

State of Rhode Island

County of Washington

In Hopkinton on the twentieth day of September 2021 A.D. the said meeting was called to order by Town Council Vice President Sharon Davis at 6:30 P.M. in the Town Hall Meeting Room, 1 Town House Road, Hopkinton, RI 02833.

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

EXECUTIVE SESSION

A MOTION WAS MADE BY COUNCILOR HIRST AND SECONDED BY COUNCILOR GEARY TO CONVENE OPEN SESSION AND RECESS TO EXECUTIVE SESSION UNDER: RIGL SEC. 42-46-5(A)(2) LITIGATION AND RIGL SEC. 42-46-5(A)(5) DISCUSSIONS OR CONSIDERATIONS RELATED TO THE ACQUISITION OF REAL PROPERTY FOR PUBLIC PURPOSES, OR OF THE DISPOSITION OF PUBLICLY HELD PROPERTY WHEREIN ADVANCED PUBLIC INFORMATION WOULD BE DETRIMENTAL TO THE INTEREST OF THE PUBLIC.

POLL VOTE:

IN FAVOR: Davis, Geary, Hirst, Marvel

OPPOSED: None

SO VOTED

A MOTION WAS MADE BY COUNCILOR HIRST AND SECONDED BY COUNCILOR MARVEL TO RECONVENE IN OPEN SESSION AND SEAL THE MINUTES OF THE EXECUTIVE SESSION.

IN FAVOR: Davis, Geary, Hirst, Marvel

OPPOSED: None

SO VOTED

Council Vice President Davis reported that no votes were taken in Executive Session.

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

HEARING – proposed ordinance amendment to Chapter 20 Traffic and Motor Vehicles.

The Council continued the hearing on a proposed ordinance amendment to 20 Traffic and Motor Vehicles to add Article IV relating to the use of recreational vehicles, introduced and sponsored by Councilor Marvel. The proposed amendment would add the following article: **ARTICLE IV. RECREATIONAL VEHICLES** and includes Sections for *Purpose* which defines recreational motor vehicles; *Riding on Private Property*; *Violations and Penalties*; *Eluding a Police Officer or Town Official*; *Severability and Exceptions*. The purpose of the amendment is to restrict the use of ATV type vehicles on personal property when the operator does not have the landowner’s permission; on all conservation land managed by the Land Trust and others, to prevent damage to trails, fields, parks, etc. as well as protecting hikers and other users from potentially hazardous encounters. This matter was continued from September 7, 2021.

Councilor Marvel, the sponsor of the proposed amendment was present. Notice had been posted in the Westerly Sun and proposed ordinance posted on the Town Website. The revised draft ordinance was attached to the agenda.

Council discussion:

Councilor Hirst reiterated his concern had been where it noted that a town official could enforce this ordinance; however, the term “town official” had been stricken. He wished to support this ordinance and felt that the town needed to protect its assets. Councilor Geary noted that he was also in support of this ordinance.

Public comment:

Denis Rivard of the French Village asked if this ordinance included electric bikes and Solicitor Sypole felt that electric bikes would fall into this category. Mr. Rivard believed they should not be included in the ordinance because they are quiet and did not cause any damage. Councilor Marvel did not know if the Land Trust allowed bicycles on their trails and Solicitor Sypole felt that this was something that should be discussed with Chief Palmer. Carol Baker of the Land Trust noted that the main intent of this ordinance was to prohibit motorized

vehicles, such as ATVs, because of damage caused to Land Trust property due to unrestricted use. She noted that this ordinance was aimed at motorized vehicles that tear up the trails and they did not envision electric bikes to be included.

Councilor Marvel noted that bicycles are allowed on town roads and town property so he would have to discuss the issue of electric bikes with the Chief.

Councilor Marvel explained that the definition of a recreational vehicle included vehicles that have been determined by the Department of Motor Vehicles as unsuitable for operation on the public way, so he did not believe bicycles would fall into this category. Solicitor Sypole noted that he used the definition from the state statute and added dirt bikes to it. Councilor Marvel felt that based on this definition he did not believe motorized bicycles would be included, but he would confirm that with Chief Palmer.

A MOTION WAS MADE BY COUNCILOR HIRST AND SECONDED BY COUNCILOR GEARY TO CLOSE THE HEARING AND SET A DATE FOR A DECISION. Discussion on the motion: Councilor Hirst asked the Town Clerk for available dates to set the matter down for a decision and Clerk Cook-Martin advised that their next regularly scheduled meeting was October 4, 2021.

Councilor Marvel questioned whether they would need clarification from Chief Palmer as to motorized bicycles prior to closing the hearing. Solicitor Sypole noted that he had sent the most recent version of the proposed ordinance to Chief Palmer and he was agreeable with how it was written; however, he did not present the question about electric bikes to him. Councilor Marvel felt they could schedule this matter for a decision. Discussion ended and the Council proceeded to vote as follows:

IN FAVOR: Davis, Geary, Hirst, Marvel

OPPOSED: None

SO VOTED

A MOTION WAS MADE BY COUNCILOR HIRST AND SECONDED BY COUNCILOR GEARY TO SCHEDULE A DECISION ON THE ORDINANCE FOR OCTOBER 4, 2021.

IN FAVOR: Davis, Geary, Hirst, Marvel

OPPOSED: None

SO VOTED

CONSENT AGENDA

Councilor Marvel noted he had been absent on September 7, 2021 and questioned the best way to address the minutes which would be to remove them from the Consent Agenda. The Town Council Meeting Minutes of September 7, 2021 were removed from the Consent Agenda to vote on them separately.

A MOTION WAS MADE BY COUNCILOR HIRST AND SECONDED BY COUNCILOR GEARY TO APPROVE CONSENT AGENDA AS FOLLOWS:

Accept the following monthly financial/activity report: Town Clerk; Approve refund resulting from 2021 MV Tax Abatement and a duplicate Real Property tax payment submitted by the Tax Collector; Approve abatement resulting from a 2021 real property condition adjustment submitted by the Tax Assessor.

IN FAVOR: Davis, Geary, Hirst, Marvel

OPPOSED: None

SO VOTED

A MOTION WAS MADE BY COUNCILOR HIRST AND SECONDED BY COUNCILOR GEARY TO APPROVE THE TOWN COUNCIL MEETING MINUTES OF SEPTEMBER 7, 2021.

IN FAVOR: Davis, Geary, Hirst

OPPOSED: None

ABSTAIN: Marvel

SO VOTED

TOWN MANAGER REPORT

Town Manager Brian Rosso stated the FY21 Audit was underway. He noted right now it was behind schedule so he will be focusing his attention on the Finance Office for the next couple of weeks so that he will be prepared when the auditors are expected to return.

OLD BUSINESS

Discussion commenced on the findings of the Potter Hill Dam Committee.

Committee members present: Jim Duksta, Carl Rosen, Robert Gelinias and Marie Ward.

Jim Duksta of Chase Hill Road advised that their Committee wished to update the Council, noting that time was of the essence, for Westerly was proceeding with the dam removal and their plans to finalize their approach in October and would be submitting for permitting. He felt that once that has occurred there would be no changing anything. He noted that they were able to obtain approval from Westerly to assist with the well surveys and advised that there were 205 properties in Hopkinton with wells within 1000 feet of the river. He suggested that if the river level dropped six and a half feet this could have a huge impact on many town residents. The Committee has met with a well expert and determined that the cost for a drilled well is very considerable and could run between \$15,500 to \$20,000 or more. Additionally, there will be 52 acres of open water between the Potter Hill Dam and Bradford Dam that will be eliminated by the dam removal, as well as 2,001 acres of wetlands that will be dewatered which is currently being presented as they are diverting wetlands. Westerly is suggesting that they are changing the wetlands from floating emergent wetlands to shrub forested wetlands. Mr. Duksta noted that this will endanger geese, egrets, ducks and turtles. Councilor Hirst noted that the Potter Hill Dam Information Committee has done an exceptional job with their charge which was agreed to by all Councilors. Mr. Duksta believed there has been a lot of misinformation. The dam itself is not the concern; they found that the safety concern is with the mill race gates that control the water flow through the mill. Upstream of the mill, right at the dam, there are six gates that are inoperable and are blocked with wood which is failing. The concern that has been raised is if that wood was to fail there would be a sudden release of water downstream. Mr. Duksta indicated that he has not heard anything mentioned about filling in the mill races. He asked why they did not just bring in truckloads of dirt and fill in the mill races and that would take away the urgent concern. Councilor Geary indicated that he had asked someone about putting granite blocks in place at the gates and they suggested that they

would have to tear up halfway into Laurel Street and pull the bank up. They told him that the real problem was inside the mill. They would have to go 1,000 feet to 2,000 feet into the mill to close everything off. Mr. Duksta advised that the Town of Westerly was talking about allocating \$400,000 of Rescue Plan funds to tear down the mill. He noted that on August 30, 2021 there was supposed to be a meeting with the Potter Hill Dam Information Committee, NOAA and Fuss & O'Neill; however, that was cancelled. There was a meeting with the Town of Westerly on September 2, 2021 to establish a broader meeting with the Town of Westerly and he inquired if there had been any action since then. Council Vice President Davis indicated that she had provided an update from her viewpoint noting that as of September 15, 2021 the well surveys were mailed to 165 Hopkinton residents and 91 Westerly residents, due back by September 27th to give the Town Clerk's office time to input any hand-delivered surveys by the October 1st deadline; the town also put out a targeted robo-call on September 15th. Councilor Davis indicated that she had also called Suzanne Paton of the Southern New England Office of the U.S. Fish and Wildlife Service who had assured her that the dam would not be taken out until they had the money needed for the whole project, including impacted areas. She considers affected wells in Hopkinton to be part of the whole project and suggested that her agency would take responsibility to help find the funding needed. Councilor Davis advised her that the funding for our wells should go directly to Hopkinton so that we would be in control of the distribution and the next step was to meet with everyone after October 1st to determine the full impact of the wells in Hopkinton. The federal funding year begins after October 15th and Ms. Paton was willing to help Hopkinton through the process of applying for funding. Councilor Davis noted that she sent this update to the Westerly Town Manager, Lisa Pellegrini, Gina Fuller and Suzanne Paton in full disclosure. Councilor Davis indicated that Ms. Paton sent an email back to her wishing to clarify that she could not assure that they would be able to secure federal funds or that the coastal program will have sufficient funds to cover whatever need is identified; however, she indicated that she would commit to working with the town to help identify potential funding sources and to help apply for those funds if needed. Councilor Davis suggested

that there was a Wood Pawcatuck Watershed Flood Resiliency Management Plan that was prepared for Rhode Island in August 2017 by Fuss & O'Neill. The project funding was provided by the National Fish & Wildlife Foundation Hurricane Sandy Coastal Resiliency Competitive Grant Program and for Hopkinton their recommendation was to remove the Potter Hill Dam. She was hoping to get a contact name and number for the person at Fuss & O'Neill so that they could question him as to why they believed this. Carl Rosen of the Potter Hill Dam Information Committee noted that the recommended approach by Fuss & O'Neill in that report was how the Committee would wish to proceed. Councilor Davis read their recommended approach which was: rock ramps or similar nature-like fish passage structures are recommended where feasible where removal is not a viable option due to the need to maintain the impoundment for recreational or other purposes. Rock ramps can also be used in conjunction with phased removal of a dam if it is determined that the hydrologic or environmental impacts resulting from full dam removal are unacceptable. Mr. Rosen noted that this solution has been recommended by several groups multiple times in this process as the preferred or best design criteria; he noted that they have been searching to find out why the Town of Westerly has refused to consider it and this is why they wished to have a meeting; Westerly is blocking these questions from being asked. Councilor Davis felt that they had the right to contact someone from Fuss & O'Neill and ask them to come to one of the Potter Hill Dam Information Committee's meetings. Mr. Rosen asked the Town Council if the Town of Westerly has come to them at any time during the past five years to share information and believed that there should be a rule in the State that a bordering town should have to work with the other town if there was an issue that would affect both towns. Councilor Davis noted that Jim Lamphere, the Town Planner, provided information for the Flood Resiliency Management Plan, so he was aware of it, though the funding was only to create a plan, not necessarily to implement it. Councilor Hirst felt that the dam has never been a priority with Westerly and it is the mill that is the problem. Taking the dam down will definitely impact people's property values and wells. Mr. Rosen wished to note that they had scheduled a meeting for Monday, August 30th which was cancelled at the very last minute on

Friday, August 27th; that it should be clear to the Council that there is an agenda that Westerly is driving and it has nothing to do with the benefit of the people in Hopkinton; and, they will not even allow us to raise important questions. Marie Ward of River Road noted that nowhere in Westerly's proposal was there a line item for well replacement. She asked what the town was going to do moving forward for they could not have their wells impacted. She questioned if there was something that could be done legally, such as obtaining an injunction. Solicitor Sypole suggested that his best advice to them would be for the landowners to consult with a private attorney for the town could not step in to defend private property interests. Ms. Ward asked if he was suggesting that the town could not defend residents' rights and that the Town Council can just let this happen and the residents should hire an attorney to protect their wells. Solicitor Sypole stated that this is what he would suggest because he could not give any legal advice to residents about their private land or their private property rights. Ms. Ward asked if the town could do something to stop the dam removal from moving forward since it was going to impact the residents' drinking water. Councilor Hirst believed this to be a public health issue and asked Solicitor Sypole if the Council could send a letter to the Director of the Public Health asking them to review this situation. Solicitor Sypole noted that the Council could draft a letter. Councilor Hirst advised that he would ask that the drafting of a letter be placed on the next Council agenda. Ms. Ward stated that she expected the Town Council to fight for the residents noting that Westerly's plan was unacceptable. Councilor Davis indicated that Fish & Wildlife had funded replacing wells when other dams were taken down and that was why she had contacted Ms. Paton. When Ms. Paton had indicated to her that they would take responsibility, she had asked what if they did not receive the funding to replace the wells, did that mean this project would not occur and Ms. Paton indicated that she thought that it would not happen; however, it was agreed that this was not good enough. Councilor Davis noted that she had attended a webinar for another program called Watershed Flood Prevention Operations Program through the USDA, but they seemed to be only interested in flood prevention projects and the USDA cannot get involved if another federal agency is involved. Mr. Duksta thanked Councilor Davis for reaching out to Ms.

Paton but noted that she said one thing and when asked to put it in writing she did not confirm what she had said. He also indicated that if a resident's well went dry it would be up to them to replace it; however, if this was to occur because the dam was removed, it would be the doing of another public agency, the Town of Westerly, and other public agencies along with them with federal funding being used. It would not be of their own doing and this would be a travesty. Mr. Duksta went on to state that there were other places that would be affected, such as Pilgrims Baptist Church, Lucky House Restaurant and the former Imperial Wallpaper building, all of which are public drinking supplies. He stated that they are not able to get answers to their questions from Westerly so they were asking the Council for their help to engage with the Town of Westerly and have meaningful discussions in that regard. Mr. Rivard indicated that he had studied five other dam removals across the country and it was the common procedure, if wells were going to be affected, that monies were allocated on the front side of the project to deal with that. He advised that where they have determined there may be a quality of water residual impact up to a year later on deeper wells that they could not determine would or would not be a factor, they have set up a contingency fund. He indicated that the wells should be addressed in the beginning and should not be an afterthought. Mr. Duksta asked what was the next step with the Town of Westerly and Councilor Davis felt that they needed the results of the survey and then they could talk money because they will have an idea of how many potential wells may be affected. She felt that the Potter Hill Dam Information Committee should invite someone from Fuss & O'Neill to attend a meeting at the fire station. Mr. Rosen reiterated that he had reached out to URI and spoken with a professor in the Natural Resource Department who referred him to another professor, who referred him to Jim Turek of NOAA. Mr. Turek had suggested that they meet to discuss their questions. He explained that Mr. Turek is the gentleman doing the well survey for the Town of Westerly and this is where the 1000 foot distance from the river came from. They were advised that 1000 feet was a reasonable number but they may determine that it is less when they review where the property is located compared to the river and the aquifer. Mr. Turek indicated that the first 200 to 400 feet from the river will be

impacted and after that it will be dependent on the property and the water flow. There was a meeting scheduled with Mr. Turek and NOAA which was cancelled by Ms. Pellegrini and now Mr. Turek and NOAA will not return his emails or phone calls. Mr. Rosen believed that Westerly was clearly marching ahead to obtain permits within the next thirty to sixty days. Ms. Ward advised that in March they had asked several questions from the parties involved in Westerly and they have never received a response and they filled out their well survey and have never had an engineer come to speak with them; she believed that Westerly was just moving ahead. Councilor Geary asked Solicitor Sypole if there was a possibility of the Council sending something to Ms. Pellegrini, the Project Manager, and he indicated absolutely but noted that the problem was that it was all privately owned property that was being affected so the town does not have standing to step in and represent landowners whose private land is affected. The town can advocate for the people that are affected but the town cannot bring a lawsuit on their behalf. Joe Moreau of Old Depot Road spoke about Johnson's Pond in Coventry which had experienced this same issue noting that properties which were waterfront properties now have boats sitting in the mud and their wells have already been affected. He indicated that four months ago he had reached out to the Town Council President asking that the contact person of the Potter Hill Dam Information Committee when it was established, call him so he could provide information which may have been helpful and it still may not be too late. He wished someone from the Committee to reach out to the Town of Coventry or the Johnson's Pond Association to see if they can provide advice since they have already gone through this same issue. Councilor Davis advised that she would try to find out who the contact was for Fuss & O'Neill. Councilor Hirst also wished to note that the town should do something about making sure that house numbers were visible because many have no numbers. Solicitor Sypole noted that this was not on the agenda, but this was an issue that the Chief of Police was aware of and was being worked on. Mr. Duksta noted that there has been quite a bit of change happening in Westerly recently with Lisa Pellegrini's position being taken over by a new person from Ohio and the Town Manager resigning. Mr. Duksta asked Town Manager Rosso if he had been working with

Mr. Rooney concerning the dam issue and Mr. Rosso noted that he had not. Mr. Rosso noted that at the September 2, 2021 zoom meeting his understanding was that this was not going to be an urgent matter, though it was moving along quickly; and, there was going to be funding figured out before the next steps were taken.

BOARDS & COMMISSIONS

There are vacancies on the Chariho Audit Subcommittee and the Chariho Finance Committee. Councilor Hirst noted that these are both important committees and he would encourage anyone who is registered to vote to apply to be on one of these committees. A notice will be placed on the website.

PUBLIC FORUM

Joseph Moreau of Old Depot Road indicated that he had several questions concerning the priorities of the Town Council and felt that it was very obvious that three members were going in one direction and two members were on their own. He noted that since June of 2018 he has attended many town meetings and he felt this was not the way to improve the town. At the Council meeting on September 7, 2021 they started the meeting with seven people in the room and after the ATV discussion ended there were only two remaining; during that discussion Chief Palmer had noted that for the amount of ATVs that were in the town, they did not get many complaints. Mr. Moreau noted that there were only six active boards in the town with at least seven vacancies and at least six inactive boards, for a total of 29 vacancies. He noted that the Land Trust has not held meetings in April, May or August and the Conservation Commission has gone three months without having a meeting. He asked what the responsibility of the liaison was to Council members and he hoped that all Council members were trying to recruit new board members. He advised that they did not have residents attend meetings and they did not have residents apply for boards and commissions. The former Town Manager left in October of 2020 and it was only announced at the last meeting of September 7, 2021 that Brian Rosso was appointed the new Town Manager noting that it took ten months to fill that critical position; he believed this should have been the Council's number one priority. He believed that they should now be looking for a new Finance Director. He asked if the Town missed out on any COVID-19 stimulus package funds and was that a priority for our town. In the Capital Improvement Plan fund established for the town hall consolidation there is an estimated reserve of \$1,613,000 with the total cost projection of \$1,972,000. No

additional funding was allocated for this in 2021. He asked at one of the last budgeting workshops if the town could possibly spend some of that money now for the town hall consolidation. The cost of construction continues to go up and we are sitting on this money which we cannot increase due to budget constraints. He noted that when he asked this question previously he was told that they would check into it; however, he has heard nothing. He noted that he has pushed for the town to look into using the Stubtown Road property for a solar array and he has heard very little about that recently. Mr. Moreau indicated that Mr. Frenette, the IT Director; Clerk Cook-Martin and Ms. Monty, the Tax Assessor all work out of closets; anyone needing to see the Finance Director or Town Planner has to be able to climb rickety stairs, though those departments will meet with someone in the Council chambers. There are five different buildings that hold town offices. He believed they should look into the town hall consolidation and spend some of the money that they have now. Mr. Moreau went on to state that a few months back he was being harassed by an individual and it got so bad that he had to file a police report, complaint with the postmaster and he had to obtain a no trespass order against that individual. He sent an email on May 21, 2021 to the Town Council and the Acting Town Manager and five or six days later he received a call from Mr. Rosso who apologized and stated that he had been away for a few days and had just gotten the email. Mr. Rosso asked if the Council President had reached out to him to set up a meeting and Mr. Moreau indicated no and to this day he has not heard anything. On August 1, 2021 he sent an email to the Town Clerk, Council President and Councilor Hirst regarding requesting an amendment to the new PSES ordinance in order to add in a work schedule. Council President Moffitt did reach out to him and indicate that the Town Clerk was on vacation and he would discuss it with her and get back to him but he has not heard anything since. He mentioned that at the September 7, 2021 meeting, when watching the YouTube livestream, the audio was so bad that you could not hear what was being said and he was concerned that someone might file a complaint with the Ethics Commission. Lastly, he spoke about 911 and the flags that the Mr. and Mrs. Tefft had provided for Main Street in Hope Valley. He indicated that he had asked at a recent Council meeting who was going to contact the two schools and the two post offices' about lowering the flags for 911. He went out on Saturday, September 11th and wished to thank Public Works Director David Caswell and his staff for lowering the flags where they could; however, the Hopkinton

Post Office flag and Hope Valley Elementary School flag had not been lowered. Mr. Moreau advised that he called the Principal of Hope Valley Elementary School, who was apologetic and indicated that he usually received an email from the School Superintendent but had not this year. A simple solution would have been for four Council members to each make one phone call asking that this be done. He noted that he ran into Councilor Hirst who was all dressed up and told him that he was going to the Hope Valley parade, though the Town Council had not been invited. He asked if anyone thought about calling Chief Lee of the Hope Valley/Wyoming Fire Department, who was putting on the parade or memorial, and ask about the town's involvement in the memorial service for 911. It has been twenty years and our town was not represented as far as he knew other than Councilor Hirst who walked in the parade. The Council has spent month after month after month on a revision to a new PSES; it had discussions on turning a monument around; and, had discussions concerning ATVs. This Council earns \$12,175 of taxpayer money each year and he thought part of their responsibility was to answer questions of town residents. He believed that this may be part of the reason that town residents do not want to get involved. He suggested that he was not planning on attending any further meetings because the residents did not get the respect that they deserved.

ADJOURNMENT

A MOTION WAS MADE BY COUNCILOR HIRST AND SECONDED BY
COUNCILOR MARVEL TO ADJOURN IN MEMORY OF WILLIAM E. PERRIN.

SO VOTED

Elizabeth J. Cook-Martin

Town Clerk

Marita D. Murray

Deputy Town Clerk