

**Select Board
Regular Meeting Minutes
May 9, 2022, 7:00 PM**

Present: Chair Keyes, Selectman Arcudi, Selectwoman Hazard, Town Administrator Schindler

Chair Keyes called the meeting to order at 7:00 p.m. Chair Keyes began the meeting with the Pledge of Allegiance.

Legislative Citations from Senate and House of Representatives presented to Louis J. Arcudi, III, in Recognition of His 31 years of Service to the Town of Hopedale, presented by Representative Brian W. Murray

Chair Keyes thanked Selectman Arcudi for his long tenure with the Town of Hopedale. Representative Murray read the citation dedicated to Selectman Arcudi. Chair Keyes thanked Selectman Arcudi for all the years he has devoted to Hopedale and how it was an honor to work with him. Selectman Arcudi thanked everyone that works with the Town and the residents of Hopedale, stating that it was an honor to serve the Town of Hopedale. Selectwoman Hazard thanked Selectman Arcudi for his dedication to the Town of Hopedale.

Consent Items

Approval of April 25, 2022 Regular Minutes

Selectman Arcudi moved to approve the April 25, 2022 Regular Minutes. Selectwoman Hazard seconded the motion.

Selectman Arcudi – Aye, Selectwoman Hazard – Aye, Chair Keyes – Aye

Accept Donation from Seven Hills Foundation of \$5,000

Selectwoman Hazard moved to accept the donation from Seven Hills Foundation of \$5,000. Selectman Arcudi seconded the motion.

Chair Keyes stated that the Seven Hills Foundation has supported and made many generous donations to the Town of Hopedale for years and thanks the foundation for their contributions.

Selectman Arcudi – Aye, Selectwoman Hazard – Aye, Chair Keyes – Aye

Appointments & Resignations

Appointment of George Leurini as a Full-Time Police Officer to the Hopedale Police Department, effective June 6, 2022.

Selectman Arcudi moved to appoint George Leurini as a Full-Time Police Officer to the Hopedale Police Department, effective June 6, 2022. Selectwoman Hazard seconded the motion.

Chief Giovanella stated that Mr. Leurini is an excellent addition to the Hopedale Police Department as he has many years of experience and ample knowledge of the job.

Selectman Arcudi – Aye, Selectwoman Hazard – Aye, Chair Keyes – Aye

Resignation of Reserve Officer Joseph Houde from the Hopedale Police Department, effective April 30, 2022

Selectman Arcudi moved to accept the resignation of Reserve Officer Joseph Houde from the Hopedale Police Department, effective April 30, 2022, after 15 years of service. Selectwoman Hazard seconded the motion.

Chair Keyes read the letter of resignation from Officer Joseph Houde that is provided in the packet. Chair Keyes and the Select Board thanked Officer Houde for his dedication and service to the Town of Hopedale.

Selectman Arcudi – Aye, Selectwoman Hazard – Aye, Chair Keyes – Aye

New Business

Address Open Meeting Law Complaint Received from Elizabeth Reilly

Town Administrator Schindler provided the response from Town Counsel pertaining to the open meeting law complaint received from Elizabeth Reilly. Town Administrator Schindler stated that the complaint addresses some concerns pertaining to executive sessions the Board has held, Schindler stated the detailed complaint was in the meeting packet if the public wishes to review it. Town Counsel responded to the Attorney General's Office stating that the Town does not have a violation and the Town has a right to enter executive session to discuss litigation strategy.

Hopedale Boosters Club 12th Annual Hopedale Blue Raider 5K Run/Walk – Saturday, May 14, 2022 at the Hopedale – Jr-Sr High School (Vote to Approve)

Selectwoman Hazard moved to approve the Hopedale Boosters Club 12th Annual Hopedale Blue Raider 5K Run/Walk – Saturday, May 14, 2022 at the Hopedale Jr-Sr High School. Selectman Arcudi seconded the motion.

Selectman Arcudi – Aye, Selectwoman Hazard – Aye, Chair Keyes – Aye

Juneteenth Holiday, June 19, 2022. Town Hall will be closed on Monday, June 20, 2022.

A vote is not required for this item. Chair Keyes asked that the Town Administrator's Office give the public ample notice that the Town Hall will be closed on Monday, June 20, 2022.

Review Draft Annual Town Meeting warrant

Town Administrator Schindler stated that this is the first view of the annual warrant, with articles added for Water/Sewer and CPA; the draft warrant is included in the meeting packet. Town Administrator Schindler stated that there will be no vote taken at tonight's meeting; the final warrant will be voted on at next week's meeting. Schindler stated that next week the Select Board will be signing the final warrant and wanted to provide the Select Board with a draft prior to then. Schindler stated that this is a standard Town Meeting warrant, there are no petitions articles thus far. Schindler stated that in the draft she has included an article for capital costs, if the Select Board wishes to go that route.

Old Business

Address GU RR Industrial Rail Access Program (IRAP) Grant Request for 364 West Street, Michael Milanowski, President, GU RR

The IRAP Grant: Chair Keyes stated that this is the second IRAP grant request, the first was approved and then reapproved, and then asked the Board if they had questions. Selectwoman Hazard apologized, as she had not read it. Milanowski stated that this is the identical IRAP application that was submitted in September of 2021 and which the Board had tabled until the litigation had been resolved. The litigation has since been resolved and the Board asked that the GU RR grant request go back on the agenda for approval. The only thing that changed in the application is the dates. Selectwoman Hazard pointed out typos related to Upton; there appeared to be an inadvertent "copy and paste" which has been corrected. This request is for the same scope of work and the same timing.

Application: According to Mr. Milanowski, all the work will occur in the existing right of way the railroad has owned since 1890. They will be putting in two sidetracks adjacent to the main - one on each side – allowing the RR to properly store railcars and avoid occasionally having to store those behind residential houses in Hopedale as has been done in the past. This will also allow for future expansion, which is needed for the operational growth of the railroad.

Approval Request: Mr. Milanowski further stated that the state wants to ensure that the Board is aware of what is going on, and to have the Board's concurrence with the railroad for this application. This is consistent with the settlement agreement that the Board has approved. Chair Keyes stated that the Board is not authorizing the grant action itself; to Mr. Malinowski's point, it is literally just local oversight in regard to the application. Selectman Arcudi stated that he had questions; Selectman Arcudi made a motion to approve the letter of support regarding the IRAP grant request for 364 West Street for the purpose of allowing further discussion.

Voting Reservations: Selectwoman Hazard stated that she would appreciate not voting tonight until she had a chance to review the application. Chair Keyes seconded the motion to put it up for discussion and asked Selectwoman Hazard to clarify her objection to talking about it. Selectwoman Hazard clarified her position that the Board can talk about it, but she was objecting to voting on it.

Chapter 61: Selectman Arcudi reiterated that the addition of the sideline for the two rails is on land that has been owned by the railroad since 1890, not including any land that was acquired through Chapter 61. Selectman Arcudi asked of Mr. Milanowski if Chapter 61 had not happened would they still be requiring this land to do the expansion? Mr. Milanowski responded yes, given the growth that has occurred, the railroad needs additional railcar capacity to switch the railcars in and out and have the engine go from the front to the back of the railroad. Chair Keyes questioned if, even if the Town and the railroad weren't in any litigation or dispute, would they still be coming in front of the Board asking for this and, if so, there would be no reason to deny the Town's support as it is an expansion on railroad land and not any land that is in dispute. Mr. Milanowski stated that this was an accurate summary of the circumstances.

Delay: Selectman Arcudi asked why the Select Board delayed this in the first place. The stated reason was because of the litigation, but was it also because we did not want to conflate the two issues yet it now seems that one has nothing to do with the other? Mr. Milanowski responded that that was a decision of the Board, that it was a surprise to the GURR when the Board previously decided to take no action because, again, all of the work that is going to occur is in the existing right of way.

Future Expansion: Mr. Milanowski indicated that at some point once this work has been completed the RR can expand in the future, but that's not what is now being proposed. He suggested that it was the Board's decision to see how the litigation was going to play out. That was the only thing that was brought to the GURR's attention as to why it was delayed, but now the litigation is over. The settlement agreement speaks to the Board supporting federal and state grants that create jobs and bring revenue into the state of MA and the Town of Hopedale. Chair Keyes suggested to Mr. Milanowski that playing with the hypothetical that the Board is going to raise a new motion and lawsuit disputing the settlement agreement is completely separate from this discussion. Mr. Milanowski reiterated that the railroad needs additional capacity no matter what.

Voting on the Issue: Chairman Keyes stated that he believed the litigation had been held up long enough and if a future Board would be victorious in litigation that has no impact on the matter before the Board at this time Selectman Arcudi asked if there were any other questions. Selectman Hazard stated that it is hard for her to have questions when she hasn't had the chance to read the revised version. Selectman Arcudi stated he is fine with voting as he has read the edition previously presented and this one, and the only edit was to correct the typos. He continued by suggesting that if members take into consideration what Chair Keyes has stated that if the Board votes on this it does not hinder a future Board's opportunity to consider future litigation if it is warranted; the Board should have already voted on this.

Grant Specifics: Carol Mullen, Director of the Council on Aging, asked how much the grant is for and the location of the installation of these additional rails. Selectman Arcudi stated that the application is in the on-line meeting packet. Mr. Milanowski responded that the total grant is \$837,000; the railroad will spend \$337,000 and the state matches 60% which is \$500,000. The length of the track is roughly 3,700 feet. This will take place in land within the Town of Hopedale, within the right-of-way owned by the railroad. Ms. Mullen further asked about the specific location. Mr. Milanowski responded that it is next to the existing track, up around the 18 acres West Street property in north Hopedale.

Changing Board: Mr. Fahey noted that the Board is making a lot of decisions at the end of Mr. Arcudi's term. He does not think the Board should vote when the Board membership is going to be changing tomorrow. Chair Keyes noted that Selectman Arcudi is still an active member on the Board; if a future Board wants to file a lawsuit, they may do that, but it will not affect the IRAP grant; the grant is for track expansion on land that is not in dispute.

Warehouse Information: Mr. Fahey noted that there are warehouses on either side of this track expansion and asked if further warehouses are going to be on the 364 West Street land or other land owned by the railroad. Mr. Milanowski indicated that they do not build warehouses on railroad right of way. Mr. Fahey then pointed out that the development plan in the IRAP grant application depicts warehouses adjacent to the rail expansions. Mr. Milanowski replied that they were outside of the right of way in the 360 West Street Property.

Mr. Milanowski stated that this has been in front of the Board since September of last year. The railroad is expanding every year and those railcars must go somewhere - to avoid leaving them on the mainline behind people's houses the railroad needs additional track capacity. He further noted that at some point in the future the railroad is going to develop buildings at 364 West Street and those will have additional track connecting from the main line and these sidetracks to those buildings. But that is not part of the grant application in front of the Board today. Selectman Arcudi then asked for confirmation that what the railroad is asking for in the grant has nothing to do with those warehouses. That is, the Board is not voting on any future expansion. Mr. Milanowski stated that this is correct.

Mr. Milanowski reiterated that they are not asking for approval of the warehouses, rather, they have depicted the later phases when additional track is built off of the main tracks; the sketch is one scenario - a future phase that is still under design. That is not what the railroad is asking the Board's approval for as part of this IRAP application. Mr. Milanowski confirmed that they will follow the settlement agreement to the letter of the law as agreed to and that does contemplate warehouse development but is separate and distinct from the IRAP.

IRAP Requirements: Town Administrator Schindler noted that the grant application requires that a professional engineering company must complete the plans, but the plans that have been presented are not engineered plans. Mr. Milanowski indicated that in the railroad industry, the turnouts are depicted on engineered plans; the areas of concern are the layout and switch patterns. Mr. Milanowski further noted that this is their fourth or fifth IRAP application, so they are familiar with the requirements. Town Administrator Schindler stated that she wants to make sure that whatever permitting is required has been completed.

Permits: Mr. Milanowski stated that there is no permitting required. Mr. Burt asked if the project received environmental approvals, specifically has this proposal been sent to the Conservation Commission or anyone else for their approval or consideration? Mr. Milanowski responded by stating to Mr. Burt that he is aware that no approvals are required within the existing right-of-way for the railroad to expand.

Verification: Following extensive discussion between Mr. Burt, Mr. Milanowski and Board members as to whether the Town had verified that Mr. Milanowski's statements regarding permitting requirements and whether these applications are being properly vetted, Chairman Keyes noted that there is no litigation pending therefore the settlement agreement is the default setting and among its terms is a stipulation that the Board will not withhold grant request for unreasonable reasons.

Vote: Selectman Arcudi moved to provide a letter of support for the GURR IRAP Grant Request for 364 West Street. Chair Keyes seconded the motion.

Selectman Arcudi – Aye, Selectwoman Hazard – No, Chair Keyes – Aye

Motion Passed 2-1.

Request for Rezoning Change Petition of 150-156 Hartford Avenue, Constant Poholek

Chair Keyes stated that this is the third location request, the current location is zoned General Business-A (GB-A). Poholek stated that the owner of 150-156 Hartford Ave, Antonio Pinto, had no objection to the zoning change for Charlesview but thought that the rezoning would include his property. Chair Keyes stated that he wants to have Poholek's business in town however, the location he is proposing is right next to other cannabis stores and does not feel that this is a good location for another cannabis store. The Select Board feels that Poholek should bring this to the Hopedale Planning Board.

Review FY23 Budget: Town Hall Administrator Schindler stated that she had sent the Select Board the most current budget draft that the Finance Committee had reviewed. She stated some reductions and increases were brought forward during the Finance Committee meeting. As of the Finance Committee's May 5th meeting, without budget reductions, there is still an override needed, even with using \$290,000 from free cash. To balance the budget, approximately \$300,000 in reductions would be necessary. A joint meeting will take place with the Finance Committee and Select Board on Monday. Resident Lou Costanza stated that the stipends for Boards/Commissions should be reinstated and that he will organize a citizen's petition so this item can be on the warrant. This would increase the amount the budget needs to be balanced.

Correspondence and Selectmen Informational Items (votes will not be taken)

A/P Warrant #22-23, \$343,749.49, 5/5/2022

P/R Warrant #22-23, \$731,392.30, 5/5/2022

Executive Session

Motion: To move into Executive Session, pursuant to M.G.L. c.30A, § 21(a) for item # (3): To discuss strategy with respect to litigation that an open meeting may have a detrimental effect on the litigation position of the public body and the chair so declares. Roll Call Vote

Purpose: Litigation strategy re: Town v. Jon Delli Priscoli, Trustee of the One Hundred Forty Realty Trust, et als, Attorney Peter Durning present.

Motion: To move into Executive Session, pursuant to M.G.L. c.30A, § 21(a) for item # (3): To discuss strategy with respect to collective bargaining and litigation that an open meeting may have a detrimental effect on the bargaining and litigation position of the public body and the chair so declares, which he does. (Collective Bargaining; All Units)

Chair Keyes read the executive session purposes above.

Selectman Arcudi moved to enter executive session per the purposes read by Chair Keyes, not to reconvene to open session. Selectwoman Hazard seconded the motion.

Selectman Arcudi – Aye, Selectwoman Hazard – Aye, Chair Keyes – Aye

Chair Keyes dissolved the open meeting at 9:03PM

Submitted by: Lindsay Peterman

Select Board Approval: 1/23/2023