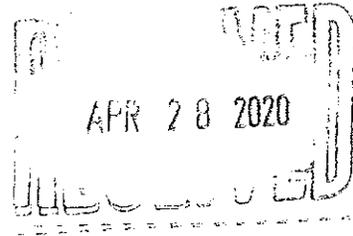


To: Town Council, Manager, Solicitor, Clerk, Planner, & Planning Board
Date: April 15, 2020
Re: 0 Main Street Solar Project
From: Sylvia Thompson



Hello All,

I am requesting an amendment to Chapter 16 of the Zoning Ordinances of the Town of Hopkinton as amended, related to 0 Main Street identified as Plat 7 Lot 32, Plat 10 Lot 87, and Plat 11 Lot 35

(2) All decommissioning and other provisions in place for Photovoltaic Solar Energy Systems as set forth in Chapter 134 as amended, as well as Hopkinton Planning Board requirements, shall be complied with, including, but not limited to the posting of a decommissioning cash escrow bond in the amount of ~~\$25,000 per Megawatt AC~~ to be determined by the Planning Board.

~~Strike through method for deletion~~ and underline method is language to be added.

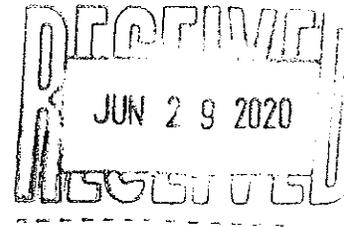
At the time the 0 Main Street decision was made I thought it would mirror our last decision (Skunk Hill solar). It did not as it relates to decommissioning bonds. I would like to change that and provide consistency between projects.

I have been assured by Al DiOrio, as Planning Board Chair, the board will determine decommissioning bond amounts based upon scientific data by securing an expert, at the applicant's cost.

This is exactly what will occur with the Skunk Hill Solar Project as it makes its way through the Planning Board development process.



HOPKINTON
RHODE ISLAND



PLANNING DEPARTMENT

James M. Lamphere, Town Planner
One Townhouse Road
Hopkinton, Rhode Island 02833
401-377-7770

TO: Elizabeth Cook-Martin, Town Clerk
FROM: Talia Jalette, Senior Planning Clerk
SUBJECT: Planning Board Advisory Opinion – Atlantic Solar
DATE: June 29, 2020

TOWN OF HOPKINTON PLANNING BOARD
ADVISORY OPINION

At the June 3, 2020 Hopkinton Planning Board meeting, the following advisory opinion was rendered:

Advisory Opinion to the Town Council – Request for Comprehensive Plan/Zoning Map Amendments – AP 7, Lot 32, AP 10, Lots 87, and AP 11, Lot 35 – Main Street – Atlantic Control Systems Inc. (c/o James R. Grundy), applicant.

Mr. DiOrio provided a recusal notice to the Senior Planning Clerk, Ms. Jalette, as he had involvement with the Atlantic Control Systems Inc.'s project. Mr. Prellwitz, Vice Chair, served as Chair. Mr. Lamphere provided a brief introduction to the task at hand before Mr. Clough elaborated on it further.

Mr. Lamphere: "Sean, would you mind just teeing this up for the Board – specifically with what they're charge is today, this here? It's basically, it's basically an advisory opinion to the Town Council on an amendment to an approval to zoning that was granted for this project, and the, what's on the table for discussion here is striking out a Town Council condition, which placed \$25,000 per megawatt A/C as a decommissioning bond."

Mr. Clough: "So, Jim, that is correct – this is Attorney Clough here, acting as a Solicitor for the Town of Hopkinton and for the Planning Board. So, this was on a motion made by Town Council Councilor Sylvia Thompson, and brought before, brought to the Planning Board for an advisory opinion, and Jim is absolutely correct. Essentially, what the Planning Board is considering tonight at its public hearing is an amendment relative to the conditions setting the amount of required cash decommissioning bond. So, essentially, you're looking at whether or not the Planning Board will advise in the affirmative or negative that the Council should strike the term of '\$25,000 per megawatt A/C' from the ordinance and substitute that to, to read 'to be determined by the Planning Board. That's, that is, in particular the discussion that you're having this evening, and that you're taking public comment on."

Ms. Light was the first Planning Board member to speak in regards to this issue. She said that she believed that "setting the decommissioning is in the purview of the Planning Board", and that she was "highly in favor of the Board following through with the amendment to the ordinance." Mr. Lindelow stated that he did not think that the Board had "the full information to make the correct decision and disagree with the Town Council's decision." Ms. Shumchenia was in agreement with Ms. Light, and stated that she was in "support of this amendment and the consistency with which it brings the ordinance back in line with the solar ordinance as written for most of the projects in Town." Mr. Prellwitz weighed in on the issue.

Mr. Prellwitz: "I would have to agree with everybody, that it is in the purview of the Planning Board to set these limits. I, however, don't feel that \$25,000 is too far out of line. The New York State Board claims \$30,000 is a better, a better amount for decommissioning, but then again, it's up to us to have a discussion on that, and go with that, but the point being now is whether or not we send an advisory opinion to change it from what Councilor Thompson said, at \$25,000, and it should be discussed on each project."

Mr. Prellwitz asked Mr. Lamphere if it was time to take a vote, and Mr. Lamphere explained that this was a public hearing, and described the process that had to be followed to conduct a public hearing.

Mr. Lamphere: "We have to have, this is a public hearing on this matter, so at this point..."

Mr. Prellwitz: "Oh. Understood, okay."

Mr. Lamphere: "You should make it clear that the public has an opportunity here, to comment on this, and don't forget: at the end of public comments, just prior to – after you take a vote – you'll have to close the public hearing as well, so."

During the period for public comment, Ms. Davis, Hopkinton Town Council Liaison, spoke. She stated that she “really agreed with having the Planning Board determine decommissioning.” She continued by explaining her own voting history in relation to the project.

Ms. Davis: “And I will just say, for the record, that when, when the Atlantic Solar project was voted on by the Town Council, I did not participate in Barbara’s [Hopkinton Town Council member Barbara Capalbo] the reading of her motion. I really thought that that motion was going to fail, so I did not comment, and I did not realize that, if it passed, it passed with her specifying the \$25,000 per megawatt, and so I had no way of doing anything at that point, so I’m glad that Sylvia [Hopkinton Town Council member Sylvia Thompson] brought it up, and is asking the Planning Board for an advisory opinion, and then, you know, based on that, it will come back to the Town Council and we’ll do a vote. So, I really, really appreciate the comments that I’m hearing from the Board members. I really do think that this should be done – the setting of the decommissioning – by the Planning Board. Thank you.”

Ms. Light asked for clarification in regards to what the Board’s true role would be in relation to determining the sufficiency of prospective decommissioning bonds.

Ms. Light: “Can I have some clarification on what we’re talking about here? The Planning Board is not going to do, itself, a decommissioning review. This is going to have to be done by a professional consultant.”

Ms. Davis: “Correct.”

Ms. Light: “Just so that we understand that that matter is clear.”

Ms. Davis: “It’s clear.”

Mr. Lamphere provided further clarity in regards to this process.

Mr. Lamphere: “Well, basically, Carolyn is correct. The decommissioning – the Solar Ordinance dictates that the Planning Board set the decommissioning amount, based upon a recommendation by the Town’s engineer. So, I can assure you, that when this particular project comes before the Planning Board, the Planning Board will have an opportunity to set an amount that it feels as though is reasonable. We will – the ordinance will be followed. But, again, just for clarity purposes, we’re really not even going to get into people’s opinions as to whether this \$25,000 is adequate or not adequate. That is not the subject tonight. The subject, basically, is to restore the power, that the Planning Board has by ordinance, that the Planning Board will, ultimately, decide on the number. And, what we’re here to do, as you correctly pointed out, Ron, is

to get an advisory opinion on striking out the language that the Town Council put in and substitute that it will be determined by the Planning Board. That's the opinion that we have to give to the Town Council. Now, the Town Council, after we rendered our opinion, they will have their public hearing on this matter, and they'll decide whether, among themselves, whether they actually want to go forth and strike it, and substitute it, or not. That's yet to be determined. But, at this point, it's the Planning Board's opinion that we're seeking."

Joe Moreau, of Old Depot Road, made a comment before the Board.

Mr. Moreau: "Hi, this is Joe Moreau, and I agree 100% that the Planning Board should be in the decision-making process. I've been involved in these solar projects since the beginning of 2018, and we've had in the past, as we do now, five qualified members of the Planning Board, we have Jim [Lamphere] and Talia [Jalette], who are both very qualified, and that is up to the Planning Board, in my opinion. It is not up to any member of the Town Council to decide, interfere, in the planning process. I've seen it time and time again, where residents start to question, 'Why do we have a Planning Board?' if the Town Council is going – some of the Town Council – if they're going to make changes to the Planning Board. So, I agree, 100%, that it should be a Planning Board decision. Thank you for your time."

Barbara Capalbo, Hopkinton Town Council member, called in after Mr. Moreau. She wanted to know if the engineering firm had been chosen, or if that "was still an unknown." Mr. Lamphere stated that "the Ordinance will be followed by the Planning Board", and elaborated to explain that the Ordinance states that "it will be prepared by the applicant's representative first, but we also have to have the Town engineer to weigh in on it. But the ultimate decision is to be made by the Planning Board in this, so we'll follow the Ordinance." Ms. Capalbo responded that "if the Planning Board is going to follow the Ordinance, and actually use the Town Planner and the Town engineer to determine this, this amount of decommissioning bond, it will be very interesting."

Mr. Prellwitz attempted to make a motion to close the Public Hearing before Mr. Clough jumped in, and reminded the Board that the Presiding Officer could not make this motion – it would have to be made by another Board member.

MS. LIGHT MADE A MOTION TO CLOSE THE PUBLIC HEARING. MR. LINDELOW SECONDED THE MOTION. A ROLL CALL VOTE WAS TAKEN.

IN FAVOR: LIGHT, SHUMCHENIA, LINDELOW, PRELLWITZ

ABSTAIN: NONE
OPPOSED: NONE

4-0, MOTION PASSED.

Mr. Lindelow made a motion disapproving the amendment. Mr. Clough asked Mr. Lindelow to clarify his stance. Mr. Lindelow stated that he may have said it wrong, but that he wanted to "return the decision process back to the Planning Board." Mr. Clough stated that he understood, and provided further insight into the correct language for the vote to reflect Mr. Lindelow's intent.

Mr. Clough: "Right, and I understand that it's a little confusing. If you are in favor, or you would like to make a motion in favor of striking the wording of requiring the \$25,000 per megawatt A/C language, and substituting that 'to be determined by the Planning Board', you would make a motion to approve of the amendment."

Mr. Lindelow: "Gotcha, gotcha."

MS. LIGHT MADE A MOTION THAT THE PLANNING BOARD APPROVE THE AMENDMENT TO CHAPTERS 272 AND 273 OF THE HOPKINTON ZONING ORDINANCE, AND AN AMENDMENT TO THE HOPKINTON COMPREHENSIVE PLAN FUTURE LAND USE MAP, REQUESTED BY THE TOWN COUNCIL FOR PROPERTY OWNED BY ATLANTIC CONTROL SYSTEMS, INCORPORATED, AND LOCATED AT 0 MAIN STREET, IDENTIFIED AS ASSESSOR'S PLAT 7, LOT 32, AND PLAT 11, LOT 35, AS WELL AS PROPERTY OWNED BY JAMES R. GRUNDY, IDENTIFIED AS ASSESSOR'S PLAT 10, LOT 87, ALL WITHIN THE RFR-80 - RURAL, FARMING, AND RESIDENTIAL ZONING DISTRICT. THE PLANNING BOARD APPROVES THE AMENDMENT RELATIVE TO THE CONDITIONS SETTING THE AMOUNT OF THE REQUIRED CASH DECOMMISSIONING BOND, THEREBY STRIKING "THE \$25,000 PER MEGAWATT A/C", AND SUBSTITUTING "TO BE DETERMINED BY THE PLANNING BOARD". MR. LINDELOW SECONDED THE MOTION. A ROLL CALL VOTE WAS TAKEN.

IN FAVOR: LIGHT, SHUMCHENIA, LINDELOW, PRELLWITZ
ABSTAIN: NONE
OPPOSED: NONE

4-0, MOTION PASSED.