creating a possible liability for Princeton Borough. He expressed concern about signing off, as Borough Engineer, on such a decision.

Mr. Spadaccini stated his intent to engage a traffic consultant on behalf of Mrs. Johnson.

Council President Karcher uttered her faith in Borough Engineer Mr. Budzinski.

Council President Karcher moved to allow Mrs. Johnson to hire an independent traffic engineer within a limited time frame (specifically to report to Council on June 4, 2008).

Mr. Spadaccini noted that there are two issues: (1) traffic flow and (2) redesign of sidewalk to the other side. All his client requests is an opportunity.

Council President Karcher moved to table the Johnson sidewalk issue to June 4, 2008. Councilwoman Trelstad seconded. Council approved five to zero.

Councilman Martindell left the meeting at 10:35 P.M.

Mayor Trotman read by title **Agenda Item I, Old Business (1) — Resolution 2008-R131** as follows:

**RESOLUTION 2008-R131
OF THE MAYOR AND COUNCIL OF THE BOROUGH OF PRINCETON
AUTHORIZING 4CONNECTIONS, LLC TO INSTALL,
OPERATE AND MAINTAIN A TELECOMMUNICATIONS SYSTEM
WITHIN THE PUBLIC RIGHTS-OF-WAY
BOROUGH OF PRINCETON**

WHEREAS, 4Connections, LLC, a New Jersey Limited Liability Company, with a business address of 4 Gatehall Drive, 2nd Floor, Parsippany, New Jersey 07054 is authorized to provide telecommunication and related services in the State of New Jersey; and

WHEREAS, 4Connections, LLC has requested permission to occupy the Public Rights-of-Way within the Borough of Princeton for the purpose of constructing, installing, operating and/or maintaining a telecommunications system; and

WHEREAS, the Mayor and Council of the Borough of Princeton finds the installation of the telecommunications system in the Public Rights-of-Way to be in the best interest of the citizens, including the commercial and industrial citizens; and

WHEREAS, the 4Connections, LLC has entered into a written agreement with the Borough of Princeton regarding the use of the Public Rights-of-Way; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Princeton that permission is hereby granted to 4Connections, its successors and/or assigns to occupy the Public Rights-of-Way within the Borough of Princeton for the purpose of construction, installation, operation and/or maintenance of its telecommunications system for an initial term often (10) years commencing on the Effective Date, with possible extensions for up to two (2) additional terms of ten (10) years; and

BE IT FURTHER RESOLVED that such permission is conditioned upon the terms of the attached Agreement between the Borough of Princeton and 4Connections, LLC; and

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BE IT FURTHER RESOLVED that the Mayor and Clerk are authorized to sign this Agreement on behalf of the Borough of Princeton; and

BE IT FURTHER RESOLVED that 4 Connections, LLC is authorized to present this resolution and the Agreement to the New Jersey Board of Public Utilities for ratification, if required, pursuant to N.J.S.A. 48:2-14.

Councilman Koontz moved to table Resolution 2008-R131, Councilwoman Trelstad seconded, and Borough Council approved unanimously, four to zero, to table.

Mayor Trotman read **Agenda Item J, New Business (1) — Introduction and Order to Publish: Ordinance 2008-17 AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 15, GARBAGE AND REFUSE OF THE CODE OF THE BOROUGH OF PRINCETON NEW JERSEY 1974.**

Councilman Koontz read by title and moved to introduce Ordinance 2008-17; Councilwoman Trelstad seconded.

Mayor Trotman 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 Trotman called for a roll call vote. The Deputy Borough Clerk called the roll. Council members Karcher, Koontz, Trelstad, and Wilkes voted in the affirmative. Mayor Trotman proclaimed the ordinance introduced with a public hearing to be held May 27, 2008.

Mayor Trotman read **Agenda Item J, New Business (2) — Resolution 2008-R 138** as follows:

**RESOLUTION 2008-R138
OF THE MAYOR AND COUNCIL OF THE BOROUGH OF PRINCETON
APPROVING AN EMERGENCY TEMPORARY APPROPRIATION
FOR THE 2008 CURRENT FUND BUDGET**

WHEREAS, an emergent 2008 condition has arisen with respect to the 2008 Current Fund Budget, due to the lack of an adopted 2008 Current Fund Budget and no adequate provision has been made in the 2008 temporary budget for appropriations for the next several months, and N.J.S.A. 40A:4-20 provides for the creation of an emergency temporary appropriation for the purpose above mentioned, and

WHEREAS, the total emergency temporary resolutions adopted in the year 2008 pursuant to the provisions of Chapter 96, P.L. 1951 (N.J.S.A. 40A:4-20) including the original 2008 temporary budget and this resolution total \$15,997,504.22

NOW, THEREFORE, BE IT RESOLVED (not less than two-thirds of all the members thereof affirmatively concurring) that in accordance with the provisions of N.J.S.A. 40A:4-20:

1. An emergency temporary appropriation be and the same is hereby made as per the below listed appropriations in the amount of \$733,000.00

Fire - Salaries and Wages	\$ 8,000.00
Public Buildings and Grounds – Other Expenses	\$ 25,000.00
Stony Brook Regional SA – Other Expenses	\$700,000.00

2. That the emergency temporary appropriation has been provided for in the 2008 Budget under the said title.

3. That one certified copy of this resolution be filed with the Director of the Division of Local Government Services.

Councilman Koontz moved to approve Resolution 2008-R138; Council President Karcher seconded.

Mayor Trotman 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 Trotman called for a roll call vote. The Deputy Borough Clerk called the roll. Council members Karcher, Koontz, Trelstad, and Wilkes voted in the affirmative. Mayor Trotman proclaimed the ordinance introduced with a public hearing to be held May 27, 2008.

Mayor Trotman read **Agenda Item J, New Business (3 – 7) — Resolutions 2008-R139, 2008-R140, 2008-R141, 2008-R142, and 2008-R143** as follows:

**RESOLUTION 2008-R139
OF THE MAYOR AND COUNCIL OF THE BOROUGH OF PRINCETON
SUPPORTING A RESOLUTION FOR THE “CLICK IT OR TICKET” CAMPAIGN FROM MAY
19, 2008 THROUGH JUNE 1, 2008**

WHEREAS, there were 716 motor vehicle fatalities in New Jersey in 2007; and

WHEREAS, a large percentage of the motor vehicle occupants killed in traffic crashes were not wearing a seat belt; and

WHEREAS, use of a seat belt remains the most effective way to avoid death or serious injury in a motor vehicle crash; and

WHEREAS, the National Highway Traffic Safety Administration estimates that 135,000 lives were saved by safety belt usage nationally between 1975-2000; and

WHEREAS, the State of New Jersey will participate in the nationwide *Click It or Ticket* seat belt mobilization from May 19 – June 1, 2008 in the effort to raise awareness and increase seat belt usage through a combination of enforcement and education; and

WHEREAS, the Division of Highway Traffic Safety has set a goal of increasing the seat belt usage rate in the state from the current level of 91% to 93%; and

WHEREAS, a further increase in seat belt usage in New Jersey will save lives on our roadways;

THEREFORE, BE IT RESOLVED that the Mayor and Borough Council of the Borough of Princeton declares its support for the *Click It or Ticket* seat belt mobilization both locally and nationally from May 19 – June 1, 2008 and pledges to increase awareness of the mobilization and the benefits of seat belt use.

**RESOLUTION 2008-R140
OF THE MAYOR AND COUNCIL OF THE BOROUGH OF PRINCETON
APPROVING FIRE DEPARTMENT APPLICATION FOR
CHRIS J. MCCAFFERTY**

WHEREAS, Chris J. McCafferty 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 and

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 2008-R141
OF THE MAYOR AND COUNCIL OF THE BOROUGH OF PRINCETON
APPROVING FIRE DEPARTMENT APPLICATION FOR
CHRISTOPHER I. ZIEDONIS**

WHEREAS, Christopher I. Ziedonis 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 MERCER ENGINE COMPANY #3 and

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 2008-R142
OF THE MAYOR AND COUNCIL OF THE BOROUGH OF PRINCETON
APPROVING THE PLACEMENT OF A BANNER AS REQUESTED
BY THE ROTARY CLUB OF PRINCETON**

WHEREAS, The Rotary Club of Princeton wishes to advertise their Annual Pancake Breakfast being held on May 24, 2008; 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 and pending all conditions and insurance requirements set forth are met for the period beginning Friday, May 9th through Friday, May 16, 2008; 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 2008-R143
OF THE MAYOR AND COUNCIL OF THE BOROUGH OF PRINCETON
APPROVING RAFFLE LICENSE RA:322
TO THE ROTARY CLUB OF PRINCETON**

WHEREAS, the ROTARY CLUB OF PRINCETON submitted a raffle application to the Borough Clerk on April 28, 2008; 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 May 6, 2008; and

WHEREAS, the ROTARY CLUB OF PRINCETON, 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 raffle license RA: 322 for the ROTARY CLUB OF PRINCETON be approved; and

BE IT FURTHER RESOLVED that the Municipal Clerk will forward the Finding and Determinations for RA: 322 to the LGCCC in accordance with N.J.A.C. 13:47-4.1.

Councilman Koontz moved to approve Resolutions 2008-R138, 2008-R139, 2008-R140, 2008-R141, 2008-R142, and 2008-R143; Councilman Wilkes seconded; Council approved unanimously four to zero.

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Councilman Koontz moved to adjourn; Councilwoman Trelstad seconded. There being no further business, Mayor Trotman adjourned the open session meeting at 11:00 P.M.

Respectfully submitted,

Delores A. Williams
Deputy Borough Clerk