

TOWN COUNCIL WORKSHOP MINUTES – May 31, 2016

State of Rhode Island

County of Washington

In Hopkinton on the thirty first day of May 2016 A. D. the said workshop was called to order by Town Council President Frank Landolfi at 6:00 P.M. in the Town Hall Meeting Room, 1 Town House Road, Hopkinton, RI.

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

Also Present; Harvey Buford, Gary Marsh, Attorney George Comolli, Attorney Vincent Naccarato, Stano Trombino, Roy Dubs.

Absent: Sylvia Thompson.

PROPOSED AMENDMENT TO CHAPTER 225 AN ORDINANCE IN AMENDMENT OF CHAPTER 134, SECTION 27, APPENDIX A ZONING, ENTITLED, "SIGNS" OF THE TOWN'S CODE OF ORDINANCES

Council President Landolfi explained Spicer Gas on Main Street in Ashaway was allowed to have an LED sign in front of his establishment and Bestway on Route 216 in Bradford was not. He felt in the spirit of fairness to both parties, the Sign Ordinance needed to be addressed. He felt LED lights seem to be the wave of the future and used less energy. Mr. McGarry stated the main concern was LED lights displaying the gas prices and the intensity of the lights. Council President Landolfi felt there was a general consensus the ordinance could be changed to add the two gas stations to allow pricing to be displayed with LED lights and keep the rest of the ordinance intact. Councilor Buck stated he was against a sign that distracted a driver such as one that moved, flashed, rolled or anything similar that took away from the rural character of the village. He also wanted the LED signage to have the ability to change the intensity of the light from day light to night time. Councilor Capalbo stated she and Don Simmons compiled the ordinance for the LED signs and had outright banned them. She stated that was done because there was no way to control the light intensity, but now, four years later there was that ability. She stated the purpose of the ordinance was to make

sure Hopkinton stayed rural and deter the Las Vegas look. Councilor Capalbo felt the Town Council would be able to compile an LED sign ordinance to allow for time, temperature and price because the LED signs were the wave of the future and the Town should be able to control the situation. She felt the Town Council could address the issue in an appropriate and thoughtful manner for a rural community.

Councilor Sylvia Thompson arrives at 6:15.

Councilor Husband suggested wording be included in the Sign Ordinance regulating how far the sign should be from the business and limit the number of signs a business could have. Councilor Buck stated he wanted to know how the situation happened and make sure it was corrected. He stated there was an ordinance in place before the business opened and asked why it wasn't enforced. Councilor Husband felt the ordinance could be limited to gas prices, temperature, and time for gas stations and limit the lettering size to 8 inches which could be dimmed when necessary. Attorney McAllister pointed out gas prices were regulated by state law and required to be a certain size, but the ordinance could place a limit on a larger size. He explained the question was larger than two gas stations, because as the present sign ordinance was written, it was not addressing only gas stations. He stated the new ordinance needed to be studied in a deliberate way and needed to be uniform and nondiscriminatory. He stated the ordinance should be worded so it is very clear for a business and from an enforcement perspective. Attorney McAllister felt there could be a moratorium set at a Town Council Meeting with the proper advertising, which would give people an opportunity to discuss it and as an interim measure, the Town Council could look at rewriting the entire ordinance. He pointed out the reality of it was a mistake was made which now needed to be addressed temporarily and then permanently. He stated it could be called a moratorium or a temporary stay of enforcement applicable only to the two gas stations and make it clear the problem was being addressed. Councilor Buck questioned if this problem would set a precedence. Attorney McAllister the situation would not happen again and especially if the ordinance was tailored to address a specific problem.

PROPOSED SOLAR ORDINANCE

Councilor Thompson read "The purpose of the Ordinance is to promote safe, effective and efficient production of electricity by Photovoltaic Solar Energy Systems in order to lessen the hazards posed by other energy sources that are used to produce the electricity distributed through the energy grid." She explained the solar ordinance previous councils have worked on included residential and commercial. She stated the Town Planner, James Lamphere, had reviewed the Solar Ordinance and suggested removing the portion which pertained to residential property and focus on commercial property. She stated since then Harvey Buford had brought up the idea of solar panels on farms. Councilor Thompson felt an ordinance needed to happen soon because there has been interest for larger areas of solar panels, but the Town had to be able to regulate them. She added at some point the solar panels would be decommissioned and the Town needed to regulate that situation because twenty years from now things would change. She explained the ordinance was complicated but in order to regulate these systems all bases need to be covered. Councilor Thompson asked if "residential" under the *Solar Energy Equipment* paragraph should be removed. Mr. Lamphere replied it should be removed because the projects that were coming into his office were the large type solar "farms." He stated solar panels were allowed in commercial and manufacturing zones, what was before the Town Council was a more thorough, comprehensive ordinance. He pointed out it was directed toward solar farms and included issues like decommissioning, insuring, design guidelines, which would have to go before the Planning Board for a site plan review. He explained the application would go to the Planning Board and they would follow the ordinance. He noted on page two, Paragraph B. *Findings*, "public health and safety" was to be inserted after "aesthetics" and before "of the Town."

Mr. Lamphere pointed out that throughout the document where there was "SES," that needed to be corrected to "PSES." Councilor Capalbo suggested page 3 under B4, add elevator shafts. Mr. Lamphere pointed out on page 5, under D. Planning

Board Review, the second sentence should read "Planning Board," not "Planning Board of Review" and page 5, bottom of page under 3, *Operation and Maintenance Plan*, third sentence down. "Special Use Permit," should be stricken because it was no longer part of the ordinance. Councilor Capalbo pointed out that on page 7, the decommissioning time frame was 180 days and who determined the time frame, should there be a person named, for example, the building and zoning inspector. She questioned how the Town would determine when the business stopped operating. Councilor Husband felt the ordinance should name a specific person. He questioned how the Town would know the operation had ceased to operate. Councilor Buck suggested calling National Grid to ask if they were still purchasing electricity from that business. Mr. Lamphere stated these people were paying a lot of money for these solar panels and needed to get the life use out of them to make money. He felt there would not be a problem with that issue.

Scott Montgomery, from Middletown, RI, a commercial solar developer, stated most of his clients in southern Rhode Island were farms. He added he was working with three farms in Hopkinton. Councilor Thompson stated Hopkinton had a Farm Viability Ordinance and after this ordinance was approved, the Town Council could tweak the Farm Viability Ordinance and decide the acreage amount of land that could be used. Mr. Montgomery stated on a ten acre parcel, only one acre was used. He explained the farmer receives about \$12,000.00 income per year from the solar panels and the use of the electricity so either way it was a benefit to the farm. Councilor Husband asked who would own the solar project. Mr. Montgomery replied an outside investor would own the project. He explained the company operated, maintained and insured the facility. He explained the state was coming up with a process for tangible taxing.

Frank Epps, of Energy Development Partners, stated there were six systems running in the state right now. He explained for years this had been an issue regarding how the tangible taxes were to be paid and at what rate. He stated there was no guidance to the Tax Assessors for this purpose. He explained there was a Supreme Court ruling on a wind turbine in North Kingstown to which the Court

determined it was a piece of manufacturing equipment and was not exempt from all tangible property taxes. now the tax issue was being studied by Rhode Island's Finance Committee.

Harvey Buford, Conservation Committee Chairperson, stated he wanted to touch on the Farm Viability Ordinance, because right now manufacturing allowed a number of things to go on a farm with the idea that it was supplemental to the farm. He suggested limiting the percentage of the farm or maybe limiting it to a large farm, possibly 15 acres. Mr. Buford felt the ordinance needed to move quickly because there were some offers on the table for farmers in Town and they need help.

Mr. Ward felt the inspections, rather than leave it to the municipal side, the Planning Board could stipulate that each year an engineering report could be submitted to one entity and stamped by an engineer that he had reviewed the equipment. He felt he was not qualified to inspect the solar panel operation as he had no experience in that field. He also felt the town would not be liable in case there was a problem. He explained the town of West Greenwich pulled solar panels out of the manufacturing zone and put it in RF-80 because the tax situation was being governed by the state, not by the local municipalities. He felt these projects saved the Town money in the long run because these parcels are not becoming housing developments and overcrowding the schools. Mr. Ward cautioned to be very careful about the Farm Viability Ordinance because it was a stand-alone ordinance and not part of the zoning ordinance.

Gary Marsh, Kenyon Lane, Ashaway, felt the solar ordinance was a positive step. He stated he had been approached by three separate companies, each company had a different contract and he had concerns. He stated before he rented out his land and signed a contract there will be wording that held them responsible for the cleanup of the equipment. Mr. Marsh explained he spoke with one company and they wanted to rent 25 acres, which was corn growing land. He stated they offered him the same amount of money to rent his fields that he got in corn and they didn't want to pay taxes. He asked if the Town Council could expedite it, because in the dairy world, there had been one good year, one bad year and one

devastating year. He explained it was another devastating year and the Town may lose two dairy farms. He stated his farm and another other farm had run out of feed and the farmers were buying feed, so it was getting closer to the end. He explained his farm belonged to Rhody Fresh and he had not received a check from them in three months, adding there were 11 dairy farms in that program, and by the end of the year there may only be six.

Frank Epps stated the Town Council's insistence the owner of the solar panels provide a bond for removal was a good idea and advised the Town Council to make sure that they stuck to their guns. Mr. Montgomery felt the solar panel operation, depending on the classification, may not be able to get a bond, so the Town Council might want to define it by size.

The ordinance will be revised and will be scheduled on an upcoming Town Council agenda to set a hearing date. The workshop was adjourned at 8:40 PM.

Elizabeth Cook-Martin

Lorraine Tarket-Arruda

Town Clerk

Deputy Town Clerk