

State of Rhode Island

County of Washington

In Hopkinton on the ninth day of January 2017 A.D. at 6:30 PM in the Town Hall Meeting Room, 1 Town House Road, Hopkinton, RI 02832 a workshop was held to discuss options relative to commercial solar arrays on appropriate parcels of land zoned RFR-80.

PRESENT: Frank Landolfi, Thomas Buck, Barbara Capalbo, Sylvia Thompson, David Husband; Town Solicitor Kevin McAllister; Town Manager William McGarry; Town Clerk Elizabeth Cook-Martin. Also present: Town Planner James Lamphere, Planner Assistant Sean Henry.

Town Council President Frank Landolfi opened the workshop with a moment of silent meditation and a salute to the Flag.

The workshop had been scheduled to discuss options, including but not limited to possible application of the Planned Unit Development (PUD) Ordinance and/or other potential vehicles that the Town might consider in facilitating developers and property owners wanting to consider installing commercial solar arrays on appropriate parcels of land zoned RFR-80. Materials available for review included the Planned Unit Development Ordinance (PUD), the application form and checklist for a Zoning Ordinance Amendment found, the Non-Residential Photovoltaic Solar Energy Systems (PSES) Ordinance and the related revision to the Farm Viability Ordinance providing for PSES.

Councilor Thompson handed out a memorandum relative to the PUD Ordinance that read: “Please familiarize yourself with the PUD Ordinance included in your packet for a workshop in January. The purpose of the workshop is to discuss the options the Town has in hearing requests from developers/property owners wanting to install commercial solar arrays on large parcels zoned RFR-80. Also, how the Town may use the PUD method for the Turrisi site in Ashaway. Step one: Completed and adopted a solar ordinance to regulate commercial solar arrays in commercial-

manufacturing; Step two: Completed and adopted an amendment to the Farm Viability Ordinance to allow solar panels on farms recognized by the State of RI, of limited size to offer a new income to assist farmers to assist in the continued viability of the farm; Step three: Determine the best way for the Town to allow commercial solar farms in RFR-80 zones and after decommissioning, how to retain the RFR-80 designation to revert back to residential. After review and discussions with the Manager, Planner and Solicitor, the PUD Ordinance seems to offer the Town controls over the number of solar farms, footprint, the impacts on the surrounding neighborhood or area, etc. PUD PROCESS: Planning Board (PB) will review solar development via the PUD as a Major Land Development under the Land Development and Subdivision Regs. PUD elements: Four stages of review: Pre-application meeting with applicant and the PB (for guidance for the applicant). Master Plan PB refers master Plan to other departments and/or agencies. After 45 days and subsequent to PB conditional approval, the planner forwards the Master Plan along with an advisory recommendation on the one change to the Town Council (TC) for a public hearing. Back to PB for Preliminary & Final.” She noted no matter what process was used: PUD or Zoning Amendment, the matter would go before the Town Council for approval. Mr. Lamphere indicated he has also reached out to State Wide Planning. Mr. Lamphere noted that using these two ways of going forward would not require the matter being heard before the Zoning Board. The Town Council would hear the merits of the application and then go back before the Planning Board; he added that it was not a typical use for the PUD Ordinance as there would be no homes involved; there could be a structure. Councilor Capalbo felt using the PUD Ordinance was a good idea as it would fit well in the definitions. She pointed out page 3 shows a minimum area for an RFR-80 zone would be 30 acres; page 5 of the ordinance provides for a simplified process before the PB. She noted solar arrays have a 20 year lease, so the PUD would not be in perpetuity; it would revert to the underlying zoning so it would not be spot zoning and would not be allowed by right. There was some discussion on whether the District Use Table should be amended to include a category so that an owner could proceed by right but there was not complete consensus on this. Councilor Buck commented about the 20 lease; if the project was defunct, it would go back to the underlying zoning otherwise

it could continue for another 20 years. As it pertains to a gravel bank, it would not revert to the pre-existing, non-conforming use as a gravel bank. Councilor Husband questioned whether the operator/owner would be required to notify the Town if granted an additional 20 contract by National Grid and the thought was that this would go through the Building-Zoning Department. Councilor Capalbo felt it would be worth another look in 20 years as she anticipated changes in the technology. As far as minimum lot requirements, the Planning Board and/or Town Council may be able to consider waiving the minimum lot requirements. Council President Landolfi stressed the importance of getting something on the books as he would not want to see a solar farm on every corner. He felt the PUD ordinance was a little wordy and favored a Special Use Permit process. Councilor Thompson noted that solar would not be a traditional PUD so some steps would not be necessary. Mr. Lamphere has completed some research; at the State level, National Grid can issue certificate of eligibility for 250 kilowatt medium scaled projects so if a PUD was the method for smaller solar projects and he was concerned the Town would see a lot of them. Councilor Thompson supported handling smaller solar projects differently. Council President Landolfi questioned acreage. Mr. Lamphere indicated five acres would be needed for a one meg facility. Councilor Buck expressed concern about the lack of permitting from RIDEM or permits for land clearing. Mr. Lamphere noted applicants would have to comply with all Federal and State Regulations. Councilor Buck indicated he was concerned with contiguous parcels that may allow a facility to become very large. He favors the PUD method as the property would revert to its original zoning. He commented that people come to Hopkinton for the Town's rural character. Mr. Lamphere noted the Town Council favored solar projects; it was up to the Town Council how cumbersome the process would be and added there were hurdles at the State level too. Council President Landolfi questioned if the solar projects would mesh with the Comprehensive Plan and Mr. Lamphere it would.

Public Comment:

James Cherenzia Jr., Chase Hill Road, stated his property was closest to the new National Grid Substation lines on Ashaway Road and this was not what he envisioned when he bought his 25 acre property. He had hoped to break off a couple of lots for his kids but there is nowhere on his property that he can sit without seeing

the substation; his property is on the hill and he overlooks it. He is considering a 3 meg solar farm and hoped for favorable consideration. The Council let him know that this could not be decided this evening.

Conservation Commission Chairman Harvey Buford noted he would hate to see farms not become winners; he did not want them to fall by the wayside with any unintended consequences as there were many complexities with solar such as the open enrollments, etc. Councilor Thompson indicated she felt they can move forward right now if their property was in the FFO program and they have enough land with the new amendment to the Farm Viability Ordinance.

David Gever, Anna Drive, had questions relative to solar panels on lawns as he lives in an R-1 zone and was concerned. Council President Landolfi noted they can be done on roofs now; they can be done in a commercial zone and can be done on a farm under specific circumstances; the Council was trying to balance it in residentially zoned properties. He was referred to Building-Zoning for personal use solar; location of the panels would be decided through this department. Mr. Gever asked if he had panels and sold the energy back to the grid over and above his usage would it be a business or personal use and was told personal use.

John Topatis from Brighton, MA is working with Frank Turrisi on his High Street property; he applauded the Council for be proactive and hoped they would clear the path for older non-conforming uses such as Mr. Turrisi's.

Bruce Kenyon, Lake Court spoke representing himself and his father; they own 36 acres on three separate lots which separately may not conform to the minimum lot size but combined, would. Their property cannot be seen by neighbors and already cleared but their discussions were at a very preliminary stage. Councilor Husband noted the minimum requirements could be waived. Councilor Thompson asked if they were allowed to move forward would they abandon the gravel business. Mr. Kenyon indicated probably not as there was enough acreage to do both. Councilor Capalbo would not want it to revert back to a non-conforming use. Mr. Kenyon felt

the gravel shouldn't be of any concern; it was only the face that is involved. Mr. Kenyon noted they had not decided how to move forward.

Anthony Delvicario, Warwick, RI, clarified some points relative to the 20 year contract which is the fee and tariff National Grid program; the virtual net meter program is a 25 year contract with municipalities. The initial contract is for 25 years in that particular case and the State Enabling Legislation goes to year 2050, which requires National Grid to buy the net meter credits up and through year 2050 so if you have a contract for 25 years, contract options would be basically for 32 years because there is a sunset clause on the legislation and it expires so the municipality would have to submit an extension request if they are getting a benefit beyond the initial term. Also, the Federal Investment Tax Credit of 30% expires December 31, 2018 and after that it goes to 21%, so these projects will be more difficult to do and after that there will be a reduction in the construction and installation because of the loss of the Federal Investment Tax Credit. That is what makes these projects financially viable; to sell that federal credit. With the Trump Administration and tax reform, this program may change.

There is general consensus that PUD Ordinance was the best option for larger parcels. Councilor Husband suggested the smaller parcels could be fast tracked. Councilor Thompson felt the Council should be very careful on how the smaller parcels were handled; that the smaller parcels would need more study. Councilor Capalbo suggested a second workshop would be required for the smaller parcels. Councilor Thompson stated a person with larger parcels could move forward now using the PUD Ordinance process. Mr. Lamphere affirmed this; that an application for a PUD can be filed with the town Clerk or they could file for a specific zone change or zoning ordinance text amendment for the parcel but felt the PUD Ordinance was the safest way to go for all concerned.

The Workshop was closed at 7:40 P.M.

Elizabeth J. Cook-Martin

Town Clerk