

State of Rhode Island

County of Washington

In Hopkinton on the second day of May 2022 A.D. the said meeting was called to order by Town Council President Stephen Moffitt, Jr. at 7:00 P.M. in the Town Hall Meeting Room, 1 Town House Road, Hopkinton, RI 02833.

PRESENT: Stephen Moffitt, Jr., Sharon Davis, Robert Marvel, Michael Geary; Town Solicitor Stephen Sypole; Town Manager Brian Rosso (attended remotely); Town Clerk Elizabeth Cook-Martin. **Absent:** Scott Bill Hirst.

CALL TO ORDER AND ROLL CALL

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

ROLL CALL

Councilors Moffitt, Davis, Marvel, and Geary announced they were present.

PUBLIC COMMENT

No one from the public wished to speak.

ACKNOWLEDGMENTS AND ANNOUNCEMENTS:

Council President Moffitt Recognized Chariho Student Julianne Manlove for her Student One! Achievement of being one of twenty finalists selected in the competition and also recognized the involvement of Chariho High School English Teacher Rebecca Burns. Certificates of recognition will be issued to both.

APPROVAL OF AGENDA ORDER

There was no vote taken and no concerns voiced over the agenda order.

CONSENT AGENDA

A MOTION WAS MADE BY COUNCILOR MARVEL AND SECONDED BY COUNCILOR DAVIS TO APPROVE THE CONSENT AGENDA AS FOLLOWS: Approve Town Council Meeting Minutes of April 18, 2022; Set May 16, 2022 as a hearing date for a Special Event Permit for Huck Finn Day filed by the Ashaway Sportsman’s Club; Approve refund resulting from a Tax Assessor abatement submitted by the Tax Collector.

IN FAVOR: Moffitt, Davis, Geary, Marvel

OPPOSED: None

SO VOTED

VACANCIES AND APPOINTMENTS

This matter had been scheduled to discuss, consider and possibly vote to appoint Katrina Caputo as Zoning Board of Review/Appeal Board Clerk.

A MOTION WAS MADE BY COUNCILOR DAVIS AND SECONDED BY COUNCILOR MARVEL TO APPOINT KATRINA CAPUTO AS ZONING BOARD OF REVIEW/APPEAL BOARD CLERK.

IN FAVOR: Moffitt, Davis, Geary, Marvel

OPPOSED: None

SO VOTED

PUBLIC HEARING - CONTINUED FROM SEPTEMBER 7, 2021. THE FOLLOWING MATTER MAY BE CONTINUED: PROPOSED ZONING DISTRICT USE TABLE AMENDMENT TO ALLOW ELECTRIC CHARGING STATIONS IN COMMERCIAL, MANUFACTURING & NEIGHBORHOOD BUSINESS ZONES

This matter had been scheduled to discuss and consider a date to continue the hearing on proposed text amendments to the Town's Zoning Ordinance District Use Table. The intent of the proposed amendments is to allow electric charging stations in commercial, manufacturing and neighborhood business zones, including the two current gas stations. This proposed amendment had been introduced and sponsored by former Councilor Sylvia Thompson, scheduled on the November 2, 2020 Town Council Agenda where the hearing date was set for February 16, 2021. On February 16, 2021 the hearing was continued to March 15, 2021. On March 15, 2021 the hearing was held and was continued to June 7, 2021 whereupon the hearing date was closed with a decision date set for June 21, 2021. On June 21, 2021 the proposed amendments were divided out and the hearing date for the proposed amendment to allow electric charging stations in commercial, manufacturing and neighborhood business zones, including the two current gas stations, was continued to September 7, 2021. On September 7, 2021, the hearing date was continued to May 2, 2022.

Council President Moffitt indicated that he did not want to continue this matter and wished to set a date for a decision. He noted that there was no state law in place concerning this issue and until there was more information he did not feel

that this was necessary. There was discussion on whether the Council needed to continue this matter for a public hearing or if they could vote on a decision and Solicitor Sypole believed that the Council could entertain a motion to close the public hearing and pick a date to vote.

A MOTION WAS MADE BY COUNCILOR MARVEL AND SECONDED BY COUNCILOR DAVIS TO CLOSE THE PUBLIC HEARING AND SET A DATE FOR A DECISION.

IN FAVOR: Moffitt, Davis, Geary, Marvel

OPPOSED: None

SO VOTED

The Council set May 16, 2022 as the date for a decision.

NEW BUSINESS

POTTER HILL MILL PROPERTY RE: HOPKINTON'S PORTION

This matter was scheduled for discussion regarding potential options for disposition of Hopkinton's portion of the Potter Hill Mill Property – Special Master John Dorsey, Esq. was present.

Mr. Dorsey indicated that at his previous meeting with the Council he had explained that there were two issues that he was wrestling with, which were: (1) coming up with a path to deal with the demolition of the mill building situated on the Westerly side of the property; and (2) looking at options to address the dam infrastructure at the site. He noted that for the time-being Westerly has paused their effort to decide what approach they wished to take regarding the dam. In light of that decision, the question he posed to Westerly was in terms of advancing the demolition of the mill buildings and coming up with a disposition for the property; did Westerly have an interest in taking site control of the portion of the property situated on the Westerly side of the river. Mr. Dorsey suggested that when he met with the Westerly Town Council last month, they did vote in favor of seeking permission from the Superior Court to take site control. He advised that Westerly's Resolution is subject to consideration by the Superior Court which oversees these proceedings. Procedurally, his next step will be to

petition the Court for instructions and make a recommendation as to the future site control of the property. He will try to advance the demolition of the mill buildings and look at other options for the dam. He wished to determine from this Council if they had thoughts or considerations that it wishes the mastership to take into account regarding the Hopkinton side of the property when seeking instructions from the Superior Court. He noted that this was a creative process and there were a number of ways that there could be a disposition of the Hopkinton property. There is no building infrastructure on the Hopkinton side but there is the fish ladder and the embankment of the river which is also important. Some options would be for this Council to make a request to the Superior Court to take site control of the Hopkinton side of the property; we could seek protocols from the Court to allow Westerly to take site control of the Hopkinton side of the property, and if so, he would need to go back to Westerly to expand what they have voted on; or, the mastership could request that the Court allow him to grant Westerly an easement in perpetuity that would allow access to the Hopkinton parcel for their dam assessment work, to address any safety issues in the future, and any work on the dam that is ultimately approved by Westerly. Council Davis felt that Hopkinton should take site control of the Hopkinton side of the property as it was on their books. She asked if Hopkinton would have any recourse if Westerly was to receive site control and they decided to remove the dam. Mr. Dorsey noted that there was an inherent cost benefit analysis that would need to be performed and the Council had several options, one of which was their asking the Superior Court to take site control. If Hopkinton was to take site control of their portion of the property this would include about half of the dam. If any work were to proceed regarding the dam, Hopkinton's input and approval would be necessary. The downside of that is that it would mean the Town would directly take ownership and liability for the dam infrastructure which is significant. Westerly structured its Resolution asking for Court approval such that the mastership proceeding would stay open for a period of time so if there was a recommendation as to the dam work proceeding, Hopkinton would be on notice and have an opportunity to comment. Council President Moffitt asked Mr. Dorsey if there was a financial obligation associated with taking over the two

Hopkinton parcels and Mr. Dorsey acknowledged there was and noted it was a substantial financial obligation because the dam infrastructure has not been assessed in decades and at a bare minimum requires maintenance. It was noted that Westerly only wished to take over the property located in Westerly which included a portion of the dam. Councilor Geary advised that the Governor toured the mill property with Representative Kennedy and Representative Kennedy reported to the Westerly Sun that this was a low risk dam. Mr. Dorsey noted that the dam is currently classified by the Department of Environmental Management as a low-hazard meaning that in the event of a failure of the dam there is a low risk to loss of life and property from flooding. Mr. Dorsey explained that the Westerly portion of this property was six acres and Hopkinton's portion was approximately two and a half acres, which would include part of the dam, the fish ladder and embankment. By Westerly agreeing to take site control, it allows for the demolition work of the mill buildings to proceed and would include about half of the dam structure. Mr. Dorsey wished to know whether Hopkinton also wished to take site control or if they just wished to be an interested party which meant that he would ask the Court to grant an easement to Westerly over Hopkinton's property so they can perform an assessment on the Hopkinton side of the parcel and ultimately be able to do any recommended work on the Hopkinton side of the parcel. Council President Moffitt did not feel that Hopkinton should want control of this piece of property. Councilor Marvel advised that he had a brief discussion with Sarah Windsor of the Land Trust who had expressed an interest in having that piece of property for a boat launch and to create some parking; however, they probably do not understand that half of the dam goes with that as well as the financial obligation. He wished to speak with them about this. Mr. Dorsey advised that there was a regulatory process involved for any work performed on the mill site and the dam infrastructure, some of which require public input and public notice. Councilor Davis noted that the Westerly Resolution read in part: "...providing that the Town shall not be obligated to undertake activities with regard to the dam structure situated upon the property until and unless the town develops and approves a plan for any such dam related activity." She felt that meant that when they take site control of the mill (Westerly property), they also

would take over control of the dam but they were not going to do anything with it and are not obligated to do anything with it. She did not believe the dam was owned by Hopkinton. Mr. Dorsey noted that the property is defined as the Westerly parcel and would not include the whole dam, only the portion located in Westerly; and, Hopkinton did not have to take any action. Council President Moffitt asked if it was an option that Westerly petitions the Court to take over the piece of property in Hopkinton and Mr. Dorsey indicated it was. Solicitor Sypole confirmed with Mr. Dorsey that the current title for the .4 acre parcel in Hopkinton was owned by Renewable Resources who was the same party who owned the mill. He noted that if Westerly's Petition is granted by the Superior Court, then the Town of Westerly would become the title owner of the Westerly parcel. He asked if Hopkinton did not want their property who would become the title owner at the end of the receivership and Mr. Dorsey indicated that it could remain in the name of its current ownership with an easement on the property. Solicitor Sypole suggested that Hopkinton could not grant an easement over privately owned land and Mr. Dorsey acknowledged that and indicated that the Order appointing the Special Master vests the Special Master with right, title and interest to the property through the proceeding. The Court has taken jurisdiction of the property and may allow him, as Special Master, to grant an easement to Westerly over the Hopkinton property. Councilor Geary worried that if they allowed Westerly to take control over the Hopkinton property, in the future Westerly might decide to take down the dam and Hopkinton would have no say. Councilor Marvel asked if it was an option that the Town of Hopkinton or the Hopkinton Land Trust could take ownership of that parcel and then grant Westerly a perpetual easement. Mr. Dorsey noted that they could also do this in reverse, where he would go before the Superior Court advising that Westerly wishes to take control of the Westerly property and requires an easement over the Hopkinton property in order to assess the dam which would not foreclose the Town's rights to this property. Council President Moffitt asked if they were to gain site control would there be a cost to the Town and Mr. Dorsey indicated, yes, there would have to be some type of consideration. The consideration that Westerly was paying was their investment into the property in dealing with these

issues. Councilor Davis noted that when she suggested taking over site control of the Hopkinton property, she had thought that they could ultimately sell the property; she did not realize that they would own half of the dam. If they were to take no action and grant Westerly an easement were they still responsible for half of the dam; Mr. Dorsey indicated no. Council President Moffitt did not feel that taking over site control was something that they should do for this property was owned by Renewable Resources. Mr. Dorsey explained that what precipitated the Court proceedings was a demolition order, a memorandum of agreement and Superior Court proceedings that authorized the Town of Westerly to go forward with demotion. Due to the raceways under the building; the dam; the infrastructure; and the property being situated on a wetland, there are a lot of moving pieces. The town cannot just bring in a backhoe and demolish the building. In light of the fact that the owner had not made progress in the demolition of the buildings, the town brought a petition to the Superior Court seeking equitable relief for a Court appointee to help navigate these issues. This is different than a foreclosure due to the fact of the condition of the property and failure to comply with all of the underlying proceedings. Solicitor Sypole asked Mr. Dorsey if he has been in contact with Renewable Resources and Mr. Dorsey indicated that he had not; he has provided them with notice of all of the proceedings but he has not heard from them. Solicitor Sypole asked if Renewable Resources had expressed an interest in taking responsibility for the land on either side of the river. Mr. Dorsey noted that he had read an article after the Westerly meeting which indicated that they still had plans for the property, but he has not been presented with any plan of abatement or any financial wherewithal to make that happen. Mr. Dorsey advised that there was a prior Superior Court Order, which was affirmed by the Supreme Court back in 2015, allowing for the demolition of these properties. Solicitor Sypole was curious as to whether they have paid their tax bill to Hopkinton. Mr. Dorsey noted that if the Town Council chose to do nothing, his plan was to go to the Superior Court and ask for permission to convey the Westerly parcel; ask for permission to convey an easement in perpetuity to Westerly over Hopkinton's parcel; and, if the Court granted that, to commencing preparing the permitting applications to get the

buildings down and to complete the dam assessment. Thereafter, Westerly can present him with what they believe is the best way to proceed and he would then come back before this Council. Solicitor Sypole asked if the Court granted Westerly an easement over Hopkinton's property, was that something that would be recorded in the Land Evidence Records and be something that will continue to exist going forward for whoever took over title to that land and Mr. Dorsey indicated that was correct.

GOVERNOR MCKEE'S STATE-WIDE ANTI-LITTER INITIATIVE

The Town Council discussed and considered participating in Governor McKee's State-Wide Anti-Litter Initiative: Keep Rhody Litter Free.

Town Manager Brian Rosso advised that the Governor had reached out to the municipalities asking them to sign an agreement and to participate in a statewide initiative to clean up pollution. Councilor Davis asked if the Department of Public Works would oversee a day that they set aside as a clean-up day and obtain residents participation. Mr. Rosso indicated there were several suggestions made by the Governor's office which were: (1) to commit to host at least one clean-up event during the year; (2) share litterfreeri.gov on the town website; (3) share our community litter program with the State of Rhode Island; (4) share State goals and resources with groups from our community who help tackle litter; (5) share information with the local school districts and encourage innovative anti-litter programs; and, (6) share suggestions and local success to build a strong State litter program. Mr. Rosso suggested hosting one clean-up event during the year and Council President Moffitt felt that something should be posted on the town's website regarding this initiative. Mr. Rosso added that he would assist in scheduling the event with Public Works being involved, as well as Mary Sawyer, Chief Palmer and the Town Clerk. Councilor Davis advised that she was from Pennsylvania and when she was attending school they held a spring goodwill event which was a clean-up/fix-up day. All of the children would participate and one class would challenge another class as to who could bring the most goodwill bags in and she felt this was similar to that. Council President Moffitt indicated

that Mr. Rosso had the blessing of the Council to do anything that was required in this regard.

RESOLUTION IN SUPPORT OF HOUSE BILL 2022 - H 8055 - AN ACT RELATING TO WATERS AND NAVIGATION, COASTAL RESOURCES MANAGEMENT COUNCIL

This matter was scheduled to discuss, consider and possibly vote on a Resolution in Support of House Bill 2022 - H 8055 - An Act Relating to Waters and Navigation, Coastal Resources Management Council.

Council President Moffitt noted that he had put this on the agenda because Deborah Carney from Charlestown reached out to him and asked if he would bring this up to the Town Council and he believed that this Bill affected everybody. Councilor Geary indicated that public access to beaches and ponds are shrinking and indicated that he was in favor of this bill, which was agreed to by Councilors Marvel and Davis.

A MOTION WAS MADE BY COUNCILOR MARVEL AND SECONDED BY COUNCILOR DAVIS TO APPROVE THE RESOLUTION IN SUPPORT OF HOUSE BILL 2022 – H 8055.

IN FAVOR: Moffitt, Davis, Geary, Marvel

OPPOSED: None

SO VOTED

The resolution follows:

TOWN OF HOPKINTON, RHODE ISLAND

**RESOLUTION IN SUPPORT OF HOUSE BILL 2022 – H 8055
AN ACT RELATING TO WATERS AND NAVIGATION
COASTAL RESOURCES MANAGEMENT COUNCIL**

WHEREAS, the lack of a workable, readily identifiable right of access to the shore by the public has led to confusion, conflict and disputes between those attempting to exercise their rights and privileges to the shoreline and the rights of property owners along the shore; and

WHEREAS, it is in the best interest of the public and shoreline property owners to clearly and easily define the public's rights and privileges of and to the shore to avoid constitutional rights conflicts; and

WHEREAS, the Town Council of the Town of Hopkinton is committed to protect the public's constitutional rights to access and enjoy their privileges of and to the shore while also respecting well-established property right laws; and

WHEREAS, House Bill 2022 – H 8055 provides, in relevant part, a clear definition of the high tide line, so-called, to preserve the public's constitutional right to access and use of the shore; and

WHEREAS, the Town Council of the Town of Hopkinton finds that it is in the best interests of the health, safety and welfare of the people and visitors to Rhode Island and the Town of Hopkinton to enact a workable, readily identifiable right of access to the shore by the public to prevent confusion, conflict and disputes between those attempting to exercise their rights and privileges to the shoreline and the rights of shoreline property owners.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Hopkinton hereby requests that the General Assembly act favorably and pass House Bill 2022 – H 8055; and,

BE IT FURTHER RESOLVED that the Town Clerk is hereby authorized to provide a copy of this resolution to the Town of Hopkinton’s representatives in the R.I. General Assembly and all 38 cities and towns.

The RESOLUTION shall take effect upon passage.

PUBLIC COMMENT

Maryanne McNamara of 32 North Road stated that she had received a letter from Vision Quest concerning the revaluation of her property and believed that this had been done two years ago. She questioned why this was occurring again and wondered how much this was costing the town. Council President Moffitt noted that a statistical revaluation is performed every three years and a full revaluation every nine years. Ms. McNamara felt it was unconstitutional to assess property values that often and wondered how much was this going to increase residents’ taxes. Council President Moffitt noted that the mill rate was adjusted to compensate for any increase in value. Ms. McNamara also was concerned about wetland properties that are being placed for sale and people being able to develop those properties. Councilor Geary felt there was a process that needed to be complied with through the Department of Environmental Management. Ms. McNamara asked if the Planning Board had anything to do with putting these properties up for sale and it was indicated no. Council President Moffitt advised that this matter was not on the agenda so they really could not discuss this in depth but noted that she should contact DEM with her questions.

ADJOURNMENT

A MOTION WAS MADE BY COUNCILOR GEARY AND SECONDED BY COUNCILOR MARVEL TO ADJOURN.

SO VOTED

Elizabeth J. Cook-Martin

Town Clerk

Marita D. Murray

Deputy Town Clerk