

State of Rhode Island

County of Washington

In Hopkinton on the seventeenth day of February 2009 A.D. the said meeting was called to order by Town Council President Thomas Buck at 7:00 P.M. at the Ashaway Fire Station, 213 Main Street, Ashaway, RI.

PRESENT: Thomas Buck, Sylvia Thompson, Beverly Kenney, Barbara Capalbo, William Felkner; Town Solicitor Patricia Buckley; Town Manager William DiLibero; Town Clerk Elizabeth Cook-Martin.

The meeting opened with a moment of silent meditation and a salute to the Flag.

A MOTION WAS MADE BY COUNCILOR KENNEY AND SECONDED BY COUNCILOR FELKNER TO TAKE THE AGENDA OUT OF ORDER AND MOVE THE ON-SITE WASTE WATER MANAGEMENT PLAN TO THE TOP OF THE AGENDA AS THE FIRST ORDER OF BUSINESS.

IN FAVOR: Buck, Thompson, Kenney, Capalbo, Felkner

OPPOSED: None

SO VOTED

ON SITE WASTE WATER MANAGEMENT PLAN

Community Development Block Grant Coordinator Geoffrey Marchant was present. He noted the purpose of proceeding with RFP for the on-site wastewater management plan completion was to get access to 2% funding for repair of septic systems. He reported one vendor responded to the RFP: Fuss & O'Neill had submitted a bid in the amount of \$47,000.00 which was too high. The Town Planners met and the amount had been negotiated down to approximately \$31,000.00. He noted the Solicitor had recommended revisions to the proposed contract. He had spoken with the Town Manager who briefed him on the issues; had informed Fuss & O'Neill about those issues, which they were reviewing internally, but they had not yet responded. He requested the Council authorize the Town Manager to sign the contract pending the mutual agreement on the terms of the contract. Solicitor Buckley stated she had no issue with authorizing the

Manager to sign it as long as it was subject to her approval. Councilor Thompson questioned the responsibility for payment requirement in Section 5.3 Payment to Engineer, who would cut the check and did the Town have the money to pay the invoice. Mr. Marchant responded the Town would pay the invoice and then the Town would get reimbursement from the State. Councilor Thompson suggested the time frame in this section be changed from thirty days to ninety days because of the length of time it could take for payment and eventual reimbursement from the State. Councilor Kenney agreed with this change because thirty days was not long enough. Councilor Kenney suggested a change to Section 6.7 at the top of page 9, the first line, add the word “properly” before render and delete “all reimbursement expenses and termination expenses”. She suggested deleting Section 6.8 Limitation on Liability, because it was already covered under Section 6.7 Termination, and was not necessary. She suggested in Section 6.10, second line, a language change regarding the written notice from “within 30 days” to “as soon as practicable”. Mr. Marchant stated the RI Department of Environmental Management had to approve the product delivered and that they may have issues as well. He felt there would be no issue with some of the proposed amendments to the contract by either the DEM or the vendor. He expressed concern that 90 days was a long time and that the Fuss & O’Neil contact was going to run this change by his superiors. Solicitor Buckley noted it was not that long when dealing with a municipality and was certain this vendor had worked with municipalities before. Councilor Kenney stated 90 days would be the maximum time period. She explained that the potential existed that receipt of an invoice could cause delay in the time the Council had a chance to consider paying it and if there were questions and the matter placed on hold, it could result in delays and a longer time frame for payment. Councilor Capalbo suggested under section 6.12 Insurance, (a), (b), (c) and (d) there should be additional language, that require copies of the insurance documents be on file with the Town Clerk, it was not included in the language. Councilor Felkner suggested a language change that read “the engineer shall provide proof of insurance to the satisfaction of the Town”. Councilor Capalbo was not sure of this change because it would require every subcontractor to provide proof and it was the contractor’s information that was needed.

Councilor Felkner was concerned that appropriate proof of insurance be provided and expressed the importance to ensure that it was documented. Solicitor Buckley suggested language that would provide the Town with a certificate of insurance, not a copy of the policy, and that they “proof satisfactory to the Town” which should satisfy Councilor Felkner’s concern.

A MOTION WAS MADE BY COUNCILOR THOMPSON AND SECONDED BY COUNCILOR KENNEY TO AUTHORIZE THE TOWN MANAGER TO SIGN THE CONTRACT WITH FUSS & O’NEIL REGARDING THE COMPLETION OF THE ON-SITE WASTEWATER MANAGEMENT PLAN PURSUANT TO THE APPROVAL OF THE TOWN SOLICITOR.

IN FAVOR: Buck, Thompson, Kenney, Capalbo, Felkner

OPPOSED: None

SO VOTED

Councilor Capalbo noted the insurance language on the last page of the proposed contract.

CONSENT AGENDA

The Executive Session Minutes of February 2, 2009 were removed from the Consent Agenda as they were not ready for distribution.

A MOTION WAS MADE BY COUNCILOR KENNEY AND SECONDED BY COUNCILOR THOMPSON TO APPROVE THE CONSENT AGENDA AS

FOLLOWS: Approve Town Council Meeting Minutes of February 2, 2009;

Executive Session Minutes of January 20, 2009; Accept the following reports:

Animal Control Official, Town Clerk, Tax Assessor – which includes abatements & supplements.

IN FAVOR: Buck, Thompson, Kenney, Capalbo, Felkner

OPPOSED: None

SO VOTED

PUBLIC FORUM

No one spoke during the first public forum.

TOWN SOLICITOR REPORT

There was no formal report from the Town Solicitor.

Councilor Thompson reported she had received many calls about the dual office holding matter relating to Councilor Felkner. Council President Buck said he had as well. Councilor Thompson stated she had questions regarding the briefs that had been submitted by the Town of Richmond and the Town of Charlestown to the Court. She expressed concern that the Court may get the wrong impression as Hopkinton had not submitted a brief. She asked the Solicitor to speak to the issue of whether the Town should submit something. Solicitor Buckley stated there was no legal reason for Hopkinton to do so as there was nothing more that could be brought to the table. She had read Attorney Nicholas Gorham's file on the matter regarding William Felkner and that there were two issues before the Court. She reported she reviewed it with an eye towards considering whether there was anything new to add to justify paying someone to prepare a brief for the Town. She added the Court would not care if Hopkinton submitted a brief because the Court would be focusing on the legal issues. She stated she had spoken with Attorney Gorham about the issue and she has assisted him as needed, so the Town has had an active role in the matter from a legal standpoint. She noted the deadline to file was today, so the Town could not file a brief at this point unless there was an extraordinary reason to add something or if a unique issue presented itself. She felt there was nothing more to bring to the table. She stated she understood that it was an emotional issue for Town residents, but she had to view it from a legal standpoint. Councilor Thompson confirmed that the Solicitor was 100% satisfied that there was nothing more to add. Solicitor Buckley stated the Court was aware of the issues and they would be looking for persuasive arguments on the issues. She did not support the Town spending the money, it was not justified from a legal or financial standpoint, nor did she support submitting something that may be repetitious to the Court. Councilor Capalbo stated the Council's concern was with the citizen's perspective, the Westerly Sun had reported the Towns of Charlestown and Richmond had filed friend of the court briefs. She felt it important for the Council to say to its citizens that this issue was not being ignored. She felt the Hopkinton Town Council should put forward the Council's points of view in the newspaper. Council President Buck

commented that there was no reporter in attendance. Councilor Thompson stated it has been appreciated that Council Felkner had not required the town to spend money on legal representation, he had his own attorney, but felt this was an issue of dual office holding and whether the Town had lost its representation. Those issues were important to people. She stated she was satisfied that there is no legal need to submit a brief, but she understood the citizens concerns.

COUNCIL PRESIDENT REPORT

Town Council President Thomas Buck reported the Town Hall remediation and renovation were moving forward: the floor was being prepped for the installation of the heating, lights were installed. He commented to Councilor Capalbo that the lighting in the space was gorgeous. Councilor Thompson felt they were beautiful and saw them lit. Councilor Capalbo stated they were “green” with fluorescent bulbs and she thought Council President Buck was doing a good job monitoring the progress of the repair which was helpful and useful. Solicitor Buckley felt it would be sad to leave the fire station. Tom will thank the fire department for being so gracious in allowing the Council to hold their meetings in their facility.

TOWN MANAGER REPORT

Town Manager William DiLibero reported that GIS/IT Director Melanie Benda-Joubert had tendered her resignation as she had secured a position with the Air National Guard representing 16 bases between Maine and Washington, DC providing GIS services as a private consultant; reported he had sent a final proposal from the Town on the police contract to discuss with them prior to entering into formal negotiations; had prepared documents regarding the professional-technical contract and clerical contract in advance of negotiations; reported that had met with Attorney Kinder regarding the arbitration on the Charles Mauti matter scheduled for March; was monitoring Town Hall progress, reported he had met with the Finance Director and was drafting a memorandum pertaining to the proposed budget; had prepared a budget meeting schedule for the Town’s department heads next week; had met with William Parsons of the RI Economic Development Corporation regarding the businesses at Exit 1; had spoken to the owners of the Hopkinton Industrial Park and owners of Renova Lighting about holding a ribbon cutting ceremony; he noted Hopkinton Industrial

Park would be seeking a 50,000 square foot expansion of their building as they need more space for a new contractor coming in, which they have approvals for. Councilor Capalbo stated she knew of two individuals who were interested in becoming a member of the Economic Development Commission (EDC) and requested the Town Manager to involve the EDC members once they were active as it would be good for them to see the progress made in the Exit 1 area. Mr. DiLibero indicated he would. He added that he had attended a meeting of the Washington County Regional Planning Council regarding the sharing of resources and would be participating in one of their subcommittees; he had attended a monthly meeting of the Executive Board of the RI League of Cities and Towns and had attended their annual conference meeting; had attended a seminar on wind energy zoning pertaining to residential windmills, Westerly has a zoning ordinance in place and the town may want to consider one.

Mr. DiLibero reported Tax Collector Rita Deane had written a letter to DeLuca and Gemma pertaining to Brushy Brook and that a check for the past taxes owed had been received in the amount of \$361,524.00. Solicitor Buckley noted that there had been some discussions regarding what the proper tax payment to the Town was, because there was an issue with the approvals for the Brushy Brook PUD that had not been acted upon and some of the lots had been merged back. The Tax Assessor and Building & Zoning Official had to be involved. She stated it was possible that a lesser amount was owed, so an abatement of some of the payment may be necessary. Mr. DiLibero stated some of the parcels had been merged into two acre lots. Councilor Thompson questioned when that happened, when it had changed. Mr. DiLibero responded in the years 2006, 2007 and 2008. Solicitor Buckley noted the Town was still getting a significant tax payment out of it but there may be a difference of \$100,000.00.

Mr. DiLibero distributed the first page of a report from the pavement program developed by the Public Works Director and GIS/IT Director which had involved the hiring of a consultant and had developing a ranking system on the quality of the Towns roads on a foot by foot basis, what needed to be done, what the cost

was. He stated the full report was available in a pdf. format if anyone was interested in reviewing it. He stated GIS/IT Director Melanie Benda-Joubert had taken the lead on getting the task finished. He reported he had met with representatives from Cox Communications regarding transferring the Town's telephone services to their company as the Town's 86 month contract with Verizon would end in June. Cox Communications had been pursuing the Town to switch phone services, which would result in a discounted internet service, because of the bundling of services. Cox Communications had better pricing and would agree to a five year contract that included telephone service and technical support. Councilor Thompson questioned if the cable service went down, would the Town lose the phone service. Councilor Felkner responded, no. Solicitor Buckley noted power outage may affect phone service. Councilor Thompson noted that she did not lose phone service when there was a power outage with Verizon. She confirmed that if the internet went down, the phone service would continue. Mr. DiLibero had a draft contract for the Town Solicitor to review.

Councilor Kenney questioned if advertising for a GIS/IT Director was planned. Mr. DiLibero responded it was. Councilor Kenney noted that the Town of South Kingstown was losing a GIS person. Mr. DiLibero responded South Kingstown had taken the funding away and had cut the position. Councilor Thompson stated the Town of Richmond was looking at hiring someone, they placed funding in their budget. She questioned if it was possible for the two Towns to share one person and if there was a benefit in doing so. Mr. DiLibero noted that the GIS/IT duties were on par with that of the Recreation Director, it was as busy a position. He stated there were days when she had planned a full day of work only to find out a department was having technical problems and she ended up spending a full day fixing that problem and did not have a chance to do what she had planned. He stated she spent about 30% per week on IT, 20% on web maintenance and 25% GIS with the remainder of her time spent on administrative duties; ordering materials, etc. He stated if the Towns divided the time two days in Richmond, three days spent in Hopkinton, technical support for Hopkinton would be slower

in coming. He stated it could be done, but the Hopkinton would notice the impact. Councilor Capalbo noted our GIS person also did an enormous amount of work with the information technology, which was necessary and web maintenance for the Towns website, which was an excellent site. She suggested sharing the GIS position, but perhaps there should also be a position on IT/Web base as a part time computer position, then maybe it could be shared with Richmond. Mr. DiLibero stated the quality of the Towns website was better. That Town Council Meetings were being streamed on the internet which was higher level and not done by other Towns. He stated he preferred that the GIS person also did the IT work because a GIS person thought at a level higher than the typical IT person and had a less controlling nature vs. that of an IT person. He stated he had run into conflicts with IT staff and GIS staff in the past, where they locked horns. He stated he preferred the Town's model, which had been used as a model for smaller Towns. Councilor Capalbo questioned if any revenue could be generated. Councilor Kenney stated she felt the problem with revenue from the maps was that most of them were printed for Town business and in-house use. Mr. DiLibero stated one revenue stream could be by generating the buffer maps with lists of abutter addresses to be used for permitting procedures and notice requirements. That a data base disk and a set of labels for mailing purposes would be the biggest revenue stream. Mr. DiLibero stated he would like suggestions and feedback from the Council on this position before advertising. Dorothy Gardiner of Canonchet Road commented on part time hours for the IT position. She suggested the Council imagine what would happen if the main computer went down and the part time person was in Richmond and the problems that would present themselves in that case. She noted a significant amount of time was spent in the police department and public works department and what kind of problems that would arise if computers went down. She felt the Town departments needed the support and felt it should be left as is, GIS and IT combined, because the job allowed the flexibility to develop applications but also to maintain the Town's equipment and systems. Council President Buck stated the reason the Council has been bringing up sharing was because he was on the Tri Town Council and they were discussing possibilities that there may be a financial benefit from sharing resources. He stated he was not

sure if dividing the position and swapping it off would be possible. Mr. DiLibero added especially with the police department support that was involved.

OLD BUSINESS

TOWN BILLS

A MOTION WAS MADE BY COUNCILOR KENNEY AND SECONDED BY COUNCILOR FELKNER TO AUTHORIZE THE FINANCE DEPARTMENT TO PAY THE TOWN BILLS WITH NO ADDITIONS OR DELETIONS.

IN FAVOR: Buck, Thompson, Kenney, Capalbo, Felkner

OPPOSED: None

SO VOTED

NEW BUSINESS

INTERVIEWS – APPOINTMENTS – RESIGNATIONS:

Board and commission interviews were conducted at 6:30 P.M.

Zoning Board Resignation

Thurman Silks had submitted a resignation from the Zoning Board of Review. Councilor Thompson congratulated him on his involvement with the Town, but questioned if Mr. Silks wanted to resign immediately or wanted to finish up with pending matters. A motion was made and seconded to accept the resignation of Mr. Silks from Zoning Board which led to discussion: Town Clerk Elizabeth Cook-Martin noted the meeting this Thursday and that he had picked up his packet of information, so she assumed he would be attending the meeting. She stated the Zoning Board would be receiving his resignation letter and it has been past practice for the Zoning Board to make a recommendation on moving up an alternate to the full term position. She presumed he intended to resign. Councilor Capalbo noted it was important for all Zoning Board members to be present for matters before them. Council President Buck stated it would be with great regret that the Council would accept his resignation. Councilor Thompson noted Mr. Silks had served on the Town Council as President when zoning had been implemented and had been involved in many other ways and would be very difficult to accept his resignation. Because of these questions, Councilor Kenney suggested tabling this until March. The motion and second was withdrawn. The

resignation of Mr. Silks will be placed on the March 2, 2009 Town Council Agenda for consideration.

NATIONAL GRID PRESENTATION RE: PROPOSED SUBSTATION

Town Solicitor Patricia Buckley reported National Grid was looking to upgrade services by installing a new sub-station, but there were no zones in Town where a substation is allowed. She stated there is a substation in Hope Valley that is grandfathered in. Council President Buck noted there was a substation on Oak Street as well. Solicitor Buckley stated National Grid will at some point be requesting a zoning text amendment to allow substations in Town, but that representatives from National Grid were in attendance to give a brief presentation regarding a proposed substation.

Peter LaCouture, Esq., Michael Rook and Mindy Montecalvo were present from National Grid. Attorney LaCouture stated he was a resident of Exeter and Exeter Town Moderator, Michael Rook is the Consulting Engineer/Project Manager and Mindy Montecalvo was from the National Grid Real Estate Division. Attorney LaCouture commented there was one line in the zoning regulations that addressed lpg storage facility or generating plants, but did not apply to substations. Mr. Rook stated National Grid was proposing a new 115 K volt substation in the vicinity of Route 3 and Old Hopkinton Cemetery Road, where the existing power lines crossed. He referred to a map that showed the existing voltage line, the 34 K volt substation on Oak Street, and location of the proposed substation one mile away. The current zoning ordinance does not allow substations so they would be seeking a change in the wording. The transmission line would consist of a high voltage transmission line, a substation converts it to low voltage to service homes and businesses in the area. The current Ashaway substation had been constructed in the 1950's and this facility would be overloaded in next few years based on data on the current rate of growth, which was why they wanted to supplement the service for the Town by constructing a new substation soon. The tax map showed the property outline, the existing power line and where they would like to locate the proposed substation on the twelve acre site. The new substation would require an access road to the substation and one acre of the site to allow ample room to

shield the substation from view, with access from Route 3. Mr. DiLibero questioned the lot size of the existing substation on Oak Street. Mr. Rook responded it was one-quarter to one-third of an acre in size. It would be built to serve building that was projected for the area the next ten years and would offer a built-in expansion as needed. After the new substation was constructed, National Grid would take the Oak Street substation out of service and dismantle it. Their time schedule to get started would be to go through design engineering stage beginning next month and through December of this year and then they would pursue the licensing and permitting, with construction planned for 2010. Council President Buck noted he preferred access to the proposed site to come from River Road because of its location on the corner. Mr. Rook stated they would look to access on River Road but was not certain if the property would allow for it. Councilor Capalbo questioned if they had considered any other site in Hopkinton, suggesting off of Exit 2. Mr. Rook responded this substation was required to satisfy the growth in Ashaway, but if there was development at that exit, something specific would be required. He stated the transmission line was important to the substation, so other properties were not disturbed and no acquisition of property was necessary. It was a good site for the construction. Councilor Thompson asked if the upgrade was for Ashaway only, not Hope Valley. Mr. Rook responded it was for Ashaway. She asked what was the physical footprint for the old substation and the footprint for the new substation. Mr. Rook responded 200' x 200' for the new substation, but was unsure about the old substation that was about one-third of an acre. She asked when was the old substation built. Mr. Rook responded in the 1950's. Councilor Thompson how many feet from property lines of the houses the substation would be. Mr. Rook responded the substation would be placed in the center of the parcel. Councilor Capalbo questioned the height of the fence. Mr. Rook responded a standard 8 foot fence. Councilor Thompson questioned if there will be problems or interference issues in the neighborhoods that would affect television or ham radio reception. Mr. Rook did not feel there would be any issues. Councilor Capalbo questioned if there would be RF interference. Mr. Rook responded, no. Council President Buck questioned if there were any hazardous materials in

transformers. Mr. Rook responded there were oils, but they are fully clean, and there were no PCB's. Councilor Felkner questioned where on the parcel the substation would be placed, confirming it would be in the middle. Mr. Rook responded yes, there was a small pond they on the parcel they would be avoiding in the southwest corner, that will push substation to center of parcel. Mr. Rook stated he would initiate the surveys, topographical information and make preparations to notify abutters. Solicitor Buckley reported that if the zoning ordinance was amended, approval for the substation would be by special use permit. Councilor Thompson questioned if they had experienced problems with service at the Oak Street substation with brown-outs, etc. Mr. Rook responded, no, but they were approaching levels where there could be problems with service, brown outs could happen. Councilor Capalbo what will happen to the Oak Street substation, would they restore the site to the original condition. Mr. Rook stated the structures would be removed, but was not sure if the fence would be. Patricia Fontes of Lawton Foster Road questioned what the current zoning was and was informed it was an RFR-80 zone. She questioned the location of the proposed substation. Council President Buck explained where it was located. She questioned where the abutters were. Council President Buck responded Main Street and River Road.

BUDGET STATUS

Council President Buck read the Town Managers list of departments scheduled for workshops: February 23, 2009 - Animal Control, Meal Site Planner, EMA, Police, Public Works; February 24, 2009, following groundwater-wellhead ordinance workshop, - Building/Zoning, Planning, Town Clerk, Town Manager; March 5, 2009 – GIS/IT, Finance, Assessor, Collector, Recreation, Grants & Contributions, Boards & Commissions.

Councilor Thompson questioned what the collection rate was on the proposed budget if it was being moved up. Mr. DiLibero stated the rate was moving down, he would be using a lower percentage. Councilor Thompson she would like to have for the workshops, information on what percentage was used for the proposed budget but also information on the last five years collection rates used,

what the Town had used for the percentage and what the Town received; and the same information for delinquent taxes collected, what was anticipated and what was received.

CORRESPONDENCE

Council President Buck reported the City of East Providence had passed a resolution supporting Governor Carcieri's supplemental budget. Mr. DiLibero noted that it was based on Hopkinton's resolution.

Councilor Thompson noted the receipt of letters from Chariho: The budget hearing was scheduled for March 3, 2009 at 7:00 PM at the Chariho Middle School Auditorium; that regarding the transportation issues, they would like to the Police Department to be involved in the review of the routes. She noted in the Town of Charlestown, the officers traveled the routes in the evening. She felt this should not wait until August because it would not allow sufficient time to review the routes. She suggested this letter be forwarded to the Chief of Police. She hoped it would cut down on the concerns from parents. Councilor Capalbo asked the Town Manager to determine if the parking area surrounding Trinity Lutheran Church, which also housed a pre-school, was used as a turn around as they would like to know if a bus would be using the lot as a turn around so they could make arrangements. Councilor Thompson suggested the bus company be contacted and they would tell her.

Mr. DiLibero referred to the article regarding an incident involving a fight at the Gordon Greene Post American Legion Hall. He noted Chief Scuncio had contacted him about the incident. Solicitor Buckley recommended the Council consider a review of the incident. She will speak to the Town Clerk about this matter and how it should be handled by the Town Council.

PUBLIC FORUM

Patricia Fontes of Lawton Foster Road asked about the dates for budget workshops and was informed February 23, February 24 and March 5, 2009.

Dorothy Gardiner of Canonchet Road commented that the Town Council was being silent on the dual office holding matter regarding Councilor William Felkner. She was aware the Solicitor had written a letter to the school committee but felt the Council should make a statement. She stated ten people on the Chariho School Committee had taken away her right to have representation on the school committee, which was taxation without representation and the result was that the over 6,000 Hopkinton voters in Town did not have adequate representation, because ten people cast their vote to remove Mr. Felkner based on their own interpretation of the law. She stated she had hoped the Town Council would have been more vocal by passing a proclamation or placing the matter on an agenda. She felt the lack of any comment from the Town Council sent a message that would cause people to question whether the people had the support of the Town Council. She stated she felt this matter to be one of principle and that she would like have a statement of whether the Town Council was in favor or not in favor of what had occurred. She expected the Town Council to be more vocal and it would not have cost the Council anything.

ADJOURNMENT

A MOTION WAS MADE BY COUNCILOR KENNEY AND SECONDED BY COUNCILOR THOMPSON TO ADJOURN.

SO VOTED

Elizabeth J. Cook-Martin

Town Clerk