

State of Rhode Island

County of Washington

In Hopkinton on the 22nd day of October 2018 A.D. the said special meeting was called to order by Town Council President Frank Landolfi at 7:00 P.M. in the Hope Valley Elementary School Auditorium, 15 Thelma Drive, Hope Valley, RI 02832.

PRESENT: Frank Landolfi, Thomas Buck, Barbara Capalbo, Sylvia Thompson, David Husband; Town Solicitor Kevin McAllister; Deputy Town Clerk Marita Breault.

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

Council President Landolfi indicated that he wished to move the agenda items around in order to have some items continued and other matters off the agenda quicker.

A MOTION WAS MADE BY COUNCILOR BUCK AND SECONDED BY COUNCILOR CAPALBO TO MOVE NUMBER 2 UNDER HEARINGS REGARDING THE BRUSHY BROOK MATTER AS THE FIRST AGENDA ITEM, FIRST PUBLIC FORUM AS THE SECOND AGENDA ITEM AND NUMBER 1 UNDER OLD BUSINESS TO THE THIRD AGENDA ITEM.

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

OPPOSED: None

SO VOTED

HEARING

ZONING ORDINANCE AMENDMENT & COMPREHENSIVE PLAN FUTURE LAND USE MAP AMENDMENT

In re: continued hearing to consider an amendment to the Hopkinton Zoning Ordinance and the Hopkinton Comprehensive Plan Future Land Use Map filed by Southern Sky Renewable Energy RI, LLC, 117 Metro Center Blvd #2007, Warwick, RI 02886 for property owned by LR6- Owner LLC and Realty Financial Partners VI LP, 56 Kearney Road Suite D, Needham, MA 02494 for property located at 130 Dye Hill Road, Hope Valley, RI identified as Plat 32, Lots

1, 2, 6, 8, 10, 12, 14, 16, 17, 19, 21, 23, 25, 27, 30, 32, 34, 36, 38, 40, 41, 42, 44, 46, 48, 50, 52, 54, 56, 58, 60, 62, 63, 65, 67, 68, 69, 70 & 71, an RFR-80 Zone, continued from October 1, 2018. The applicants propose to utilize the existing property listed as Assessor's Plat 39 Lots 1-71 which in total contain approximately 358 acres to construct ground mounted Solar Energy Array Systems. The proposal to utilize the property will require approval of the proposed Comprehensive Plan Future Land Use Map Amendment from Open Space/Conservation to Commercial Special and a Zoning Map Amendment from RFR-80 to Commercial Special.

Attorney Preston Halperin requested a continuance to October 29, 2018 as Attorney Joseph Shekarchi was out of the country.

A MOTION WAS MADE BY COUNCILOR BUCK AND SECONDED BY COUNCILOR CAPALBO TO CONTINUE THIS MATTER TO OCTOBER 29, 2018 AT EITHER THE CHARIHO MIDDLE SCHOOL OR HOPE VALLEY ELEMENTARY SCHOOL.

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

OPPOSED: None

SO VOTED

PUBLIC FORUM

Joseph Moreau of Old Depot Road argued that this was the second meeting in two weeks that has been cancelled regarding the Brushy Brook matter. The first meeting was cancelled due to space limitation; however, the Town Council was warned about the number of people that were expected to attend. The residents in attendance had changed their schedule to attend last Monday's hearing and then again tonight, and now they will have to do so again. He wondered why there was not a substitute attorney to handle this matter. Eric Bibler delivered a copy of a Petition which he advised was not specific to Brushy Brook but had to do with their opposition of the current manner in which the Town was performing spot zoning. He indicated that he would submit the original Petition which currently had 370 signatures. He also believed that the 310 Main Street solar project Motion for Clarification and/or Reconsideration of Condition 1 was not properly

noticed and if they were making a change or amendment to the ordinance the prior vote of the Council should not be valid. Condition 1(a) of that ordinance stated that the property would automatically revert to residential zoning at the end of the life or upon termination and Condition 1(b) was this was contingent on the accuracy of the developer's representation that he had obtained the final interconnection approval from National Grid. The developer for the 310 Main Street solar project did not have the final approval and still does not have the final approval, so therefore Mr. Bibler did not feel that the Town Council vote could be valid. Mr. Bibler also stated that it was not legal for the Council to insert a provision that any property automatically revert to another zoning classification. The Council was informed that there was a Supreme Court precedent regarding this on August 6, 2018 and State law required notice of any zone change. Mr. Bibler also stated that Title 45 of the Zoning Ordinances, specifically 45-24-53 states: "No zoning ordinance shall be adopted, repealed, or amended until after a public hearing has been held upon the question before the city or town council"; and stated that there are detailed provisions for noticing an amendment to a zoning ordinance. Therefore, he believed the Maxson Hill ordinance could not be amended without providing proper notice. Mr. Bibler believed the Town Council was skirting the law by their denial of the super-majority provision; their failure to admit that they are amending an ordinance; and, their failure to notice it properly. Mr. Bibler went on to state that he had checked with the Town Clerk who verified that none of the abutters receiving any notice because the Town Council did not think notice had to be provided. Ronald Prellwitz of 278 Main Street wished to respond and stated that Mr. Bibler's statement that none of the abutters to the 310 Main Street project were notified was absolutely false. He had been notified many months ago about this project. Walter Czerkiewicz indicating that he has owned several big pieces of property on the Hopkinton/Exeter line for a long time and it sounded to him like large landowners were the only ones who did not have any property rights anymore.

OLD BUSINESS

MOTION FOR CLARIFICATION AND/OR RECONSIDERATION

Discuss, consider and possibly vote to approve Motion for Clarification and/or Reconsideration of Condition Number 1 of the Town of Hopkinton, Rhode Island

Town Council Decision of May 21, 2018 as amended June 18, 2018 filed on behalf of Rhode Island Solar Renewable Energy LLC, 43 Creston Way, Warwick, RI 02886 and Maxson Hill LLC, 10 Wicasta Farm Road, Hope Valley, RI 02832 for property owned by Maxson Hill LLC located at 310 Main Street in Hopkinton, RI.

Attorney John Mancini, on behalf of the applicant, explained that their Motion for Clarification and/or Reconsideration of Condition Number 1 was only for the purpose of seeking clarification with regards to the decision that was rendered concerning the solar array project back in June of 2018 and their question was actually more of an informational point. He explained that the June 18, 2018 Decision made specific findings and in Condition 1(b) on page 2, it states “that the applicant’s representation that the use of the site as a Photovoltaic Solar Energy System has received the final interconnection approval of the solar array facility by National Grid is accurate.” Attorney Mancini explained that the concern they have is regarding the wording “final interconnection approval.”

Attorney Mancini explained that with regard to National Grid projects there were a series of events that take place. Regarding “final interconnection approval”, what that denotes is the actual connection of the wiring capacity of the project to the substation or to the actual physical connector. Attorney Mancini indicated that the appropriate item that was presented to the Board is what he believed the Board was referencing in their decision, which is the Exhibit provided as part of their application labeled, “System Impact Study for Distributed Generation Interconnection for National Grid”. That was the final document and is the study that finds if the location is acceptable and that the connection is acceptable. Final connection would only come after the project is constructed and in essence is like putting the plug into the outlet. They are asking for the Board to clarify that what they meant by that condition was actually that May 7, 2018 study which was made part of the record. They are not asking for an amendment to the ordinance or re-hearing on the ordinance; they are asking that the Board be made aware of this because these documents have to be very particular because they are relied on by various entities, including National Grid, the Planning Board and the lender. Town Solicitor Kevin McAllister indicated that it was his opinion that notice was

entirely proper to hear this matter tonight; this is not a proposed zoning amendment or amendment to a zoning ordinance, which was all done when the ordinance was passed several weeks ago. He went on to explain that what this is, as Attorney Mancini indicated, is a Motion to Clarify what was meant by condition 1(b). They are seeking a clarification or language change to condition 1(b) which is entirely limited to this question about what final approval or what approval Council had in mind that would be required from National Grid. The representation was made before the hearing closed in May that the applicant had an assurance that an interconnection approval will be given by National Grid at the appropriate time, which is at the completion of the project. Town Solicitor McAllister believed it was in the purview of the Council to grant this language change or to not grant that language change, but everything was in the proper form for consideration tonight. He stated that this was not a zoning ordinance amendment but just a language change and was to clarify what the Council had in mind when they approved the application. Councilor Capalbo stated that she agreed with Mr. Bibler in that the Council should be given time to review this; however, she did agree that the Council meant to state the Interconnection Agreement and not interconnection approval. Councilor Husband indicated that they should just remove the word “final” and then the statement would be fine. Councilor Thompson stated that they did need to clarify this by changing a few words which had to do with the feasibility of the interconnection. Councilor Buck added that he agreed with the statement of Councilor Thompson and also agreed with Councilor Husband that the word “final” should be removed. Council President Landolfi indicated that when he approved this project his intent was not to prevent them from obtaining financing and he asked Town Solicitor McAllister if he could provide wording that might make this work. Town Solicitor McAllister indicated that he had anticipated this question and suggested 1(b) read as follows: “(b) that the applicant’s representation that the use of the site as a Photovoltaic Solar Energy System has received the final approval for the feasibility of the interconnection of the solar array facility by National Grid is accurate and at this time the applicant has received an assurance that such an

interconnection approval will be given by National Grid at the appropriate time which is at the completion of the construction of the project.”

A MOTION WAS MADE BY COUNCILOR THOMPSON AND SECONDED BY COUNCILOR BUCK TO APPROVE THE MOTION FOR CLARIFICATION AND/OR RECONSIDERATION OF CONDITION NUMBER 1(b) TO READ: “(b) that the applicant’s representation that the use of the site as a Photovoltaic Solar Energy System has received the final approval for the feasibility of the interconnection of the solar array facility by National Grid is accurate and at this time the applicant has received an assurance that such an interconnection approval will be given by National Grid at the appropriate time which is at the completion of the construction of the project.”

IN FAVOR: Landolfi, Buck, Thompson, Husband

OPPOSED: Capalbo

SO VOTED

HEARING

PSES ORDINANCE AMENDMENT

Open a hearing on proposed amendments to Chapter 246 Non-Residential Photovoltaic Solar Energy Systems (PSES) Code of Ordinances, Chapter 134 – Appendix A entitled “Zoning” introduced and sponsored by Councilors Landolfi, Buck, Capalbo, Husband & Thompson. The proposed amendments would add, revise and/or strike language.

Council President Landolfi suggested the Council discuss any proposed changes on a page by page basis. There were no changes needed to page 1. Regarding page 2, paragraph (f), Exemptions, Councilor Buck asked why those specific four lots were listed. Alfred W. DiOrio, Chairman of the Planning Board stated that this was not a Planning Board idea. Councilor Thompson responded that these were all Town owned properties and the Town wished to have a broad statement that possibly someday they may wish to put solar on them. She acquiesced that this should just say “town properties” and not list specific lots. Councilor Capalbo indicated that she understood that point of view but didn’t understand why the Planning Board should not have the authority to waive and/or modify any of the provisions of the ordinance. She felt they would do this, under their

purview, when they do the review process, whether this was Town property or anybody else's. She did not feel that this was necessary to have in the ordinance. Mr. DiOrio thought it was a great idea that the Town wants to suggest that perhaps solar arrays be situated on Town properties and he is an advocate to put them in parking lots, etc., but he felt it would be more appropriate to simply make a statement to that effect, that the Town is encouraging this kind of thing on Town properties; once you get involved with citing the specific properties, what will happen if the Town acquires better properties, more appropriate for a project? He felt that they should eliminate the specific sites. Councilor Capalbo indicated that she was okay with the concept but not the reality. She would like this section removed and gave an example that Crandall Field is town-owned property and probably a great place for solar; however, she would not like to see solar there. She would assume that the Planning Board knows the intent of the Council and would be able to accomplish it. Councilor Buck disagreed with Councilor Capalbo and stated that Crandall Field had been given to the Town with major stipulations placed on it and solar would never be allowed there. Council President Landolfi acknowledged that he believed this section should just read town-owned properties and the specific plat and lot numbers be taken out; he asked Mr. DiOrio if that statement should read: "...Ordinance within their development plan review process...". Mr. DiOrio stated that further on in the proposed ordinance it did state that they would be using the development plan review process and this might be redundant.

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR HUSBAND TO CHANGE SECTION F. EXEMPTIONS TO STATE TOWN-OWNED PROPERTIES AND TO TAKE OUT THE SPECIFIC PROPERTY REFERENCES.

IN FAVOR: Landolfi, Buck, Thompson, Husband

OPPOSED: Capalbo

SO VOTED

Regarding Page 3, section 1, Council President Landolfi asked if this should read "within reason" rather than one hundred percent. Councilor Buck felt this

paragraph was okay as written and Mr. DiOrio indicated that this paragraph stated “as much as one hundred percent”, which was pretty much the same idea. No changes were made. Regarding Page 4, section 13, Councilor Thompson wished where it stated: “During the pre-application phase of Development Plan Review, the Planning Board reserves the right to adjust the allowable coverage percentage based upon the unique characteristic of the parcel...” to change the word “adjust” to “increase”. Her desire to change this word is based on instances where the Planning Board has decided, such as an old sand bank, that this is a good place for solar and they might allow an increase. Councilor Capalbo asserted that “adjust” means either way and she would like to leave this as it is. Councilor Husband felt that this should stay “adjust” for once they say increase they have eliminated the idea of decreasing. Councilor Husband questioned the 30% coverage and asked if that was 30% of the entire parcel or just 30% of the available land, excluding wetlands, etc. Mr. DiOrio explained that in the Dimensional Regulation Tables, an RFR-80 zone allowed 15% lot coverage, so their thoughts were if the property was going to be rezoned, what were the expectations of the abutting property owners? They felt that it should be something in the order of 15% because that is what the Town allows. The Planning Board thought that the 15% might be a little bit stringent so they adopted the 30% number and his understanding was that it is 30% of the total area. Councilor Capalbo asked if they should add “no more than 30% of the entire parcel shall be covered”? Councilor Buck felt that this number as written made sense. On Section 14, line 4, Town Planner James Lamphere indicated that the word “not” was missing and it should read, “...installation, as designed, does not yield...”

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR HUSBAND THAT THERE WOULD BE NO CHANGE TO NUMBER 13 AND THEY WOULD CHANGE NUMBER 14 TO ADD IN THE WORD “NOT”.

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

OPPOSED: None

SO VOTED

Regarding page 5, Councilor Husband stated that under Section C(1), Land Clearing and Environmental Impact, he did not see anything stating what type of chemicals will be used to maintain or knock down the brush and the grass that will be growing around the solar panels. He stated that he had heard a story that a certain company used Round-Up for this and he does not want to allow that. Councilor Husband also advised that he did not see anything in the ordinance about the removal of ground cover. Councilor Capalbo stated that the issue of chemicals was discussed under the Operation and Maintenance Plan, page 7. On page 6, number 2, Appurtenant Structures, Councilor Capalbo indicated that she would like to add a subsection (d) to read that all cement pads or any portion of the solar array that contains fluids will be in a containment facility to prevent any fluid spills, specifically the inverters or transformers. Councilor Buck stated that this section already stated that. Councilor Capalbo stated that she would like there to be a containment facility, not just a cement pad. Mr. DiOrio agreed and said he thought the Council was on the right track with this. He indicated that he would like to see something general that says that any equipment that contains fluid be either contained in or mounted on a water-tight containment vessel of some kind. The Planning Board has done that previously with a boat yard and he felt this should be a stand-alone item.

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR BUCK TO ADD A SUBPARAGRAPH (D) REGARDING THE CONTAINMENT OF LIQUIDS.

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

OPPOSED: None

SO VOTED

Regarding page 7, Councilor Thompson wished to assure that a reforestation plan must be submitted if the applicant was requesting a zone change from RFR80 to Commercial Special and it was indicated that this was addressed further on in the ordinance. Councilor Capalbo discussed, under Planning Board Review, section D on pages 6 and 7, she would like to add a section which was recommended by the State, regarding historic properties and that no solar array can be established in a historic district; all historic views from the historic properties must be

considered and saved if possible. This should be added as a new number 2. The prior number 2 should be renumbered to number 1.

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR HUSBAND TO CHANGE PAGE 6, SECTION D, NUMBER 2 TO NUMBER 1 AND ADD IN NUMBER 2 STATING THAT NO SOLAR ARRAYS SHALL BE CONSTRUCTED IN A HISTORIC DISTRICT.

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

OPPOSED: None

SO VOTED

Regarding page 7, Section 2, Operation and Maintenance Plan, Councilor Thompson stated that in the first red paragraph it stated that the Operation and Maintenance Plan will include a list of all chemicals proposed and she wanted that changed to state that no chemicals were to be used. She suggested that they add in language that stated that no chemicals, solvents or herbicides are allowed to be used on the site. Councilor Capalbo confirmed that basically they would delete the first sentence.

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR HUSBAND TO ADD THAT NO CHEMICALS, SOLVENTS OR HERBICIDES ARE ALLOWED TO BE USED ON THE SITE AND TO REMOVE THE FIRST SENTENCE.

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

OPPOSED: None

SO VOTED

Regarding page 8, Councilor Buck advised that he would like to see it mandatory for the developers to put shielding landscape in that is a minimum of six feet in height. Councilor Husband noted with regard to the solar project on Route 3, they planted arborvitaes that are about seven or eight feet apart and it will take twenty years for those trees to grow together in order to hide the solar panels. Also, arborvitaes are one of the prime foods for deer and he believes those trees are going to be eaten. He suggested they plant something deer-resistant and they

should be a minimum distance apart. Mr. DiOrio explained that the first few lines of that paragraph suggested that the applicant had to submit a landscape plan prepared by a landscape architect as to what is to be planted, how high and how far apart. He felt instead of trying to specifically state the specifics, we should determine what we are trying to accomplish with the landscaping. If the objective is an immediate full-screening of the activity from the time of the installation, than that is what the landscape architect should be designing. Perhaps stating the objective is a better idea. Councilor Thompson wished to point out that on page 6, under number 2, Appurtenant Structures, subsection (c) already spoke about the screening being no less than six feet in height at the time of installation.

Councilor Capalbo disagreed and noted that as a gardener, if you put plants too close together the roots will not have any place to go and they will immediately start dying because they will be fighting for space. If you give them a few years they will have time to establish. She believed Councilor Thompson was correct in that this was stated on page 6 and did not need to be reiterated on page 8.

Councilor Husband asked if there should be a clause which states that anything that dies off or gets eaten shall be replaced. Mr. DiOrio indicated that typically the developer is held to a one year time period but something should be built into the ordinance in this regard. Councilor Capalbo asked if they could make this two years instead of one and Mr. DiOrio answered that they could make this any length of time they wished. Council President Landolfi stated that he was okay with the one year provision and thought two years would be too restrictive.

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR HUSBAND TO ADD IN A CLAUSE STATING THAT IF ANYTHING HAPPENS TO THE PLANTINGS AT THE SITE WITHIN ONE YEAR, THE DEVELOPER WILL BE RESPONSIBLE TO REPLACE THEM.

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

OPPOSED: None

SO VOTED

Councilor Capalbo stated that on page 8 at the end of number 3, they should add in a clause that no top soil can be removed from the site. Councilor Husband

reiterated stating that under landscape plans there should be a clause added stating that no top soil shall be removed from the site.

A MOTION WAS MADE BY COUNCILOR HUSBAND AND SECONDED BY COUNCILOR THOMPSON TO ADD A CLAUSE UNDER SECTION 3, LANDSCAPE PLAN, ON PAGE 8, THAT NO TOP SOIL SHALL BE REMOVED FROM THE SITE.

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

OPPOSED: None

SO VOTED

Councilor Capalbo discussed the possibility of adding language to Section 5, Financial Security, to allow for the Town to keep all accruing interest on any escrow accounts or bond accounts which are being held by the Town. She explained that at this time the developers expect the interest earned back. This means there has to be a separate bank account for each bond and each escrow. Councilor Capalbo advised that she had spoken with Finance Director Brian Rosso who suggested that this was going to be a problem because every single PSES is going to need its own savings account for its own interest. Councilor Capalbo indicated that she would like to keep the interest for the Town of Hopkinton for the use of the Finance Department, computer use, employee use and other expenses needed to handle these accounts over the course of thirty, forty or fifty years. Council President Landolfi vehemently disagreed and explained that the purpose of having financial security on these solar projects is to make sure that they are decommissioned properly, all structures are removed, and everything is put back to its original state. Taking the interest is counterproductive to that end and they should leave the interest in the account so it grows and will assure that there will be enough money for decommissioning. Councilor Buck questioned if anyone had heard back from the State regarding the amount of bonding needed for these projects. Town Planner Lamphere indicated that the State has begun to compile a table where various communities have posted what they have required for different sized projects. This is a work in progress and he believes that Hopkinton is in the ballpark; that the fees we have

been charging for decommissioning are adequate. Councilor Buck advised that he would like to receive a copy of that table from the State. Councilor Thompson stated on page 9, Section 4, Removal Requirements, she would like to add a section (e) which states that the applicant should provide a reforestation bond or cash escrow in an amount deemed fair by the Planning Board. Councilor Capalbo stated that in all fairness if after decommissioning they left the land alone for even five years it would come back very naturally. Mr. DiOrio suggested that in his opinion he believed that when these projects were decommissioned, the property would become subdivisions due to the fact that all the trees were gone and it would be a developers dream. This matter was to be tabled. Councilor Thompson wished to add in to page 9, Section F, Inspection/Enforcement, which went on to page 10, that before construction begins a Stormwater Facility Maintenance Agreement must be entered into. It was indicated that this was stated on page 4. Councilor Thompson thereafter stated on page 10 in the last paragraph of section F, she wished for the second sentence to read: “Said inspection will include a review of any and all reports required by the State of Rhode Island, Town of Hopkinton and the Federal Government.”

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR HUSBAND TO REVISE THE SECOND SENTENCE ON THE NEW PARAGRAPH ON PAGE 10 TO READ: “SAID INSPECTION WILL INCLUDE A REVIEW OF ANY AND ALL REPORTS REQUIRED BY THE STATE OF RHODE ISLAND, TOWN OF HOPKINTON AND THE FEDERAL GOVERNMENT.”

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

OPPOSED: None

SO VOTED

Amy Williams of the Planning Board cautioned the Council about their statement that there be no chemicals used, because water is a chemical. Councilor Thompson asked Ms. Williams what she would suggest and she stated that they obtain a list of the chemicals that were going to be used. She stated that the Town is allowing these developers to come here and we need to allow them to clean off

the solar panels. Councilor Thompson stated that there was a hearing in the past where the applicant had stated that they did not intend to clean the panels with chemicals, they used water and rainwater. It was suggested they amend the prior motion to state no chemicals allowed, excluding water.

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR THOMPSON TO REVISE THE PRIOR MOTION REGARDING NO CHEMICALS BEING ALLOWED TO ADD EXCLUDING WATER.

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

OPPOSED: None

SO VOTED

Mr. DiOrio stated that at the top of page 6 there was a new sentence added that should be tightened up. He does not want a project started only to find out that it could not be plugged in; he did not like the term “assurance”. He wants to know that the project has been approved by the utility company and will be put on line when it is constructed; an assurance as to feasibility is not good enough. Town Solicitor McAllister indicated that he would work on the wording of this language. Douglas Laudone (?) of Cranston indicated that he was an abutter to a Southern Sky project in Cranston and as to the interconnection agreement, it was critical that the Town gets this right. The feasibility study only tells them whether they can connect to the grid, but what you need to know is do they have an actual route and permission to do the work. In Cranston, the developer and Town officials thought they had the route all planned out, however, ran into problems with a conservation easement and trees that were in the way. The Council should have the Interconnection Agreement, all easements, all routes specified with everything signed and recorded. Councilor Capalbo asked the Council, regarding their decision of the Motion for Clarification of 310 Main Street, if they could add some language to their prior decision or if this matter would have to be reopened again. Council President Landolfi indicated that they had already given their decision. Joe Moreau stated that his recommendation to page 3, item 1.2 would be that it read: “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.” On page 10, the enforcement piece of this is the Building/Zoning Official. He would like to know who is going to decide if it is impossible or impractical. He suggested that it should state that all electrical connection and distribution lines within the facility shall be underground. He feels that it is bad enough to look at solar panels but he especially wouldn’t want to look at a bunch of lines going to the inverters. This should not be left up to the contractor or developer. Council President Landolfi stated that they specified that they did not want any blasting and Councilor Capalbo stated that the Planning Board could use our engineers to address that issue and make sure that it occurs correctly. Councilor Husband also indicated that they could add at the end, “as determined by the Building Inspector or the Town Engineer,” one of the two. Doug Harris, Deputy Tribal Historic Preservation Officer from the Narragansett Tribe indicated that he was the preservationist for ceremonial landscapes and stated that he would like to address page 5, Section C(1) and have that include: Land Clearing, Environmental and Cultural Impacts. He stated that in the spirit of the Town, as it embraces the comprehensive plan, there are places in Hopkinton that may be of ceremonial importance to the Narragansett Indian Tribe. The Town has stated that it would make efforts to work with the Narragansett Tribal Historic Preservation Office and the State of Rhode Island Preservation and Heritage Commission to identify and protect important ceremonial sites in Town. Mr. Harris stated that he has heard no reference at all as to the ceremonial stones, burials or other traditional tribal sites that the Town has committed to work with the Narragansett Tribe and the Historic Preservation of the State. Regarding the Brushy Brook project, the Town was advised by the developer that they had walked the 358 acres and there was only one site that they had found. Mr. Harris stated that they do not have the expertise to make that determination and he would request that there be a Ceremonial Stone Landscape and Historic Preservation survey performed where the Tribe and the Town could put a survey team in place to examine those 358 acres and establish that there is nothing of significance to be impacted. Council President Landolfi asked Mr. Harris to submit to the Town Clerk what type of

language he would like to see added to the ordinance amendment. Dan Hendrick indicated that he worked for Clear Way Energy which is a solar developer and he wished to flag a few things. On page 3, section 1, regarding allowing the Planning Board to be able to increase the building setback to 100%, on an operational note, since there is such a large investment that has to go into these projects, there should be some clarity as to what triggers the 100%. Also on page 3, section 2.3 regarding vinyl coated black chain link fence around the project, they have heard from some of their other developments that some neighbors find this unattractive and in other cases invited vandalism. On page 6, section 2(c) regarding visual screen being no less than six feet tall, this may result in a visual irregularity and may draw attention to the solar facility; they may wish to allow the landscape architect to propose something that is visually pleasing rather than having this at a standardized height. On page 4, section 14, they would request that the noise limitation of 40 decibel be changed to noise limitation explicitly with respect to decibels above the existing ambient sound. The Council members all stated no to that. Mr. Hendrick next spoke of the height requirement which is on page 3, section 4.5, and asked that they request that the twelve feet be measured from the ground surface; and lastly, page 9, regarding decommissioning and removal of equipment, there is some equipment that is owned by the project and some owned by the utility company. If National Grid owned some equipment, they would have no control over that equipment. The utility companies have some equipment that thereafter might service somebody else in the future so they may not wish to remove it. He would ask that the ordinance specify non-utility owned structures. Eric Bibler advised that at the workshop meeting of January 9, 2017, the stated purpose of the workshop was to discuss options that the Town might consider in facilitating developers and property owners wanting to consider installing commercial solar arrays on parcels of land zoned RFR-80. He stated that almost the entire thrust of this ordinance was how to regulate the installation of solar panels on land zoned RFR-80, residential, in which the Zoning District Use Table prohibits commercial installations. Mr. Bibler felt that rather than considering a doubling of the RFR-80 setback, it should state that this could be adjusted by the Planning Board because not so long

ago on the Woodville-Alton Road project the developer was offering a seven hundred foot setback. Mr. Bibler also stated regarding the property coverage ratio of thirty percent; thirty percent coverage on a hundred acre property is thirty acres of solar panels, which is a vast amount. The proposed 350 acre footprint on a 358 acre parcel that has 122 acres of solar panels, is a coverage ratio of 34%. If a proposal like that came before the Council and the coverage ratio was 34% and the developer was told that they had to reduce that to 30%, he felt that they would not abandon their project. Mr. Bibler stated that this is not going to become a limitation, it is going to become the use standard and the coverage ratio is just a massive footprint. Mr. Bibler also commented on Mr. DiOrio's statement that the Planning Board asked what might be the expectation of the residents for a coverage ratio after the property was rezoned and he believed the expectation of a resident who owned residential property in an RFR-80 zone was that the property across the street from him won't be rezoned because it is residential property. Another issue is how every project has to be enclosed by a six foot chain link fence or whether it be little plants or big plants, arborvitae or Mountain Laurel, but after a year the developer is not responsible. Those projects will be there for thirty years but two years after installation he will be looking at dead plants and a chain link fence across the street. In the January 9, 2017 workshop, it was stated that all the properties they rezoned would automatically convert back to RFR-80 at the end of the project; however, there is no provision in the ordinance that states that and he believed that is because it is illegal for them to state that. Harvey Buford of Ashaway indicated that there is a possibility to have location incentives and dis-incentives to guide where solar projects are installed. If the project is proposed in a gravel bank, quarry, capped landfill, parking lot, etc., there could be a 50% increase that could be allowed in the size because those are locations where we would like to see solar projects. If they wish to install them in other places, such as farm, forest and open spaces, there could be a decrease. Also, if the developers could obtain more efficient panels there should be an incentive for that as well, as well as ways to increase solar storage. Right now the incentives that exist in the State are for the developers to go out and buy the cheap land and put up lots of solar and don't worry about how many acres it uses

because the land is cheap enough. Lou-Ann McCormick of Hope Valley stated that she felt that any further proposed solar projects should be brought to the attention of all the citizens of Hopkinton and not to just the abutters. She believed these changes are not just affecting the abutters but are affecting the whole look and feel of the Town. When she reviewed the case studies for the solar citing information dated August 22, 2018, she noticed that none of the case studies were performed on residential properties; they were all on commercial properties. She suggested there should be a group put together of Town Council members, Planning Board members, Zoning Board members and residents to rehash the comprehensive plan. She believed the developers should be responsible for their plantings for the life of the project since they were making a fortune on these projects. She explained that this was a question about responsible planning and bringing in solar where solar makes sense, where you do not have to clear cut trees. Councilor Thompson stated that farmers were putting up a half acre or one acre of solar and making it work. Also the Town Council has approved two projects one on a sand bank and the other on a gravel bank and two others, one on Main Street and the other on Route 91; all the other projects have been approved by the Planning Board. The projects that the Town Council approved have specific conditions and stipulations attached. That is why they are here tonight, to make this ordinance better. Walter Czerkiewicz indicated that there are far more chemicals used on lawns than on commercial properties. He doesn't believe people have a right to say what someone else's property looks like or what they put on it. Alexander Poulas of Woody Hill Road asked the Council how they were going to address the abutting property owners for their property value loss. He stated that recently his property was re-evaluated and the value went up as per the comprehensive plan and now if the Brushy Brook project is approved and gets installed next to him, his property value is going to go down. Mr. Poulas asked that if the Brushy Brook project is approved and that property is rezoned to commercial, then the Council should rezone his property to commercial as well. John Pennypacker of Lawton Foster Road North gave his suggestions as follows: page 2, Exemptions, this allows the Planning Board the authority to waive and modify provisions for certain properties. He would rather see the Planning Board

be given greater latitude. On page 3, section 2.3 this requires a six foot high fence to prevent unauthorized access; he didn't understand why the Council is requiring a six foot fence. The Council indicated for it was for safety purposes. Mr. Pennypacker thereafter asked if the Town was liable if something happened on private property. Someone indicated that it would keep kids out and Mr. Pennypacker stated that there is a solar installation at the Chariho School which did not have a fence around it and there were plenty of kids there. He did not feel it was the Town's responsibility to mandate this. He went on to state that in section 4.5, it indicates that the maximum height of the panels is to be twelve feet which he understands is to minimize visibility from a distance, but it also limits other possible uses such as over a parking lot; he feels this should be removed or that they allow the Planning Board to delegate this. Page 4, section 13, regarding lot coverage, he felt thirty percent was too much and he felt that it should be only on buildable land. On page 5, section 7, regarding flat roof elements, he asked why we were trying to preserve the beauty of asphalt shingles. Who cares if you can see solar panels on a roof? Page 7, section 2, regarding chemicals; Mr. Pennypacker asked what about the gasoline used to mow between the panels? Would that count as using chemicals on the property? Councilor Husband agreed with Mr. Pennypacker that the arborvitae or whatever they plant around the installations are part of the installation and if they are going to maintain the grass than they should maintain the trees for the extent of the installation. He also agreed with Mr. Pennypacker about fencing and stated that this should not be the Town's problem. He did not understand why the Town cannot say unless for extraordinary circumstances this Town will not be changing residential land for solar panels. Luther Davis advised that he has been canvassing the Town and one of the things that they have found which is not covered in the solar ordinance, are some solar panels which are not on trellises on the ground. They are on a pole or tree and it looks like a Christmas tree. He indicated that there were three places on Fenner Hill Road and Highview Road where they observed this. Sharon Davis of Cedarwood Lane asked if the Planning Board, who has the most knowledge of these matters, are not going to approve any residential RFR-80 projects to be changed to commercial so there can be solar on it, then why are we going crazy

with this solar ordinance? Does the solar ordinance supersede the comprehensive plan or does the comprehensive plan supersede the solar ordinance? Council President Landolfi indicated that the solar ordinance was jointly crafted by the Planning Board and Town Council and the comprehensive plan does include solar in residential areas. Sean Henry, Assistant Town Planner stated that these projects are changing hands several times after receiving approval so they are attempting to assure that the financial security terms are being recorded in the Land Evidence Records in order to guarantee that these matters are maintained for the long term. Joseph Moreau asked Councilor Thompson if she has had any recent contact or email regarding any interest in using the Stubtown Road site for solar. Councilor Thompson indicated no. Walter Czerkiewicz believed that it was good for the Town to look for revenue so people can afford to live here for the rest of their lives. Justin Bentley of 138 Maxson Hill Road stated that he did not agree with rezoning. He questioned the four properties that had already been rezoned and whether the changes made in this ordinance would be retroactive to those projects and it was indicated they would not be. Councilor Capalbo advised that the four projects which had been approved by them still had to go before the Planning Board who would address some of these concerns, and she urged people to attend those hearings. Jeff Light of 43 Forest Glen Drive advised that on the website for SAGE Consulting Firm if you click on renewable energy it clearly states that they are experts in helping energy companies circumvent regulations and environmental concerns. Lynn Lapierre of 100 Maxson Hill Road stated that she received only one notice of the Maxson Hill project and she went to the meeting and it wasn't on the agenda. Thereafter she received a certified letter which showed an enormous solar farm. She added that the Tomaquag Indian Shelter is on Maxson Hill Road which is a registered historic site. Council President Landolfi advised that he needed a motion to continue or close the hearing. Councilor Thompson stated that she wished to make a motion to close the hearing because we want to limit the new applications coming in. The sooner this is completed will assure that all new projects will have to adhere to this ordinance. Councilor Capalbo wished to continue the hearing because she wished everyone to look at the written changes they had made tonight. She indicated that

Councilor Thompson was correct that they needed to adopt this ordinance as soon as possible, but she would like to continue the hearing. Town Planner Lamphere added that Councilor Thompson was correct in that it was in the Town’s best interest to get this ordinance adopted as soon as possible because as soon as someone submits a proposal for a zone change they are grandfathered under the ordinance that we are attempting to change tonight. It is really in everyone’s interest to get this ordinance in a form that is acceptable and have it adopted as soon as possible for there was another zone change request filed today in the Town Clerk’s office. He advised that the longer we waste time unnecessarily, the more we are going to be at risk.

A MOTION WAS MADE BY COUNCILOR BUCK AND SECONDED BY COUNCILOR CAPALBO TO CONTINUE THE HEARING ON PROPOSED AMENDMENTS TO CHAPTER 246 NON-RESIDENTIAL PHOTOVOLTAIC SOLAR ENERGY SYSEMS (PSES) CODE OF ORDINANCES, CHAPTER 134 – APPENDIX A ENTITLED “ZONING”.

IN FAVOR: Landolfi, Buck, Capalbo, Husband

ABSTAIN: Thompson

SO VOTED

CONSENT AGENDA

A MOTION WAS MADE BY COUNCILOR THOMPSON AND SECONDED BY COUNCILOR HUSBAND TO APPROVE THE CONSENT AGENDA AS FOLLOWS: Approve Town Council Meeting Minutes of October 1, 2018; Accept the following monthly financial/activity report: Town Clerk; Approve refunds resulting from overpayment 2018 real property tax & motor vehicle tax and the M.V. Phase-Out Program; Approve abatement resulting from a real property adjustment submitted by Tax Assessor.

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

OPPOSED: None

SO VOTED

**NEW BUSINESS:
POLICE DISPATCH AND ANIMAL CONTROL OFFICER UNION CONTRACT**

Discuss, consider and vote to approve the tentative agreement between the Town of Hopkinton and Local 808 of LIUNA, which represents the police dispatch and animal control officer union employees from July 1st, 2018 through June 30th, 2021.

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR BUCK TO APPROVE THE AGREEMENT BETWEEN THE TOWN OF HOPKINTON AND LOCAL 808 OF LIUNA.

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

OPPOSED: None

SO VOTED

Council President Landolfi indicated that the total financial impact for the proposed three year contract for dispatch and labor agreement will be \$67,728 and the raises were 1% first year, 2% second year and 3% third year for a 6% total over three years.

POLICE DEPARTMENT UNION CONTRACT

Discuss, consider and vote to approve the tentative agreement between the Town of Hopkinton and Local 498 of the IBPO, which represents the police department's union employees from July 1, 2018 through June 30, 2021.

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR BUCK TO APPROVE THE AGREEMENT BETWEEN THE TOWN OF HOPKINTON AND LOCAL 498 OF THE IBPO.

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

OPPOSED: None

SO VOTED

Council President Landolfi indicated that the total financial impact for the proposed three year contract for the police union will be \$168,486 and the raises were 1% first year, 2% second year and 3% third year for a 6% total over three years.

PUBLIC FORUM

Douglas Laudone (?) spoke again indicating that the Cranston Planning Board is trying to put together a solar ordinance but the problem is that it was after the fact.

He stated that one of the City Council members apologized for his vote to allow solar and change the property from residential and that he was sick to his stomach. Southern Sky didn't tell anyone they would be blasting and there was no ordinance in place to prevent it and now the stream near there is an orange-like slime.

ADJOURNMENT

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

SO VOTED

Marita D. Breault

Deputy Town Clerk