

PRINCETON COUNCIL MEETING
July 21, 2014

A meeting of the Mayor and Council of Princeton was held on this date at 7:00 p.m. in the Main Meeting Room, Witherspoon Hall, 400 Witherspoon Street, Princeton, NJ.

NOTICE OF MEETING

The Assistant to 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 July 2, 2014 at 10:45 a.m., said schedule was posted on the official bulletin board in the Municipal Building, transmitted to the Princeton Packet, the Trenton Times, the Town Topics, and filed with the Municipal Clerk.

ROLL CALL

The Assistant to the Clerk then called the roll.

Present: Ms. Butler, Ms. Crumiller, Ms. Howard, Mr. Liverman, Mr. Miller, and Mr. Simon.

Absent: Mayor Lempert

Also Present: Ms. Monzo, Mr. O'Neil and Ms. Maddox

PLEDGE OF ALLEGIANCE

Council President Miller asked all present to rise for the Salute to the Flag.

COMMENTS FROM THE PUBLIC

Council President Miller asked if anyone present from the public wished to address Council with an issue not listed on the agenda. Seeing no one Council President Miller closed the portion of comments from the public.

ORDINANCE PUBLIC HEARING

An Ordinance By Princeton Concerning Trees And Shrubs And The Princeton Shade Tree Commission, And Amending The "Code Of The Borough Of Princeton, New Jersey, 1974" And The "Code Of The Township Of Princeton, New Jersey, 1968."

Ms. Maddox explained that there were several changes made to the ordinance post introduction.

Ms. Maddox went over the amendments. The first amendment involves Section 22-12, C-4, Exceptions, which pertains to the language about the enforcement officers involvement when there is a tree that is dead or substantially diseased, and there is a request to have it removed. In reference to that provision, there has been an addition of a time period during which the enforcement officer would have to act. The additional wording reads, "*within fifteen days of notification of the request to remove said tree*". This is consistent with the other provisions of the ordinance where there are other requirements that the enforcement officer has to take action on. The second amendment, Section 22-13, a new subsection "e" entitled "*marking*" states, "*The applicant shall conspicuously mark each tree to be removed or destroyed with a material which can*

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be wrapped around the trunk of each tree, such as ribbon or string." This will inform the neighbors and make them aware of what trees are to be removed.

Ms. Butler questioned when the applicants would need to make the marking- is it at the time of the application or when it is approved for removal. Ms. Maddox replied that the trees should be marked at the time of the application.

Ms. Maddox stated that the third amendment under Section 22-13 (f) which reads as, *"The fee for each permit shall be twenty five dollars"* has been amended to read, *"Section 22-13 (g) The fee for each application shall be twenty five dollars"*. The last amendment is under Contractor Registration, Section 22-19, Registration Requirements. Ms. Maddox explained that there were concerns about the role and purpose of the registration requirement. The purpose is to insure that the persons have the requisite experience in tree pruning, removal and/or repair, and also that the persons engaged for hire are cognizant of the municipality's tree ordinance.

Mr. Liverman wanted to inform residents that if they own property in the municipality who shall personally perform activities that no registration is required.

Mr. Simon stated that under Section 22-12, Exceptions, he observed around Princeton numerous trees that are obviously dead due to the harsh winter and he expects that homeowners will remove the trees during the course of the summer, if they have not already done so. Mr. Simon wanted to know if it is a new requirement to seek a permit if the trees are clearly dead.

Ms. Maddox responded that a permit is not needed under Section 22-12, Exceptions. She also stated that under the former Township, if a person wanted to have a tree removed they must notify the enforcement officer that a tree that is dead and the enforcement officer would verify in writing, within fifteen days, that the tree is dead or substantially diseased.

Mr. Simon questioned if the changes in Section 22-12, C-4 were consistent with the wording *"or fails to respond within 15 days of the notification of the request of the removal of said tree"*; is it Council's intent, whether the enforcement officer responds or fails to respond within the 15 days, the homeowner is permitted to make the removal?

Ms. Maddox stated that it was the intent and if the enforcement officer fails to respond with 15 days of notification of the request then the homeowner is permitted to remove the tree. Ms. Maddox stated that the municipality does not want to hold hostage the homeowner.

Ms. Simon suggested that the wording be added to Section 22-6 b and Section 22-12, C-4, *"The failure of the enforcement officer to approve or deny the request within 15 days shall constitute an approval of the request."*

Ms. Butler asked if the municipality appoints an alternate in the absence of enforcement officer, Mr. O'Neil, and if 15 days was adequate enough time to respond to the homeowners about a tree removal? Mr. O'Neil stated that in his absence an alternate would be appointed and 15 days is adequate time to make a response.

Ms. Butler stated that an email was received inquiring what diameter size would be determined to be used in the municipality? Ms. Crumiller stated that the diameter shoulder height (DSH) would be used instead of diameter breast height (DBH).

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

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Joanne Diaz, Alternate 2 member, Shade Tree, pointed out that Section 22-14a states "*the enforcement officer shall respond within fifteen business days of the receipt of the completed application*". Ms. Diaz was under the impression that it should be fifteen business days not fifteen days in the ordinance.

Joan McGee, Stony Brook-Millstone Watershed Association, supports the ordinance and stated that it demonstrates Princeton's continuing extraordinary efforts in protecting the environment. Ms. McGee stated that she has been attending the Shade Tree Commission meetings and commends the commission on diligently working on the ordinance for 2 years and they have done a superb job. Ms. McGee asked about the Princeton Shade Tree Trust Reserve Fund on pages 7 and 11 of the ordinance. She stated that the former Township had an ordinance that established a reserve fund and that there have been several major developments in which trees have been cut down, particularly, on the ridge. She asked if Council would find time to listen to the Shade Tree Commission's advice and direct them to have a plan for using the money for replacing trees, especially after Sandy and with the trees being cut down on the ridge. Lastly, she urged Council to have a budget or plan to spend the money as soon as they can because it's a critical need for the municipality.

Mr. O'Neil stated that the reserve funds were funded strictly for the replanting of trees in the public lands and public right of way.

Robert Wells, 583 State Road, congratulated the Shade Tree Commission of the fruition of the ordinance. Mr. Wells stated that he received a copy of an email from Welmoet Bok van Kammen, member of the Marquand Park Board, whom suggested the use of the diameter breast height (DBH) be used instead of diameter shoulder height (DSH) and he concurs with this usage. Mr. Wells stated that the DBH is accepted universally in the agricultural world. He also stated that in the final reading of the ordinance if the wording "destroy" could be removed. Mr. Wells suggest that the arborist should be certified and provide their certificate of insurance from their carrier.

Seeing no one further Council President Miller closed the public discussion and returned to Council.

A motion was made by Ms. Crumiller to approve the amendments of the post introductions, seconded by Ms. Butler. Council President Miller asked for a roll call vote which was carried unanimously.

A motion was made by Mr. Simon to make the following amendments: in Section 22-6b add at the end "*the failure of the enforcement officer to approve or deny the request within 15 days shall constitute approval of the request*". The next amendment change was in Section 22-12, C-4, cross out the language (which appears in red in Council's draft) "*within 15 days of notification of the request to remove said tree*" and insert precisely the same sentence that was inserted in Section 22-6b. The motion was seconded by Ms. Butler. Council President Miller asked for a roll call vote which was carried unanimously.

DISCUSSION AND ORDINANCE INTRODUCTIONS

An Ordinance By Princeton Concerning Loud, Continuous Or Excessive Noise And Amending The Code Of The Borough Of Princeton, New Jersey, 1974" And The "Code Of The Township Of Princeton, New Jersey, 1968

Ms. Maddox gave an overview of the ordinance, stating that the proposed ordinance is very similar to the existing Borough and Township code provisions governing noise. The language used in both current ordinances are very similar along with the types of activities they regulate. Therefore, most of the existing language was retained. The main change in the proposed

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ordinance versus what is already in place, is to remove the existing section that regulates noise at certain decibel levels. Ms. Maddox also mentioned that a big policy issue for Council involves the regulation of the use of leaf blowers.

Phyllis Teitelbaum, 47 Hawthorne, complimented the subcommittee on the fine job they did on the ordinance and she strongly supports the harmonized ordinance. She commented particularly on leaf blowers, stating that any leaf blower you can hear is not being muffled. She recommend Council look into muffling leaf blowers and having a way to enforce it. Any leaf blower at 65 decibels is not a nuisance but anything at 95 decibels is an annoyance. Mrs. Teitelbaum also voiced her concern over the use of a 50 foot standard for deciding nuisance noise levels. In her neighborhood the houses are a lot closer and would not provide her with as much protection under the ordinance. She wanted to know if the standard could be changed to 20 feet.

Dr. Charles Rojer, Chair, Board of Health, stated that changing the number of feet might be helpful in some cases, but it is very subjective; what might be annoying to one, may not be to someone else. It would be very hard to regulate on a regular basis. Dr. Rojer also made a comment pertaining to Health Officer Jeffery Grosser. He mentioned that Mr. Grosser was in charge of noise abatement and noise control in his previous position and that he definitely has the expertise and understands very clearly how to approach the concerns raised on this ordinance. Dr. Rojer agrees with Council's recommendation to have Mr. Grosser review and comment on some of the proposed changes.

Kristen Appelget, Princeton University, complimented the subcommittee on a well-drafted ordinance. She commented that individuals from the Building and Grounds Department at the university made a suggestion to make an exception to allow the usage of chain saws outside the permitted time frame during major storms and natural disaster recovery.

A motion was made by Ms. Butler, seconded by Ms. Howard. Council President Miller asked for a roll call vote which was carried unanimously. Council President Miller proclaimed the ordinance introduced and the public hearing will be scheduled for the August 25, 2014 agenda.

An Ordinance By Princeton Concerning Recreation And Parks And Similar Public Places, And Amending The "Code Of The Borough Of Princeton, New Jersey, 1974" And The "Code Of The Township Of Princeton, New Jersey, 1968"

Ms. Maddox provided an overview of the ordinance. She stated the proposed ordinance is two pronged; the first portion designates the body who is responsible for overseeing the Recreation Department. What's currently in the draft is the creation a Board of Recreation Commissioners. This board is similar to what was in place pre-consolidation, and how things have been operating since 2013. It is an autonomous body that has certain powers and authority and can act and make certain decisions without having to get approval from the governing body; the authorities, duties and responsibilities are established by State law. The Board also has the responsibility of hiring the Executive Director. Council does have the option of creating an advisory committee, which only serves in an advisory capacity. With the advisory committee, the governing body would have the responsibility and authority to designate the executive director of the Recreation Department. Another significant distinction between the Board of Recreation Commissioners and the advisory committee is the revolving fund. The fund has been in place since the 1980's and is maintained by the municipality. The Board of Recreation Commissioners has the authority to decide how the funds are utilized. Under the advisory committee, the funding and allocation of the money would change and the advisory committee would look towards council for different budgetary considerations.

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After thoroughly going over all of the differences between a Board of Recreation Commissioners and an advisory committee, Ms. Maddox stated that to maintain the status quo, of what is happening now, the recommendation is to formerly create a Board of Recreation Commissioners. It would not be a significant change at all, the bigger change would be creating an advisory recreation committee.

Another difference that was pointed out between having a Board of Recreation Commissioners or an advisory committee is the payment of seasonal and temporary employees. Under the Board of Recreation Commissioners, employees are paid by the Board and not the municipality. If there was a shift to an advisory committee the governing body would have to approve the payment of the employees.

Ms. Butler inquired about making the liaison a voting member of the board. Ms. Maddox responded that it was a possibility and could be added to the ordinance.

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

Seeing no one, Council President Miller closed the public discussion and returned to Council.

A motion was made by Ms. Howard, seconded by Mr. Liverman. Council President Miller asked for a roll call vote which was carried unanimously. Council President Miller proclaimed the ordinance introduced and the public hearing will be scheduled for the August 25, 2014 agenda.

There being no further business the meeting was adjourned at 9:55 pm.

Delores A. Williams
Assistant to the Clerk