

State of Rhode Island

County of Washington

In Hopkinton on the fifteenth day of August 2016 A.D. the said meeting was called to order by Town Council President Frank Landolfi at 6:30 P.M. in the Town Hall Meeting Room, 1 Town House Road, Hopkinton, RI 02832.

PRESENT: Frank Landolfi, Barbara Capalbo, Sylvia Thompson, David Husband; Town Solicitor Kevin McAllister; Town Manager William McGarry; Town Clerk Elizabeth Cook-Martin. Absent: Thomas Buck.

EXECUTIVE SESSION

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR HUSBAND TO CONVENE OPEN SESSION AND RECESS TO EXECUTIVE SESSION UNDER R.I.G.L. SEC. 42-46-5(A)(5) FOR PRELIMINARY DISCUSSIONS AND/OR CONSIDERATIONS RELATED TO THE POSSIBLE ACQUISITION OF REAL PROPERTY FOR PUBLIC PURPOSES, WHERE PREMATURE ADVANCED PUBLIC INFORMATION ON THIS POTENTIAL ACQUISITION WOULD BE OR COULD BE DETRIMENTAL TO THE INTERESTS OF THE PUBLIC.

POLL VOTE:

IN FAVOR: Landolfi, Capalbo, Thompson, Husband

OPPOSED: None

SO VOTED

The regular meeting was called to order with a moment of silent meditation and a salute to the Flag.

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR HUSBAND TO SEAL THE MINUTES OF THE EXECUTIVE SESSION.

IN FAVOR: Landolfi, Capalbo, Thompson, Husband

OPPOSED: None

SO VOTED

Council President Landolfi reported no votes were taken in Executive Session.

HEARINGS

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR THOMPSON TO SIT AS A LICENSING BOARD.

IN FAVOR: Landolfi, Capalbo, Thompson, Husband

OPPOSED: None

SO VOTED

SPECIAL EVENT PERMIT

The Council opened a hearing on an application for a Special Event Permit filed by Karen Windsor on behalf of Foster Parrots, Ltd. for their Annual Fundraiser with tour, live music and buffet, scheduled for Saturday, September 17, 2016 from 12:00 PM to 7:00 PM at the Foster Parrots, Ltd. facility located at 87 Woodville Alton Road, Hope Valley, RI 02832.

Applicant Karen Windsor was present. The application was complete and included a request for a waiver of the police services requirement and the filing fee. Town Clerk Elizabeth Cook-Martin reported she had been contacted by Building & Zoning Official Brad Ward relative to the fire alarm system; that he would have no objection to the Council granting the permit provided the fire alarm was operational by September 1, 2016. Mrs. Windsor stated this was an annual event that was attended by a mature crowd which was why they were seeking a waiver of the police service requirement. She acknowledged the fire alarm system would be operational by September 1, 2016. Councilor Capalbo had no issue with the any of the events planned or with the waiver of police services but noted taxes were owed to the Town. Mrs. Windsor stated she had recently mailed in her tax payment which would bring them up to date. Councilor Thompson asked how many parrots there were at the facility. Mrs. Windsor responded there were 380 parrots and added Foster Parrots has a heavy focus on education and nature. There were no objectors present.

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR HUSBAND TO ALLOW THE APPLICATION FOR THE SPECIAL EVENT PERMIT FILED BY KAREN WINDSOR ON BEHALF OF

FOSTER PARROTS, LTD. FOR THEIR ANNUAL FUNDRAISER WITH TOUR, LIVE MUSIC AND BUFFET, SCHEDULED FOR SATURDAY, SEPTEMBER 17, 2016 FROM 12:00 PM TO 7:00 PM AT THE FOSTER PARROTS, LTD. FACILITY LOCATED AT 87 WOODVILLE ALTON ROAD, HOPE VALLEY, RI 02832 SUBJECT TO THE FIRE ALARM BEING UP TO DATE, TOWN TAXES PAID IN FULL, WAIVING THE POLICE SERVICES REQUIREMENT AND THE FILING FEE.

IN FAVOR: Landolfi, Capalbo, Thompson, Husband

OPPOSED: None

SO VOTED

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR HUSBAND TO ADJOURN AS LICENSING BOARD AND RECONVENE AS COUNCIL.

IN FAVOR: Landolfi, Capalbo, Thompson, Husband

OPPOSED: None

SO VOTED

CONSENT AGENDA

The Town Council Meeting Minutes of July 5, 2016 were removed from the Consent Agenda.

A MOTION WAS MADE BY COUNCILOR THOMPSON AND SECONDED BY COUNCILOR CAPALBO TO APPROVE THE CONSENT AGENDA AS FOLLOWS: Set September 6, 2016 as a hearing date for a Special Event Permit filed by Holly Tree Campground; Set September 6, 2016 as a hearing date for a Special Event Permit filed by the Friends of the Hopkinton Land Trust; Accept the following monthly financial/activity report: Town Clerk; Approve refund due to a bank overpayment submitted by the Tax Collector; Approve abatements due to corrections & adjustments to motor vehicles submitted by the Tax Assessor.

IN FAVOR: Landolfi, Capalbo, Thompson, Husband

OPPOSED: None

SO VOTED

There were revisions to the July 5, 2016 minutes: page 2, first paragraph, line 13,

change “Mr. Lamphere” to “Town Planner James Lamphere as it was the first reference to him; second paragraph line 5, change “Mr. Ward” to Building/Zoning Official Brad Ward as it was the first reference to him; There was a question on page 9, whether “shot rock” should be “sheet rock” - it was determined that it should be shot rock; on page 14, third paragraph, line 2, to add “American Community Survey” with ACS in parenthesis as it was the first reference to ACS.

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR HUSBAND TO APPROVE THE TOWN COUNCIL MEETING MINUTES OF JULY 5, 2016 WITH THE CHANGES.

IN FAVOR: Landolfi, Capalbo, Thompson, Husband

OPPOSED: None

SO VOTED

PUBLIC FORUM

Barbara Rana Decker of 87 High Street referred to the Town’s strong and clearly worded Earth Removal Ordinance that dictates that materials extracted, quarried or removed - soil, loam, sand, gravel, stone, clay, shale or other earth materials from deposits on any tract of land on which these materials are found. She stated if the Council applied the ordinance as written the Council can protect the aquifer that lies beneath the 95 High Street property, some of the purest water in the State. She stated she realizes that if they can prove there is extractable material located on the site that they can remove it and if there is any remaining material, this Council would grant the Earth Removal Registration. She stated she would then ask the Council to place restrictions on Eminel; that they not bring in any materials from outside the site which would increase the possibility of an accidental spill. She added that the screener they currently use is not the screener that was presented to the Planning Board, Town Council and Zoning Board; it is a large hydraulic screener that makes a racket and is dangerous. She also stated she did not want to see the compilation of materials that he is storing on Route 91 across the street from the Westerly dump to find its way to the 95 High Street site. She was hopeful another use could be found for the property that they will make every effort to try to support.

Judith Lewis of 14 North Drive thanked the Council for their patience and noted she mentioned in her July 11, 2016 letter to the Council that she was wrong about the RIPDES report. She did not believe she had provided copies of the report to the Town Clerk. Councilor Thompson indicated the Town Council had it. Mrs. Lewis stated she also met with Mr. Ward at that time because Mr. Lawton's report of February 22, 2016 stated he found one telephone pole on the site and she had pictures taken on February 18, 2016 clearly showing at least 6 telephone poles and she had verified this with Mr. Ward. It was her understanding that Mr. Turrisi feels the telephone poles were on Todd McCord's property. Mr. Ward had told her that he felt in hindsight it would have been prudent to state the make, model and type of screener that could be used on the property. She noted that no one, from the Planning Board to the homeowners, ever anticipated they would be faced with this nightmare. She stated she had pictures available.

COUNCIL PRESIDENT REPORT

Town Council President Landolfi reported that he and Town Planner James Lamphere, Planner Assistant Sean Henry and Richmond Town Councilor Henry Oppenheimer had met with Wood Pawcatuck Watershed Association (WPWA), The WPWA is the recipient of a \$750,000.00 grant to study various dams throughout the WPWA watershed. During the meeting, they spoke about the condition of the dams in the area; what was recommended for removal and what was recommended for repair. He stated the September 19, 2016 agenda may include a matter as they are seeking an endorsement from the Town because the RIDEM doesn't want to remove some of the dams in certain areas, only to repair them and the WPWA feels that would be counter-productive. He noted the Richmond Town Council would be meeting on September 6, 2016, which happens to be the same night as Hopkinton's first meeting in September. He reported the first meeting in September would fall on the Labor Day Holiday so the Council Meeting will be Tuesday, September 6, 2016.

TOWN MANAGER REPORT

Town Manager William McGarry reported on July 28, 2016, he and Councilor Thomas Buck, Town Planner James Lamphere met with National Grid representatives Paul Stasiuk and Richard Boyle at the Crandall House and

discussed the status of the Chase Hill electrical substation. They meet periodically to receive updates on the project from National Grid representatives. They were advised that in the next couple of months, they will be burying conduits from the site under Ashaway Road and Chase Hill Road. They were also advised that they will have the necessary police personnel on site to insure the smooth flow of traffic. He reported on August 4, 2016, he and Finance Director Brian Rosso and Town Manager's Assistant Courtney Hyland attended a pre-bid meeting, regarding the Hope Valley Water Meter Plumbing Installation Services RFP. One local company representative attended the meeting, which was very informative and helpful to both town officials and the plumbing company expected to bid on the project. Bids are due on August 18, 2016 with a bid award scheduled for September 6, 2016. The water meters have already been ordered and scheduled to be delivered on September 7, 2016. He noted this was a work in progress and was moving along. He reported during the month of August, he and DPW Director Timothy Tefft and Town Manager Assistant Courtney Hyland prepared an RFP for the updating of the electrical system and installation of a fire alarm system at DPW. Creative Environmental, Inc. has designed the electrical and fire alarm systems, which has been approved by the State Fire Marshall and the Town's electrical inspector. The 50-page design specifications have been incorporated into the RFP. We plan on advertising the project on August 21, 2016, conduct a pre-bid meeting at DPW on August 25, 2016, a bid opening on September 12, 2016 and a bid award on October 3, 2016. The Town Council has previously approved funding in the amount of \$45,000 for these two projects through the Capital Improvement Program. He reported during the month of August, the Town is scheduled to chip seal the following roads: North Road, Tomaquag Road, Lawton Foster Road (South), Tomaquag Valley Road and Townsend Road, for a total of 111,175 yards. On June 6, 2016, the Council awarded the chip sealing bid to Comer Contracting, Inc. of Farmington, CT for a low quote of \$1.353, per yard, for a total price of \$150,419.00. He reported during the first week in August, he made numerous calls to out-of-state agencies and finally contacted the mortgage service agency that owns 5 Lynn Lane. On behalf of the town, he requested that they contact a local landscaper to maintain the property that recently went through the foreclosure

process. On Monday, August 8, 2016 Council Vice President Barbara Capalbo and neighbors informed his office that two workers were on the property all day Monday and the lawn maintenance problems were addressed. He reported on August 10, 2016, he and Councilor Sylvia Thompson and a solar farm investor attended a meeting held at the Crandall House to discuss the possibility of placing a solar array on municipal property in the Town of Hopkinton. This was a preliminary meeting and a work in progress. He will be contacting the State Office of Energy Resources.

Councilor Capalbo thanked Mr. McGarry for providing the update on the roads to be chip-sealed and for his assistance resolving the issues at 5 Lynn Lane. She asked if there was a date that the new National Grid substation would be on-line and both Mr. McGarry and Council President Landolfi indicated the fall of 2017.

OLD BUSINESS

Councilor Capalbo stepped down and recused herself from the following matter.

TURRISI EARTH REMOVAL REGISTRATION RENEWAL APPLICATION

The review and approval of the Turrisi Earth Removal Registration Renewal Application had been continued from July 5, 2016.

Charles Solovetizik, Esq. was present representing the applicant. Attorney Soloveitzik noted this had been a protracted matter based upon community concerns and specific concerns whether a RIPDES permit was required and if there were any extractable materials left on the premises. He reported that based upon their research, no RIPDES permit is required for this site and he had a report that there remains native, extractable material on the site. A memorandum from Attorney Soloveitzik had been received. The memo was distributed to the Town Council just prior to the meeting. He noted the Earth Removal Registration ordinance is limited in scope. It registers a particular use on a particular property; it does not give the owner carte blanche to do anything he wants on the site, nor does the granting renewal of the application have any bearing on zoning issues involved at this site. So the concern that the granting of the renewal would be endorsing any activity is not what is before the Town Council. He hoped the information he

submitted satisfied the inquiries of the Council about the issues that were raised and he asked for favorable consideration of the Earth Removal Registration Renewal. Councilor Thompson asked about status of the cease and desist imposed by the Zoning Official back in April 2016 in reference to the material on the site. Attorney Solovetizik noted there was a matter pending before the Zoning Board and dated back to August 2015 relative to the asphalt material. He explained under the agreement with the prior Solicitor and Zoning Official they have maintained the status quo; they are not importing in any new asphalt to the site or processing any asphalt and are gradually starting to remove asphalt from the site on a practical basis. He stated that matter is pending before the Zoning Board as to the issue of whether or not that cease and desist was justifiable. It was something they were trying to respond to with some consideration to the municipality without giving up any of their perceived right to import these materials on the site. Councilor Thompson asked if they had presented their case to the Zoning Board yet. He responded the matter had been handed off to another attorney and noted the Zoning Board had granted a continuance this past April or May because of the prospect of the Solar Ordinance and with an eye towards deciding if there may be another use for the property that could benefit his client and then perhaps their concerns about being able to process materials on the site could potentially go away. He explained there is no regulatory authority in the State that addresses asphalt millings and there is a trend nationwide that the sense that they are hazardous was being sort of disproved, but it was not considered hazardous materials in this State. He added because of their nature of consisting in large measure of sand and gravel, they feel it is so the kind of materials they have a right to process but people may differ and that is the context of the appeal. He stated his client had been maintaining the status quo for about a year and hoped to find another use for the property that would satisfy the concerned neighbors and his clients' piece of mind, they placed it on hold so exploration was continuing to take place and the details of the solar ordinance will have to be studied. He stated the matter of the Appeal was continued to the September Zoning Board of Review Meeting and he was not sure how it would be prosecuted at that stage. Councilor Thompson noted the concern of the neighbors was about bringing in material and processing it. Attorney Soloveitzik

referenced the rights of his client and that he had a zoning certificate that suggested he could mine material and process materials on site without the limitation of having it be extracted from the site. He noted though this was important to the Council that was not what was before them; it is before the Zoning Board. Councilor Husband asked if an assumption had been made, or had it been guaranteed, that materials could be brought in, processed and brought out again. Attorney Soloveitzik stated the Building & Zoning Official was familiar with what was going on at the site previously when the certificate was obtained. He added that this is not the forum for him to make legal arguments as it was not his case anymore; but it is his clients' position that the predecessor was processing on the site and those materials had been imported. That does not relate to this ordinance and his clients right to extract. He felt to take an offensive position was unfair to his client and cost him time and money. Councilor Thompson was not expecting a full explanation of what they would be presenting to the Zoning Board but her last comment was that she hoped the owner would take a serious look at considering a solar array on the site; it would be quiet, shielded and could be profitable. Attorney Soloveitzik noted they were exploring it and were hoping for a win-win situation as it has been a hostile environment for the past couple of years. He stated the neighbors had successfully mobilized and were a challenging group, but they do want a happy neighborhood so they will look at it seriously. Councilor Husband stated he had no problem renewing the registration but did not want to see it abused, or have the assumption made that it is being construed as allowing him to do things he shouldn't be. He felt if there is material that exists that can be removed, he had no problem. He added that he feels asphalt shavings are a petro-chemical product; that the runoff from rain could cause it to go into the ground and possibly enter the aquifer. Attorney Soloveitzik referred to his law experience and his familiarity with Federal, State and local laws and regulations; that if Town Council was the body the Town Charter authorized to make decisions about land use then it would be appropriate to have this discussion in the context of a particular matter. He noted the Town Council has the authority to enact zoning laws but the prosecution of issues related to zoning start with the Zoning Office, then the Zoning Board, then Superior Court. This ordinance is a non-zoning matter

before the Council as a licensing function, the extraction of native materials from the site, whether or not they met the standards when first applied and what changed since. His client's other uses have drawn attention and caused criticism from the neighbors. Council President Landolfi noted the matter has been delayed a couple of times in order to acquire more information which he felt been received. This is an administrative function of the Town Council and he felt they have met the criteria for renewal and it has been delayed long enough. It was the Town Council's obligation to renew the registration which he supports; there was no legal reason not to and referred to the Solicitor. Solicitor McAllister stated he agreed without hesitation with this statement; that the Council had done their due diligence and the applicant has cooperated and had provided the information. He stated the scope of the ordinance is limited; the other issues were properly before the Zoning Board. Councilor Thompson noted the name of the ordinance is Earth Removal and it details the hours, how and when and what the hours are in removing earth from the site. Council President Landolfi noted the surveyor reports there is extractable material still left on the site. A motion was made and seconded to approve the renewal, which led to discussion: Councilor Thompson wished there was a way to find a win-win. Attorney Soloveitzik noted they would channel their energies into the process of finding a win-win which he supports and his client was in step with. Councilor Husband noted for the sake of the neighbors present that the case now in the hands of the Zoning Board regarding, the bringing material in and processing it on the site. No further comments were made and the Council proceeded to vote in the following motion:

A MOTION WAS MADE BY COUNCILOR HUSBAND AND SECONDED BY COUNCILOR THOMPSON TO APPROVE THE TURRISI EARTH REMOVAL REGISTRATION RENEWAL APPLICATION.

IN FAVOR: Landolfi, Capalbo, Thompson, Husband

OPPOSED: None

SO VOTED

Councilor Capalbo was reseated.

PROPOSED DIGITAL SIGN ORDINANCE (F/K/A LED ORDINANCE)/SET HEARING DATE

There were two items listed under the proposed Digital Sign Ordinance formerly known as the LED Ordinance: To discuss and consider an updated draft of a proposed Digital Sign Ordinance and to discuss and consider setting a hearing date for a proposed, updated Digital Sign Ordinance introduced and sponsored by Council Vice-President Capalbo.

The proposed Digital Sign Ordinance draft was before the Town Council for review. Councilor Capalbo noted revisions were necessary on the draft ordinance: page one under definitions, strike in its entirety, the definition for Liquid Crystal Displays (LCD); on page 2, Item T., strike the following from that paragraph; “Liquid Crystal Displays (LCD) or plasma screens”; on page 5, to amend item p. #3., #4., #5 relative to colors to be used. Those changes are: #3. Blue, Green, Amber or Red for Emergency Fire/Ambulance and #4. Blue, Green, Amber, Red or White for Hospital or Healthcare Facilities, or Police. The new wording additions will eliminate #5. Mr. McGarry noted a change in the wording on page 4, item n. would be necessary to eliminate the duplication in the wording “at the owners expense” which appears twice. Page 3, item e. “Each individual static message shall be displayed for a minimum of six (6) hours” was mentioned and Council President Landolfi felt six hours was more than enough time to react to market volatility, so item e. was not changed. Councilor Thompson noted this ordinance revision was necessary as it had been forced upon the town under threat of a lawsuit so the Council was doing its best to enact an ordinance to address digital signs. Councilor Capalbo noted the intent was to keep the Town rural; to use quiet colors, staying away from harsh light. She noted LED’s are the light bulbs of the future so far. Councilor Husband did not want to see signs any farther than 200 feet from a business on someone else’s property. He hoped the ordinance covered that; he is concerned about stand-alone signs located down the street away from the business. Council President Landolfi felt the Council was making the best of the situation. Councilor Capalbo felt this ordinance dovetailed nicely with the Dark Sky Ordinance. There were no other changes made to the draft and the Council set September 19, 2016 as the hearing date.

PUBLIC FORUM

Scott Bill Hirst of 20 Maple Court reported he had contacted the Council regarding the passing of his mother and if the Council would adjourn in her memory. His mother Ruth B. Hirst was born in North Stonington, CT, a descendent of two former Hopkinton Town Clerks: Simeon Perry and Caleb Potter.

Ray Cox of Main Street commented that he was aware two Council members were on the committee for the Transit Hub where a rotary was proposed and he asked that they could do something about widening the shoulders of the road to three feet to accommodate bicyclers and joggers and that winters for the bicyclers and joggers were even worse. He hoped the Council could speak to the State about it for safety sake. He noted the State had been adding signs on RI roads that if you read everyone you'd end up running off the road. He noted certain signs were required but others were a waste of money. He hoped the Council could speak to the State about these road signs which were an eyesore. He also suggested the site of the former Greyhound Station was up for sale and suggested the Council consider looking into buying it and renovating it for office space.

Vickie Lockwood of 6 Beechwoods Hollow noted the developer of their subdivision, Picerne, wanted the residents to take over the homeowners association responsibilities which involve maintenance of detention ponds. She was seeking direction from the Council as to the next step as Picerne, the developer, was not helping them. Council President Landolfi reported a meeting had been held this afternoon on the matter and that the Town Planner and Town Manager were working on developing a plan for resolution.

ADJOURNMENT

A MOTION WAS MADE BY COUNCILOR THOMPSON AND SECONDED BY COUNCILOR CAPALBO TO ADJOURN IN MEMORY OF KATHERINE LYNETTE FISH AND RUTH B HIRST.

SO VOTED

Elizabeth J. Cook-Martin

Town Clerk