**Select Board**

**Regular Meeting Minutes**

**April 25, 2022, 6:00 PM**

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

Chair Keyes called the meeting to order at 6:01PM. Chair Keyes began the meeting with the Pledge of Allegiance.

Chair Keyes read the executive session paragraph below. Chair Keyes stated that the executive session was recommended by Town Counsel, not by a Board member. Attorney Vetere will not be present during this executive session.

Selectwoman Hazard moved to enter executive session per the paragraph and purpose that Chair Keyes read. Selectman Arcudi seconded the motion.

Arcudi – Aye, Hazard – Aye, Keyes – Aye

The Select Board entered executive session at 6:03PM.

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, Attorneys Brian Riley, Peter Durning and Peter Vetere present.

The Board returned to open session at 7:18PM

Update regarding Town v. Jon Delli Priscoli, Trustee of the One Hundred Forty Realty Trust, et als. *Attorney Peter F. Durning*

Attorney Durning stated that the Town filed an appeal for Judge Rubin’s of the Land Court and also brought a motion to the Land Court, asking the Land Court to impose an injunction while the appeal was pending. Judge Rubin denied the motion. On March 28, 2022, the citizens group filed a motion with a Single Justice of the Appeals Court, seeking an injunction and also seeking permission to intervene in the appeal. Judge Desmond issued a temporary injunction which operated to instruct the GU RR not to undertake work at the property while the Single Justice gave the parties (Citizens & Town) the opportunity to file their responses and giving the Single Justice the opportunity to review all the filings.

At the time, the Town filed a separate motion for injunction pending appeals, the Appeals Court had all of those papers and filings from the GU RR opposing the request by the Citizens and the Town. Last week, Judge Desmond, a Single Justice of the Appeals Court on Tuesday, issued a multipage ruling in which he walked through the materials that had been submitted and came to the conclusion that he did not believe that either the Town or the Citizens had a likelihood of success on the merits of the appeal. Durning stated that this was, from the Towns perspective, the Towns appeal of it’s motion seeking to vacate dismissal. Judge Rubin made a clear error in denying the Town’s motion that was filed under Mass rules & procedures 60B, for vacating a stipulation of dismissal. Judge Desmond ruled that he believed there was not a strong likelihood of success based on the merits and that Judge Goodwin had properly exercised her authority and discretion to deny the Town’s motion to vacate the stipulation for dismissal.

Durning provided some additional context stating that one of the important issued that Justice Desmond relied on in coming to this conclusion was the question of whether or not the terms of the stipulation of dismissal included any specific terms of the settlement agreement. In particular, the related Superior Court decision found that the element of the settlement agreement whereby the Town was to acquire parcel A, at a purchase price that was less than the authorized full purchase price of the Chapter 61 land. Judge Goodwin determined that the Town would require a separate appropriation from Town Meeting to fund the purchase price of parcel A. In Judge Desmond’s analysis, he found that Judge Rubin was correct in her ruling. In Judge Rubin’s analysis, the specifications of the settlement agreement were not included in the stipulation of dismissal, they were therefore not before the land court when the land court initially accepted the stipulation of dismissal. Durning stated that the Single Justice took notice of the fact that there was a potential remedy for the issue that Judge Goodwin had flagged being that there had been separate Town Meeting approval. Single Justice remarked that the Town Meeting did not approve the appropriation, it shows that Judge Goodwin was not in error with how she ruled. Single Justice Desmond feels that there is a not a strong likelihood of success based on the merits and denied the injunction and terminated the temporary injunction he put in place. Durning stated that the outcome of the executive session in light of the recent decisions determining that the Town does not have a strong likelihood of success on appeal, the Select Board has voted 2:1 to seek a voluntary dismissal of the remaining appeal in the Appeals Court of the Land Court trial of the Town’s motion to vacation the stipulation of dismissal. The Select Board did not have any comments at this time.

Resident, Ed Burt asked if this decision could be made in a month from now when there Select Board has a different member. Durning stated that regarding the appeal for the motion to vacate the stipulation of dismissal, that will be at an end. That does not foreclose a subsequent Board to take other actions to 364 West Street.

Resident, Liz Reilly asked Attorney Durning and the Board if they are considering any other options to protect the land at West Street? Durning stated that the only item the Board and the Attorney’s discussed today was the reaction to the Single Justice’s decision.

Non-Resident, Rob Fahey asked if it is standard practice for Select Boards to make and vote on decisions regarding litigation without asking the public first. Durning stated that regarding matters of litigation, they are most often dealt with in executive sessions, that is partly why it exists. It was within the Boards power to not bring this up in a public session and just executive the litigation strategy, however the Board decided to disclose this information and receive public comment. Fahey stated that he feels the mediation should not have been entered so that means the settlement agreement is invalid because the Select Board did not get the support of the Town.

Consent Items

Approval of March 28, 2022 Regular Minutes

Selectwoman Hazard moved to accept the March 28, 2022 Regular Meeting Minutes. Selectman Arcudi seconded the motion.

Arcudi – Aye, Hazard – Aye, Keyes – Aye

Appointments & Resignations

Resignation of Ryan Costello from the Hopedale Police Department, effective April 25, 2022

Police Chief Giovanella is present at tonight’s meeting for this resignation. Chair Keyes read the resignation letter. Chair Keyes stated that he has heard from many residents regarding Officer Ryan Costello’s professionalism and work ethic. It will be a great loss to the Hopedale Police Department to accept this resignation. The Select Board echoed Chair Keyes sentiments. Chief Giovanella stated that Ryan Costello is a great Officer and was a huge asset to Hopedale.

Selectwoman Hazard moved to accept the resignation of Ryan Costello from the Hopedale Police Department, effective April 25, 2022. Selectman Arcudi seconded the motion.

Arcudi – Aye, Hazard – Aye, Keyes – Aye

New Business

Cannabis Product & Delivery Discussion – *Caroline Frankel, Caroline’s Cannabis*

Caroline Frankel shared her screen and presented a power point presentation to the Select Board and the Public. Frankel stated that Caroline’s Cannabis opened in October and business is going well. She is seeing on average 500 customers a day. Frankel stated that she wishes to discuss with the Board expanding her business to product manufacturing and home delivery at the Charlesview location. Frankel stated that delivery licenses are exclusive to social equity members and the State has already approved her application. Delivery hours would take place from 8AM-9PM, 7 days per week. Frankel stated that the delivery vehicles will have no markings that indicate the vehicle is being used for marijuana delivery. Frankel stated that security measures will be compliant with the State regulations. Selectman Arcudi asked Town Administrator Schindler if the area is zoned for this? Schindler stated that this area is correctly zoned for this however, they would need to acquire a special permit. Counsel for Caroline’s Cannabis stated that the HCA would be amended if this gets approved, a new HCA is not required. Chair Keyes asked Frankel to notify the Board of when the Community Outreach meeting will take place. Selectman Arcudi asked the Frankel reach out to the Hopedale Police and Fire regarding traffic and safety concerns prior to the Select Board voting on this item. Chair Keyes asked Town Administrator Schindler to work with Frankel on the action steps for this agenda item.

Cannabis License Limit Discussion

Chair Keyes stated that he is not an advocate of putting a limit or cap on the cultivating, testing, or manufacturing side of cannabis licenses. He is open to putting a limit on the retail side of cannabis licenses. Selectwoman Hazard stated that she agrees with some sort of limit on retail licenses, especially because currently, the Town does not have the space. Selectman Arcudi suggested capping the retail licenses at 3 if that is the amount that Hopedale currently has. Police Chief Giovanella stated that he feels there should absolutely be a limit on retail licenses in Hopedale. Chief Giovanella stated that if this is going to be a further discussion he would like to be included. Town Administrator recommended putting this item on a future agenda, including the Chief of Police and consulting with Town Counsel. Chair Keyes agreed that this item will be discussed at a future Select Board Meeting.

Select Board FY23 Meeting Schedule (Vote)

Selectwoman Hazard asked to change the August meeting date to August 1, 2022. Selectman Arcudi stated that he is going to abstain from voting because he will not be on the Board during these dates.

Selectwoman Hazard moved to approve the amended Select Board FY23 Meeting Schedule. Chair Keyes seconded the motion.

Hazard – Aye, Keyes – Aye, Arcudi – Abstained

Review Current Appointed/Elected Roster with Vacancies

Chair Keyes stated that there are no contested elected seats for this year.

Town Election Warrant – Review, Vote & Sign

Selectwoman Hazard moved to approve the Town Election Warrant as presented. Selectman Arcudi seconded the motion.

Arcudi – Aye, Hazard – Aye, Keyes – Aye

Draft Annual Town Meeting Warrant for Review

Town Administrator Schindler stated that she has worked on the draft warrant but was not able to get the draft to the Board due to being on vacation. Schindler stated that she will provide the Board with the draft shortly. Schindler recommended that the Board open the warrant tonight. Chair Keyes stated that he would like to have a budget discussion with the Select Board, Town Administrator and Finance Committee prior to the Town Meeting. Selectman Arcudi recommended that he not be part of this process other than opening the warrant because his term will have expired shortly before the Town Meeting date. He feels that the new Board member should have more say in the process of this. Schindler stated that on May 11, 2022, she recommends having a joint meeting with Finance Committee.

Selectwoman Hazard moved to open the Town Meeting Warrant. Selectman Arcudi seconded the motion.

Hazard – Aye, Arcudi – Aye, Keyes – Aye

Memorial Day – Certificate of Appreciation, 495 Rental Center (Review, Vote & Sign)

Selectwoman Hazard moved to approve the Certificate of Appreciation for 495 Rental Center. Selectman Arcudi seconded the motion.

Arcudi – Aye, Hazard – Aye, Keyes – Aye

Old Business

Delay Annual Town Meeting to May 24, 2022, per MGL C 39, §9 (School Auditorium Not Available May 17, 2022) (Vote)

Selectwoman Hazard moved to change the date of Annual Town meeting to Tuesday, May 24, 2022 at 7PM in the School Auditorium. Selectman Arcudi seconded the motion.

Arcudi – Aye, Hazard – Aye, Keyes – Aye

Public and Board Member Comments (votes will not be taken)

Memorial Day: Monday, May 30, 2022 at 8:00AM, Parade begins at the Hopedale High School and ends at the Village Cemetery. The Ceremony begins at 8:30AM at the Hopedale Village Cemetery (Itinerary in Packet).

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

A/P Warrant #22-22, $849,085.44, 4/21/2022

P/R Warrant #22-22, $913,328.10, 4/21/2022

Hopedale Police Department – FY22 Quarterly Stats, 2nd Quarter & 3rd Quarter

Hopedale Parks Commission Letter Hopedale Youth Baseball Association (HYBA) Electric Service to the Draper Baseball Field

Selectman Arcudi moved to adjourn the meeting. Selectwoman Hazard seconded the motion.

Arcudi – Aye, Hazard – Aye, Keyes – Aye

Chair Keyes dissolved the open meeting at 9:33PM

Submitted by:

\_\_Lindsay Peterman\_\_\_\_\_\_\_\_\_
Executive Assistant

Adopted: 05/05/2022