

State of Rhode Island

County of Washington

In Hopkinton on the twenty third day of April 2018 A.D., a Joint Town Council and Planning Board Workshop was held beginning at 6:30 P.M. in the Town Hall Meeting Room, 1 Town House Road, Hopkinton, RI 02833 to discuss proposed revisions to the Solar Ordinances.

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

PRESENT FROM THE PLANNING BOARD: Alfred DiOrio; Amy Williams; Joshua Bedoya; Ronald Prellwitz; Town Planner James Lamphere; Planner Assistant Sean Henry. Absent was Thomas Holberton.

Council President Landolfi started the meeting by indicating that the Planning Board had requested a meeting with the Town Council and he deferred the initial comments over to Al DiOrio, Chairman of the Planning Board to outline what was to be discussed.

Planning Board Chairman Al DiOrio wished to outline some of the Planning Board concerns regarding the solar ordinances. He indicated that the Planning Board has been inundated with applications for solar projects, both non-residential, as well as under the Farm Viability Ordinance. He was hoping the Planning Board could present the Council with an overview of their concerns without delving into the details. He stated that all comments made were individual thoughts and comments. Mr. DiOrio stated that he has worked with the Planning Board for numerous years and worked on drafting numerous ordinances for the Town. They start an ordinance with some type of vision; something that they think is good for the community. Thereafter, they craft that vision into language that eventually becomes an ordinance and that ordinance then becomes implemented and applicants begin to use the ordinance. Many times they don't really know if they got that vision right until the projects start coming in. In his opinion they had a great vision; put a set of ordinances together; they are beginning to see the ordinance implemented; and now there is a whole array of

other concerns that are presenting themselves. One of his greatest concerns so far has been the amount of clearing that is going on with these various projects. He feels there has to be a better way to get a handle on the amount of clearing that the Town is prepared to allow for these types of projects. He believes an idea might be to include lot coverage as one of the criteria that governs just how much of a site can be covered with these structures. A solar panel by definition is a structure; lot coverage addresses structures and it might be logical to include that as part of the criteria. Also, he believed something needed to be included concerning fencing. He would like to think that they have this almost under control but it seems like at every meeting the Planning Board is grappling with the type of fence, the color of the fence, the height of the fence. He wished to set forth some more precise specifications so that the applicants have a better idea of what the Town is looking for. Mr. DiOrio went on to state that the language governing land clearing is vague and needs to be strengthened. Another issue that needs attention is the criteria for the project mapping. Right now the ordinance only has a very small section on what types of maps the applicant should be submitting. The map or plan is what the Planning Board is using to render its decision and if those maps or the design scale are prepared by individuals who might not have the proper authority to prepare them or cannot certify them properly as to their precision, then the Planning Board is basing its decisions on some pretty sketchy material. His recommendation is the land development subdivision regulations have very tight criteria for the development of plans. That type of information needs to be incorporated into this ordinance and this problem should be solved. Mr. DiOrio commented on the landscaping plans which are included in the ordinance, saying that these plans need to be prepared by a registered landscape architect. He does not think this is happening in many cases so this needs to be tightened up in this ordinance; and, the same thing with as-built plans. He believes these can only be done by professional land surveyors which is not specifically stated in the ordinance and that also needs to be tightened up. He went on to state that there is a section on maintenance in the ordinance and his concern is that there is nothing that sets forth a penalty for failing to adhere to the requirements to keep the site in a proper condition or

taking it down at the end of its useful life. If there is no penalty and the applicant or owner chooses not to do this, the Town has no recourse. With regards to the non-residential ordinance, there is a section on removal and it makes a statement to the effect that the property will be restored to the state that the property was in before the facility was constructed. This section should specifically state what the Town believes proper restoration is. Lastly, he has a concern regarding the farm base photovoltaic solar energy system. He is an advocate for those people who utilize these facilities on their farm if it does something to help them out, but we need to be cognizant that just because it is called farm based it does not give everybody the right to throw all the regulations out the door because they are a farm. These solar projects are essentially a commercial use that we are allowing on residential properties. If the Town is going to allow commercial use on residential properties, those applicants need to be cognizant of that and they need to step up and adhere to all of the same regulations that everyone else does.

Amy Williams spoke next indicating that the Planning Board is not opposed to solar, they are just opposed to solar everywhere and the specific site matters a lot. Her concern is the siting of the solar projects and does not believe that they should be installed everywhere. She agreed with Mr. DiOrio that lot coverage is an issue and this needs to be very specifically addressed and defined. Ms. Williams stated that she read an Eco Rhode Island article which commented on blasting. The solar panels are attached by drilling or forcing a beam down six to eight feet in order to attach them so hurricane winds do not blow them away. She did not realize that they would have to go down that far into the ground to secure a solar panel and sometimes in order to get the posts down that far they have to blast. She has a problem with applicants coming in to Hopkinton to put in an environmentally friendly energy source and then blasting over an aquifer. She does not approve of applicants blasting in order to attach solar panels because she believes that is the stewardship of Hopkinton is to protect the wells. Another concern that has been brought up numerous times is the environmental impact that these solar projects will have on wildlife migration and habitat changes. This is not so much a concern for the one acre parcels but the larger projects where they are going to put a fence around 70 or 100 acres of land. She believed that was

really going to impact the wildlife, so she would like to have included in the ordinance that a study needs to be done. Ms. Williams went on to state that something also needs to be included regarding noise. Do we care about noise at the property line or so many feet from the inverter? This should be specific. The vegetative buffer is really important but it should be noted what they mean by that width. Is the Town going to allow 15 to 20 years for the trees to grow large enough that the neighbors aren't going to see the solar panels or does the Town want there to be vegetative buffer on year one or six months out? The Planning Board asks every applicant to have these panels six inches off the ground so this might as well be stated in the ordinance. Lastly, Charlestown has a proposed solar ordinance where they wanted to include pollinator grasses and this is the idea that people will put the solar panels in and plant grass as well as planting something that would be good for bees and allow for more pollination to occur. That is seen as a way of softening the environmental impact. She wished to have some thought as to the type of plantings that they will ask be done at these sites. Ronald Prellwitz spoke about some of the good aspects of the solar panels and green energy. He indicated that he liked small wind turbines but the larger industrial turbines he did not like. He stated that he and his wife owned a house in Maine which is 12 miles from the nearest wind farm and on a clear night they can hear them. He believes the ordinance is good but as both previous Planning Board members had indicated, they could be a little more specific. Council President Landolfi asked if there was anyone in the audience who wished to speak concerning what the Planning Board members had discussed.

Ken Brasier of Maxson Hill Road spoke concerning the site proposed for Maxson Hill Road. He stated that the main thing a solar panel needs is open sky and sun; rather than think about how many trees need to be cut down, make that number zero. Trees generate oxygen and we need that. There is too much pavement north of us that isn't generating anything but bad runoff of water. So if you have a nice flat piece of land with no ledge underneath it that is not going to be disturbed by blasting or pounding, not going to disturb an aquifer, has a clear view of the sky, can have a buffer of vegetation put around it afterwards so people don't have to look at these ugly things forever, then that is a good site for solar. If

you have a hill that is going to cause runoff into a major throughway of our community; has loads and loads of trees on it as well as wetlands and ledge; that our underground water runs through; that is not a good place for a solar project. These entities are LLCs that are proposing to do this, which means limited liability. He wants somebody to stand up and say “I’m the guy you sue if your well goes dry,” but they will not. He requested the Town take that into consideration, that some sites are not good sites for solar. He finished by stating that there are 11 deer that wander through that property on a regular basis.

Harvey Buford suggested that the Town work on a more diverse mix of green energy and the Conservation Commission is in support of wind energy for people and would not need to cut hundreds of acres of trees and that could be a way to custom fit a project to a site. Certainly for the farms the idea of putting in a wind turbine and not giving up their property is something that will make a huge efficiency in what farms can do.

Cassandra Ogren of Hopkinton Hill Road spoke about the characteristics of Hopkinton and the wildlife that is in the area. She stated that she works for a nature center and feels green energy is important but believes we should think about the wildlife and locations where not a lot of trees need to be cut down.

John Pennypacker stated that when he thinks about solar and renewable energy in our town, he thinks we should find a place to put it up on land that is not easy. It is really easy to cut down 80 acres of trees. Possibly there could be some type of financial incentive. He stated URI is putting solar panels on a capped landfill; rather than driving those pilings into the ground they are going to build them on concrete; that is a super fund site and you can’t build anything there ever so they are going to capitalize on that. The Stubtown Road landfill facility has been discussed as a possible location but it has been mentioned it is too costly to run the wire. He indicated the reason that it is too expensive to run the wire because it is cheaper to cut down trees. If it cost a lot more money to cut down trees then it would be quite affordable to run that wire. He indicated that asphalt shingles of rooftops are not particularly beautiful, neither are telephone poles, but he has gotten used to the way they look. When he thinks about what makes Hopkinton, Hopkinton, it is not about the trees, but what the people and the community have

done to it, so it is the way we have shaped our landscape that makes it charming. He would rather see green energy implemented in a way that co-exists with the landscape and helps people to survive and thrive in the area rather than giving up the natural resources.

Rick Mandile of SAGE Environmental representing RI Solar Renewable Energy asked the Board to consider thoughtful solar developments in the Town. He indicated that 99% of our forests have been harvested on multiple occasions. Most of the tree canopy that we see is less than 100 years old. He believes that the Town has more forest here now than in the past 150 years and with that forest cover there are negatives and positives. He stated that the community experiences a more robust and diverse wildlife habitat when there is a patchwork of environmental communities such as forests, fields, farms and open spaces, and that value has been called out specifically by the recently passed Great Thicket National Wildlife Refuge System. This specifically seeks to conserve, manage and maintain shrub land and young forest habitats which provide food and shelter for many animals. As the forest cover thickens we will lose habitats for these animals. They are proposing to the Council and Planning Board that they have an opportunity to realize some of the goals particularly of the Great Thicket National Wildlife Refuge, a piece of which crosses the southern end of Hopkinton and much of the coast here in southern Rhode Island. He felt there is an opportunity to actually create and utilize a solar farm as a habitat for these rare and endangered species. They can specify those plant types, shrubs, nesting boxes or portals in the fence that allow the cottontails and box turtles to utilize this oasis. Another benefit to a properly fenced solar farm is that it keeps deer out so they cannot eat the plants species and shrubs that these endangered species need. They suggest that the Town consider requesting or requiring as part of a thoughtful process in which they would consider solar farms, that they include project wildlife enhancements in the form of enhancement plans, as well as a forestry restoration plan at the end life of the solar farm. He requested the Council and Planning Board be very specific about what they were looking for. Within an active management plan for a solar farm and thinking about using this solar farm as a wildlife habitat oasis, part of that process is plant selection, proper fencing

design, proper drainage and site selection, as well as a mowing practice selection and nesting boxes both in the farm, around the farm and in the surrounding forest. Ms. Ogren questioned if plants would grow in a solar farm and Mr. Mandile responded that you have to properly design it as in panel height relative to your plant species of what you want in the farm; what makes sense in the farm given where it is in Town, such as very close to the coast or further inland. Mr. Buford questioned if Mr. Mandile included any examples in his report where this had been done successfully. Mr. Mandile indicated that he put in examples that he pulled from literature and stated that he has worked with a number of wildlife habitat people who have done this type of work but more with regard to restoration of contaminated sites. Mr. Buford questioned if the plantings could be put in the space between the panels or around the parameter. Mr. Mandile said it could be put between the panels depending on the plant species. Mr. Brasier stated that some native species of plants in less forested areas need the sunlight and if they put up solar panels they were in effect putting up an umbrella. They asked how much success Mr. Mandile believed they would have. Mr. Mandile indicated there have been a number of examples of good planting in a solar farm. Mr. Brasier went on questioning use and ease of maintenance. The Planning Board has been asking applicants, “who is going to be responsible for maintenance? What if you don’t maintain this? Does the Town get reimbursed for having to maintain it?” He stated that the concept of thicket to him meant hard to walk through. Mr. Mandile stated that the Great Thicket goals are such that they are trying to foster plant species for those rare and endangered species. Mr. Brasier stated that he was not saying that the goals were at fault, he was saying that the reasonableness of achieving those goals in the environment that they were talking about is suspect. Mr. Mandile indicated that it has been done and can be done. Mrs. Debigare asked about plants such as honeysuckle, blue berry bushes, etc. and other endangered plants such as Lady Slippers, Creeping Jenny and Princess Pine and how were they going to replace these? She stated that all of these plants were ground level and how are they going to replace what they are digging up? They cannot replace or balance out what they don’t see. Mr. Mandile stated that they would do a front end assessment. Mrs. Debigare asked

how long these solar projects last and Mr. Mandile indicated that he was just the environmental guy.

Jeffrey Hanson, President of Mill Stone Energy and indicated that he was present representing Anthony Delvicario of RI Solar Renewable Energy who asked that he speak on their behalf regarding potential thoughts to revise the ordinance regarding solar farms. He has been the chairman of the Scituate Planning Commission for 25 years and he understands the process of drafting ordinances that work for the community. He also agreed with what Mr. Mandile had stated that a no-cut policy of a forest was not doing the forest, the habitat or the Town any good. They need to be maintained and diversified within the Town.

Anthony Delvicario spoke concerning the use of an LLC but stated that it is still him personally, and he wished to answer several of the questions that had been brought up. First, he stated that they only use solar panel manufacturers who guarantee their lifespan for 25 years and they have to be guaranteed or you would never be able to secure financing. Investment institutions are very cautious about financing these projects and wish to have the lifespan of the panels guaranteed. One of the most important things is the maintenance of the panels and these will be maintained for the life of the project. The requirements and guidelines are very strict in order to yield the energy that they need in order to pay back the financing on these projects. He has heard a lot of people talking about the cutting of trees and what it means, and he was hoping, by having these other individuals speak, to introduce a discussion about what the developer can do to help take the sting out. He would like these applicants to do positive things by hiring a company like SAGE Environmental to prepare an analysis of habitat, prepare a plan of basically what he would need to do in conjunction with a decommissioning plan, do some type of a reforestation plan that sets aside monies in escrow so that in thirty years from now that money has earned interest, we have a plan, and at the point of decommissioning you have the money and the plan that has already been approved. Even if we are not around then, the Town will still be here to assure that this gets accomplished. Also, when preparing the solar park you can plant different species of bushes and plants to support the habitat and sustain the wildlife. He is suggesting a co-existence between the environmentalist

and the concerns that have been raised, to deal with some of these issues. At the end of the day a solar farm does sequester a good amount of carbon and it is good for the environment. The Governor has set a line of goals of what she is looking for from the State of Rhode Island and this works toward that goal.

No other audience members spoke concerning these ordinance amendments and Council President Landolfi deferred to the Council for their comments. Councilor Thompson indicated that she had heard some very good ideas such as setting the size of the land used for solar farms, defining those sorts of things regarding lot coverage and fence issues. The solar ordinance needs to be looked at so that regulations that are important are in there and the ordinance tightened up. She stated that the blasting issue is a problem. She felt there had been a lot of good suggestions from everyone and that they are at a point where they can amend the ordinance and make it better. She believed they would need another workshop where they narrow the suggestions down. Councilor Buck stated that Mr. DiOrio had indicated that the Planning Board members were going to get together and put all of their suggested changes together in order to tighten up the ordinance. He felt that this would be really helpful to the Council as they did not deal with the ordinance like the Planning Board does. He indicated that he would like to see a synopsis from Mr. DiOrio of the problems they are seeing and asked if they could delve into these issues a little bit deeper. Mr. DiOrio asked if the best way to deal with this might be to come back to the Council with an amended ordinance wherein the Planning Board's ideas would be inserted into the language so the Council would have something concrete to deal with. Council President Landolfi asked Mr. DiOrio if he could take into consideration some of the comments made by people in the audience; the environmental engineers and neighbors. Mr. DiOrio presumed that the revisions to the ordinance would be the subject of a Planning Board workshop at which time anyone who wished to bring something forward could. Councilor Husband indicated that he doesn't have any real qualms with the Governor, however, she says she wants 1,000 megawatts by 2020, but she hasn't offered even one acre of State land to put up solar panels. He thinks at some point the statement; "too much of a good thing" takes effect. Recently there was approved a major solar farm on Route 91. The Town is going to lose 32,000

trees for that solar farm. He believes there is a limit of how much of these projects we want to have in this town. A lot of people live in this town because they like the town as it is and seeing dairy farms and woodlands. Blasting is also an issue of his. He believes the ordinance should state that anyone wanting to put solar panels in has to obtain additional approval through an ordinance saying no blasting without permission. If they approve even a one acre solar panel operation, they need to ask where they are going to put it. He doesn't want to see these and he believes the neighbors don't want to see them. He feels there should be a limitation on acreage as far as how many acres are used for solar panels and for an example he stated if someone has one hundred acres he believed they could use thirty acres for solar panels. Thereafter, he felt the rest should be given over to the town or an easement should be placed on the remaining property saying no further development on that property. He hates the fact that all the trees are being cut down. He believes that there are certain places in the town which are good to put solar operations or wind turbines, however, he calls everyone's attention to the comprehensive plan which lets everyone know that the area around them, should it be residential, is going to stay residential and not have big solar farms or wind turbines put there. If you buy a house in a commercial or industrial zone you have to understand that there may be a Cumberland Farms, gas station or 7 Eleven built next door to you. He sympathizes with people who live in residential areas who see forested areas across the street which they understood may someday become houses, but now someone is requesting a zone change to light industrial for solar panels. He believes we are being overwhelmed by solar projects in this town and he is very disturbed by this. Council President Landolfi thanked the audience for their suggestions and thanked the Planning Board for bringing their concerns before the Council. He stated that it seemed abundantly clear that we have to responsibly amend this ordinance and the next step should be for the Planning Board to add some verbiage into the ordinance to reflect their concerns and then have a workshop and bring a draft format to the Council for their review and maybe have another workshop as a joint workshop. Mr. Brasier indicated that the process of amending the ordinance will take time and he wished to suggest that during this time no new solar projects be approved until the

amended ordinance is drafted. Town Solicitor McAllister stated that technically it was illegal to do that and when an application is filed it is subject to the ordinances that are in effect at the time it was filed. Councilor Buck asked the Solicitor if the town could put a moratorium on any new solar projects and Mr. McAllister stated he would have to look into that. Town Solicitor McAllister indicated that there are State and Federal laws that may supersede the discretion of the Town and he would have to look into this further as it is complicated. Mr. DiOrio stated that this would only be for a limited time and he couldn't believe that there may be laws that would prevent the Town from creating a short term hold in the activity to get their house (ordinance) in order. He asked the Town Solicitor to research this issue. Councilor Thompson indicated that she is in favor of no blasting at all. She mentioned that the Stubtown Road landfill project is doable but it will make less money than other projects that are closer to electrified lines. Regarding lot coverage, she confirmed this involved using only a certain percent of someone's land for solar, whether it is forested or fields. Mr. DiOrio stated that they should remember that lot coverage addresses all of the structures on a piece of property and as an example if the lot coverage is 20% and you fill your parcel with 20% of solar panels, you're not allowed to put up any other structures on that property. Councilor Husband asked Mr. DiOrio if that included the area between the individual panels? Mr. DiOrio responded by saying that this would be a matter of how they write the ordinance. Councilor Husband asked if they could ask to have a conservation easement on the rest of that piece of property, such as is done in cluster zoning. Councilors Thompson and Buck asked him why they would want to do this. Councilor Husband stated that then they would have absolute control over whether something else will go in at that site. Councilor Buck indicated that this was one of his concerns as well. He gave an example of a very large 200 acre property and has had a solar farm for five years and now the owner wants to divide off a parcel for a child; he does not feel that should be allowed as the basis for a solar farm was set with certain parameters and it needs to stay that way. You cannot then further subdivide the property. It must be known ahead of time. Councilor Husband asked about a situation where a farmer may no longer want to farm ten years down the road and

now wants to sell to a developer, but the solar panels are still there. Do they tell them they can't sell and have to keep on farming? Councilor Buck is concerned with sight lines and does not want to see these panels; when they were developing Exit One that was a primary concern. The new businesses are well screened. Ms. Williams indicated that this is also something they wish to amend. The Council confirmed the Planning Board workshop would be listed on the website.

The Workshop was closed at 7:50 PM.

Elizabeth J. Cook-Martin

Town Clerk

Marita D. Breault

Deputy Town Clerk