

State of Rhode Island

County of Washington

In Hopkinton on the thirty-first day of July 2017 A.D. a workshop was held in the Town Hall Meeting Room, 1 Town House Road, Hopkinton, RI 02833 beginning at 6:30 P.M. to discuss and consider the following: Proposed Farm Viability Ordinance amendments submitted by the Hopkinton Conservation Commission.

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

Also present: Conservation Commission Members: Harvey Buford, John Pennypacker, Deborah O’Leary, Lydia Lanphear; Planning Board Chairman Al DiOrio.

DISCUSSIONS ON THE PROPOSED FARM VIABILITY ORDINANCE AMENDMENTS:

1. We allow for a limited “crop farm” of 80,000 sf minimum that is smaller than the existing entry point of 5 acres for a recognized farm.

Council President Landolfi indicated that this brings the requirements for a farm from five acres to two acres. He asked how many of these crop farms are in the Town. Mr. Buford had no idea. Councilor Capalbo asked if there was a concern that we are a rural community and that a number of people would say they had a farm to obtain lower taxes because most of our zoning is two acres. Mr. Buford said that to qualify as a farm for a tax break they needed to have ten acres. Councilor Capalbo asked if it was two acres of farmable land or included the house and any accessory buildings and really only actually could be one acre of farmable land and how exactly this is defined. Mr. Buford indicated that Festival Farm is a total of two acres and he wasn’t sure how they dealt with the zoning. Councilor Capalbo’s example was the butchering of rabbits which would be very unpopular. Mr. Buford indicated that they foresaw this as a “crop farm” and not an “animal farm” but they could be more specific. Animals on two acres could very quickly become an issue. Councilor Capalbo requested this be more specific and also how much they would be expected to make because if they were a farm she felt they should make enough money to survive and \$2,500 is not enough money for anyone to survive.

Councilor Capalbo voiced her concern that as soon as you start making farms tinier and tinier it might end up causing problems with R1 zones, residential zones and RFR80 zones.

Discussion regarding Sec. 5.5-2. - Definitions and Sec. 5.5-3. – Farm-based retail sales.

Councilor Thompson talked about the definitions of crop farm having the ability to produce farm products and they can create farm-related products. Page 3, Section (4)(b) Upon any crop farm, as defined herein, the retail sales activities listed below are uses permitted by right. There is 80,000 sf and this allows for these two items (farm products and farm-related products) to be allowed on a crop farm. We need to think about what would be allowed on a crop farm and maybe there would be a separate definition for the crop. Do we really want 80,000 sf for agriculture, silvicultural (related to trees) and aquacultural. There is a lot there. Down below on the same page in **Sec. 5.5-2. Farm supplemental dwelling**, it appears that this would also be on a crop farm. If you are going to allow a supplemental dwelling, most of these lots are already established with their own well and septic. Are they going to have to put in another septic? Mr. Buford responded that this is only allowed on large farms, in Section 5.5-5 and you have to have 50 acres. Councilor Capalbo questioned how someone would prevent the supplemental space from becoming a rental dwelling. Councilor Buck indicated this would be like an in-law apartment and the town could see more of the problems they are seeing now. Mr. Buford indicated that this has been in the ordinance for 13 years and is not something that they just put in. Mr. Buford indicates that the only example that he could think of where this was actually used is Magnolia Ridge Farm on Tomaquag Road, they had the home and two buildings, and when this property was last purchased, it was considered that there were three houses on the property and they were able to use this part of the ordinance to allow them to have the farm. They were able to sell a couple of lots out front. The ordinance allowed them to have a farm. Mr. DiOrio indicated that zoning doesn't allow for more than one dwelling on a piece of property so how are we going to do this? You can't just write it into the ordinance. Magnolia Ridge did this under the subdivision ordinance. I don't think you can do this. Councilor Capalbo indicated that under farm related products she would include bakery products and that should be added in, along with Department of Health regulations. Councilor Thompson brought up filing form IRS Schedule F and earning \$2,500 in the previous two years, she thought it is not

fair to have that they earned this in the two previous years. This is the Division of Agriculture's decision. Council President Landolfi noted Schedule C is more doing business as and is a less formal process and maybe this would be away to get around Schedule F. Filing with the State is not a requirement.

2. We allow the new crop farms up to 600 sf of retail floor area. Festival Farm at the corner of Main Street and Canonchet Road is an example of a crop farm.

Council President Landolfi asked if they wanted to increase that square footage. Mr.

Buford said that he believed this is what Festival Farm had and the Conservation

Commission had asked farmers their thoughts and 600 sf of retail floor area was a

number they put on the table and seemed to work for the people. This is just a step up

from a farm stand. Councilor Capalbo stated in Mr. Buford's letter he used the example

in No. 3 double retail area... Mr. Buford stated this was a mistake and it should be 2,000

sf. 2,400 is a mistake. Mr. Pelloni of Pelloni Farm said that this ordinance was newly in

place when they built their store and he built it right to the 1,200 sf and they wished they

could have built it bigger at the time. The kitchen and storage space is not included in

that square footage. Council President Landolfi indicated that the zoning requirements

are still in place and they will have to go through the proper zoning requirements to

proceed. They have to comply with parking requirements and any other necessary

requirements.

Councilor Capalbo inquired as to **Sec. 5.5-4. – Farm-based light manufacturing.** She

wanted Mr. Buford to discuss the idea that the applicant is different from the individual

partnership or corporation that has filed with the Feds for the farm, who this person who

is not an individual, partner or corporation who does not live in the town and what

exactly do you mean by light manufacturing. A problem she foresees is marijuana

growing in RFR80 and farms. She is very concerned about the retail, the farm products

and being able to sell it when it incorporates hydroponic marijuana growing in an RFR80.

Councilor Capalbo believes we have to ban marijuana growing in both R1s and RFR80s

before we can move on with the farm viability reviews. If marijuana is allowed in the

agricultural area there are going to be Mary Jane parties everywhere and retail and

bakery. This is a major issue. She would like this to be put on hold until this can be

banned from RFR80 and farm zones. Councilor Capalbo indicated that machinery and

other materials are being hidden from the public view by ugly storage trailers and she

doesn't like this and doesn't think this is appropriate. Also she believes the time for operation shouldn't be 7 a.m. to 7 p.m. and that 8 a.m. to 5 p.m. would be more appropriate. Councilor Capalbo also believes farm-based services and farm-based products are not the same.

Council President Landolfi wanted the meeting to stay on point and go through the changes as they intertwine with the ordinance. Councilor Thompson questioned Sec. 5.5-5 where it discusses the maximum density of farm supplemental dwellings and it was decided that this would be sent to legal for their opinion. Councilor Buck had concerns about this and what would happen 10 years down the road. He is worried about people circumventing zoning as they have done with in-law apartments. There isn't enough manpower to check these things. Mrs. O'Leary was of the opinion that the State will come in and decide for us if we don't have something in place. Councilor Capalbo said almost all of our farms abut up to R1 zones and she is not against it in a manufacturing zone. Councilor Thompson wanted to know if marijuana was a farm based product or not. Mrs. O'Leary said that there is a whole grow hemp industry. Councilor Thompson said that marijuana should be not labeled agricultural and allowed to grow on a small farm. This is a section that should have legal review.

Council President Landolfi recapped that they needed more information regarding (1) the square footage being reduced for the farms. He supports (2) and (3), the additional space of retail floor area and retail sales area if zoning allows it. No. 4, we don't have a wind ordinance yet. This uses less land than solar.

Councilor Thompson asked why are they looking at wind, is it more profitable, more manageable? Why do farmers prefer it to solar? Gary Marsh indicated that it takes up less land; it pays more money than solar; it generates a lot more power because it takes up less land; and, they can plant their crops right around it. Councilor Thompson wanted to know if Mr. Marsh had any statistics regarding the wind turbine such as how high? Mr. Marsh indicated that they need something to compete with the big dairy farmers who do dairying and something else. They have to look for alternatives. He noted his farm is in the woods and can't have a farm stand. They would like to have the farm and wind turbines to make electricity. Councilor Capalbo thinks this wind provision shouldn't be in the farm viability ordinance. Mr. Marsh believes that in reality wind power would only be on farms because they have the land. He indicates that on his farm of 250 acres

he could only have two turbines. The turbines cannot be near each other and they must be a certain distance apart. Councilor Buck asked what happens if you stopped milking – now you would be energy production and milking – what happened if Mr. Marsh was to stop milking cows. He talked about the Heartwood Farm and the Gray Farm, the latter of which is now a driving range. Councilor Thompson asked what happens if someone puts a windmill up on a farm and then wants to sell the farm and the buyer wants to put houses up. How close can the houses be to the windmill? Does that make that whole piece of property unusable? The wind consultant who worked with the Conservation Commission, Hannah, indicates that it is really as close as people want to live next to it. Every farmer that she has spoken to in Hopkinton indicated that they are dedicated farmers and this is not the point of the ordinance. Nothing is built due north to the turbine. There are no houses built in the fall down zone (400 feet by 800 feet across or 15 acres or so) of the turbine except for the owners. So other than that you can build around it. Mr. Buford indicates that the ordinance doesn't allow anything else in the fall down zone. This is really a temporary form of farm, forest and open space protection. Councilor Thompson would like to see that they look at the draft 2011 wind ordinance. She suggested that planning look at it as well as what Mr. Buford had prepared. She didn't believe anything 400 feet in the air was allowed. Councilor Buck indicated that the 400 feet was the crash zone. Hannah indicated that the smallest certified wind towers are all 415 feet tall. The tower itself is 280 feet tall with the blades adding the additional height. The FAA has a process that they have to go through. Portsmouth has a tower that is 415 feet at the high school and the one at Portsmouth Abby is smaller but that is older technology that has a gear box. Councilor Capalbo thinks wind is an interesting way to go but there needs to be a separate ordinance and they should start with the 2011 proposed ordinance and see how it dovetails with everything Mr. Buford has done in the Farm Viability Ordinance, it is a good thought, and she thought the Council is open to that, but he should look into it then see how we can get this accomplished. Mr. Buford felt with wind included in the Farm Viability Ordinance there would be less of a rush to put turbines up because there are not a lot of farms that will qualify for this. He indicated that right now there is no limit on how much electricity from these alternate sources you can put into the grid because it is not as easy as a typical power plant to turn on another burner and produce more electricity at the time you need it, so there might be some

competition between the solar energy and wind energy. In trying to compare them, a 1.5 megawatt wind turbine produces approximately the same electricity as 8 or 10 acres of solar panels. Councilor Thompson questioned if you take the same space (the same amount of land) required to install a turbine, how much electricity would that produce compared to if you installed solar panels for the same space. Did you just say you would produce the same amount? Hannah said she doesn't believe so, it would produce more. Solar is very modular so you can make it as large as you want, but we have 1.5 megawatt turbines and 3 megawatt turbines. Our 1.5 megawatt turbine in Coventry is producing roughly 3,000,000 kilowatt hours a year; for the same production in solar you would need 8 to 10 acres. We don't count the fall zone for this is completely usable land. Landowners can use this property. Councilor Thompson recapped that if you use the same amount of land for solar then you can't use it for crops, but if you use the same amount of land for a wind turbine you could still use the land for crops. The wind turbine requires a lot of land but doesn't occupy a lot of land. Councilor Thompson asked how the wind is here. Hannah indicated that if you go up high enough there is wind. In Rhode Island there is net metering which means you are off-setting someone's use it is not like a power plant, you get reimbursed financially for power and it is more expensive in New England. During construction of the turbine they take down trees but they put in low growth if it is forested, but even on farms where it is wide open already, they get mad if you need a couple of acres, they don't even want you to disturb that. Mr. Marsh was approached by a solar company but he wouldn't give up the acreage. Mr. DiOrio indicated that the wind is good in Hopkinton and we can get above the tree line which is good, so how do we get to 400 feet? Hannah indicated that they do have to get to 415 feet if this is something that the Town is serious about otherwise they would get towers that are modified and would not have the same certification, which does compromise the warranty of the machines that you get. Mr. DiOrio asked why it couldn't be 200 feet. Hannah indicated that this is not an option because they don't produce the amount of electricity to make the project work. Councilor Capalbo asked if that was because they weren't tall enough. Hannah indicated yes and they do not even make turbines that are that small anymore at commercial scale. The 1.5 turbines that they are installing in Rhode Island are the best or latest built technology in the world. The German company actually licenses their technology out to other companies and they are done developing

the 1.5 megawatt turbine. They have gotten to the point where it is reliable, it has a very long warranty and they are building 3 megawatt projects now and they are trying to go to 5 megawatt turbines. The 1.5 megawatt turbine is the bottom grade of the sweet spot where it makes sense. They are direct drive turbines and there are multiple factors that define how a wind resource becomes productive and one of them is roughness. There is the ground, and then there is an artificial ground, angling the uphill and trees and things to make the air rough and turbines do not use that air wisely so that is why it has to be up in the prevailing wind and that is the reason why the footprint is so small because it is up in the air where it is actually making energy. Council President Landolfi asked if the wind turbines that have been popping up around Rhode Island, are they all net-metered. Hannah indicated that five that she knew of were in the Renewable Energy Growth Program, which is the program where National Grid buys the energy, but she believed that most of them were net metered. Council President Landolfi asked if net metering is what the farmers in Town wanted or was it actually revenue. Hannah indicated that they would receive the lease payment so it is actually remote net metering. A company would buy the power from a turbine. There is a tangible tax of \$5.00 per kilowatt.

Councilor Buck asked about noise. Hannah indicated there was a permanent magnet and there was some noise but not mechanical noise just a whoosh. Councilor Buck asked what is the decibel limits or noise level at the 800 foot mark or 400 foot mark. How far away are you going to hear that noise? It is not like something that can be shut off. Hannah indicated in the ordinance it is regulated at the property line or at a receptor. This will prevent turbines from being somewhere where the neighbors will be bothered by the noise. Councilor Capalbo indicates it is 45 decibels at whatever the official limit is or to the property line or area in control of the wind turbine and as an example in Coventry they know where a neighbor was paid some money to put up with some flicker or noise. Councilor Capalbo indicated that there is 24/7 noise but it wasn't an obnoxious noise. Mr. Buford indicated that the best way to understand this is the wind turbine occupies zero space compared to the equivalent of 10 acres of farmland would otherwise do with solar. This is a huge argument in favor of wind and there was no loss of 60 acres of trees. Councilor Thompson indicated that in 1951 there was a big fire in Arcadia up to Lawton Foster and it took a very long time for trees to grow back. Gary Marsh indicated that size matters in farming. They started figuring out how wind mills replaced 100

cows. So I would have to have 100 less cows to get where I'm going. Councilor Capalbo spoke regarding the Lewis Farm who cut down 150 acres to plant hay and corn. Mr. Marsh needs 1 full acre per cow to feed. That's why he likes the wind turbine which takes no space and you don't have to have as many. Councilor Thompson indicated that they used to hay every little field in Town. Council President Landolfi indicated that by keeping wind in the Farm Viability Ordinance this might limit turbines because they would need so much land. Councilor Buck doesn't think he would like to see wind turbines. He doesn't feel this is consistent with the country character, but having Mr. Marsh put this on his property in the back somewhere, with the amount of land that he has, where it cannot be so easily seen, we could test the waters. Councilor Capalbo indicated that across the board with Planning looking at this and whether it be wind or solar, it is best to have these tucked as far back as we can and try to keep it masked so people don't have to look at them. Councilor Buck said to look what was done at Exit 1 with Ray Quinlan's building. We wanted to develop manufacturing in the area so the businesses that were put in there were all tucked away so it doesn't have to change the character. He wants to keep Ashaway and Hopkinton as rural as possible and he really doesn't want to see solar or wind turbines every day. Councilor Thompson indicated that she likes the idea of this being a stand-alone ordinance; Planning should look at the 2011 ordinance and what is in the Farm Viability Ordinance and combine the two. Councilor Thompson questioned Mr. Buford whether there was anything in what the Conservation Commission has for wind that is not in the proposal. Councilor Buck asked what the life expectancy of a wind turbine was. Hannah indicated 25 years. She indicated that she hasn't seen the proposed 2011 ordinance, but there have not been any wind turbines installed in Rhode Island since 2011, so things have changed. So the proposed 2011 ordinance is proactive and the Conservation Commission's proposed ordinance is more reactive, rather than picking from literature; the work they have done is current. Councilor Thompson questioned what happens when a turbine breaks down. Hannah indicated that the turbines that are being built in Rhode Island now, the manufacturer actually moved their operation and maintenance office for the United States to North Kingstown. They have garages full of spare parts. The turbines have 10 year warranties with options to extend. If the turbine is down for any reason the manufacturer pays the owner of the turbine the entire time that it is down and they pay it at a premium so there

is a lot of motivation for them to repair it. The fleet across the world is running at 98% or 99% availability all the time which means they are available to run at almost all the time. There is no gear box. The Portsmouth turbine was taken down and a permanent drive turbine was put up.

Mr. Buford indicated that they covered four categories, two of which were related to the crop farm. The consensus was to separate out the ordinance for the wind and to ease into it. He would love to see the farms get the first crack at it for it would make a huge difference to them. Councilor Thompson indicated that she had read about five or six years ago an article in the Westerly Sun about what North Stonington was doing for their farmers. It seemed that they were very proactive. She is curious about some of the things they have done for their community. Councilor Capalbo indicated that she had called but the people she spoke to didn't know where to find it. Mr. Buford said he spoke with farmers who were speaking with other farmers. Councilor Thompson commented that solar takes down trees but it can be tucked away and the wind turbine can be seen. She questioned whether this is something that we want for the Town but we also want the farms to survive. Deborah O'Leary suggested that they ask the young people what they want. Councilor Thompson suggested that this be put on the Council President's report at the next Council meeting and have word get out that they want to hear from people about this. Council President Landolfi asked if there were any other questions from the audience; there were none.

The Workshop closed at 7:55 PM.

Elizabeth J. Cook-Martin

Town Clerk