

Board of Selectmen
January 25, 2021
Regular Minutes

Chair Keyes called the meeting to order at 7:00PM

Pledge of Allegiance

Consent Items

Per M.G.L. Chapter 44, §53E; Accept Donation for 364 West Street Legal Fees in the amount of \$76,348.54 from Anonymous Donor

The Board of Selectmen thanked the Anonymous Donor for the generous donation.

Selectman Arcudi made a motion to accept the donation of \$76,348.54 for 364 West Street Legal Fees. Selectman Hazard seconded the motion.

Arcudi – Aye, Hazard – Aye, Keyes – Aye

Appointments and Resignations

Resignation of Richard Bekerian from the Hopedale Police Department, effective January 29, 2021. (Letter Attached)

Chair Keyes read the letter provided by Richard Bekerian. Chair Keyes thanked Richard for his time and hard work with the Hopedale Police Department and stated that this is a big loss for Hopedale. Police Chief Giovanella also thanked Richard for his time with the Police Department. Chief Giovanella stated that with this loss the Police Department will be understaffed within 4-5 months, even with recently appointed employees.

Selectman Hazard moved to accept the resignation of Richard Bekerian from the Hopedale Police Department, effective January 29, 2021. Selectman Arcudi seconded the motion.

Hazard – Aye, Arcudi – Aye, Keyes – Aye

Reappointment of Carole Mullen to the MWRTA Advisory Board for the Town of Hopedale. (Letter Attached)

Chair Keyes read the letter provided by Carole Mullen. The Board of Selectman thanked Carole for her hard work and involvement.

Selectman Arcudi made a motion to reappoint Carole Mullen to the MWRTA Advisory Board for the Town of Hopedale. Selectman Hazard seconded the motion.

Arcudi – Aye, Hazard – Aye, Keyes – Aye

Public Hearing

7:15 p.m. Complete Streets Policy

To hear public comments and receive input on Draft Hopedale Complete Streets Policy

Selectman Arcudi made a motion to open the public meeting at 7:18PM on the Complete Streets Policy.

Selectman Hazard seconded the motion.

Arcudi – Aye, Hazard – Aye, Keyes – Aye

Present: Eli Road Commissioner. Town Administrator began the discussion regarding the Complete Streets Policy. Town Administrator explained the Complete Street Policy that the Board of Selectmen will be reviewing at tonight's meeting. Town Administrator Schindler stated that most of the policy will be guided by the Road Commissioners because it is a road and streets policy primarily although this policy is not automobile centric (sidewalks, bike pathways, etc). The Town would also incorporate other decision makers in the policy such as the Schools, COA, the ADA Coordinator, the Parks Committee, or the Board of Selectmen.

Road Commissioner Eli LAST NAME asked Town Administrator Schindler that if the Road Commissioner's currently have projects open or had upcoming projects for the next year, that are going to be funded by Chapter 90 funds but if the funding from Chapter 90 runs out, would the Complete Streets Policy cover the funding that is needed? Town Administrator Schindler stated that we can augment the Chapter 90 funds with the Complete Streets Policy funds if it fits the criteria of Policy. How quickly the Complete Street funds are available is unknown.

Selectman Arcudi asked if we are adopting this Policy late and does that effect the Towns chances of being awarded funding? Town Administrator Schindler responded that over 200 MA communities have adopted the policy. The program is competitive, getting certified and obtaining the technical assistance funding is not competitive. The construction grants however, are competitive. Town Administrator Schindler clarified that this Policy is for public ways, not private ways.

Selectman Arcudi asked if a developer comes to Hopedale, would we enforce this Policy and make sure the developer is following the DOT guidelines? Road Commissioner Eli LAST NAME stated that Hopedale is currently enforcing DOT guidelines. However, with the policy in place, stricter guidelines may be enforced.

Selectman Arcudi stated that he wants to be sure that we will not be hindering development of Hopedale because of this policy and the infrastructure of the Town, he stated that some areas do not have the space for three lanes or bike paths. Town Administrator Schindler responded that there are exemptions included in the Policy that confirm that the Town/Developers will not be forced to do/add something if the costs are going to be disproportionate to the need or use.

Chair Keyes open the discussion for public comments.

A resident asked what the process is for notifying the town if there is a problem with the sidewalks and with the new policy, how to handle it? Town Administrator stated that the notification process remains the same, call the Highway Department. Town Administrator responded to the resident and stated that once this Policy is adopted, we want to get as much information as we can so we can add this information to the prioritization plan.

Selectman Hazard moved to close the Complete Street Public Hearing. Selectman Arcudi seconded the motion.

Hazard – Aye, Arcudi – Aye, Keyes – Aye

Selectman Hazard moved to adopt the Complete Streets Policy as presented. Selectman Arcudi seconded the motion.

Hazard – Aye, Arcudi – Aye, Keyes – Aye

The Public Hearing dissolved at 7:35PM

New Business*

7:45 p.m. Joint Meeting per M.G.L. Chapter 41, § 11, with remaining Planning Board members, to consider Appointment of Kaplan Hasanoglu

Stephen Chaplin, member of the Planning Board, called the joint meeting to order at 7:46PM.

Stephen Chaplin thanked Kaplan Hasanoglu for his interest in the Hopedale Planning Board and stated that he will bring a lot to the Board. The Board of Selectmen expressed their enthusiasm regarding Kaplan being accepted as a member to the Planning Board.

Eli Leino made a motion to accept Kaplan Hasanoglu as a member to the Planning Board. Steven Gallagher seconded the motion.

Chaplin – Aye, Leino – Aye, Gallagher – Aye, Hazard – Aye, Arcudi – Aye, Keyes – Aye

Eli Leino made a motion to adjourn the meeting of the Planning Board. Steven Gallagher seconded the motion.

Leino – Aye, Gallagher – Aye, Chaplin – Aye

Old Business

COVID Updates

Town Administrator Schindler stated that the Governor is easing on restrictions. Beyond Full, the restaurant located in the Town Hall, will be permitted to open for in house dining beginning on February 1, 2021. There will be a limited number of patrons allowed, and masks must be worn when not consuming food/beverage. Town Administrator Schindler stated that he is working with Hopedale Health Agent, Bill Fisher, to ensure that the Town Hall has good cleaning and disinfecting of all shared facilities. Town Administrator Schindler stated that at the next Department Heads meeting, they will be discussing opening the Town Hall for limited regular hours to the public. Currently, residents must make an appointment to come into the Town Hall.

Mediation Updates; *Attorney Peter F. Durning, Special Counsel*

Attorney Durning shared his screen with the Board and the Residents providing a presentation regarding 364 West Street. Attorney Durning stated that he hopes this presentation will provide sufficient details and information primarily so that the Board can make an informed decision following the public comment period at this meeting.

Attorney Durning reviewed the events throughout the litigation and mediation process through his presentation. Attorney Durning stated that the factors that favored a negotiation solution were that the Land Court denied our motion for preliminary injunction and prevailing at the Land Court on G.L. c. 61 does not give Hopedale the ability to develop a public water supply. Attorney Durning stated that the core principals guiding the negotiation solution were protecting the Mill River watershed which is hydrologically connected to the Town's current water supply, securing opportunities for the exploration and development of new public water supply sources, owning or controlling the greatest amount of the forest land possible and preserving it as conservation land, and obtaining concessions for GU RR that would promote local control and/or the application of state and local rules and regulations on railroad parcels to the greatest extent possible to promote protection of the watershed and to preserve the ability to develop future water supply. Attorney Durning stated that it is important to point out again, regarding the last point, the Interstate Commerce Commission Termination Act (ICCTA) grants railroads significant protection under Federal Law. Whereby, railroads generally do not have to abide by State and local regulations. For example, railroads generally do not have to abide by the Massachusetts State Wetlands Protection Act. If the Town were able to secure adherence to State and Local regulations by the railroad through a private settlement agreement that would give Hopedale greater influence and control on the outcomes of how this land was developed, compared to if the Town went to Court, lost the action and the railroad had free reign to develop these parcels.

Based on the current negotiations, the Town would own outright parcels A and D, these parcels would be deeded to the Town subject to the non-build easement granted under the auspices of the Army Corps of Engineers. They would be accepted by the Town as conservation land consistent with the warrant at Special Town Meeting. Parcels A and D would give the Town control of the full Mill River Corridor. The railroad would own parcels B, C and E.

There are two potential types of water supply on the 364 West Street property, potential bed rock wells base on fracture trace or a well or well field from groundwater in the shallow BLANK. A fracture trace study was performed that shows the confluence of certain ground features that indicate there is a strong likelihood that there would be bedrock fractures below those points that could be explored and exploited for public water supply. Also, a well or well field from ground water is possible, given the soil characteristics and general knowledge of the aquifer associated with the Mill River in this area. These are the two areas the Town was trying to secure to make sure we can get to the public water supply. Attorney Durning noted that the GU RR will need water for their development on their parcels, in this agreement the GU RR is willing to enter a cost sharing agreement with Hopedale that will assist and offset the costs of the exploration for water supply wells.

In addition to the cost sharing agreement, the GU RR is willing to make some additional agreements. Such as, agreeing to impose a no build area (300 X 1000 easement area) located on parcel E. There would be no development on that portion of the parcel for five years. For this agreement, Hopedale would create an easement to allow GU RR to use the eastern most portion of parcel A to do wetlands replication work if some of their work offsets existing wetlands on their parcels. Attorney Durning opened the discussion for Michael Milanowski, President of the GU RR, to

Michael Milanowski, President of GU RR spoke and presented a power point regarding the negotiation expectations for the land at 364 West Street mediation. Milanowski discussed that the railroad and the Town's focus has been regarding protecting future bedrock well location and preserving the current water supply, but the Town needs the GU RR's support. GU RR is trying to work with the Town to work out an agreement to build a municipal well, secure recharge areas, and maintain working safely. Michael Milanowski discussed the resolution that came to fruition regarding the PPP with the Town at a 1 or a 1.5 or greater land swap, since the W Commission did not support this concept the GU RR agreed to negotiate and came to a resolution that now includes sale of land to Town including non-61 (25 acres) parcel. Milanowski continued to discuss the land transfer by One Hundred Realty Trust, explaining what will become and what was negotiated regarding parcels A, B, C, D listed on his power point presentation.

Attorney Peter Durning continued with his presentation. Durning discussed the deed restrictions that the GU RR has agreement to. GU RR has agreed to be bound by certain aspects of the Town of Hopedale's Ground Water Protection Supply bylaw to be applied to parcels B and C. In summary, the railroad has agreed to earth removal requirements, limitations of application and storage pesticides, herbicides, insecticides, fungicides, and rodenticides, limitation on fertilizers, groundwater recharge and groundwater quality, preparation of a hazardous materials management plan. The GU RR has agreed to additional deed restrictions on parcels B and C not included in the Towns bylaw, such as, development will be limited to enclosed buildings or structures so as to avoid outside storage, Owner will keep state and local authorities apprised of any development plan by providing notification to the Board of Selectmen and/or Town Administrator, GU RR provides for enforceability of these provisions though an action to a court of competent jurisdiction, including but not limited to the Massachusetts Superior Court and the Land Court as well as a Roadway provision deed restriction.

Attorney Durning stated that they have negotiated a preliminary agreement with the railroad that will need to be formalized and adopted by the Board of Selectmen if that is the decision of the Selectmen today. The GU RR was informed that the finalized negotiation, if the Board so authorize, to be completed by February 9, 2021. We anticipate that pursuant to that agreement, there will be a conveyance of land from the GU RR to the Town of Hopedale that would take place at a formal closing approximately 60 days after the conclusion of the formal agreement. Pursuant to the terms of the tentative agreement, GU RR is going to donate parcel D, the 363 West adjacent parcel. The Town of Hopedale will be obligated to purchase the additional lands that it is getting from parcel A. The negotiated purchase price is \$587,500. The parties are agreeing to split the cost of a formal land survey, to establish the new boundaries on the parcels.

Attorney Durning stated that he endorses this settlement package, the negotiated solution meets the Town of Hopedale's objectives, it dedicates more land for conservation, preserves the aesthetic experience of the parklands, secures watershed protection for the Mill River Watershed, it provides opportunities for public water supply development from the bedrock wells or ground water resources, promotes commercial development in an area that the Town has its own industrial area. Attorney Durning closed his discussion and presentation.

Eric Kelly with Environmental Partners stated that the negotiations support locating potential water supply and protecting the water shed.

Future GU RR Development; *Michael R. Milanoski, President, Grafton and Upton Railroad Company*
Deliberate & Vote Mediation Agreement regarding 364 West Street & 363 West Street ADJ

Selectman Arcudi made a motion to deliberate and vote to accept the negotiated mediation agreement regarding 364 West St and 364 West St adjacent. Selectman Keyes seconded the motion.

Selectman Arcudi stated that his goal was to get the best option for the Town and the residents. Selectman Arcudi feels that with this negotiation the Selectman were able to accomplish that goal by protecting the current watershed and having the ability for future water expansion. The Town also can extend expansion of our parklands. Selectman Arcudi thanked Attorney Peter Durning, Selectman Hazard and Chair Keyes for their time during the process.

Selectman Hazard began a discussion regarding the mediation/negotiation agreement. Selectman Hazard stated that she feels that the railroad has done a disservice to the Town regarding Chapter 61 land. She feels that the negotiation agreement being discussed is vastly different than what the residents voted at Town Meeting and that the decision made tonight should be what the residents desire. Selectman Hazard stated that she is anticipating that, per the feedback from the public at tonight's meeting, and if the Town is not able to hold another Town Meeting, she will likely be voting not in favor to the vote taking place tonight.

Chair Keyes state that the Board of Selectmen's goal if they were not able to get all the land regarding this topic are water shed protection, water supply exploration and protection and obtaining as much of the land as possible. Chair Keyes opened the meeting for public discussion and questions.

Hopedale resident, Jim Donohoe asked if there is a deadline or reason as to if/why the Board of Selectmen need to decide tonight? Attorney During responded that the agreement that the GU RR has put forward, coming out of the mediation, needs to be consummated. The Town made a commitment in entering the mediation agreement. The Board of Selectmen modified the form of the mediation agreement to expressly say that the Board of Selectmen would not be bound by any terms of the agreement until it had the opportunity to conduct public hearing. During mediation, this date was specified as the date of the public hearing.

Hopedale resident and Water Sewer Commission, Ed Burt commented that what was stated at tonight's meeting highlights the core principals of the residents and Town's concerns and goals. He thanked the residents involved in this process. Burt asked is there is a way to extend the five-year limitation regarding building. Attorney Durning stated that the anticipation is that a well is viable and that it would not be under development while Mass DEP might be reviewing new approval. The negotiations state that the five-year limit is firm, while the town can advance its water exploration. The exploration for water supply is aligned between the Town and GU RR, hence the cost sharing agreement. Some residents shared concerns regarding the five-year limit exploration limit for a well. Eric, with Environmental Partners, stated that the timeline is going to be driven by the science. Yes, regarding public supply wells, the exploratory phase can be completed in shorter time frames. What extends the time frame is the connection of a water source, treatment necessary and the infrastructure that supports it. Selectman Hazard asked Attorney Durning if the agreement states that the well will need to be completed in five years or does the Town have five years to determine if the well is viable (exploratory phase)? Attorney Durning responded that the GU RR agrees to not construct any buildings on the 300ftX1,000ft rectangular area for a period of five years or until the Town identifies a financial/feasible public drinking water well supply area on that land.

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

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

Town Administrator Schindler asked Chair Keyes to move this item to after Appointments and Resignations at 7:11 PM. Chair Keyes agreed, no vote is required to move item.

Master Plan Steering Committee – The Master Plan Steering Committee would like to invite you to the Vision Workshop! With your assistance in this workshop, you will be able to help us create our Vision Statement that will shape the plan's, goals and recommendations for Hopedale. The workshop will take place via Zoom on January 31, 2021 from 2PM-4PM. To RSVP for the workshop and to receive the Zoom details, visit <https://www.envisionhopedale.com>. The Master Plan Steering Committee would like to thank all of those who participated in the envisionHopedale survey. We received nearly 500 responses! Your responses will help pave the way for the Master Plan. The results of the survey will soon be available at [envisionhopedale.com](https://www.envisionhopedale.com).

Jim Abbruzzese, Chair of the Master Plan Steering Committee, discussed the Visio Workshop, via Zoom that is available for residents and non-residents to partake in. During this workshop the Master Plan Steering Committee will ask participants questions such as, what drew them to Hopedale, what keeps them in Hopedale and what they wish to see in Hopedale in the future. The Master Plan will be a guiding document for Departments on the future of the Town. This is also an excellent way for the voice of the people to be heard regarding what community goals are for the Town development.

Requests for Future Agenda Items:

Administrator Updates (In Packet)

Executive Session: None

Selectman Arcudi made a motion to adjourn the meeting. Selectman Hazard seconded the motion.

Arcudi – Aye, Hazard – Aye, Keyes – Aye

Chair Keyes dissolved the meeting at 12:05PM

Submitted by:

Lindsay Mercier

Lindsay Mercier, Executive Assistant

Adopted: _____