

**Approved Minutes
Open Session
Of the Mayor and Council of the Borough of Princeton
November 5, 2008
Regular Meeting
Closed Session 6:30 P.M.
Open Session 7:30 P.M.**

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

Absent: Councilman Kevin Wilkes (*present after oath at 7:50 P.M.*)

Staff Present: Borough Administrator Robert W. Bruschi, Borough Attorney Karen L. Cayci, Borough Clerk Andrea Lea Quinty

Mayor Trotman called the meeting to order at 6:30 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 November 5, 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-R253**, as follows:

**RESOLUTION 2008-R253
OF THE MAYOR AND COUNCIL OF THE BOROUGH OF PRINCETON
INTO CLOSED SESSION ON OCTOBER 5, 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. Personnel — Appointments
2. Personnel — Police

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.

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

Borough Council recessed into closed session.

At 7:45 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, Oath of Office — Member Common Council**

Mayor Trotman swore in Councilman Kevin Wilkes, elected November 4, 2008, to fill the unexpired term through January 1, 2010. Councilman Wilkes's father held the Bible as he took the oath.

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

Presented for approval were the minutes of the open session of October 28, 2008.

Councilman Koontz moved to approve the minutes of the open session of October 28, 2008, Councilman Goldfarb seconded, and Council approved unanimously with two syntax changes.

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

Mr. Bruschi reported that Council went over reappointment of Judge Russell Annich. He informed Council that staff continues seeking answers regarding the police suspensions.

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

Councilman Martindell recommended 2009 budget discussions begin as soon as possible.

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

Mayor Trotman read by title **Agenda Item I, Old Business (1) — Public Hearing and Adoption: Ordinance 2008-26** A BOND ORDINANCE APPROPRIATING \$16,000 FROM THE CAPITAL SURPLUS FUND TO PROVIDE FOR CURBING IMPROVEMENTS ON CERTAIN PROPERTIES LOCATED ON WILSON ROAD IN AND BY THE BOROUGH OF PRINCETON, IN THE COUNTY OF MERCER, NEW JERSEY AND DIRECTING THE SPECIAL ASSESSMENT OF THE COST THEREOF.

Pre-Assessment Hearing — Ordinance #2008-26 Providing for a special assessment for curbing improvements under ***Project 2008-03 –Wilson Road Project***

Councilman Koontz moved to adopt Ordinance 2008-26; Councilwoman Trelstad seconded.

Mayor Trotman opened the public hearing and asked if anyone wished to address Council on this issue. Seeing no one, she closed the public hearing and returned to Council. Hearing no comment, Mayor Trotman called for a roll call vote. Borough Clerk called the roll. Council members Karcher, Goldfarb, Koontz, Martindell, Trelstad, and Wilkes voted in the affirmative. Mayor Trotman proclaimed the ordinance adopted.

Mayor Trotman read by title **Agenda Item I, Old Business (2) — Public Hearing and Adoption: Ordinance 2008-27** A BOND ORDINANCE AMENDING SECTION 3(a) OF BOND ORDINANCE NUMBERED 2001-15, AS AMENDED BY ORDINANCE 2008-03 AND SECTION 3 (n) OF BOND ORDINANCE NUMBERED 2006-16, AS AMENDED BY ORDINANCE 2008-05 OF THE BOROUGH OF PRINCETON, IN THE COUNTY OF MERCER, NEW JERSEY FINALLY ADOPTED NOVEMBER 27, 2001 AS AMENDED FEBRUARY 26, 2008 AND JULY 25, 2006 AS AMENDED FEBRUARY 26, 2008, RESPECTIVELY, IN ORDER TO AMEND THE DESCRIPTIONS OF THE PROJECTS.

Mr. Bruschi explained that the ordinance authorizes payment of current projects with “old money” left from previous projects. Councilman Goldfarb questioned timing of bonding for work underway or already done. In anticipation of clearer language in the title, Council tabled Ordinance 2008-27 to November 12, 2008.

Mayor Trotman read by title **Agenda Item I, Old Business (3) — Public Hearing and Adoption: Ordinance 2008-30** AN ORDINANCE AMENDING CHAPTER 30, SWIMMING POOLS OF THE CODE OF THE BOROUGH OF PRINCETON, NEW JERSEY 1974.

Councilwoman Trelstad moved to adopt Ordinance 2008-30; 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. Borough Clerk called the roll. Council members Karcher, Goldfarb, Koontz, Martindell, Trelstad, and Wilkes voted in the affirmative. Mayor Trotman proclaimed the ordinance adopted.

Mayor Trotman read by title **Agenda Item I, Old Business (4) — Public Hearing and Adoption: Ordinance 2008-31** AN ORDINANCE AMENDING CHAPTER 28, STREETS AND SIDEWALKS OF THE CODE OF THE BOROUGH OF PRINCETON, NEW JERSEY 1974.

Councilwoman Trelstad moved to adopt Ordinance 2008-31; 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. Borough Clerk called the roll. Council members Karcher, Goldfarb, Koontz, Martindell, Trelstad, and Wilkes voted in the affirmative. Mayor Trotman proclaimed the ordinance adopted.

Mayor Trotman read by title **Agenda Item I, Old Business (5) — Resolution 2008-R254** as follows:

**RESOLUTION 2008-R254
OF THE MAYOR AND COUNCIL OF THE BOROUGH OF PRINCETON**

WHEREAS, by Resolution 2003-R54, the Mayor and Council of the Borough of Princeton authorized execution of a Redevelopment Agreement between the Borough of Princeton and Nassau HKT Urban Renewal Associates, LLC (“NHKT”) for the Park/Plaza Redevelopment Area in the Borough of Princeton which included certain lands described in the Redevelopment Agreement as the “Building C” area and which authorized a Ground Lease for the “Building C” area (“the Redevelopment Documents”); and

WHEREAS, certain issues and disputes have arisen between the Borough and NHKT with respect to the Redevelopment project including the Building C ground rent; and

WHEREAS, pursuant to the Redevelopment Documents, the Borough and NHKT are obligated to attempt to resolve any disputes through mediation prior to pursuing any other remedies; and

WHEREAS, the Borough and NHKT wish to retain Neil H. Shuster, Esq. to serve as mediator; and

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

WHEREAS, Neil H. Shuster, Esq. (“the Provider”) has submitted a mediation agreement to such mediation services pursuant to which the Borough and NHKT will share equally all mediation costs; and

WHEREAS, the Mayor and Council wish to authorize same in an amount not to exceed \$8000.00 for the Borough share of mediation fees; and

WHEREAS, the Chief Financial Officer has certified that funds are available under Parking Operating Account Nos.8-05-02-007-273; and

WHEREAS, under the Mediation 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; and

WHEREAS, 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; and

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

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Princeton authorizes the Mayor and Borough Clerk to execute the mediation agreement with the Provider as described herein.

Councilman Koontz moved to approve Resolution 2008-R254 and Councilman Goldfarb seconded.

Councilman Goldfarb questioned Paragraph 5, Public Statements, noting that Borough is *obliged* to disclose mediation outcomes. Karen Cayci, Borough Attorney, noted a statute for confidentiality so that all parties may speak freely to the mediator and the mediator to them. She quoted “except as may be authorized by the parties” as Borough’s way to explain to the public. Only a successful mediation outcome can be publicized. (A failed mediation need not be explained—except to say “failed.”) Ms. Cayci proposed to address the issue in a cover letter to Mr. Shuster and to seek from him clarification of roles when dealing with a public entity.

Mayor Trotman tabled Resolution 2008-R254 to November 12, 2008.

Mayor Trotman read by title **Agenda Item I, Old Business (6 and 7) — Resolution 2008-R255 and Resolution 2008-R256** as follows:

