

State of Rhode Island

County of Washington

In Hopkinton on the eighteenth day of September 2017 A.D. the said meeting was called to order by Town Council President Frank Landolfi at 7:00 P.M. in the Town Hall Meeting Room, 1 Town House Road, Hopkinton, RI 02833.

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

**CONSENT AGENDA**

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR THOMPSON TO APPROVE THE CONSENT AGENDA AS FOLLOWS: Approve Town Council Meeting Minutes of September 5, 2017; Set December 4, 2017 for hearing day for Holiday Sales License Renewals; Set October 2, 2017 as the date for hearing for tax stabilization request filed by Daedalus Holding, LLC/B2B Gateway; Accept the following monthly financial/activity report: Town Clerk; Approve refunds as a result of overpayments on motor vehicle taxes submitted by the Tax Collector; Approve abatements resulting from corrections to motor vehicles, campers, trailers, a real property condition adjustment and a real property that entered into the Forestry Program submitted by the Tax Assessor.

IN FAVOR: Landolfi, Capalbo, Thompson

OPPOSED: None

**SO VOTED**

Council President Landolfi noted he had intended to pull the September 5, 2017 Town Council Meeting Minutes from the Consent Agenda for minor editing on page 2, under Council President Report to strike “Clyde” and replace with “Daniel” and on page 7, six lines up from the bottom of the first paragraph to strike “250 acres” and replace with “16 acres”. Councilor Capalbo withdrew her motion and Councilor Thompson withdrew her second to the motion. The Council would then proceed and re-vote as follows:

A MOTION WAS MADE BY COUNCILOR THOMPSON AND SECONDED BY COUNCILOR CAPALBO TO APPROVE TOWN COUNCIL MEETING MINUTES OF SEPTEMBER 5, 2017 AS CORRECTED.

IN FAVOR: Landolfi, Capalbo, Thompson

OPPOSED: None

SO VOTED

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR THOMPSON TO APPROVE THE CONSENT AGENDA AS FOLLOWS: Set December 4, 2017 for hearing day for Holiday Sales License Renewals; Set October 2, 2017 as the date for hearing for tax stabilization request filed by Daedalus Holding, LLC/B2B Gateway; Accept the following monthly financial/activity report: Town Clerk; Approve refunds as a result of overpayments on motor vehicle taxes submitted by the Tax Collector; Approve abatements resulting from corrections to motor vehicles, campers, trailers, a real property condition adjustment and a real property that entered into the Forestry Program submitted by the Tax Assessor.

IN FAVOR: Landolfi, Capalbo, Thompson

OPPOSED: None

SO VOTED

**PUBLIC FORUM**

Harvey Buford of Oak Street and Chairman of the Conservation Commission Chairman commented that he hoped the Council would be attending the Ceremonial Stone Landscape Day scheduled for October 7, 2017 for the Manitou Hassannash Preserve Dedication.

Scott Bill Hirst of Maple Court expressed his disappointment that the Council had not come out against the proposed PawSox deal; that the State should be cognizant of the financial issues it presented and that it may impact the Town with regard to financial aid. He commented on the Chariho appropriation of \$6,000.00 for a solicitor for the school district but was told the solicitor does not attend school committee meetings as the Towns' solicitors do. Councilor Capalbo indicated he did attend upon request and lately that had been quite often.

Councilor Thompson noted that he may be there for an executive session but not the regular session. Mr. Hirst indicated he stands corrected and would check his sources. Mr. Hirst added he hoped the Council would push the topic of a management study at the next Omnibus Meeting.

**COUNCIL PRESIDENT REPORT**

Council President Landolfi reported the Council had held a Workshop on September 11, 2017 with Chris Kearns, the Representative from the RI Office of Energy Resources. He found the workshop to be informative and that the office could be used as a resource to cost out projects at no cost to the Town. Councilor Thompson noted Mr. Kearns indicated he would work with the Town on the landfill site.

**OLD BUSINESS:**

**AWARD BID RE: PHASE I - LANGWORTHY FIELD IMPROVEMENTS PROJECT**

This matter had been scheduled to discuss, consider and vote to award a bid for Phase I of the Langworthy Field Improvements Project to Yard Works, Inc., of Warwick, RI in the amount of \$545,500, financed through RIDEM and CDBG grant funding.

Mr. McGarry reported this is a long term project; that Jim Lamphere and CDBG Coordinator Geoffrey Marchant had done a great deal of work on. The advertisement had been placed on the Providence Journal on June 11, 2017 and the Town received four bid proposals, with Yard Works, Inc. as the low bidder. Town Planner James Lamphere was present and explained that follow up had occurred on the low bidder Yard Works, Inc. whose bid came in at \$471,600.00 and whose past work included working for Gilbane. He stated there were three optional items: #1 - Playground area rubberized surface; #2 - 8” Loam topsoil overlay and; #3 - Bluestone tread stone veneer steps. Funds are available to cover two options: the playground area rubberized surface - \$59,500.000 and the bluestone tread veneer steps - \$14,400.00 for a total of \$545,500.00. Mr. Lamphere indicated the remaining option: 8” of loam overlay could be revisited later and they also may decrease the amount. Councilor Capalbo was pleased the project was moving forward and she thanked all involved for their work.

Councilor Thompson noted the two optional items would need to be included in the motion.

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR THOMPSON THAT THE HOPKINTON TOWN COUNCIL AWARD A BID FOR PHASE I OF THE LANGWORTHY FIELD IMPROVEMENT PROJECT TO YARD WORKS, INC. OF WARWICK, RI IN THE AMOUNT OF \$545,500.00 WHICH INCLUDES ALTERNATE #1: \$59,500.00 - POURED PLAYGROUND RUBBERIZED CUSHIONING AND ALTERNATE #3: \$14,400.00 - STAIR/TREAD STONE VENEER FACING, FINANCED THROUGH RIDEM AND CDBG GRANT FUNDING.

IN FAVOR: Landolfi, Capalbo, Thompson

OPPOSED: None

SO VOTED

**STATUS OF DRAFT WIND ORDINANCE & DRAFT FARM VIABILITY ORDINANCE AMENDMENTS**

Councilor Thompson commented the Council had held a workshop in August where there was discussion held with Conservation Commission Chairman Harvey Buford, and other interested parties, on proposed Farm Viability Ordinance (FVO) amendments which included an amendment involving wind systems. She noted Hopkinton doesn't have a wind energy conversion systems ordinance (WECS). She reported she had conducted some research and had studied both the draft wind ordinance prepared by Lynda St. Amour and the proposed FVO amendments with regard to the wind aspect. She suggested it would be helpful to address the draft proposed FVO amendments first because the wind component was in there.

**DRAFT PROPOSED FARM VIABILITY ORDINANCE AMENDMENTS**

Councilor Thompson reported she had asked through the Town Manager's Office if the Tax Assessor could review in order to determine how many properties in our Town overall could have a wind turbine; the proposed FVO ordinance amendment indicates the turbines would be 415 feet tall. She stated the results show that we could have wind turbines all over Town on a couple hundred parcels; though some of them are clearly not farms. She stated there are 33 large

and intermediate farms presently on the books, 50% of those are new in the last 15 years, so there were 33 large and intermediate farms that could have wind turbines. She stated in the Farm Forest and Open Space Program, there were 111 owners of parcels that have enough acreage that could become an intermediate or large farm. To install a wind turbine under the proposed FVO amendment, they would have to become a farm and that would mean they would have to prove an income from the farm for two years. She stated that once a landowner did that they would have a right to put up a wind turbine. She stated she favored the other proposed amendments to the FVO and, she wants to work with them to find another way to help the farmers, but she did not think this way would be good for our Town and she does not want a wind energy conversion system ordinance at this time. She supports an amendment to the District Use Table banning wind turbines at least until such time as they come up with better and shorter turbines. Councilor Capalbo stated she agrees with the other proposed FVO ordinance amendments but without the WCES component, now. As far as wind goes, she likes wind and feels the turbines were elegant, efficient and a useful alternative energy source especially for farms and noted she had an opportunity to see those that were located in Minnesota, Wisconsin, Montana and Wyoming, the Dakota's and Canada this past summer. She felt they were clean and elegant; animals can roam, wheat and corn can be grown almost right up to them so farmers can use almost all of their land. However, she stated the issue in Rhode Island it is a densely populated State and very unlike the States she saw out west. There is not a lot of vacant land or space between communities, towns, cities and people like there is out west. She felt wind has some drawbacks that she will address when addressing the draft wind ordinance. She supported taking the wind component out of the proposed FVO amendments. Windmills are a problem for small farms and densely populated areas, aesthetically and because they need an enormous amount of space between to be efficient and allow the wind to not be disturbed. Council President Landolfi commented on the proposed FVO ordinance amendments from the Conservation Commission. He had a couple of concerns. He felt bringing the crop farms down in size from 5 acres to 1 or 2 acres is an issue for him as he feels that is too small. He is interested in finding ways to help

the farmers and he supported the amendment that would increase the retail floor space. As it pertains to wind turbines, he noted he used to do some farming himself when he was in high school; he was not sure about including wind turbines and felt there has to be another way to help the farmers. He understands their perspective but he is concerned on how many wind turbines would be allowed across Town. He felt the Council should tackle the wind ordinance separately. All were in agreement that they did not support the wind turbine component in the Farm Viability Ordinance.

### **DRAFT WIND ORDINANCE**

Council President Landolfi noted he was aware of Councilor Thompson's position on the wind ordinance so he asked Councilor Capalbo to provide her comments. Councilor Capalbo stated she reviewed the two proposed ordinances as it pertained to wind and she felt there were a couple of things that need to be dealt with. She referred to the FVO Sec 5.5.8 Farm-Based Wind Energy Conversion System under Planning Board review; she indicated she liked the documentation requirements in (1) through (6). In the next section under WECS facility (1) Siting in a manner that generally minimizes any sound impacts on surrounding properties....she felt that would be easy to do as it would be in the middle of 16 acres. (2) Siting in a manner that generally minimizes flicker....she felt there should be no flicker on surrounding properties except for the farmer who places it on their own property, but there should be no flicker on surrounding properties at all. If there were long shadow lines at dawn and dusk, you just turn the turbine off. She explained Hopkinton is too densely settled to allow flicker on surrounding properties. (3) Maximum height of WECS to be 400 feet....she stated the wind turbines are typically 415 feet to 450 feet; although they they may be smaller, but that might not be reasonable. (7) To prevent unauthorized access, the facility shall be enclosed by a perimeter fence of no less than six feet high....she stated a fence was not needed. She noted no wind turbine she saw out west had any fencing; it was not needed as there is 12 feet of open space directly around the turbine, there is no inverter, no transformer, all utilities were underground; it's just the pole. (8) Exterior lighting to comply with all lighting ordinances....she stated lighting was not needed, she did not see any wind turbines with lighting nor

did she see any little utility buildings on the ground near the towers with lighting. Under the Operation and Maintenance plan (3) Lighting limited to what is required for safety and operational purposes....she stated that would be what is required in the air space for planes, but she herself did not witness this kind of lighting on the turbines. She reported that she did see a damaged wind turbine from a tornado when she was out west where the blades had been broken and were hanging down in sections so she felt there should be a requirement that damage be repaired in 60 days and include that under Operation and Maintenance. Councilor Capalbo went on to address the draft wind ordinance on page 15, L. Lighting.... she stated no lighting was necessary. She added that she felt the problem from flicker and damage would be very important problem areas to address. On page 17, A. WECS for residential use as an accessory is permitted in R-1 and RFR-80 zones.....she stated wind turbines should not be allowed in an R-1 Zone under any circumstance. On page 9, E. Location Standards (1) mentions a blade diameter not exceeding 9 feet.....she suggested that may be length not diameter. Same page F. Building Mounted WECS..... she questioned why in the world anyone would want a wind turbine on their roof and felt in a densely populated area, they should be banned. On page 10 (2) Guy wires.....she added there were no guy wires on any of the turbines she saw and she felt guy wires should be not be allowed. Same page (5) Visual Impacts, evaluation of shutter and flicker effect.....she felt there should be no flicker off the property onto neighboring properties, only on the property where the turbine is located. Page 11 (6) Height.....she stated as it pertains to the Special Use Permit findings, the height could be exceeded by demonstrating that additional height was needed and did not create adverse impacts.....she stated if people were opposed to them, they would always create adverse impacts. She did not think that was of any value in the ordinance. On page (8) Unauthorized Access.....she stated there was no reason you could not go right up to a wind turbine. These were Councilor Capalbo's comments about each draft ordinance. She stated even though she liked wind turbines, because Rhode Island is so densely populated with many scenic vistas being part of a New England State, she feels it would be difficult in a country environment and you would want to be cautious in scenic areas.

Councilor Thompson did not feel the Town needed a draft wind ordinance if there was a ban on Wind Energy Conversion Systems in the District Use Table.

Councilor Capalbo's position is that the State may decide it would be legal for everyone as they have done with solar farms, so it would be advisable to have studied a wind ordinance and place in it what we want it say to determine what they would be; but she did agreed with Councilor Thompson that it would be a major problem here even though she thinks they are lovely. Council President Landolfi stated the only thing that was Statewide enabling was the taxation portion and was not so sure that the State told each town they had to have solar so that may be a moot point. He noted the wind ordinance should be discussed further when the rest of the Town Council members can be present. He referred to the memo from Tax Assessor Liz Monty regarding some of the concerns that the Council was having with solar taxation from a development standpoint having the farmer bear the brunt of the taxation formula. He stated he agreed with Ms. Monty; that if it can be passed on to the developer, then the farmer won't bear the brunt of the expense, the developer will and we would win as a town too. Tax Assessor Elizabeth Monty was present. She felt it would be helpful to pass on this information and noted one issue is that solar is new so there are opportunities and challenges. One challenge could affect our struggling farmers is the value of the land under the solar array on the farm which would be assessed at the typical "Commercial Solar" value of \$45,000 per acre vs. the Farm value of \$300.00 per acre. She reported she is getting questions from farmers who've received potential agreements from Solar companies, where the Solar companies will put in writing on the agreement that they will pay any amounts of tax over the original tax amount as a result of the solar array coming in. So if the farmers have consented to an agreement ahead of time in that fashion, then there is no reason why we cannot assess in the proper way, at the commercial rate, because it is a commercial activity that is occurring on that land. She wanted to pass this on and felt the farmers have a right to know this and that they can ask this of a Solar company if they had not already done so. If they already have an agreement in place and it does not include this in the agreement, then they will have to pay the difference in taxation. In that case, perhaps the Council could somehow exempt

them on a case-by-case basis. She did not feel the commercial solar value was something to be afraid of but something to be aware of and how they should move forward. Council President Landolfi confirmed it would be how to structure it. Ms. Monty responded, yes. Councilor Thompson commented that her memo; that if a farm is approved for a commercial solar array, then the value of the land would be assessed at the commercial rate of \$45,000 per acre; in the Farm, Forest and Open Space Program it is assessed at \$300.00 an acre; a big difference. Ms. Monty noted per the new legislation at the State level, if they have enough acreage to be in the Farm Forest & Open Space Program, taking some of that acreage out for solar would not hurt them relative to staying in the Farm Forest & Open Space Program. Council President asked about the acreage requirements. Ms. Monty responded it was 15 acres for intermediate and large farms; to go into the Farm Forest & Open Space Program it is 10 acres; for simply a farm it is 6.84 acres explaining that would be 5 acres for the active farm plus acreage for the home site. Council President Landolfi felt this was a win-win for the Town and the Farmers. He hoped that any farmer that may have entered into a contract already who may be able to amend the agreement or the Council could consider it up on a case by case basis. Mr. Buford indicated he was aware of farmers that have had written agreements that had been made already that included the solar company paying the difference of \$300.00 to \$45,000.00 to be dealt with by the company leasing the land. He is concerned there may be some farmers that don't know with agreements in place. Mr. Buford asked if that memo could be circulated to the farming community. He noted the proposed FVO amendments were a last best effort with some of the larger farm landowners, as he fears the Town will lose some farms. He noted wind turbines generate a huge amount of energy; a single tower can power hundreds of homes; a few of them would power the whole town, and then we can get away from fossil fuels. They are 1.5 megawatts each. He suggested perhaps tailoring so it will work the farmers so they can keep their large tracts of land and tailoring the requirements it so they are spaced well apart. He added that zero flicker may not be a reality because at sun up and sun down they will cast shadows. Councilor Capalbo stated they could be turned off at dawn and at dusk. Mr. Buford what had been proposed was 30 hours

a year and what also could be done is if it involved your property, the property owner might be able to strike a financial deal with the neighbor; then they might be willing to accept some flicker. When you back out the wetlands, do the calculations where the shadow flicker is and look at the turbulence between turbines they could be spaced 1000-2000 feet apart. He did not think it was as simple as how many 15 acre parcels or farms could have turbines and that would be the amount the town would have; he felt it was more complicated than that but a study could be done. He suggested the height of one wind turbine requires 16 acres so the density will not be huge. One example is the Marsh farm; with the 250 acres they have, they could have two turbines. He felt they could come up with ways to space them out and mentioned out West they scatter them out. Mr. Buford asked if there was a concern there would be a change to the skyline, and if that were the case he mentioned the cell towers and telephone poles around town that are unsightly, but you see them all the time. He reported the Conservation Commission was planning two field trips to Coventry to visit a wind turbine on September 26, 2017 at 5:00 PM and on October 5, 2017 at 5:00 PM on Old Sawmill Farm on Route 102. He noted the Conservation Commission will do whatever it takes to continue discussion on the wind ordinance. He expressed concern that the area could have something like the power plant proposed in Burrillville. Council President Landolfi stated the Council will kick it around some more but he would like to find another way to help the farmers. Mr. Buford suggested customizing the ordinance to come up with density, effects on property and to come up with some guidelines so we don't have a lot of them in town, because we are a rural town. Councilor Thompson stated after the workshop and her study on the subject she is not in favor of even one wind turbine. She noted Mr. Marsh spoke in favor of the two wind turbines on his property, being able to use his farmland around the turbine and that turbines were more profitable. She stated did not feel farmers will fail without a wind turbine; because they can do solar and solar is profitable. Mr. Buford indicated they could only use 1 acre for solar. Councilor Thompson stated the larger farms can have up to 3 acres of solar. Councilor Capalbo added that turbulence was a factor as well; it was not just how high they were or the acreage necessary for each; the turbines must be large

distances apart as they will interfere with each other; they must have acres and acres between them. She stated in a big State out West you see them in a row but they are not close they are spaced huge distances apart. Mr. Buford agreed there are a lot of things to consider: addressing flicker and maybe the sound so he suggested having fewer of them so they are not clustered suggesting Mr. Marsh could have one turbine instead of two turbines. Council President Landolfi pointed out two councilors are missing and he would like to hear from them. He stated he is concerned about the numbers; how many there could be and how to limit them. Mr. Buford feels one thing that can be done is to limit them to 20 turbines in Town. Councilor Capalbo indicated Ms. Monty provided up to date information on solar with regard to the underlying property value being commercial. She questioned what that would be with turbines; what is the tax ramification; the wind turbine makes electricity; is it the 1 acre the turbine sits on or is it more like 15 or 16 acres. Ms. Monty noted this was so new, more research is necessary. Mr. Buford suggested it was \$5.00 per kw. Council President Landolfi what part of that \$5.00 kw is affected, the 16 acres or the 1 acre or the fall zone. Ms. Monty \$5.00 kw is the tangible tax and then there is the land and property where the turbine sits. There was brief discussion about this but no definite answer as more research is necessary. Councilor Capalbo added that it would have to be taxed as commercial piece of property because it is the extraction of energy. More information will be required and further discussion will occur on this subject at a later date.

**NEW BUSINESS:**

**BOARDS & COMMISSIONS**

**Municipal Court Judge**

Margaret L. Steele sent in a letter acknowledging that she wished to be reappointed as Municipal Court Judge, a two year term to November 2019.

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR THOMPSON TO REAPPONT MARGARET L. STEELE AS MUNICIPAL COURT JUDGE TO NOVEMBER 2019.

IN FAVOR: Landolfi, Capalbo, Thompson

OPPOSED: None

SO VOTED

**Juvenile Hearing Board**

Martin Liese sent in a letter acknowledging that he wished to be reappointed to the Juvenile Hearing Board, a three year term.

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR THOMPSON TO REAPPOINT MARTIN LIESE TO THE JUVENILE HEARING BOARD.

IN FAVOR: Landolfi, Capalbo, Thompson

OPPOSED: None

SO VOTED

**Juvenile Hearing Board**

Sylvia Algier sent in a letter acknowledging that she wished to be reappointed to the Juvenile Hearing Board, a three year term.

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR THOMPSON TO REAPPOINT SYLVIA ALGIER TO THE JUVENILE HEARING BOARD.

IN FAVOR: Landolfi, Capalbo, Thompson

OPPOSED: None

SO VOTED

**Juvenile Hearing Board**

Julie Dumas sent in a letter acknowledging that she wished to be reappointed to the Juvenile Hearing Board, a three year term.

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR THOMPSON TO REAPPOINT JULIE DUMAS TO THE JUVENILE HEARING BOARD.

IN FAVOR: Landolfi, Capalbo, Thompson

OPPOSED: None

SO VOTED

**Planning Board**

Amy Williams sent in a letter acknowledging that she wished to be reappointed to the Planning Board, a three year term.

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR THOMPSON TO REAPPOINT AMY WILLIAMS TO THE PLANNING BOARD.

IN FAVOR: Landolfi, Capalbo, Thompson

OPPOSED: None

SO VOTED

**Land Trust Board of Trustees**

Carol Baker sent in a letter acknowledging that she wished to be reappointed to the Land Trust Board of Trustees, a five year term.

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR THOMPSON TO REAPPOINT CAROL BAKER TO THE LAND TRUST BOARD OF TRUSTEES.

IN FAVOR: Landolfi, Capalbo, Thompson

OPPOSED: None

SO VOTED

**PUBLIC FORUM**

No one spoke during the second public forum.

**ADJOURNMENT**

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

SO VOTED

Elizabeth J. Cook-Martin

Town Clerk