

State of Rhode Island

County of Washington

In Hopkinton on the sixth day of April 2020 A.D. the said REMOTE meeting 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 02833.

PRESENT: Frank Landolfi, Scott Bill Hirst, Sylvia Thompson, Barbara Capalbo; Town Manager William McGarry. Participating remotely: Sharon Davis; Town Solicitor Kevin McAllister; Town Clerk Elizabeth Cook-Martin.

The REMOTE Town Council Meeting was called to order with a moment of silent meditation and a salute to the Flag.

The Remote Agenda included the following items scheduled for 6:00 PM:

I. PRELIMINARY DISCUSSION BY THE TOWN COUNCIL SITTING IN A QUASI-JUDICIAL CAPACITY CONCERNING THE RECOMMENDATION BY THE TOWN SOLICITOR TO CONSIDER INITIATING FURTHER PROCEEDINGS TO DETERMINE WHETHER ALFRED W. DIORIO SHOULD BE REMOVED FROM THE HOPKINTON PLANNING BOARD FOR GOOD AND DUE CAUSE UNDER RIGL SEC. 45-22-3 AND CHAPTER 2, ARTICLE II DIVISION 5, SECTION 2-112 OF THE TOWN ORDINANCES

In compliance with RIGL sec. 42-46-5(a)(1), by letter and e-mail dated March 23, 2020, Mr. DiOrio was given written notice of the intention of the Town Council to conduct the above-captioned preliminary discussion on April 6, 2020 at 6:00 p.m. and of his right to require that this discussion be held at an open meeting. In response to this notification, Mr. DiOrio requested that this preliminary discussion be held in open, and not in Executive Session. He was also advised at the time that the public would not be allowed to participate in the preliminary discussion, that he had the right to be represented by legal counsel during the discussion, and that there would be no sworn testimony during this preliminary discussion.

1. Consider written request by Mr. DiOrio to postpone this Preliminary Discussion and hear objection and response of the Town Solicitor to Mr. DiOrio's request, and thereafter address and possibly vote on possible motions related to said request.
2. Presentation by the Town Solicitor of his recommendation to the Council concerning Mr. DiOrio and the reasons for said recommendation, including but not limited to replaying audio tape excerpts from the March 4, 2020 Planning Board hearing and e-mails between Mr. DiOrio and the Town Solicitor dated March 5, 2020 initiated by Mr. DiOrio, and the legal and financial consequences to the Town should it fail to undertake further proceedings to determine whether Mr. DiOrio should be removed from the Planning Board for good and due cause based upon his March 4 and 5, 2020 referred to herein.
3. Response by Mr. DiOrio to recommendation by the Town Solicitor.
4. Council discussion and possible vote on the Town Solicitor's recommendation to the Town Council that it schedule a quasi-judicial evidentiary hearing at a later date to determine whether good and due cause exists to remove Alfred W. DiOrio from the

Hopkinton Planning Board Pursuant to RIGL sec. 45-22-3 based upon his verbal remarks made on March 4, 2020 at the Planning Board and his written statement to the Solicitor on March 5, 2020 requested by Alfred DiOrio.

5. Discussion and possible vote on potential motions to set a date for the Town Council to conduct a quasi-judicial evidentiary hearing; whether the Council should to appoint special legal counsel to advise the Council during said evidentiary hearing and deliberations following its conclusion; and to set conditions, if any, regarding Mr. DiOrio's continuation as Chair and Member of the Hopkinton Planning Board until the conclusion and decision by the Town Council on the issue of whether good and due cause exists to remove Mr. DiOrio from the Planning Board.

N.B. THERE WILL BE NO OPPORTUNITY FOR THE PUBLIC TO PARTICIPATE IN THIS PRELIMINARY DISCUSSION, THIS DISCUSSION CONCERNS A PERSONNEL MATTER DURING WHICH THE TOWN COUNCIL WILL BE SITTING IN A QUASI-JUDICIAL CAPACITY.

Council President Landolfi reported that Mr. DiOrio had been notified in writing of this preliminary discussion and had opted to hold the discussion in open session. Mr. DiOrio had called in and was participating remotely. He had requested a postponement of the discussion. He reported he had taken several training sessions relative to electronic meetings as it pertains to his membership on the planning board. He stated he interpreted the executive order 20-05 issued by Governor Raimondo, pertaining to participation for essential purposes and would like a postponement until such time as they all could look each other in the eye. He referred to the meaning of “essential” as meaning paying the bills and keeping the lights on. He added that the planning board had recently cancelled their meeting because they didn't have any essential agenda items. He did not feel that this preliminary discussion met the definition of essential.

Town Solicitor Kevin McAllister explained the definition of the phrase “meetings for essential purposes” came from the Governor's March 16, 2020 executive order 20-05. As Mr. DiOrio had stated, No.1 it says public bodies to conduct any meetings as those terms are defined by the open meetings act and are hereby relieved from the prohibitions regarding the use of telephonic or electronic communications to conduct meetings contained in RIGL 42-46-5(b), provided the public body is meeting for an essential purpose and makes provisions to ensure public access to the meeting of the public body for members of the public thru adequate alternative means; (a) defines what a meeting for an essential purpose means in the executive order and he read it verbatim: “An essential purpose is

either that which is necessary for continued government operations or to ensure compliance with statutory or regulatory deadlines”. Solicitor McAllister noted it was his responsibility to define whether or not this topic for preliminary discussion before the Town Council constitutes an essential purpose; if it met the definition in the Governor’s executive order and he felt that it did; it was an essential purpose necessary for continued government operation and in this way he felt this preliminary discussion had to be addressed tonight. He felt it was crucial that it be addressed tonight because of the two statements made by Mr. DiOrio: the first statement was made Mr. DiOrio at the March 4, 2020 Planning Board Meeting where he stated he was going to override the decommissioning condition contained in the ordinance adopted by the Town Council on March 2, 2020 relative to 0 Main Street; he then repeated this statement in an email to Solicitor McAllister on March 4, 2020, adding that he would be doing so with projects like it with similar conditions that came before the planning board – that he was not going to abide by the ordinances. Solicitor McAllister explained the authority of the Town Council as being authorized by the General Assembly to enact ordinances and once enacted they become law. The only remedy to legally challenge an ordinance is to appeal to Superior Court. Neither the planning board, nor a planning board member, has any authority to override an ordinance; that would invite anarchy and if the Town Council allowed it to happen it would undermine their authority. Additionally, there were other consequences for the developers/applicants who have been given legal property rights. The statement made by Mr. DiOrio on March 4 and March 5 violate those legal rights and they would have a right to sue the Town. He referred to other cases filed and pending in Superior Court against the Town of Exeter, their planning officials and Town Council, arising out of alleged actions taken by town officials after a project was applied for and was ready to be built. They are suing the Town of Exeter for \$200,000,000.00 plus interest, plus an award of attorney’s fees. He had sent a copy of this lawsuit to the Town Council for their information. He reported a similar lawsuit has been threatened to be filed against the Town of Coventry and he stressed what the impact of hundreds of millions of dollars lawsuit would have for the Town. He felt as Town Solicitor it is a matter he cannot allow to occur

because a large part of his job is to protect the Town from being sued. He stressed the importance to the Town Council to take the matter up tonight; discuss it and consider the next step – which is a formal hearing. If the Town Council fails to do this, they are in essence blessing the promise made by Mr. DiOrio to not abide by the ordinance which will violate the developers and applicant's legal rights and could lead to a lawsuit. He felt the Town Council needed to address this situation immediately before Mr. DiOrio carried out what he pledged to do. He felt it was his job to take this step and he acknowledged he took this step on his own without anyone asking him to do so and he brought it immediately to the Town Council's attention. For this reason, he stated this matter absolutely, positively affected the continued government operations of the Town of Hopkinton as it is a threat to Hopkinton's continued government operations. Council President Landolfi asked whether the Town Council could ask questions of Mr. DiOrio at this time.

Solicitor McAllister noted the only issue we are talking about now is whether the preliminary discussion should be postponed so questions should be limited to that topic at this point. Mr. DiOrio asked if he could re-but any of the comments made and it was acknowledged that he could do so.

Mr. DiOrio felt the Solicitor had fixated on only a portion of what he said on March 4, 2020 and there was more to that comment in the record and stated that he had no intention of using the planning board to prevail over a Town Council decision; that he understood the way it worked. He explained that he would direct the applicant back to the Town Council to remedy what was likely an error. He noted that science should dictate on matters such as decommissioning values and if the planning board investigated this science and they find that the value is higher or lower, he felt the applicant should be remanded back to the Town Council to remedy the error in their ordinance. He stated he was not looking to usurp the authority of the Town Council; he just wanted it to be right. Solicitor McAllister responded by saying that if this preliminary discussion is not postponed tonight as requested by Mr. DiOrio, he will be reading verbatim what Mr. DiOrio said. He noted Mr. DiOrio's rebuttal remark clearly expose what the problem is, he said his intention is to send the developers back to the Town

Council to remedy the Town Councils' error in their ordinances - that is not how the system works; the only authority to do that is through the courts. An ordinance is presumed by law to be valid until a court says it is not; that is the law in Rhode Island. Mr. DiOrio questioned this; that the Town Council cannot fix its own mistake? Solicitor McAllister reiterated that the only entity that can decide this is the court; the planning board doesn't get to do that. Mr. DiOrio asked if there was a procedure to follow for the Town Council to fix its own error?

Councilor Davis asked this as well. Solicitor McAllister responded it would have to be an amendment; there would be a procedure to follow. A Town Councilor would have to make a motion to amend, but a lot of notice would have to be given to the applicants and everyone else involved and there would have to be a hearing held. It was not something that can be done quickly and certainly not something that can be initiated by the planning board in the manner proposed by Mr. DiOrio; that would violate the legal rights of the developer/applicant. Councilor Davis believed there to be a misunderstanding and referred to Mr. DiOrio's clarifying letter dated March 28, 2020 in which he states he has no intention of defying the town council ordinance and she read some portions: "that he had no intention of defying the town council ordinance as I am well aware that is not acceptable for anyone serving the community; instead I was suggesting that the town council should and would be required to revised their projects specific ordinance to conform to more thoughtful reason and scientific criteria as properly established by the planning and their independent expert. And he further states in closing A., I have every intention of observing ordinances as established by the town council; B., I also have every intention of abiding by the regulations and ordinances governing the planning board obligations and responsibilities; and C., where there may be conflict between those ordinances, I would propose that any applicant would need to return to the town council to have the project specific ordinance amended to comply with the planning board findings. Councilor Davis felt if the planning board went through and sought the advice of an independent expert and the expert finds some problem with the ordinance that the town council made, it was her feeling that she thought he probably feels they should let the town council

know that there is a potential problem. How this would be done; whether it would be by letter to the town council suggesting an adjustment be made to a specific ordinance or whether he tells the applicant that they have to go back to the town council, she felt could be worked out. She feels his clarifying letter clears up the misunderstanding; that he did not intend to override or usurp the authority of the town council. What he is saying was he felt it was his responsibility to find independent scientific data to determine what true decommissioning costs are and that that he would give that information to the town council for them to consider and move forward from there to try to correct the error. She stated she was convinced that there was a misunderstanding of his intentions and that they now have been cleared up and she went on to make a motion to immediately dismiss this matter in its entirety from further Council consideration. There was no second to the motion.

Councilor Capalbo had a question for Mr. DiOrio: If Mr. DiOrio found a councilor to address the perceived error in the ordinance and if the council did not feel that was the case and sends it back to the planning board as is, did Mr. DiOrio intend to send it back to the council again or, would he abide by the councils second decision. Mr. DiOrio noted he was speaking for himself and answered that his thought was this whole thing is driven by the contradiction between the town council handing the planning board an ordinance and with our existing solar ordinance, which directs the planning board to do certain things; so the planning board would do their due diligence. If the town council handed down a decision and the planning board did its due diligence but came up with a different value which could be higher or lower and the town council affirmed its initial decision, then it was his thought that the planning board has done its job and the ordinance stands. He stated with this approach, the planning board could hold its head up and say they did their job. Councilor Capalbo asked a question of Solicitor McAllister: she referred to Mr. DiOrio's March 28, 2020 clarifying letter. If an applicant wishes to sue the Town Council because the planning board is asking them to either go back to the town council or that the planning board overrides the ordinance that was established, does the applicant use that March 28, 2020

clarification letter or would the applicant sue the town on the specific statements he made during the March 4, 2020 planning board meeting and his follow up March 5, 2020 email; would the court or a lawsuit take the March 28, 2020 clarification letter into account? What would be the basis for a lawsuit? Solicitor McAllister responded that it would be up to the lawyers representing whoever was representing the developers who want to challenge whatever the town was doing. He did not think the March 28, 2020 letter clarified in any comforting way to allay his concerns and he felt the statement reiterates his remarks with regard to the statement that the applicants will have to return to the town council and have the ordinance corrected. Solicitor McAllister referred to the sentence that said: “the applicant would have to return to the town council to have the project specific ordinances amended to comply”; he did not feel this letter retracted anything he has said, nor did it alleviate his concerns as Town Solicitor at all. Mr. DiOrio’s remarks present a clear and present danger, if not addressed immediately, to the town being sued for hundreds of millions of dollars; without exaggeration - this is what happened in Exeter. He pointed out that what the Council was to be addressing now was the request for a postponement and whether or not it was an essential function of government; that is what is at issue here. The other issues would be elaborated on later. Councilor Capalbo asked him to further answer her initial question. Solicitor McAllister did not want to speculate about what a lawyer representing a developer would use but did say that if they appeared before the planning board for development plan review of the project, knowing the town council had already addressed the decommissioning bond issue, they are entitled to assume that the planning board does not have any business revisiting the issue because it was already taken care of. The law in Rhode Island allows the town council to place conditions in their ordinances as they see fit for any particular parcel of land as long as the condition does not violate the state constitution or state law. The Town Council has already addressed the decommissioning bond for 0 Main Street so it is not the concern of the planning board and they should not address it because it has been addressed already. If Mr. DiOrio or the planning board wants to send a letter to the town council separate and apart from any applicant before taking it up; they have a

right to do that but they do not have the right to send this developer back to the town council and the town council sends it back to the planning board; that is not the way the system works; it's just inviting a lawsuit and that would be catastrophic to this town.

Councilor Thompson noted she did not support Mr. DiOrio's removal. She did believe the Town Council can come up with a resolution that would alleviate the potential legal lawsuit concern to the satisfaction of our Town Solicitor. She commented that AI has been involved for more than 30 years; he was involved in the development of the Town's initial Comprehensive Plan. She knows of his dedication and love for the Town. She did agree, though, that there is a serious legal issue that has to be resolved. She commented that last year, the word on the street was that the planning board was going to be looking at decommissioning costs and to make sure that any setting of decommissioning costs, to make sure they were not set too low and were on target so that someday there would be enough money to cover decommissioning costs. She never read any correspondence on the matter and checked with the Town Clerk to see if she had received any information from the planning board on decommissioning and she hadn't. She reported she contacted Councilor Davis and asked her if she had been aware of anything and Councilor Davis said yes, that back in October 2019, the planning board sent a letter out to the Town Council. She stated she never saw the letter which she felt presented a communication problem. This letter was to make the Council aware that the planning board was planning on receiving new information regarding projects costs associated with decommissioning solar facilities and they were going to investigate this information and had plans for a workshop. She met with Mr. DiOrio last week and they spoke about this whole issue and she talked about the issue of communication; what went wrong and she recommended to him that whenever he sends an email, to make sure it goes to the Town Clerk's Office so it ends up in their weekly packet. She added that one of the concerns she has had since the planning board had made advisements against many of the solar projects, is that they might kill a town project by setting an unreasonable and emotionally-driven amount; some of the things she has heard

was that decommissioning bonds should be in the \$1 million dollar amount and she explained that to Al and it was at that time that he told her that they didn't need a workshop; that he had sat down with Town Planner Jim Lamphere, and he had a solution and this was within the letter he had sent; that it was going to be based on scientific data, which was a very good solution but unfortunately, this was not communicated to the Council. She indicated that based upon this and other information, Councilor Thompson placed a motion on the table that we do not schedule a quasi-judicial evidentiary hearing at this time and instead request our Solicitor and Planning Board Solicitor, who both happen to be Kevin McAllister, Esq. to meet with Mr. DiOrio and resolve any potential legal actions that may arise against the town due to his comments and/or written words and that they report their findings to the Town Council. This motion was seconded by Councilor Davis.

Councilor Capalbo made a motion to amend the main motion: that Mr. DiOrio recuse himself from future planning board meetings until the primary issue of his stated goal of undermining ordinances and laws established and enacted by the town council, as well as the legal consequences and financial ramifications to the Town of Hopkinton can be deliberated in as open a manner as possible within State and Federal Guidelines; she noted the planning board has already cancelled its April meeting which mitigates any issue of someone saying something untoward in public and if we can postpone it until we can get to an open time where the public can be invited in she felt it would be better. She did not think there would be any further damage that can be done as long as there are no speeches at planning board meetings. Councilor Davis did not support the amendment to the motion.

Councilor Hirst stated his concerns were legal ones and asked the Solicitor to advise on the legal consequences to the town as far as lawsuits are concerned as he knew that there were many developers who have a lot of money riding on projects. He noted his anti-solar position was well known. He stated he had declined to meet with Mr. DiOrio because he questioned the appropriateness of

doing so when this issue arose. Solicitor McAllister asked if Mr. Hirst had heard his statements earlier. Councilor Hirst then asked the Solicitor if he was still not satisfied with Mr. DiOrio's response. Solicitor McAllister indicated that was correct; that it just reiterated and stated in a different way of how he intends to deal with developers before the planning board on 0 Main Street and potentially other projects in the future – to send them back to the town council to remedy their error; that is unlawful and unauthorized; it is a threat to the civil rights and property rights of these developers - that the town council cannot allow.

Councilor Hirst asked if he felt the threat of being sued was still a potential.

Solicitor McAllister responded it was, especially if Mr. DiOrio does what he said he was going to do and what he wrote that he was going to do. Councilor Hirst indicated that he wanted to do what was legally correct thing for the Town of Hopkinton.

Council President Landolfi stated he had heard all the comments from Al and others and had seen all the correspondence over the past week or two. He noted he had served on the planning board with Al and he has a different opinion on this issue. He did not feel that what Al said in open session and what he wrote to the Solicitor had the best interest of the town in mind. He stated he did not think Al was being lawful when he said he was going to send the developers back to the town council and have us revise our own law. He agreed with the Solicitor that the only entity that can correct it is the Superior Court so it is clear to him that Mr. DiOrio thinks that decommissioning was something the Town Council knows little about and that he is not happy about the ordinance the town council adopted as it pertains to 0 Main Street; but that law is on the books; it is the law and if we start messing with it, we could run into situations involving violations of property rights and civil rights and he did not want to be a party to that. No one is worth that; not Mr. DiOrio or anyone else, past or future. Council President Landolfi stated it was his opinion that they needed to continue to the next level and then we can have a complete hearing; hear from all sides and weigh our options at that point.

Solicitor McAllister again noted that the question of whether or not the town council is going to agree with Mr. DiOrio request to postpone the preliminary discussion which would involve whether or not to go to a second step would need to be addressed first. Council President Landolfi commented that the council was discussing this situation because of what Mr. DiOrio had said in open session at a planning board meeting; it hadn't been brought forward by a Councilor. He asked a question of Mr. DiOrio; did he consider the towns financial well-being essential? Mr. DiOrio responded, of course. It was pointed out that the motion on the floor was not to schedule the quasi-judicial evidentiary hearing so it's not to postpone, it's not to schedule the next meeting. There was further discussion on the motion and amendment to the motion that had been offered. Councilor Thompson re-stated a motion: to not schedule a quasi-judicial evidentiary hearing at this time and instead request our solicitor and planning board solicitor, Kevin McAllister, meet with Al DiOrio to resolve any potential legal actions against the town that could arise due to his comments or written words and report these findings to the council before he sits at the planning board. Councilor Capalbo felt they should say that Mr. DiOrio recuse himself from future planning board meetings until that is resolved. Councilor Davis objected to this as she did not feel he should have to recuse himself. Solicitor McAllister pointed out that Councilor Thompson's motion differed from the motion she made earlier and that was the one seconded by Councilor Davis so he asked if Councilor Thompson was replacing her initial motion. Councilor Thompson confirmed this but went on to say she would take out what she had added in and went back to the wording of her original motion: A motion was made by Councilor Thompson that the Town Council not schedule a quasi-judicial hearing at this time and instead request our Council Solicitor and the Planning Board Solicitor, Kevin McAllister, meet with Al DiOrio and resolve potential legal actions against the town that could arise due to Al DiOrio's comments or written words and report these findings to the Town Council. This was seconded by Councilor Davis. Councilor Capalbo subsequently made a motion to amend the main motion that Mr. DiOrio recuse himself from future planning board meetings until the primary issues are resolved. Discussion: Councilor Hirst asked Solicitor McAllister on

how he felt about the motions stated. Solicitor McAllister felt the motions were fine; that he had no problem having a discussion with Mr. DiOrio as they've always been able to talk in the past. There was no reason why they couldn't do so now. He noted Councilor Capalbo's motion to amend had yet to be seconded. Councilor Hirst indicated he would support the motions commenting that we live in a litigious society and felt it necessary to protect the town and make sure town government operates. Councilor Davis asked if a time limit could be placed on when this conversation would happen because it would make a difference to her as it pertains to supporting the amendment. She did not want it to drag out with the planning board trying to have meetings without Mr. DiOrio; that did not make sense to her. She would like to see this meeting occur quickly. Councilor Capalbo stated that she felt that we have responsible and respectable men in this instance; both Attorney McAllister and Mr. DiOrio, and she doubted it would take very long and was sure they both want to resolve it as quickly as possible. No further discussion. The motion to amend was seconded by Councilor Thompson.

Vote on the amendment:

IN FAVOR: Landolfi, Hirst, Capalbo, Thompson, Davis

OPPOSED: None

SO VOTED

Vote on the main motion as amended:

IN FAVOR: Landolfi, Hirst, Capalbo, Thompson, Davis

OPPOSED: None

SO VOTED

A five-minute recess was called at 7:03 PM and the meeting reconvened at 7:08 PM.

A MOTION WAS MADE BY COUNCILOR THOMPSON AND SECONDED BY COUNCILOR DAVIS TO SIT AS A LICENSING BOARD.

IN FAVOR: Landolfi, Hirst, Capalbo, Thompson, Davis

OPPOSED: None

SO VOTED

No action was taken on Numbered Items 1. through 5., listed on the agenda and will remain on the books subject to the discussion the Solicitor and Mr. DiOrio are to have.

SPECIAL EVENT PERMIT

The Council opened a hearing on an application for a Special Event Permit filed by Martin Liese on behalf of the Ashaway Sportsman Club for the annual Huck Finn Day scheduled for Sunday, June 7, 2020 from 8:00 AM to 3:30 PM (rain date: Sunday, June 14, 2020) to be held at Crandall Field, 188 Main Street, Ashaway, RI 02804.

The application was complete and there were no waivers requested. Council President Landolfi reported he had spoken with Mr. Liese who would not be calling in to the meeting and confirmed with the Solicitor the Town Council could decide this matter without him. Councilor Davis noted this event expected around 200 people and if the Governor’s Executive Order is still in effect on June 7, 2020, she felt the event would have to be cancelled. The Town Clerk will include specific language in the letter to Mr. Liese when she follows up with him on the special event permit. There were no other comments from the Town Council or from the public.

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR HIRST TO ACCEPT THE APPLICATION FOR SPECIAL EVEN PERMIT AND IT SHALL BE EXEMPT FROM FILING AND LICENSING FEES.

IN FAVOR: Landolfi, Hirst, Capalbo, Thompson, Davis

OPPOSED: None

SO VOTED

A MOTION WAS MADE BY COUNCILOR THOMPSON AND SECONDED BY COUNCILOR HIRST TO ADJOURN AS LICENSING BOARD AND RECONVENE AS COUNCIL.

IN FAVOR: Landolfi, Hirst, Capalbo, Thompson, Davis

OPPOSED: None

SO VOTED

CONSENT AGENDA

The March 2, 2020 Town Council Meeting Minutes and the March 5, 2020 Budget Workshop Notes were removed from the Consent Agenda and Executive Session Minutes of March 2, 2020 were removed as not all had had an opportunity to review them.

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR THOMPSON TO APPROVE CONSENT AGENDA AS FOLLOWS: Town Council Budget Workshop Notes of February 24, 2020; Accept the following monthly financial/activity report: Town Clerk; Approve refund due to an overpayment of 2019 real property tax submitted by the Tax Collector.

IN FAVOR: Landolfi, Hirst, Capalbo, Thompson, Davis

OPPOSED: None

SO VOTED

Councilor Hirst pointed out on page 1 of the March 5, 2020 Town Council Budget Workshop Notes under Hope Valley Ambulance, the last name of Alissa was omitted. The Town Clerk responded the last name was not provided.

A MOTION WAS MADE BY COUNCILOR HIRST AND SECONDED BY COUNCILOR CAPALBO TO APPROVE THE TOWN COUNCIL BUDGET WORKSHOP NOTES OF MARCH 5, 2020.

IN FAVOR: Landolfi, Hirst, Capalbo, Thompson, Davis

OPPOSED: None

SO VOTED

The March 2, 2020 Town Council Meeting Minutes required two corrections: page three, fourth line from the bottom: insert the word “she” between the words “that” and “supports” page sixteen, eighth line up from the bottom; insert “per megawatt” between the words “ago” and “so”.

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR DAVIS TO APPROVE TOWN COUNCIL MEETING MINUTES OF MARCH 2, 2020 WITH ADJUSTMENTS.

IN FAVOR: Landolfi, Hirst, Capalbo, Thompson, Davis

OPPOSED: None

SO VOTED

PUBLIC FORUM

Joe Moreau of Old Depot Road wished to address the Old Business item it talks about resuming and continuation of a discussion on the Chase Hill Road project and when he could speak on it; during that portion of the agenda under discussion or under public forum. Council President Landolfi responded during public forum; he added it will be continued because after speaking with Attorney Surdut he found he hadn't lined up the interconnection expert for this meeting so it will need to be continued and a date has to be determined. That either the Town Clerk or Solicitor has been in touch with him so advised he Mr. Moreau him to ask questions during public form.

Chip Heil of Chase Hill Road stated he echoes other persons sentiments regarding the matters scheduled tonight and whether they were essential to conduct town business; he did not feel it was necessary; having people call in does not have the same impact as having a discussion in person. Mr. Heil questioned Council President Landolfi's statement that the lawyers still don't have the interconnection expert lined up. Council President Landolfi responded that is what Attorney Surdut told him. Mr. Heil asked why they had not continued the meeting for this reason the last time it was scheduled; he thought the meeting had been cancelled because of the coronavirus situation not because the attorneys weren't prepared. Council President Landolfi indicated he wanted to know if he had lined up an interconnection expert up before placing the resumed hearing on tonight's agenda, so he asked him and he did not have one lined up for tonight. Mr. Heil indicated that if he still doesn't have someone lined up, there was a significant amount of frustration because they didn't seem to be prepared with no connection expert; he questioned how long it should go on giving a pass to the developers claiming it is due to the corona virus pandemic. Council President Landolfi noted the reason he called Attorney Surdut was because a lot of time had gone by and there were a lot of cancellations and he wanted to know from Attorney Surdut when setting up the

agenda when he told him no; that was why it is not on the agenda tonight as a hearing. Mr. Heil noted he would like this matter wrapped up and voted on; and he again questioned how the continuation of this hearing was viewed as essential Town Council activities. Council President Landolfi felt it would be become more clear when they get to the agenda item.

COUNCIL PRESIDENT REPORT

Council President Landolfi reported this item, the discussion on the Chariho Regional School District Budget had been a standing item and reported that the Chariho School Committee and the Chariho Administration who stepped up to the plate and had reduced their fund balance to 2%. He gave kudos to School Committee Member Craig Louzon, from the Town of Charlestown who made the motion to make that happen, as well as the School Committee and Administration.

TOWN MANAGER REPORT

Town Manager William McGarry provided an update on the Covid-19 Pandemic as it pertains to the Town. He reported that there had been a voluminous amount of information from the Federal Government, the State Government through the Governor's Office and the RI League of Cities and Towns. At the local level we are pretty much ahead of the curve; the doors have been locked to all five town buildings; a limited work from home schedule has been instituted for employees which was being done on an alternating basis schedule to limit exposure to keep departments staffed; visits can be scheduled in an emergency situation by appointment only. The third amended declaration of emergency was issued and it extends to April 13, 2020 to coincide with the Governor's State Declaration and her Executive Orders; last Friday night the Town send out a code red announcement to approximately 4,000 residents and business owners; all Hopkinton Recreation programs and events are been suspended and parks and playgrounds closed till further notice; the April 8, 2020 Planning Board Meeting has been cancelled; the April 14, 2020 Chariho All Day Budget Referendum has been cancelled and will be held at a later date; the May 19 tax sale has been cancelled and will be rescheduled to sometime in June; all campgrounds are ordered closed until at least May 1, 2020. The extension of the declaration of emergency will allow the Town to seek reimbursement from Federal EMA for

expenses incurred due to the pandemic; the preliminary reimbursement request amount is \$45,000.00. He noted that he monitors in numerous press conferences per day; as of today there were 27 deaths and 1082 positive test results and felt the next two weeks will be difficult. Councilor Davis noted current reports were that there were <5 cases in Hopkinton. Mr. McGarry indicated that was correct and was the number he has as well and noted persons names were protected under the HIPA Act. Councilor Davis asked if the Wood River Health Services location had been considered as a testing site. Mr. McGarry responded he had spoken to the CEO recently and would be doing so tomorrow and was not sure if they have the capacity to do so; that there were larger facilities in the state being set up.

OLD BUSINESS

**CENTRICA BUSINESS SOLUTIONS/KAREN & JAMES CHERENZIA ZONE
ORDINANCE & COMPREHENSIVE PLAN AMENDMENT RESUMPTION-
CONTINUATION OF HEARING**

The Town Council discussed the scheduling of the the resumption and continuation of the public hearing on a request for an amendment to the Hopkinton Comprehensive Plan Future Land Use Map and an amendment to the Hopkinton Zoning Ordinance filed by Centrica Business Solutions, 1484 Candlewood Road – Suite T-W, Hanover, MD 21076 and Karen M. & James W. Cherenzia, Jr., 201 Chase Hill Road, Ashaway, RI 02804 for property located at Chase Hill Road as Plat 2, Lot 32, an RFR-80 Zone continued from December 9, 2019 to January 13, 2020 – meeting cancelled and continued to February 18, 2020 - meeting cancelled and rescheduled to March 16, 2020. The March 16, 2020 meeting was cancelled due to the declared State of Emergency re: Covid-19. Council President Landolfi had indicated either the Town Solicitor or Town Clerk was to have spoken to Attorney Surdut. Town Clerk Elizabeth Cook-Martin reported she had spoken to Attorney Surdut this day with regard to the potential of scheduling for May 18, 2020, that would be the earliest this could be done in order to provide proper notice. Councilor Capalbo suggested the first Town Council Meeting in June or whichever Town Council Meeting that could be open to the public because there is a great deal of public interest on this subject and she would like it to be held in-person. Councilor Thompson was open to this and suggested the second Town Council Meeting in June; June 15, 2020. Councilor

Davis was not optimistic it could be held in June feeling it would be more likely to be July. Councilor Capalbo suggesting trying for June but acknowledged it may have to be rescheduled to July. A motion was made by Councilor Capalbo to allow more public participation to set the date of June 15, 2020, seconded by Councilor Hirst; discussion: Councilor Davis asked what were the expectations on this date: if the interconnection expert would be present; if the developer had given enough information to the abutters, such as the revised plan – if the abutters saw that; she assumed there would be a public comment portion and then the Council could close the hearing. Councilor Davis felt if this hasn't been done for the abutters and if he doesn't have an interconnection then that would affect the ability to go forward. Council President Landolfi would like a site visit; he will arrange that on his own. Councilor Thompson noted as time goes by more will be known on the virus, so before advertising, she suggested the Town Clerk have a chat with the Council President and we will know ahead of time if the date is good, she did not want to waste the money. Councilor Hirst did not have a problem with June 15. Attorney Steven Surdut called in to the meeting and he would like to move forward asap; he deferring to the Town Council as to scheduling the matter. He stated they were prepared to go forward on March 16 and had the interconnection expert lined up for that meeting. As soon as he knows the new date, he would begin be preparations and added that the expert lives in Massachusetts. He noted tonight's agenda included discussion and not a public hearing, but if he misunderstood, he apologized. Councilor Davis asked if he had given any information to abutters. He indicated he had given the same information the Council had to the abutters who had provided him with contact information. He offered to provide the information to others if people contact the Town Clerk's office and provide that information to her. Although there was a motion and second on the table; there was no vote. The Council set the date by consensus. The Council set the date for June 15, 2020 at the Town Hall. This date may need to be rescheduled if there are extensions of the Governor's Executive Order or other requirements related to the Covid-19 Pandemic and will need to be monitored as the pandemic progresses.

NEW BUSINESS

AWARD BID RE: TRAIL MAPS & KIOSK POSTER DEVELOPMENT

This matter had been scheduled to discuss, consider and possibly vote to award a bid for Trail Maps and Kiosk Poster Development, as requested by the Town’s Conservation Commission, to Educational Mapping Service of Wyoming, Rhode Island at an hourly rate of fifty (50) dollars, per hour. One bid had been received in response to the advertised RFP.

Councilor Davis questioned that only one bid was received? Mr. McGarry responded yes; the RFP had been advertised in the newspaper. Councilor Davis did not like that the advertisement went in only one newspaper questioning if it has been suitable enough to notify potential vendors who can do this kind of work. Mr. McGarry explained that was the protocol; it was advertised in the Westerly Sun newspaper and also posted on the website. He noted he did not anticipate many bidders it was a small job and he felt the Town was fortunate to get one bid and that Conservation Commission Chair Harvey Buford felt the amount was reasonable. Councilor Davis asked how many hours He stated that the Conservation Commissions Consulting/Technical Fees line item was funded at \$3,000.00. There were no further comments.

A MOTION WAS MADE BY COUNCILOR HIRST AND SECONDED BY COUNCILOR CAPALBO TO APPROVE A BID AWARD FOR TRAIL MAPS AND KIOSK POSTER DEVELOPMENT TO MR. PETER STETSON OF 173 NEW LONDON TURNPIKE, WYOMING RI IN THE AMOUNT OF \$50.00 PER HOUR.

IN FAVOR: Landolfi, Hirst, Capalbo, Thompson, Davis

OPPOSED: None

SO VOTED

TOWN COUNCIL CHAMBERS AIR CONDITIONING SYSTEM

This matter had been scheduled to discuss, consider and possibly vote to authorize the expenditure of \$2,000 from the Town Council’s contingency account (#001-5065) to fund approximately half the cost of a new air conditioning system recently installed in the Town’s Council Chambers.

A MOTION WAS MADE BY COUNCILOR HIRST AND SECONDED BY COUNCILOR DAVIS TO AUTHORIZE THE EXPENDITURE OF \$2,000 FROM THE TOWN COUNCIL’S CONTINGENCY ACCOUNT (#001-5065) TO FUND APPROXIMATELY HALF THE COST OF A NEW AIR CONDITIONING SYSTEM RECENTLY INSTALLED IN THE TOWN’S COUNCIL CHAMBERS.

IN FAVOR: Landolfi, Hirst, Capalbo, Thompson, Davis

OPPOSED: None

SO VOTED

CENTRICA BUSINESS SOLUTIONS/MAITLAND FOTHERGILL ZONE AMENDMENT & COMPREHENSIVE PLAN FUTURE LAND USE MAP AMENDMENT

The Town Council discussed and consider setting hearing dates for Zone Amendment & Comprehensive Plan Future Land Use Map Amendment filed by Centrica Business Solutions for the following property owned by Maitland Fothergill, 10A Crandall Lane; identified as AP 2, Lot 001. Councilor Capalbo wanted to make sure the date set will be at a time when the public can be present and in person to participate. Councilor Davis wanted to know who the owner of the property was now; Maitland Fothergill had died and the attorney/developers were trying to make a new deal with one of the heirs and there were problems; she wished to know who the heir and property owner was, and she wants to know from that person that they want to go forward with this project. Solicitor McAllister noted Attorney Surdut had sent the Council a letter that they are ready to proceed with the application and he is assuming the successor in interest of the deceased person; the estate of the decedent, would have standing in this matter to step in and assume the role. Councilor Davis noted the last time Attorney Surdut was before them, he said they were still negotiating and mentioned there was an heir who died. She wished to know who was the owner was presently and if they are in favor of it; and would like this information in writing or she was not going to support scheduling, she wants to know it is a real deal. She referenced the time frame that the Town Council had given him and felt the Council could dismiss it if there was no deal in place. Solicitor McAllister referred to the recent letter from Attorney Surdut that came in after the information came out that someone

had died; the letter indicated they were ready to go forward with the application and the maps and this appeared to be in order. He stated he can get the information on who the application is for Councilor Davis from Attorney Surdut in the coming days. Councilor Davis said the original application is in the name of Maitland Fothergill and she felt the new name should be on file. She asked the Town Clerk if there was a new name and she responded she did not have the file at home with her so could not confirm one way or another. Council President Landolfi noted the Council had to schedule it and she could ask those questions during the hearing. Councilor Thompson suggested July 6 as the hearing date and Councilor Davis noted that it should be contingent upon an answer to her question. Solicitor McAllister asked to be heard because there had been a comment made under public forum and he felt that comment needed to be addressed. He noted there were two different things in the definition of the Governors Order for having a remote meeting during a crisis: that it had to be necessary for continued government operations and for compliance with statutory deadlines. He had touched on one part of it during the earlier portion of the meeting tonight on the DiOrio matter. This particular project relates to the other part of it as it pertains to ensuring compliance with statutory deadlines and in this regard it involved a zoning ordinance amendment and amendment to the FLUM; the statute sets forth a strict schedule; this can be delayed by request of the applicant but absent that, the Council must schedule it; it goes to the planning board for an advisory opinion and then back to the Council. This matter meets the definition of essential but given the fact that for the foreseeable future we cannot have public meetings consisting of more than five people in one place, that it was fair to say when adding up the two laws, that a specific date should not be set until we have better guidance and know when the planning board and Town Council can meet. He suggested, and noted Attorney Surdut can contact him if he objects, that in order to get the process going with referenced to the planning board, it should be dealt with by the planning board within 30 days of the resumption of normal business, so after the Governors Emergency Orders are no longer in effect, 30 days after that, rather than pick a specific date tonight and that solves a lot of problems and that will give time to get an answers to Councilor Davis' questions;

to set a time 30 days after the expiration of the Governors orders; the Council can schedule it but it doesn't have to be a firm date and that way we can show we are complying with the underlying statute. The date July 6 had been suggested; Councilor Capalbo noted anything related to solar should have the public involved. Councilor Hirst asked if they were targeting the first regular Town Council Meeting after Governors Order was lifted and it was explained that it has to go to the planning board first. Councilor Capalbo felt the Council will have a lot of other matters stacking up as soon as we can have an open meeting with the public; we will do the best we can and until then she didn't feel it should be too specific and the date of July 6, 2020 would be generic enough; she felt it was common sense that we have to deal with State and Federal Guidelines. The Council set July 6, 2020 at the Town Hall. This date may need to be rescheduled if there are extensions of the Governor's Executive Order or other requirements related to the Covid-19 Pandemic and will need to be monitored as the pandemic progresses.

BOARDS & COMMISSIONS REAPPOINTMENTS

Conservation Commission

Lydia Lanphear had sent in her request to be reappointed to the Conservation Commission.

A MOTION WAS MADE BY COUNCILOR DAVIS AND SECONDED BY COUNCILOR CAPALBO TO REAPPOINT LYDIA LANPHEAR TO THE CONSERVATION COMMISSION.

IN FAVOR: Landolfi, Hirst, Capalbo, Thompson, Davis

OPPOSED: None

SO VOTED

Board of Canvassers

Sandra Johanson had sent in her request to be reappointed to the Board of Canvassers.

A MOTION WAS MADE BY COUNCILOR DAVIS AND SECONDED BY COUNCILOR CAPALBO TO REAPPOINT SANDRA JOHANSON TO THE BOARD OF CANVASSERS.

IN FAVOR: Landolfi, Hirst, Capalbo, Thompson, Davis

OPPOSED: None

SO VOTED

BOARDS & COMMISSIONS RESIGNATIONS

Planning Board

Amy Williams emailed a resignation from the Planning Board to the Town Council.

A MOTION WAS MADE BY COUNCILOR DAVIS AND SECONDED BY COUNCILOR CAPALBO TO ACCEPT THE RESIGNATION OF AMY WILLIAMS FROM THE PLANNING BOARD WITH REGRET.

IN FAVOR: Landolfi, Hirst, Capalbo, Thompson, Davis

OPPOSED: None

SO VOTED

Wood Pawcatuck Wild & Scenic Rivers Stewardship Council

Michael Warner submitted a written resignation from the Wood Pawcatuck Wild & Scenic Rivers Stewardship Council to the attention of Wood Pawcatuck Wild & Scenic Rivers Coordinator.

A MOTION WAS MADE BY COUNCILOR DAVIS AND SECONDED BY COUNCILOR CAPALBO TO ACCEPT THE RESIGNATION OF MICHAEL WARNER AS ALTERNATE MEMBER OF THE WOOD PAWCATUCK WILD & SCENIC RIVERS STEWARDSHIP COUNCIL.

IN FAVOR: Landolfi, Hirst, Capalbo, Thompson, Davis

OPPOSED: None

SO VOTED

Conservation Commission

John Pennypacker submitted a written resignation from the Conservation Commission.

A MOTION WAS MADE BY COUNCILOR DAVIS AND SECONDED BY COUNCILOR CAPALBO TO ACCEPT THE RESIGNATION OF JOHN PENNYPACKER FROM THE CONSERVATION COMMISSION.

IN FAVOR: Landolfi, Hirst, Capalbo, Thompson, Davis

OPPOSED: None

SO VOTED

Tax Board of Review

Liz Goor submitted a written resignation from the Tax Board of Review.

A MOTION WAS MADE BY COUNCILOR DAVIS AND SECONDED BY COUNCILOR HIRST TO ACCEPT THE RESIGNATION OF LIZ GOOR FROM THE TAX BOARD OF REVIEW.

IN FAVOR: Landolfi, Hirst, Capalbo, Thompson, Davis

OPPOSED: None

SO VOTED

ADJOURNMENT

A MOTION WAS MADE BY COUNCILOR HIRST AND SECONDED BY COUNCILOR THOMPSON TO ADJOURN IN MEMORY OF SARAH ARMSTRONG.

SO VOTED

Elizabeth J. Cook-Martin

Town Clerk