

State of Rhode Island

County of Washington

In Hopkinton on the fifth day of September 2017 A.D. the said meeting was called to order by Town Council President Frank Landolfi at 7:00 P.M. in the Town Hall Meeting Room, 1 Town House Road, Hopkinton, RI 02833.

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

**CONSENT AGENDA**

The Town Council Meeting Minutes of August 21, 2017 and Workshop Notes of July 31, 2017 were removed from the Consent Agenda.

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR THOMPSON TO APPROVE THE CONSENT AGENDA AS FOLLOWS: Approve refunds as a result of overpayments on motor vehicle taxes submitted by the Tax Collector.

IN FAVOR: Landolfi, Buck, Capalbo, Husband, Thompson

OPPOSED: None

**SO VOTED**

The August 21, 2017 Town Council Meeting Minutes were removed from the Consent Agenda to vote on them separately.

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR THOMPSON TO APPROVE THE TOWN COUNCIL MEETING MINUTES OF AUGUST 21, 2017.

IN FAVOR: Landolfi, Buck, Husband, Thompson

OPPOSED: None

ABSTAIN: Capalbo

**SO VOTED**

Councilor Capalbo abstained as she had not been present.

Corrections were made to the July 31, 2017 Workshop Notes: on page 3, line two, second sentence to insert “Council President Landolfi” at the beginning of the sentence; on page 7, line 23 to substitute “Councilor Capalbo” replacing the name “Council President Landolfi”; on page 8, line 2 to substitute the word “acres” replacing the word “trees”.

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR THOMPSON TO APPROVE THE WORKSHOP NOTES OF JULY 31, 2017 WITH CORRECTIONS.

IN FAVOR: Landolfi, Buck, Capalbo, Thompson

OPPOSED: None

ABSTAIN: Husband

SO VOTED

Councilor Husband abstained as he had not been present.

#### **PUBLIC FORUM**

No one spoke during the first public forum.

#### **COUNCIL PRESIDENT REPORT**

Council President Landolfi reported he had attended the B2B Gateway Open House last week; a new building on Palmer Circle. A nice event, with many of the contractors present as a show of thanks. The owners were looking forward to expanding their business and there is ample office space available to rent. The open house was also attended by Lt. Governor Daniel McKee.

#### **OLD BUSINESS:**

#### **DECISION RE: TAXES ON RENEWABLE ENERGY ORDINANCE**

This matter had been scheduled to render a decision on a proposed ordinance in amendment of Chapter 19 Taxation of the Hopkinton Code of Ordinances, as amended, entitled: Tax on Renewable Energy introduced & sponsored by Councilor Thompson, heard on August 21, 2017. Council President Landolfi read the proposed ordinance:

1. In accordance with RIGL sec. 44-5-3[c], the Town of Hopkinton hereby authorizes its assessor to levy a tax on renewable energy tangible property as defined in RIGL sec. 39-26-5 in accordance with the rules and regulations promulgated and executed thereunder by the Rhode Island Officer of Energy Resources.

2. In accordance with RIGL sec. 44-3-21 the Town of Hopkinton hereby exempts from taxation commercial net-metered renewable energy systems whose sole purpose is to offset electricity bills and not to sell power back to the electric distribution system.
3. Property owners installing renewable energy systems are required to provide a copy of the interconnection application between the renewable energy developer and the electric distribution company as well as a copy of any documentation of program enrollment, to the Town of Hopkinton tax assessor indicating if the renewable energy system is net-metered or if the system is selling a portion of all the energy produced back to National Grid under the Renewable Energy Growth Program. Copies of the final interconnection service agreement executed between the renewable energy developer and the electric distribution company shall be provided to the Town of Hopkinton tax assessor and to the Hopkinton building official prior to construction of any renewable energy system.

This Ordinance shall take effect immediately upon passage.

A motion was made by Councilor Capalbo and seconded by Councilor Buck to adopt the proposed ordinance in amendment of Chapter 19 Taxation of the Hopkinton Code of Ordinances, as amended, entitled: Tax on Renewable Energy introduced and sponsored by Councilor Thompson and heard on August 21, 2017:

Council Deliberations:

Councilor Capalbo commented that she had not been in attendance for the hearing but she had read the minutes and found the discussion to be very interesting.

Councilor Thompson questioned #2 where it says "...exempts from taxation commercial net-metered...". She indicated the intent is to exempt residences whose sole purpose is just to offset their own electricity, not to sell it to the grid, but a small system used for their own benefit. She asked if the ordinance should say commercial, acknowledging that she was aware the wording came from the enabling legislation, but was it really commercial net metering? Solicitor McAllister responded there are situations with net energy credits involved, where there is no excess electricity beyond what that premise was using for its own power and it is not sold back to the grid for use by the grid; so there is no profit or a business, just a self-powering situation. Councilor Thompson asked if the term commercial could mean it is a commercial system for oneself. Solicitor

McAllister explained there could be a commercial property that would install a solar array, but they are not generating more electricity that they can use for sale to the grid. Council President noted for example, if Ure Outfitters wanted to place solar panels on their roof for their own use, they wouldn't be taxed for it.

Councilor Thompson confirmed it could be a commercial property then. Solicitor McAllister noted he had a client that is a Water District that has a net energy agreement with a solar power generator to power their water treatment facility and that is it; it was a net metering situation strictly for off-setting the Water District's electricity costs, there was no excess electricity. Councilor Thompson asked if it would be helpful to add more language in to reflect that. Solicitor McAllister stated they were trying to mirror the State Statute with the ordinance. Council President Landolfi felt it is implied and explained the large scale solar panels have to be in a Commercial Zone or a Manufacturing Zone to have commercial panels to send electricity back to the grid for profit. Residential solar panel use does not come into play at all. It is only when you sell the electricity for profit that it will be taxed. Councilor Husband asked if a residential solar roof top array produced more electricity than could be used, could the excess electricity be sold; the response was no. Councilor Bucks' understanding was that the power would go back to the grid and the individual would get credits towards usage. He noted the extra power generated during the summer months would go towards the winter months when there is not as much energy produced, so there is no profit. Councilor Husband did not want to see a homeowner in a residential zone building up credits and the electric company providing them with a check. Councilor Capalbo stated whatever electricity is created from a solar panel and placed on the grid, the overage cannot be stored for use; you won't be paid for any excess electricity generated, any electricity overage just goes away. Deliberations ended and the Town Council proceeded to vote on the following motion:

A MOTION WAS MADE BY COUNCILOR CAPALBO AND SECONDED BY COUNCILOR BUCK TO ADOPT THE PROPOSED ORDINANCE IN AMENDMENT OF CHAPTER 19 TAXATION OF THE HOPKINTON CODE OF ORDINANCES, AS AMENDED, ENTITLED: TAX ON RENEWABLE ENERGY INTRODUCED AND SPONSORED BY COUNCILOR THOMPSON, HEARD ON AUGUST 21, 2017.

IN FAVOR: Landolfi, Buck, Capalbo, Husband, Thompson

OPPOSED: None

SO VOTED

The Ordinance will be attached and made part of this record.

**UPDATE ON PROPOSED SOLAR SYSTEM - 95 HIGH STREET**

Town Planner James Lamphere was present. Council President Landolfi indicated he had received phone calls about the property and asked if there had been any traction on the proposed solar system for 95 High Street. Mr. Lamphere reported there was a developer interested in using the site for a solar project and they have an application currently under consideration before National Grid and hope to know more next week whether or not they have won the bid. He noted it is a competitive bid process. Council President Landolfi asked if the developers must submit bids; how did it work. Mr. Lamphere explained they are bidding across the State of Rhode Island on projects; this developer might be the only developer bidding on that particular site, so it's not a competition at that site, they are competing with other projects across the State; they only have to purchase so much electricity in a given year and once they hit that quota that is it. It is price competitive; they want to buy it as cheaply as they can. The developers are gung-ho about going forward with the project. Council President Landolfi asked if there were any property boundary issues; meeting setback requirements, etc. Mr. Lamphere was confident the project could be done. Councilor Capalbo reported she had also spoken to the developer and he told her they expected to hear back around between September 11 and 15, 2017; the developer is cautiously optimistic that they would be approved to go forward but was concerned about the neighbors' support of a solar array at the site. She told him that she felt there would be very little difficulty with the neighbors as they want the gravel bank to go away, so the developer was pleased with that. Council President Landolfi asked what the general procedure was if the project was approved to go forward. Mr. Lamphere responded they would need to come to the Town Council for a zone change from RFR-80 to either Commercial Special or Manufacturing Special; then to the Planning Board for site plan review, then they are on their way. He noted once they do get approval, they are under the gun to move forward and complete the project, or they will lose it. Council President Landolfi thought

the time frame was 18 months. Councilor Buck asked about the Dodson's property. Mr. Lamphere responded that property is zoned manufacturing but it is not immediately adjacent to the gravel bank site; there are two residential parcels with houses between the manufacturing parcel and the gravel bank with Bethel Village beyond that. Councilor Thompson asked about the current zoning. Mr. Lamphere responded it was RFR-80; the gravel bank is considered a legal non-conforming use. Councilor Capalbo reported it had been a very difficult week in this neighborhood with loud, obnoxious noises emanating from the gravel bank.

#### **UPDATE ON PROPOSED WIND ENERGY SYSTEM ORDINANCE**

Town Planner James Lamphere was present. Council President Landolfi reported a draft wind ordinance had been first discussed in 2011 and asked if the document may need revision to make it relevant to today. Mr. Lamphere confirmed a draft document was done by Linda St. Amour; it spanned town-wide and dealt with commercial systems, utility scale systems and residential systems; a bit more ambitious than the Council might want to entertain at this point. He noted the Conservation Commission (CC) had prepared some amendments to the Farm Viability Ordinance (FVO), the subject of a recent workshop; three of the amendments did not deal with wind but the fourth amendment did: wind energy conversion systems on intermediate and large farms. He reported the Manager had asked him the day after the workshop to review and to study the proposed CC amendments and what had been done previously in 2011, so he turned it over to his assistant Sean Henry and he has studied it thoroughly. Mr. Lamphere suggested that we might want to emulate what had been done with the solar ordinance process; to amend the FVO but also enact a stand-alone ordinance as they had with the Chapter 246 Non-Residential Photovoltaic Solar Energy Systems Ordinance. So he discussed this with his assistant, to develop a stand-alone ordinance that will take the best of the 2011 version and merge it with what the CC did and have this document up for consideration at a future workshop. He stated he was looking for direction from the Council but stated they will do whatever work is necessary. Councilor Thompson suggested the next agenda include both the proposed FVO amendments and the proposed wind ordinance as one agenda item. She stated there is more information forthcoming which could

alter greatly what the Town Council wants to do; any information that comes in could also be considered. She suggested they review the old draft 2001 ordinance and the FVO together, so staff knows which direction to go. Council President Landolfi felt it should be done do separately. In that case, Councilor Thompson would like the FVO ordinance amendments done first. Councilor Capalbo agrees; it would be much cleaner but she felt the wind ordinance should be its own ordinance; with regard to the FVO amendments some items were easier to agree to but the real discussion items will be about the wind. Councilor Husband and Councilor Buck concurred with discussing them separately. Mr. Lamphere indicated his assistant should have a draft ordinance done the end of next week that could be worthy of public review. He noted any details can always be tweaked. Councilor Thompson noted the Council is going to have to decide on the subject of wind, whether or not to have them, how many and what it means for the Town. Councilor Husband has grave concerns on having huge wind towers 419 feet in height with huge blades which were not attractive to a rural community. Councilor Capalbo added they will need the 16 acre separation but there may be places they can be placed. She noted when she was out west she was able to see them for herself; she felt they were elegant against the sky and trees but there was more space out there; we don't have that kind of space here. Mr. Lamphere noted his assistant advised him that the towers extend to 450 feet in height. These matters will be scheduled for discussion on September 18, 2017.

**NEW BUSINESS:**

**RESOLUTIONS**

Two Resolutions were before the Council to discuss, consider and possibly vote:

1). A Resolution in support of H6204, an Act relating to maintenance of Town Roads and urging passage by the General Assembly (Restoration of Roadways Utility Lines) and 2). A Resolution in Opposition to H5475 and S0481, an Act relating to Cities & Towns, Subdivision of Land.

**1). A RESOLUTION IN SUPPORT OF H6204 AN ACT RELATING TO MAINTENANCE OF TOWN ROADS AND URGING PASSAGE BY THE GENERAL ASSEMBLY (RESTORATION OF ROADWAYS UTILITY LINES)**

A MOTION WAS MADE BY COUNCILOR BUCK AND SECONDED BY COUNCILOR CAPALBO TO ADOPT THE RESOLUTION IN SUPPORT OF

H6204, AN ACT RELATING TO MAINTENANCE OF TOWN ROADS AND URGING PASSAGE BY THE GENERAL ASSEMBLY (RESTORATION OF ROADWAYS UTILITY LINES).

IN FAVOR: Landolfi, Buck, Capalbo, Husband, Thompson

OPPOSED: None

SO VOTED

The Resolution follows:

**TOWN OF HOPKINTON, RHODE ISLAND  
RESOLUTION OF THE TOWN COUNCIL**

**RESOLUTION IN SUPPORT OF H6204 AN ACT RELATING TO MAINTENANCE OF TOWN ROADS AND URGING PASSAGE BY THE GENERAL ASSEMBLY (RESTORATION OF ROADWAYS UTILITY LINES)**

*WHEREAS*, due to the work performed by the utility companies, our local roadways are continuously being dug up and left in either a state of disrepair for significant periods of time, or repaired in a substandard, unworkmanship-like manner leaving the Town to contend with damaged roadways; and

*WHEREAS*, the poor road conditions left behind adversely impact the public and residents, creating hazardous driving conditions, increasing the risks of accidents and damage to personal property; and

*WHEREAS*, the situation has generated numerous concerns and complaints from local residents who turn to the Town to repair the situation left by the utilities on the roadways imposing an unnecessary and unplanned economic burden on local municipalities; and

*WHEREAS*, any altered roadway must be restored to the same or better condition that existed prior to the alteration, immediately after the completion of the alteration, including interim measures as needed on an ongoing basis.

*NOW THEREFORE BE IT RESOLVED*, that the Hopkinton Town Council urges the Rhode Island General Assembly to support H6204 and urges passage.

*BE IT FURTHER RESOLVED*, that the Town Clerk is hereby directed to forward a copy of the Resolution to all Cities and Towns in Rhode Island seeking their consideration and support, to the members of the Rhode Island House of Representatives, the members of the Rhode Island State Senate, and the Governor of Rhode Island. This resolution shall take effect upon passage.

**2). A RESOLUTION IN OPPOSITION TO H5475 AND S0481, AN ACT RELATING TO CITIES AND TOWNS – SUBDIVISION OF LAND**

A MOTION WAS MADE BY COUNCILOR BUCK AND SECONDED BY COUNCILOR CAPALBO TO SUPPORT THE RESOLUTION IN OPPOSITION TO H5475 AND S0481, AN ACT RELATING TO CITIES & TOWNS, SUBDIVISION OF LAND.

IN FAVOR: Landolfi, Buck, Capalbo, Husband, Thompson

OPPOSED: None

SO VOTED

The Resolution follows:

**TOWN OF HOPKINTON, RHODE ISLAND  
RESOLUTION OF THE TOWN COUNCIL**

**RESOLUTION IN OPPOSITION TO H5475 AND S0481, AN ACT RELATING  
TO CITIES AND TOWNS – SUBDIVISION OF LAND**

WHEREAS, House Bill 5475, an Act Relating to Towns and Cities Subdivision of Land, and companion Senate Bill 0481 have been introduced in the Rhode Island General Assembly; and

WHEREAS, this Act proposes to reduce the state mandated time period for review of major land development and subdivision applications, to reduce the time period for recording land use decisions, and to impose a penalty on municipalities equivalent to 50% of the application fee if the time period is not met; and

WHEREAS, the practical effects of this legislation for our town and others will be to put unreasonable time pressures on the Town Planner and Planning Board as applied to the largest and most complex types of developments and subdivisions; and

WHEREAS, these major applications represent projects with the greatest potential to adversely impact the community, including infrastructure impacts and other technical concerns requiring sufficient time for staff and board review, and testimony of technical experts; and

WHEREAS, such review often results in the need for the applicant to revise and resubmit plans and other documents, which require additional review; and

WHEREAS, shortened time frames could force the Board to act on applications before all technical issues are resolved, resulting in a greater likelihood of applications being denied, or approved with restrictive conditions, which would not serve the best interests of the applicant; and

WHEREAS, the proposed changes are significant and were proposed without input from the municipalities.

NOW THEREFORE BE IT RESOLVED, that the Hopkinton Town Council respectfully requests that all State Senators, Representatives, and the Governor oppose House bill 5475 and companion Senate Bill 0481; and be it

FURTHER RESOLVED, that the Town Clerk shall submit a copy of this resolution to the Town of Hopkinton's State Senator and Representatives, the Senate President, the Speaker of the House, the Executive Director of the Rhode Island League of Cities and Towns, all cities and towns in the State of Rhode Island, and the Governor in consideration of their support to defeat this amendment to the General Laws.

**PUBLIC FORUM**

No one spoke during the second public forum.

**ADJOURNMENT**

A MOTION WAS MADE BY COUNCILOR THOMPSON AND SECONDED  
BY COUNCILOR CAPALBO TO ADJOURN.

SO VOTED

Elizabeth J. Cook-Martin

Town Clerk