

State of Rhode Island

County of Washington

In Hopkinton on the eighteenth day of July 2016 A.D. the said meeting was called to order by Town Council President Frank Landolfi at 6:45 P.M. in the Town Hall Meeting Room, 1 Town House Road, Hopkinton, RI 02832.

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

EXECUTIVE SESSION

A MOTION WAS MADE BY COUNCILOR THOMPSON AND SECONDED BY COUNCILOR CAPALBO TO ENTER INTO EXECUTIVE SESSION UNDER RIGL 42-46-5A (1) INTERVIEWS FOR BOARDS & COMMISSIONS.

POLL VOTE:

IN FAVOR: Landolfi, Capalbo, Thompson, Husband, Buck

OPPOSED: None

SO VOTED

A MOTION WAS MADE BY COUNCILOR THOMPSON AND SECONDED BY COUNCILOR HUSBAND TO CONVENE AS TOWN COUNCIL.

IN FAVOR: Landolfi, Capalbo, Thompson, Husband, Buck

OPPOSED: None

SO VOTED

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

HEARINGS

PROPOSED ORDINANCE RE: PHOTOVOLTAIC SOLAR ENERGY SYSTEMS (PSES)

This matter was before the Council to render a decision on an amendment to Code of Ordinances, Chapter 134 “Zoning” to add a proposed new ordinance entitled “PHOTO-VOLTAIC SOLAR ENERGY SYSTEMS (PSES)” introduced and sponsored by Councilor Thompson, heard on July 5, 2016.

Council deliberations:

Councilor Husband supported adoption of the ordinance as it was an appropriate time to do so; Councilor Capalbo and Councilor Buck expressed their support to the ordinance as well and had no issues. Councilor Thompson had a couple of suggestions as a result of the hearing; on page 1, to call the ordinance commercial so it was clearly not residential. This suggestion was discussed further and the Council was satisfied that it was legally acceptable. Mr. McGarry suggested adding “non-residential” to the title. There was agreement on this. Councilor Thompson suggested adding to the Section 5.3 heading from the definition on page 1 “whose main purpose is to generate energy for sale back into the energy grid system” found on page 2. There was discussion on whether to retain the language “principal use of the property”. Councilor Capalbo referred the B2B project and if they installed a solar system on their building, it would suit their energy needs and they may or may not sell the overage back to the grid. Councilor Thompson felt the wording would make it very clear. That section would then read: “The following requirements apply to photovoltaic solar energy systems whose main purpose is to generate energy for sale back into the energy grid system”. Council President Landolfi noted his concern was what if they wanted to sell the energy back to the grid. Councilor Buck asked what they would do if they keep the electricity and not sell it back, how would that be taxed. Councilor Thompson noted there was a complicated system of credits with the utility where it’s determined how much was generated on behalf of the utility, they cut a check and send it to them. Council President Landolfi noted there is a standard rate \$500.00 per KW. Councilor Buck asked about Town of Hopkinton taxes, were there tangibles? Councilor Capalbo noted a roof mounted solar panel would be an improvement to the building and there would be a value assigned by the assessor. Councilor Buck pointed out the Bank Street solar system was a business and there had been a negotiation on the tax. He asked if it was done for yourself, and you were not selling it back, do we then tax? Councilor Capalbo noted if it was being used on a roof of a business building, the assumption is that it is part of the business and being used by the business so it would be assessed as such, but the Town would not be taxing the electricity. Councilor Thompson pointed out the Council had adopted the tangibles ordinance as well. There was consensus on the

change to Section 5.3 as suggested. In regards to a memo from the Town Clerk that reflected the changes from the hearing on July 5, 2016 and the two open issues, one being the title, which had been dealt with; the other was with regard to the fencing. Council President Landolfi felt it should be left it to the Planning Board to establish an appropriate buffer; such as a chain link fence for a business/commercial area; or a vegetated buffer, near a home/residential area. Councilor Thompson feels the language about the six foot fence should be retained in the ordinance. Council President Landolfi agreed yes, but to have the Planning Board have the discretion on fencing. Councilor Buck pointed out there are black fences that you don't even see or notice. Councilor Capalbo supported leaving it as is.

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR THOMPSON TO ADOPT THE ORDINANCE CHAPTER 246 WITH THE CHANGES ON PAGE 2 AND TO INCLUDE NON-RESIDENTIAL IN THE TITLE OF THE ORDINANCE.

IN FAVOR: Landolfi, Capalbo, Thompson, Husband, Buck

OPPOSED: None

SO VOTED

Chapter 246 follows:

Chapter 246

NON-RESIDENTIAL PHOTOVOLTAIC SOLAR ENERGY SYSTEMS (PSES)

AN ORDINANCE IN AMENDMENT OF CHAPTER 134 OF THE CODE OF ORDINANCES, TOWN OF HOPKINTON, ENTITLED, "ZONING"

The Town Council of the Town of Hopkinton hereby ordains:

SECTION 2 - DEFINITIONS

Section 2, entitled "***DEFINITIONS***" of the Code of Ordinances of the Town of Hopkinton, is hereby amended by adding the following:

Abandonment – When the use of a property has ceased and the property has been vacant for 12 months, abandonment of use will be presumed. This excludes temporary or short-term interruptions during periods of maintaining or improving the property or a solar energy system.

Freestanding Solar Panels - Solar collectors not attached to and separate from any existing structures on the site.

Photovoltaic Solar Energy System (PSES) – All equipment, machinery and structures utilized in connection with the conversion of solar energy to electricity, including but is not limited to, distribution lines, transmission, storage, collection and supply equipment, substations, transformers, inverters, service and access roads, and solar energy producing panels; a SEF may include solar

energy generation, which is located at a commercial, industrial, agricultural, institutional, or public facility. These are systems whose main purpose is to generate energy for sale back into the energy grid system, rather than being consumed on the site.

Rated Nameplate Capacity – The maximum rated output of electric power production equipment. This output is typically specified by the manufacturer with a “nameplate” on the equipment.

Solar Access – A property owner’s right to have sunlight shine on the owner’s land. The enforcement of this right is through the Zoning Ordinance that establishes height and setback requirements.

Solar Energy Equipment – Items including but not limited to, solar panels, lines, pumps, batteries, mounting brackets, framing and/or foundations used for or intended to be used for, the collection of solar energy on municipal or commercial properties; any device associated with a solar energy system.

Solar Energy Panel – A structure containing one or more receptive cells that convert solar energy into usable electrical energy, heat water, produce hot air, or perform any other similar function by way of a solar energy system; a device that utilizes modules and cells to collect the sunlight and convert to direct current (DC) voltage.

Solar Glare – The effect produced by light reflecting from a solar panel with intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

SECTION 5.3 – Photovoltaic Solar Energy Systems

The following requirements apply to photovoltaic solar energy systems whose main purpose is to generate energy for sale back into the energy grid system.

PURPOSE AND APPLICABILITY

A. Purpose

It is the purpose of this ordinance to promote the safe, effective and efficient production of electricity by means of Photovoltaic Solar Energy Systems (PSES) in order to lessen the hazards posed by other energy sources that are used to produce the electricity distributed through the energy grid.

B. Findings

There is a need to regulate PSES due to the potential adverse impact they may have on the aesthetics, public health, and safety of the Town.

C. Intent

This ordinance intends to provide standards for the placement, design and construction, monitoring, modification and removal of PSES to further public safety and minimize impact on scenic, natural and historic resources of the Town of Hopkinton.

The Town of Hopkinton encourages PSES in locations which provide the greatest potential energy generation while actively striving to minimize the visual impacts of these systems from streets and neighboring properties.

D. Applicability

This ordinance applies to all PSES to be constructed after the effective date of this ordinance. PSES constructed prior to the effective date of this ordinance shall not be required to meet the requirements of this ordinance. Any upgrade, modification, or structural change that materially alters the size or placement of an existing PSES shall comply with the provisions of this Ordinance.

E. Severability

Should any section, subdivision, clause, or phrase of the Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PHOTOVOLTAIC SOLAR ENERGY SYSTEMS (PSES) REQUIREMENTS

A. General Requirements

1. The minimum front, side and rear yard depth and the maximum building height applicable to permitted uses in the applicable zoning district shall apply to photovoltaic solar energy systems

2. All electrical connection and distribution lines within the facility shall be underground unless physical constraints to the land make underground lines impossible or impractical. Electrical equipment between the facility and the utility connection may be above ground if required by the utility
3. To prevent unauthorized access, the ground level facility shall be enclosed by a perimeter fence of no less than six (6) feet high
4. Exterior lighting within the facility shall comply with all Hopkinton lighting ordinances and be the minimum necessary. All fixtures shall be full-cut off fixtures approved by the International Dark Sky Association
5. The maximum height of the panels shall be no greater than twelve (12) feet
6. No PSES shall be erected, constructed, installed or modified as provided in this Ordinance without first obtaining development plan approval from the Planning Board in accordance with the Development Plan Review Ordinance.
7. The construction and operation of all such proposed PSES shall be consistent with all applicable local, state and federal requirements, including but not limited to, all applicable safety, construction, environmental, electrical, communications and aviation requirements.
8. All applicants must provide documentation that the installation of the PSES is in accordance with the manufacturer's directions. Certificates of Design Compliance shall be submitted with the Land Development plan.
5. The establishment of the proposed PSES will not prevent the normal and orderly use, development or improvement of the adjacent property, for uses permitted in the district.
6. The PSES shall be designed to prevent the misdirection of concentrated solar radiation onto nearby properties, public roads, or other areas accessible to the public. Any glare from a solar panel shall be directed away from an adjoining property.
7. The applicant shall avoid any disruption, interference with, or loss of radio, telephone, television or similar signals and shall mitigate any such harm caused by the PSES.
8. All precautions must be taken to protect neighboring properties from exposure to any radiation produced as a result of the PSES, including but not limited to, high levels of radio frequency electromagnetic radiation.

B. Roof Mounted Solar Panel Requirements

1. Roof mounted solar energy equipment shall be mounted so as not to exceed the maximum building height specified for the underlying zoning district.
2. Equipment frames, support structures, and related rooftop equipment shall be painted to match the predominant color of the roof.
3. The existing roof structure and the weight of the PSES shall be taken into consideration when applying for a PSES.
4. Roof mounted systems need to be sited so as to provide all proper clearances from other building roof penetrations, including but not limited to, plumbing stacks, elevator shafts and chimneys, and shall conform to the Town's Building Code.
5. If a PSES that is to be mounted to, or is constructed on top of, an existing building, detailed calculations and engineered drawings of the mounting must be provided.
6. Front or road facing installation may be permitted by the Planning Board if the applicant indicates valid reasons as to why this is the only effective or possible means for utilizing solar energy on the property. Such information shall be certified by a licensed and authorized design professional consistent with the appropriate statutes governing design professionals in the State of Rhode Island.
7. Flat roof elements shall not have equipment or support structures that are visible from public streets, public facilities or neighboring properties and shall be placed as close to the roof plane as possible. The equipment shall be screened with an architecturally compatible structure.
8. Solar panels on a flat roof shall be angled such that they do not exceed the height requirement for the district in which the PSES is located.
9. Flush mounting is preferred on pitched roofs and shall not project vertically above the peak of the roof and/or no more than the height requirements for the zone in

which they are located. Equipment and support structures shall not extend beyond the existing roof area or above the top of the wall or existing roof peak of the building on which they are mounted. Panels shall not be located within three (3) feet of any peak, eave, or valley of the roof, to maintain pathways of accessibility. In no instance shall any part of the roof mounted solar panels extend beyond the edge of the roof.

10. Systems located on a sloped roof shall provide, as part of their permit application, evidence of design review and structural certification if the slope of the panel differs from the roof pitch. All panels on commercial roofs shall provide this information regardless of slopes, as well as any residential roof with greater than fifty percent (50%) coverage.

C. PSES Design Guidelines

1. Land Clearing and Environmental Impact

All PSES shall be constructed and operated in a manner that minimizes any adverse visual, safety and environmental impacts. The design of the PSES shall use materials, colors, textures, screening and landscaping that will blend the facility into the natural setting and existing environment. The proposed PSES shall be designed and will be constructed so that ground leveling is limited to those areas needed for effective solar energy collection and so that the natural ground contour is preserved to the greatest extent practical.

Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the PSES and as otherwise prescribed by applicable laws, regulations and ordinances. The PSES and equipment shall not have a significant impact upon the soils, water resources, air quality or other natural resources of the land or surrounding area.

2. Appurtenant Structures

- a. Appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, inverters and substations, shall be architecturally compatible with each other.
- b. All appurtenant structures and equipment shall be screened from view by vegetation and joined or clustered to avoid adverse visual impacts to any adjacent property that is residentially zoned or used for residential purposes.
- c. The screen shall consist of shrubbery, trees, or other non-invasive plant species which provides a visual screen. In lieu of a planting screen, a decorative fence meeting the requirements of the Zoning Ordinance may be used;

3. Lighting and Signage

- a. Lighting of the PSES shall be limited to that required for safety and operational purposes.
- b. The manufacturers' identification, installers' identification, equipment information, appropriate warning signage, and indication of ownership, shall be posted on or near the panels in a clearly visible manner and shall comply with the prevailing sign regulations.
- c. A PSES shall not be used to display advertising, including signage, or other ancillary materials. Reasonable identification of the manufacturer or operator of the system shall be allowed. In no case shall any identification be visible from a property line.

D. Planning Board Review

The prospective owner of a proposed PSES shall be the only party eligible to submit an application to the Planning Board seeking Development Plan approval for a proposed PSES. The prospective owner of a proposed PSES shall be referred to herein as the applicant.

In addition to the requirements under the Development Plan Review Ordinance, the applicant shall provide the Planning Board with the following information:

1. Documentation, in the form of an affidavit from the property owner, evidencing applicant control of the project site for the purpose of constructing, operating and maintaining a PSES.
2. A one (1) inch equals two hundred (200) feet plan, prepared, stamped and signed by a currently licensed and authorized design professional consistent with the appropriate statutes governing design professionals in the State of Rhode Island, of the proposed PSES site with contour intervals of no more than ten (10) feet, showing the following:

- (a) property lines for the site parcel and adjacent parcels within five hundred (500) feet;
- (b) an outline of all existing buildings, including purpose (e.g. residence, garage, etc.) on site parcel and all adjacent parcels within five hundred (500) feet, including distances from the PSES to each building shown;
- (c) location of all public and private roads on the site parcel and adjacent parcels within five hundred (500) feet, and proposed roads or driveways, either temporary or permanent;
- (d) proposed location and design of the PSES, including all panels, ground equipment, appurtenant structures, transmission infrastructure, access, fencing, exterior lighting, etc.; and
- (e) existing areas of tree cover, including average height of trees, on the site parcel and adjacent parcels within five hundred (500) feet.

Should the applicant propose a location or configuration other than one that best meets the intent of the design standards, the applicant shall have the burden of proof to provide calculations which demonstrate that meeting the intent of the standards will result in either an increase in system cost in excess of twenty percent (20%), or a decrease in system efficiency in excess of twenty percent (20%), when compared to the location of configuration proposed by the applicant.

3. Operation and Maintenance Plan

The applicant shall submit a plan to the Planning Board for the operation and maintenance of the PSES, including any and all access roads. The Operation and Maintenance Plan shall include provisions for emergency shutdown. The applicant shall maintain a current phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project.

During operation of the proposed PSES, all chemicals or solvents used to clean photovoltaic panels or heliostats will be low in volatile organic compounds and the operator will use recyclable or biodegradable products to the extent possible.

4. Landscape Plan

A plan, prepared, stamped and signed by a currently licensed and authorized design professional consistent with the appropriate statutes governing design professionals in the State of Rhode Island, indicating all proposed changes to the landscape of the site, including temporary or permanent roads or driveways, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures.

5. As-built Plan

The applicant shall submit an as-built plan showing the actual location of any installed solar energy equipment. If the equipment is not installed as permitted, the Town may order its removal and/or its relocation as appropriate

6. Financial Security

The applicant shall establish and maintain in effect a financial security instrument covering the PSES from commencement of operations through decommission completion. Such instrument may be an escrow account, cash or surety bond, or other form acceptable to the Planning Board. The security must be sufficient to cover the complete cost of removal in the event the Town or its contractor must remove the PSES, in a form and amount determined to be reasonable by the Planning Board, but in no event shall the security exceed the one hundred twenty-five percent (125%) of the estimated cost of removal.

The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer, licensed in the State of Rhode Island. The cost estimate shall include a mechanism for estimating the anticipated increased costs over the lifespan of the facility. The amount of security shall be based on the estimated cost of removal at the end of the useful life of the facility.

Financial security is not required for municipally owned facilities.

The applicant shall establish and maintain in effect general liability insurance covering the land, equipment and any access drives associated with the proposed PSES until decommission of the PSES is completed.

E. POST PSES APPROVAL REGULATIONS

1. Maintenance

The applicant shall submit an annual Operation and Maintenance report to the Planning Department detailing the present condition of the PSES as well as a forecast for future operations covering the likely operational life span of the PSES.

The applicant shall maintain the PSES in a neat, clean, operable condition at all times, ensuring the structural and technical integrity of the facility. All maintenance shall be performed in a timely manner. Maintenance shall include, but not be limited to, structural repairs and integrity of security measures.

Site access shall be maintained to a level acceptable to the Fire Chief and Emergency Medical Services.

The applicant shall be responsible for the cost of maintaining the PSES and any access road, unless adapted as a public way, and shall bear the cost of repairing any damage occurring as a result of operation and construction.

2. Abandonment

Absent notice of a proposed date of decommissioning, the PSES shall be considered abandoned when the PSES fails to operate for more than one (1) year.

Any PSES that has been abandoned or is in a state of disrepair and has not developed a plan for reconditioning and/or replacement of existing equipment to modernize and extend the useful life of the facility, shall be decommissioned.

3. Decommissioning

Decommissioning shall include the removal of the PSES, any other associated facilities, and the cleaning and restoration of the site.

- a. If decommissioning has not been completed within one hundred eighty (180) days of abandonment or the proposed date of decommissioning, the Town shall give written notice to the landowner and/or PSES owner and operator to accomplish the decommissioning within thirty (30) days.
- b. If the decommissioning has not been completed within thirty (30) days of said written notice by the Town, the Town and/or the Town's representative shall have the authority to enter the property and decommission the PSES, charging the landowner and/or PSES owner and operator for all costs and expenses, including reasonable attorney's fees for collection.

4. Removal Requirements

When the PSES is scheduled to be decommissioned, the applicant shall notify the Town by certified mail of the proposed date of discontinued operations and plans for removal. The owner/operator shall physically remove the PSES no more than one hundred eighty (180) days after the discontinued operations. At the time of removal, the PSES site shall be restored to the state it was in before the facility was constructed. Decommissioning shall consist of:

- a. Physical removal of all solar energy panels, mounting systems, structures, equipment, security barriers and transmission lines from the site;
- b. Disposal of all solid and hazardous waste (if any) in accordance with local and state disposal regulations; and
- c. Stabilization or re-vegetation of the site as necessary to minimize erosion.
- d. Any earth disturbance as a result of the removal of the system shall be graded and reseeded.

F. ADOPTION

This Ordinance shall take effect upon passage and all Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

PROPOSED ORDINANCE AMENDMENT TO FARM VIABILITY ORDINANCE

This matter was before the Council to render a decision on a proposed amendment to Code of Ordinances, Chapter 5.5 Farm Viability Ordinance to include a new Section VII. Farm-Based Photovoltaic Solar Energy System (PSES) introduced and sponsored by Councilor Thompson, heard on July 5, 2016.

Council deliberations:

Councilor Thompson commented that based on the previous discussions, would it be appropriate to also include in this ordinance amendment wording such as non-residential or commercial. She explained that the intent of the ordinance as stated in Section VII of the ordinance is to make it clear that a farm may chose to install a farm-based solar energy system. She didn't know if that was an issue or not.

Council President Landolfi noted that farms were RFR-80. Councilor Capalbo stated farms are also residences; it would be a simple revision that could be done later. Council President Landolfi noted his concern was with the definitions in the Farm Viability Ordinance itself, of small, large and intermediate farms; that to his mind, the verbiage of the ordinance it did not make sense and it may be something that should be changed at some point. Councilor Thompson felt it made sense to slide this proposed amendment into the existing Farm Viability Ordinance.

Councilor Husband added that the Council could pass this amendment and then go back and revisit the original ordinance in the future.

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR THOMPSON TO ADOPT ORDINANCE CHAPTER 247 AN ORDINANCE IN AMENDMENT OF CHAPTER 5.5 FARM VIABILITY ORDINANCE TO INCLUDE A NEW SECTION VII. FARM-BASED PHOTOVOLTAIC SOLAR ENERGY SYSTEM (PSES).

IN FAVOR: Landolfi, Capalbo, Thompson, Husband, Buck

OPPOSED: None

SO VOTED

Chapter 247 follows:

TOWN OF HOPKINTON, RHODE ISLAND
CHAPTER 247

AN ORDINANCE AMENDMENT OF CHAPTER 5.5 FARM VIABILITY ORDINANCE TO INCLUDE A NEW SECTION VII. FARM-BASED PHOTOVOLTAIC SOLAR ENERGY SYSTEM (PSES).

The Town Council of the Town of Hopkinton does hereby ordain the following:

VII. Farm-Based Photovoltaic Solar Energy System (PSES).

Upon the effective date of this Amendment to Chapter 5.5, under Section VII, the installation and maintenance of a Farm-Based Photovoltaic Solar Energy System (PSES) as defined and limited herein, shall be deemed a permitted use in a Rural Farm Residential-80 zoning district as set forth in Chapter 134, Section 5 of Appendix A entitled 'Zoning'.

A. Intermediate and Large Farms, as defined herein, may install PSES as an accessory use that meet the following requirements:

- 1) Intermediate Farms may use up to one (1) acre of land for PSES.
- 2) Large Farms may use up to two (2) acres of land for PSES and may use up to three (3) acres for farms in excess of fifty (50) acres.
- 3) Intermediate and Large Farms shall adhere to Chapter 246 - Photovoltaic Solar Energy System (PSES) in Chapter 134 of the Code of Ordinances, Town of Hopkinton entitled "Zoning."

All other sections of Chapter 5.5 to remain in full force and effect; and

The Amendments shall take effect immediately upon passage.

CONSENT AGENDA

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR HUSBAND TO APPROVE THE CONSENT AGENDA AS

FOLLOWS: Accept the following monthly financial/activity report: Town Clerk;

Approve refunds due to overpayment submitted by Tax Collector.

IN FAVOR: Landolfi, Capalbo, Thompson, Husband, Buck

OPPOSED: None

SO VOTED

PUBLIC FORUM

No one spoke during the first public forum.

TOWN MANAGER REPORT

Town Manager McGarry reported on July 6, 2016, he convened the fourth meeting of the Town's Waterline Review Committee to continue discussion about the purchase and storage of new water meters, the RFP for plumbing installation services, billing processes, notification correspondence and an activity timetable for this project. Once approved by the Committee, meeting minutes will be forwarded to Council members. He noted the project was coming along, they were about to order the 50 meters that would be compatible with the meter reading software and that an RFP for plumbing services was being drafted which would be advertised in two papers. He felt the project would be complete by the end of the year. He reported on July 13, 2016, he convened a bimonthly department head staff meeting, which was held at the Crandall House. Department heads discussed a variety of issues and we reviewed the status of all ongoing projects in town, especially those enumerated in the FY 2016-17 Annual Goals.

OLD BUSINESS

RIDOT TRANSIT HUB RESOLUTION

This matter had been scheduled for the Town Council to discuss, consider and vote on a RIDOT Transit Hub Resolution regarding having a non-binding question on the November 8, 2016 ballot. Council President Landolfi read the resolution:

TOWN OF HOPKINTON, RHODE ISLAND

RESOLUTION OF THE HOPKINTON TOWN COUNCIL REQUESTING THE RHODE ISLAND SECRETARY OF STATE AND THE HOPKINTON BOARD OF CANVASSERS TO PLACE A NON-BINDING VOTER REFERENDUM QUESTION ON THE TOWN OF HOPKINTON LOCAL BALLOT FOR THE NOVEMBER 8, 2016 GENERAL ELECTION

WHEREAS, On July 5, 2016, the Hopkinton Town Council voted unanimously to call for a non-binding ballot question in the form of a local referendum to be put before the electors of the Town of Hopkinton on the November 8, 2016 General Election asking whether they support or oppose the plans put forward by the Rhode Island Department of Transportation to construct a so-called “Transit Hub” or “Welcome Center” within the Town of Hopkinton and in the vicinity of Exit 1 on Interstate Route 95; and

WHEREAS, On July 5, 2016 the Hopkinton Town Council voted unanimously to express its opposition to the plans put forward by the Rhode Island Department of Transportation to construct a so-called “Transit Hub” or “Welcome Center” within the Town of Hopkinton and in the vicinity of Exit 1 on Interstate Route 95; and

NOW THEREFORE, BE IT RESOLVED that we, the Hopkinton Town Council, do hereby request the Rhode Island Secretary of State and the Hopkinton Board of Canvassers to place a non-binding voter referendum question on the local Town of Hopkinton ballot for the November 8, 2016 General Election asking the electors of the Town of Hopkinton whether or not they support or oppose the plans put forward by the Rhode Island Department of Transportation to construct a so-called “Transit Hub” or “Welcome Center” within the Town of Hopkinton and in the vicinity of Exit 1 on Interstate Route 95.

Councilor Buck stated that had he been present at the July 5, 2016 Town Council Meeting he would have voted the same, in opposition to the Transit Hub. He noted that people should remember Canob Park and how they got their water system. Councilor Thompson asked if the resolution was strictly to get it on the ballot and whether the Council’s reasons should be included and it was determined the Town Council’s reasons were not required in the resolution as people in Town were aware of the Council’s reasons and the newspaper had covered it adequately. Council President Landolfi noted what had motivated him after hearing Mr. Pennypacker’s suggestion for a non-binding question, was the matter in Burrillville regarding a power plant where the Town Council seemed to be indifferent to the residents, so in the spirit of listening to the residents who elect the Town Council, he felt it was appropriate to do this.

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY

COUNCILOR THOMPSON TO ADOPT THE RESOLUTION CALLING FOR A NON-BINDING QUESTION PERTAINING TO THE RIDOT TRANSIT HUB ON THE NOVEMBER 8, 2016 BALLOT.

IN FAVOR: Landolfi, Capalbo, Thompson, Husband, Buck

OPPOSED: None

SO VOTED

Scott Bill Hirst was standing at the podium ready to comment. Council President Landolfi indicated he would get to him in a minute.

NEW BUSINESS

PROPOSED ACQUISITION OF 60 ACRES OF LAND BY RIDEM

This matter had been scheduled to discuss and consider offering comments to the RI Department of Administration, regarding RIDEM's proposed acquisition of 60 acres of land (the Allen property) and have it incorporated within the Rockville Management Area.

Mr. McGarry reported the Rhode Island Department of Administration was seeking comments regarding a proposed acquisition of property in the Town of Hopkinton and since the correspondence from the Department of Administration was sent to the Planner, he had asked the Planner and Assessor to prepare memos explaining anything and everything to the Town Council on its financial impact.

Town Planner James Lamphere and Tax Assessor Liz Monty were present.

Councilor Buck asked if this was raw land or if there was a house on it; Council President Landolfi had this same question – was there a structure on it. Ms. Monty responded there is a house on the land. Councilor Buck asked if this was turned into a preserve and the State buys it, would the residents be retaining the residence with an acre or two of land, living in the house and Councilor Capalbo asked if they were selling it outright. Ms. Monty responded she didn't see that in the agreement. She stated the house could stand as it is in really good condition. Councilor Capalbo stated if the owners were not living there were they selling the property and the house. Ms. Monty stated it sounds that way. She stated she read the deed and there is a life estate on the deed for Mrs. Allen; she has life estate and she could stay there unless she changed the deed and decided to give up the

life estate. Councilor Capalbo stated Mrs. Allen has the life estate, her children do not; the life estate can't be given to heirs. Ms. Monty indicated that was correct. Council President Landolfi asked if Mrs. Allen wished to retain or sell the property; does she want to stay in the property? Ms. Monty indicated that seems to be the intention. Councilor Capalbo asked when she passes, who would go to? Ms. Monty responded the DEM. She added it all would have to be in writing in Rhode Island. Councilor Husband confirmed we were receiving \$8,097.00 in taxes and Ms. Monty confirmed this. Council President Landolfi commented that would be gone. Councilor Thompson noted it may be in farm, forest and open space. Ms. Monty stated yes, it is in open space now; if it came out it would go up a little bit – maybe \$500.00. Councilor Thompson confirmed that it is currently in Farm, Forest & Open Space program since 2003 and the taxes are still \$8,000.00. Ms. Monty replied yes. She noted it was in the forestry program alone, but they didn't renew their forestry plan and were put into open space, a lesser discount. Councilor Husband asked if they came out of Farm, Forest & Open Space, would it be developable land? Ms. Monty explained from what she understood, 80,000 square feet is required per house lot, so several house lots would be available; there are also frontage requirements and setback requirements. Councilor Husband asked if a road could be cut through the property. Ms. Monty responded in the affirmative. Councilor Capalbo estimated there could be 18-20 lots. Councilor Thompson felt the State acquisition was doable; it links to other state property. Councilor Capalbo agreed, stating it was contiguous. Councilor Buck mentioned the proximity to Blue Pond. Council President Landolfi noted the State was looking for comments. Councilor Thompson was in favor of it. Councilor Buck noted he was conflicted with the house lot being still there. Council President Landolfi stated that was a comment, and he would want to know how that transitions after the sale. The Council wants to know if Mrs. Allen would be staying there. Councilor Capalbo noted she liked that it was contiguous to other State property. She noted there could be 18-20 house lots, there might be some kids there might be no kids. She stated she is aware children require school related costs but children also make for safe neighborhoods. Councilor Husband stated he liked open space, that it was a nice lot and fit in nicely with the open

space around it. He would support if there is a caveat that they will continue to tax the house; because who ever lives there gets police and fire protection and we pay for that. He stated it's not right for someone to live in this town in a house and not pay taxes of some sort. If the property goes to the State, that's one thing but; there is a cost for police and fire protection services; she should pay taxes until she passes away. Councilor Thompson stated she assumed that will be part of the deal; that her lot where she lives has to be taxed. She noted that that is a comment for the State, that it would need to be taxed. Council President Landolfi stated we would need further clarification on that piece. Solicitor McAllister noted based on his law practice that he knows a life estate in real estate is appraisal value; it has a value. A life estate diminishes the value of the whole piece when someone else has an interest in it that they can use, in this case a residence for their lifetime. That life estate diminishes the value of the whole parcel. He noted the town could hire an appraiser or the tax assessor could place a value on the residence. He was not certain about case law because obviously the Town can't tax the State, but it seemed to him it is an arguable proposition for capital gains purposes and other purposes that a life estate has a value that can be appraised, a tax could be based on that appraised value. Councilor Buck gave an example; say he bought 60 acres and he wanted to sell to the State, he has a life estate and he is only 40 years old. He stated he does not want to open up any loopholes; he's not going to pay taxes here but he will live here and enjoy the use of his property. Councilor Husband asked suppose that same person gets that deal and has a wife and three kids? Councilor Buck noted it was his understanding that a life estate only for the one person, not for their children or grandchildren; if it were a married couple with a life estate, it is only for that married couple. Councilor Husband stated what if kids live there and go to school? Councilor Capalbo noted that would be a \$16,000.00 per child expense. Council President Landolfi noted further clarification on the topic of taxation is needed. Councilor Capalbo asked Mr. Lamphere about the sixty acres and the dotted line in the middle; if it was a driveway or a road. Mr. Lamphere felt it could be an easement to the pond or an easement or it could be a road to the house. Councilor Thompson noted it might just be a dirt road. Councilor Buck expressed concern that it could be used as a

dumping spot unless it was blocked off. Council President Landolfi indicated Mr. Buford wanted to make a comment. Councilor Thompson noted it wasn't a hearing. Council President Landolfi affirmed it was not; Mr. Buford wanted to voice his comments. Councilor Thompson pointed out he had rules about speaking and questioned why Mr. Buford was being allowed to when others had been prevented from doing so. She noted it did not matter to her because she preferred to hear from people and the rules don't let them anymore. Council President Landolfi indicated they do because he was running the meeting and he is saying he can make comments. Mr. Buford was allowed to speak. Mr. Buford asked if this was the property on Blue Pond that reached to Canonchet Road and was informed yes. He noted there were interesting features on the adjacent property and felt it was nice to put the pieces of property together. Council President Landolfi felt it was appropriate to hear from the Conservation Commission on land matters.

APPOINTMENT OF MARGARET STEELE, ESQ. AS ALTERNATE PROBATE JUDGE

This matter had been scheduled to discuss, consider and vote to appoint Margaret Steele, Esq. as alternate Probate Court Judge to handle a matter that Probate Judge Urso has a conflict with.

A MOTION WAS MADE BY COUNCILOR AND SECONDED BY COUNCILOR TO APPOINT MARGARET STEELE, ESQ. AS ALTERNATE PROBATE COURT JUDGE.

IN FAVOR: Landolfi, Capalbo, Thompson, Husband, Buck

OPPOSED: None

SO VOTED

PUBLIC FORUM

Scott Bill Hirst of Maple Court questioned when the Town had first become aware of the Transit Hub and was told it was prior to the month of May but Council President Landolfi knew prior to that. Mr. Hirst reported the Hopkinton Republican Town Committee would be discussing it at their next meeting. He noted there was interest in the community on the topic; that it was timely to take a

stand. He noting it was highly unusual and might have been the first time to have a non-binding question on the November ballot.

ADJOURNMENT

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR BUCK TO ADJOURN.

SO VOTED

Elizabeth J. Cook-Martin

Town Clerk