

**STORMWATER MANAGEMENT
OPERATION, MAINTENANCE, AND INSPECTION DECLARATION
OF COVENANT**

Town of Hopedale, MA

THIS AGREEMENT, made and entered into this _____ day of _____ 2023, by and between Hopedale Industrial JV, LLC, a Delaware limited liability company having an address at 133 Pearl Street, Boston, MA hereinafter called the "Landowner", and the Town of Hopedale, a municipal corporation having an address at 78 Hopedale Street, Hopedale, MA, hereinafter called the "Town".

WITNESSETH, that WHEREAS, the Landowner is the owner of certain real property at 75 Plain Street, Hopedale, Worcester County, Massachusetts as described as Lot 28 on Map 22 of Town of Hopedale Assessors Map and as recorded by deed in the land records of Southern Worcester County, Massachusetts, Registry of Deeds in Deed Book 69032 Page 228, hereinafter called the "Property", and

WHEREAS, the Landowner is proceeding to build on and develop the Property; and

WHEREAS, the Site Plan for the Project, identified as "Definitive Site Development Plans, Proposed Warehouse Building: Definitive Site Development Plans dated April 13, 2023" prepared by Highpoint Engineering hereinafter called the "Plan", which is expressly made a part hereof, as approved or to be approved by the Town, which provides for the conveyance, treatment, and/or detention of stormwater within the confines of the Property.

WHEREAS, the Town and the Landowner, its successors and assigns, agree that the health, safety, and welfare of the residents of the Town of Hopedale, Massachusetts, require that on-site stormwater management facilities be constructed and maintained on the Property; and

WHEREAS, the Town requires that on-site stormwater management facilities as shown on the Plan be constructed and adequately maintained by the Landowner, its successors and assigns.

NOW, THEREFORE, in consideration of the foregoing premises, in order to ensure that the stormwater management system will be maintained by the Landowner in accordance with the "Town of Hopedale Planning Board Decision and Certificate of Approval for 75-131 Plain Street, LLC/GFI Partners, LLC 75 Plain Street , Hopedale, MA Site Plan Review" dated May 11, 2022, as filed in the Office of the Hopedale Town Clerk on May 18, 2022 , hereinafter referred to as the "Site Plan Approval" with specific reference to Finding 10 (e) therein and the Stormwater & Sediment Control Conditions 23-29 (inclusive), and the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

1. Said Property shall henceforth be subject to the conditions set forth in the Site Plan Approval, the agreements, covenants, restrictions pursuant to said Site Plan Approval shall run with the Property.
2. The on-site stormwater management facilities shall be constructed by the Landowner, its successors and assigns, in accordance with the plans and specifications identified in the Site Plan Approval and documents reviewed and approved by the Hopedale Planning Board as the Stormwater Permitting Authority (SWPA).
3. The Landowner, its successors and assigns, shall adequately maintain the stormwater management facilities according to the maintenance schedule described in that certain Stormwater Management Analysis including but not limited to the Construction Phase Operation and Maintenance Plan and the Long-Term Operation and Maintenance Plan submitted to the SWPA, (collectively referred to as the "Stormwater Management Plan") to which there is a reference in the Site Plan Approval. This obligation shall include permanently maintaining all pipes and channels built to convey stormwater at the Property, as well as all structures, improvements, and vegetation

provided to control the quality and quantity of the stormwater. Adequate maintenance is herein defined as good working condition so that these facilities are performing their design functions in all material respects so as to achieve satisfactory compliance with water quality standards in all seasons and throughout the life of the stormwater system.

4. The Landowner, its successors and assigns, hereby grant permission to the Town, its authorized agents and employees, to enter upon the Property on reasonable prior notice and to inspect the stormwater management facilities whenever the Town deems reasonably necessary to investigate reported deficiencies, inspect the stormwater management facilities when annual reports have not been submitted and/or to respond to citizen complaints. The Town shall provide the Landowner, its successors and assigns, copies of any written inspection findings and may issue a directive to commence with repairs or other mitigation measures if it deems necessary in its reasonable discretion, it being expressly understood and agreed that the Town shall be under no obligation to prepare any written findings or issue any directive to correct such deficiencies.
5. In the event the Landowner, its successors and assigns, fails to maintain the stormwater management facilities in good working condition reasonably acceptable to the Town, and if after notice by a SWPA representative to correct a violation requiring maintenance work, satisfactory corrections are not made by the Landowner, its successors and assigns within thirty days, subject to force majeure, the Town may enter upon the Property and perform all necessary work to place the facility in proper working condition and assess the costs of such work and any lawful penalties to the Landowner, its successors, and assigns. This provision shall not be construed to allow the Town to erect any structure of permanent nature on the land of the Landowner outside of the easement for the stormwater management facilities. It is expressly understood and agreed that the Town is under no obligation to maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on the Town.
6. In the event the Town pursuant to this Agreement, performs curative work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the Landowner, its successors and assigns, shall reimburse the Town upon demand, within thirty (30) days of receipt thereof for all actual costs incurred by the Town hereunder.
7. This Agreement imposes no liability of any kind whatsoever on the Town except for its willful misconduct; and further the Landowner agrees to hold the Town harmless from any liability in the event the stormwater management facilities fail to operate properly unless willfully caused by the Town, its employees, contractors or agents.
8. If in the future the Landowner, its successors and assigns, are required to locate any portion of the stormwater management facilities on land not otherwise part of the approved plan, then at such time, the Landowner shall provide stormwater management easements as necessary for all areas used for off-site stormwater control, preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100-year storm event, and access for facility maintenance and inspection.
9. The Landowner, its successors and assigns, shall notify the SWPA of any changes in ownership, assignment of financial responsibility, reconstruction of the approved stormwater management facilities and/or amendments to the Stormwater Management Plan. The maintenance schedule may be amended to achieve the purpose of the Hopedale Planning Board regulations by mutual written agreement of the SWPA and the Landowner, its successors and assigns. Amendments shall be in writing and signed by the SWPA and all responsible parties.
10. This Agreement shall be recorded by the Landowner among the land records of Southern Worcester County Registry of Deeds, and shall constitute a covenant running with the land, and shall be binding in perpetuity on the Landowner, its administrators, executors, assigns, heirs and any other successors in interests, including any landowner's association.

WITNESS the following signatures and seals:

Hopedale Industrial JV, LLC

Company/Corporation/Partnership Name (Seal)

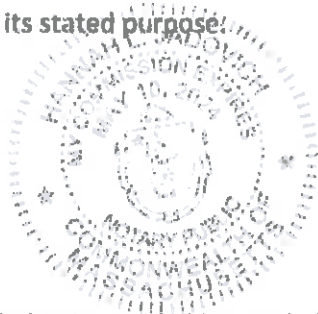
By:

[Signature]
Steven Goodman, Manager

COMMONWEALTH OF MASSACHUSETTS

County of ~~Essex~~ Suffolk

On this 1 day of May, 2023, before me, the undersigned notary public, personally appeared Steven Goodman, proved to me through satisfactory evidence of identification, which was a Driver's License, to be the person whose name is signed on the proceeding document, and acknowledged to me that he signed it voluntarily for its stated purpose.



[Signature]
NOTARY PUBLIC

My Commission Expires: 5/10/2024

TOWN OF HOPEDALE

By: _____
_____ Select Board Chair

COMMONWEALTH OF MASSACHUSETTS

County of Essex

On this ___ day of _____, 20___, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was a Driver's License, to be the person whose name is signed on the proceeding document, and acknowledged to me that he signed it voluntarily for its stated purpose.

NOTARY PUBLIC

My Commission Expires: _____

Gretchen M Adamski
Richard A Adamski
2 Gannett Way
Hopedale, MA 01747

6-7818/110

3010

Date 5/4/2023

Pay to the order of Town of Hopedale \$ 300.04

Three hundred fifty and 04/100 Dollars

SANTANDER BANK, N.A

Tree Planting or care
for trees planted for good
Project Gretchen M Adamski



**TOWN OF HOPEDALE
FY 2024
ANNUAL TOWN MEETING**

**Tuesday, May 16, 2023
7:00 pm**

**Dennett Auditorium
Junior-Senior High School
25 Adin Street**

Worcester SS: To the Constables in the Town of Hopedale in the County of Worcester.

Greetings: In the name of the Commonwealth of Massachusetts you are hereby required to notify and warn the inhabitants of the Town of Hopedale qualified to vote in town affairs to meet in the Dennett Auditorium of the Junior-Senior High School located at 25 Adin Street, Hopedale, MA 01747, on Tuesday, May 16, 2023, at 7:00 pm, then and there to act on the following articles:

**ARTICLE 1
REPORTS FROM TOWN OFFICIALS
(Select Board)**

To see if the Town will vote to hear and act upon the report of the Select Board and other offices, departments, or committees of said Town, or take any other action related thereto.

MOTION: Move that the Town vote to hear and act upon the report of the Select Board and other offices, departments, or committees of the Town.

Commentary: This article allows the Select Board and other officers of the Town to present a report of their activities to the Town Meeting.

THE FINANCE COMMITTEE RECOMMENDS FAVORABLE ACTION

**ARTICLE 2
TOWN CLERK SALARY AND FY24 BUDGET
(Select Board)**

To see if the Town will vote to fix the salary and compensation of the Town Clerk as provided by M.G.L. c. 41, §108, and to raise and appropriate or transfer from the Ambulance Receipts Reserved for Appropriation and/or other available funds, such sums as may be necessary to defray expenses of the Town Departments for Fiscal Year 2024, as presented, or take any other action related thereto.

MOTION: Move that the Town vote to fix the salary and compensation of the elected Town Clerk as provided by M.G.L. c. 41, §108, and to raise and appropriate the sum of \$26,478,887 transfer the sum of \$345,000 from Ambulance Receipts Reserved for Appropriation, transfer the sum of \$169,605 from Water Enterprise Receipts, transfer the sum of \$142,996 from Sewer Enterprise Receipts, and transfer the sum of \$170,000 from Free Cash to defray the expenses of the Town Departments for Fiscal Year 2024 as shown in the column captioned "Non-Contingent Appropriations" and that the amounts shown in the column captioned "Contingent Appropriation" be appropriated from the Tax Levy contingent upon the passage of a Proposition 2 ½ Ballot Question under M.G.L. Chapter 59, §21C.

Commentary: This article will fix the annual compensation for the Town Clerk and fund the Town's FY 2024 Annual Operating Budget through appropriations and transfers.

THE FINANCE COMMITTEE RECOMMENDS FAVORABLE ACTION

**ARTICLE 3
FY 24 WATER DEPARTMENT BUDGET
(Water and Sewer Commissioners)**

To see if the Town will vote to transfer from available funds a sum of money to be authorized to fund the Water Department budget for Fiscal Year 2024 from Water Enterprise receipts, or take any other action related thereto.

MOTION: Move that the Town vote to transfer from the Water Enterprise Fund, in accordance with the provisions of M.G.L c.44 §53F½, the following sums of to fund the Water Department budget for Fiscal Year 2024:

Wages	\$379,902
Expenses	\$666,550
Reserves	\$100,000
Capital	\$ 44,000
Debt./Interest	\$335,829
Total	\$1,417,281

Commentary: This is the principal money article which will fund the fiscal year 2024 operations of the Water Department completely from Water Enterprise receipts.

THE FINANCE COMMITTEE RECOMMENDS FAVORABLE ACTION

**ARTICLE 4
FY 24 SEWER DEPARTMENT BUDGET
(Water and Sewer Commissioners)**

To see if the Town will vote to transfer from available funds a sum of money to be authorized to fund the Sewer Department budget for Fiscal Year 2024 from Sewer Enterprise receipts, or take any other action related thereto.

MOTION: Move that the Town vote to transfer from the Sewer Enterprise Fund, in accordance with the provisions of M.G.L c.44 §53F½, the following sums to fund the Sewer Department budget for Fiscal Year 2024.

Wages	\$ 413,007
Expenses	\$ 589,200
Reserves	\$ 60,000
Capital	\$ 50,000
Debt./Interest	\$ 424,181
Total	\$1,536,388

Commentary: This is the principal money article which will fund the fiscal year 2024 operations of the Sewer Department completely from Sewer Enterprise receipts.

THE FINANCE COMMITTEE RECOMMENDS FAVORABLE ACTION

ARTICLE 5
FUND COMMUNITY PERSERVATION COMMITTEE FY 24 OPERATIONS
(Community Preservation Committee)

To see if the Town will, upon recommendation of the Community Preservation Committee, appropriate from the Community Preservation Act fund, in accordance with M.G.L. c. 44B, such sums of money as it determines necessary for the expenses and charges for operation of the Community Preservation Committee for Fiscal Year 2024, or take any action related thereto.

MOTION: Move that the Town appropriate from the Community Preservation Act fund, in accordance with M.G.L. c. 44B, the sum of \$7,500 for the expenses and charges for operation of the Community Preservation Committee for Fiscal Year 2024.

Commentary: The approval of this article provides annual funding for the Community Preservation Committee's administrative and operational expenses. Under the Community Preservation Act, up to 5% of the ensuing fiscal year's estimated CPA revenues may expended for such purposes. By law, any balance remaining in this account at the end of the fiscal year is returned to the Community Preservation Act fund.

THE FINANCE COMMITTEE RECOMMENDS FAVORABLE ACTION

ARTICLE 6
FUND COMMUNITY PERSERVATION COMMITTEE RESERVES
(Community Preservation Committee)

To see if the Town will vote, upon recommendation of the Community Preservation Committee, to appropriate from the Community Preservation Act Fund, a sum of money pursuant to the requirements of the Community Preservation Act M.G.L. c. 44B, §6 for the purposes of Open Space, Community Housing (Affordable) and Historic Resources (Preservation), or take any other action related thereto.

MOTION: Move that the Town vote, pursuant to the requirements of the Community Preservation Act M.G.L. c.44B, §6, to appropriate from the Community Preservation Act Fund, as follows:

Reserve for Open Space	\$17,494
Reserve for Community Housing	\$17,494
Reserved for Historic Resources	\$17,494

Commentary: The purpose of this article is to comply with the provisions of M.G.L., Chapter 44B, §6, which requires that every fiscal year, upon recommendation of the Community Preservation Committee, Town Meeting shall spend, or set aside for later spending, not less than 10% of the estimated annual revenues in the Community

Preservation Act Fund for each of the following: Open Space (including recreational land), Community (Affordable) Housing, and Historic Resources (Preservation).

THE FINANCE COMMITTEE RECOMMENDS FAVORABLE ACTION

**ARTICLE 7
PAY STORM WATER DEBT AND INTEREST
(Select Board)**

To see if the Town will vote to raise and appropriate, or transfer from available funds, a sum of money to pay off the debt and interest of the Storm Water debt authorized under Article 2 of the Town Meeting of May 21, 2019 and the Dump Truck debt authorized under Article 7 of the Town Meeting of October 15, 2021, or take any other action related thereto.

MOTION: Move that the Town vote to transfer from Free Cash the sum of \$95,990.88 to pay off the Storm Water debt authorized under Article 2 of the Town Meeting of May 21, 2019 as well as the associated interest on said debt and, further, to transfer from Free Cash the sum of \$75,123.30 to pay off the Dump Truck debt authorized under Article 7 of the Town Meeting of October 15, 2021 as well as the associated interest on said debt.

Commentary: This Article pays off the current Storm Water and Dump Truck debt. It is a sound practice to eliminate relatively small amounts of debt when Free Cash is available to do so, such that there is debt capacity for new capital items, such as the school roof (Article 11), ambulance (Article 12) and vector truck (Article 13).

THE FINANCE COMMITTEE RECOMMENDS FAVORABLE ACTION

**ARTICLE 8
CAPITAL ITEMS
(Select Board)**

To see if the Town will vote to transfer from available funds such sums of money to fund equipment and capital costs, or take any other action related thereto.

MOTION: Move that the Town vote to transfer from Free Cash the following sums for the following purposes:

Pond/Causeway Restoration Study	\$160,000
Fire Station Door Repairs	\$ 25,000
Town Park Retaining Wall Design	\$ 80,000
HVAC and Building Improvements (Jr-Sr HS)	\$ 70,000

Commentary: The Town's capital requests exceed \$1,000,000. These recommended capital items are the highest priorities to make repairs to existing infrastructure. The

other requests can be considered in the Fall or at the next Annual Town Meeting. It is critical that the Town adequately fund its capital needs on an ongoing basis.

THE FINANCE COMMITTEE RECOMMENDS FAVORABLE ACTION

**ARTICLE 9
BORROWING IN ANTICIPATION OF CHAPTER 90 FUNDS
(Road Commissioners)**

To see if the Town will vote to authorize the Treasurer, with the approval of the Select Board, to borrow a sum of money in anticipation of Chapter 90 State reimbursement funds, or such additional amount as is anticipated to be so provided, for the purpose of funding road paving/improvement projects, and further to authorize the Select Board to accept and expend such sum or any other sum that is or may be provided to the Town in accordance with M.G.L. c. 90 or any other state or federal road program for road repairs, or take any other action related thereto.

MOTION: Move that the Town vote to authorize the Treasurer, with the approval of the Select Board, to borrow a sum of money in anticipation of Chapter 90 State reimbursement funds, or such additional amount as is anticipated to be so provided, for the purpose of funding road paving/improvement projects, and further to authorize the Select Board to accept and expend such sum or any other sum that is or may be provided to the Town in accordance with M.G.L. c. 90 or any other state or federal road program for road repairs.

Commentary: This article will allow the Treasurer to borrow up to the total amount certified by the State for Hopedale's Chapter 90 funds for Fiscal Year 2024.

2/3 Majority Vote Required

THE FINANCE COMMITTEE RECOMMENDS FAVORABLE ACTION

**ARTICLE 10
RESCIND BORROWING AUTHORIZATION
(Town Treasurer/Collector)**

To see if the Town will vote to rescind the \$752,682 authorized, but unissued balance of the \$6,600,000 approved to be borrowed under Article 22 of the 2015 Annual Town Meeting, to pay costs of upgrading the wastewater treatment plant, which amount is no longer necessary to complete that project, or take any other action related thereto.

MOTION: Move that the Town vote to rescind the borrowing authorization for the authorized but unissued borrowing in the amount of \$752,682, originally approved by a vote of the Town adopted under Article 22 of the May 19, 2015 Town Meeting, as follows:

Authorized
\$6,600,000

Issued
\$5,847,318

Authorized Unissued
\$752,682

Commentary: Pursuant to the vote of the May 19, 2015 Annual Town Meeting, \$6,600,000 was borrowed for upgrades to the Waste Water Treatment Plant. The project was completed under budget, and \$752,682 remains unspent. This Article is effectively a "housekeeping" measure to rescind the borrowing authorization such that the Town's debt position is accurately reflected.

THE FINANCE COMMITTEE RECOMMENDS FAVORABLE ACTION

**ARTICLE 11
BORROWING FOR NEW SCHOOL ROOF
(School Committee)**

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide a sum of money, to be expended by the School Committee, to pay costs of design and installation of a new roof on the Hopedale Junior-Senior High School, including the payment of all costs incidental and related thereto, or take any other action related thereto.

MOTION: Move that the Town appropriate \$1,800,000 to be expended by the School Committee, to pay costs of installing a new roof on the Hopedale Junior-Senior High School, including the payment of all costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Select Board, is authorized to borrow said amount under and pursuant to M.G.L. c. 44, §7(1) or pursuant to any other enabling authority, and to issue bonds and notes of the Town therefor.

Commentary: The Junior-Senior High School roof needs to be replaced.

2/3 Majority Vote Required

THE FINANCE COMMITTEE RECOMMENDS FAVORABLE ACTION

**ARTICLE 12
AMBULANCE PURCHASE
(Select Board)**

To see if the Town will appropriate \$400,000 or any other amount, to pay costs of purchasing an ambulance for the use of the Fire Department, and for the payment of all costs incidental and related thereto, and to determine whether this amount shall be raised by borrowing or otherwise, or to take any other action related thereto.

MOTION: Move that the Town appropriate \$400,000 to pay costs of purchasing an ambulance for the use of the Fire Department, and for the payment of all costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with

the approval of the Select Board, is authorized to borrow said amount under and pursuant to M.G.L. c. 44, §7(1), or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor.

Commentary: This vehicle will replace the 2012 ambulance that was purchased from the Hopkinton Fire Department in 2018 and has 57,100 miles. The average annual repairs/maintenance budget for this vehicle is \$8,000. Within the next year or so the vehicle will need to have its suspension repaired, which estimates show will cost approximately \$15,000. If this vehicle was not to be replaced, the town would see a loss in revenue of approximately \$80,000. From the time an ambulance is ordered, delivery takes about 18 months.

2/3 Majority Vote Required

THE FINANCE COMMITTEE RECOMMENDS FAVORABLE ACTION

**ARTICLE 13
VACTOR TRUCK PURCHASE
(Select Board)**

To see if the Town will appropriate \$400,000 or any other amount, to pay costs of purchasing a Vactor Truck for the use of the Highway, Water and Sewer Departments, and for the payment of all costs incidental and related thereto, and to determine whether this amount shall be raised by borrowing or otherwise, or to take any other action related thereto.

MOTION: Move that the Town appropriate \$400,000 to pay costs of purchasing a Vactor Truck, and for the payment of all costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Select Board, is authorized to borrow said amount under and pursuant to M.G.L. c. 44, §7(1), or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor.

Commentary: A Vactor Truck is a truck-mounted storage tank with high-pressure blower and vacuum functions, commonly used to pump out clogged sewer lines or to remediate oil or chemical spills. This will also be used by the Highway Department as part of the required Storm Water regulations to clean out storm drains.

2/3 Majority Vote Required

THE FINANCE COMMITTEE RECOMMENDS FAVORABLE ACTION

**ARTICLE 14
NEW WATER STORAGE TANK AND INSTALLATION OF WATER MAINS
(Water and Sewer Commissioners)**

To see if the Town will vote to appropriate the sum of \$1,350,000 to be expended at the direction of the Water & Sewer Commission, to pay for the costs associated with the construction of a new water storage tank and the installation of water mains on Moore Road and Crocket Circle, and all incidental and related expenses, and as funding therefor, to raise and appropriate, transfer from available funds (including Water Department retained earnings) or authorize the Treasurer, with the approval of the Select Board, to borrow said sum in accordance with M.G.L. c.44. §§7 or 8 or any other enabling authority and to issue bonds and notes therefor, or to take any other action related thereto.

MOTION: Move the Town appropriate \$1,350,000, to be expended at the direction of the Water & Sewer Commission, to pay for the costs associated with the construction of a new water storage tank and the installation of water mains on Moore Road and Crocket Circle, and all incidental and related expenses, and that to meet this appropriation, the Treasurer, with the approval of the Select Board, is authorized to borrow said amount pursuant to the provisions of M.G.L. c.44, §8(4) or pursuant to any other enabling authority and to issue bonds and notes of the Town.

Commentary: This Article will provide the final funding for a new water storage tank between Crocket Circle and Freedom Street, which has been in the planning stages for a couple years. A \$2 million Federal Grant, already approved and managed by the EPA, funds the majority of this project, with this Article funding the remaining costs. Among the important benefits of this project is doubling the stored water capacity.

The debt from this borrowing will be paid by the Water Department, via the Water Enterprise fund. It will not affect the property tax rate. Per the prior planning, utilizing earmarked development funds, the Water Department's declining current debt expenses and in-house services where applicable, we also expect that this debt service will not require an increase to the existing water rates or water assessment.

2/3 Majority Vote Required

THE FINANCE COMMITTEE RECOMMENDS FAVORABLE ACTION

**ARTICLE 15
FUNDING FOR IMPROVEMENTS TO TOWN PARK
(Parks Commission)**

To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide \$4,000,000 or any other amount, to be expended by the Parks Commission for the design, construction, reconstruction and improvements to Town Park, including the payment of all costs incidental and related thereto, or take any other action related thereto.

Submitted by: Park Commission

MOTION: Move that the Town appropriate \$4,000,000 to be expended by the Park Commission, to pay costs of the design, construction, reconstruction and improvements to Town Park,, including the payment of all costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Select Board, is authorized to borrow said amount under and pursuant to M.G.L. c. 44, §7(1) or pursuant to any other enabling authority, and to issue bonds and notes of the Town therefor.

Commentary: This will reconstruct the Town Park

2/3 Majority Vote Required

THE FINANCE COMMITTEE RECOMMENDS UNFAVORABLE ACTION

**ARTICLE 16
STABILIZATION FUND
(Finance Committee)**

To see if the Town will vote to raise and appropriate, or transfer from available funds, a sum of monies into and/or out of the Stabilization Fund as provided under M.G.L. c. 40, §5B, or take any other action related thereto.

MOTION: Move that the Town vote to pass over Article 16.

Commentary: The Stabilization Fund is the Town's "rainy day" fund. Any action taken under this Article to appropriate monies into the Stabilization Fund requires a majority vote; to take monies from the Stabilization Fund will require a 2/3 vote.

THE FINANCE COMMITTEE RECOMMENDS FAVORABLE ACTION ON THE MOTION TO PASS OVER THIS ARTICLE

**ARTICLE 17
AMEND REVOLVING FUND BY-LAW
(Select Board)**

To see if the Town will vote to amend Chapter 159 of the Town By-Law "Revolving Funds" by revising Column H of §159-1, or take any other action related thereto.

MOTION: Move that the Town vote to amend Chapter 159 of the Town By-Law "Revolving Funds" by revising Column H of §159-1 to read as follows:

Revolving Fund	Authorized to Spend	Revenue Source	Use of Funds
BOH Revolving	Board of Health	Sale of Refuse Bags	Purchase of Refuse Bags
Recycling Center	Board of Health	Fees from collection of recycling and hazardous waste	Operation of recycling center, including but not limited to composting, yard waste, and other related costs.
Animal Control	Board of Health	Fees from boarding of stray animals, fines for violations and the licensing of animals	Operation of animal control services

Commentary: This Article creates a new Revolving Fund for the revenues and expenses associated with the Board of Health's "Overage" Refuse Bag program and eliminates two Revolving Funds that are no longer needed.

THE FINANCE COMMITTEE RECOMMENDS FAVORABLE ACTION

**ARTICLE 18
REVOLVING FUND ANNUAL SPENDING LIMITS
(Select Board)**

To see if the Town will vote Town to approve annual spending limits for FY24 for Revolving Funds established in the Town Bylaws, in accordance with M.G.L. c.44, §53E½, for the fiscal year beginning July 1, 2023, or take any other action related thereto.

MOTION: Move that the Town vote to approve annual spending limits for FY24 for Revolving Funds established in the Town Bylaws, in accordance with M.G.L. c.44, §53E½, for the fiscal year beginning July 1, 2023, as follows:

<u>Revolving Fund</u>	<u>FY24 Spending Limits</u>
BOH Revolving	\$ 25,000
School Transportation	\$100,000
Inspectional Services	\$ 25,000
Senior Van Services	\$ 10,000
COA Programs	\$ 10,000
Library Revolving	\$ 3,000
School Computer Repair	\$ 10,000

Commentary: This Article authorizes annual spending limits for the Town's Revolving Funds.

THE FINANCE COMMITTEE RECOMMENDS FAVORABLE ACTION

**ARTICLE 19
INCREASE TAX EXEMPTIONS FOR QUALIFYING SENIOR CITIZENS
(Board of Assessors)**

To see if the Town will vote to increase the availability of tax exemptions to qualifying senior citizens owning real property pursuant to M.G.L. c. 59, §5, Clause 41C, as authorized under Section 51 of Chapter 184 of the Acts of 2002 of the General Court, by approving an increase in the value of the tax exemption based on the cost-of-living increase issued by the Department of Revenue, or take any other action related thereto.

MOTION: Move that the Town vote to increase the availability of tax exemptions to qualifying senior citizens owning real property pursuant to M.G.L. Ch. 59, §5, Clause 41C, as authorized under Section 51 of Chapter 184 of the Acts of 2002 of the General Court, by approving an increase in the value of the tax exemption, from \$841.70 to \$896.41.

Commentary: This will increase the tax exemption that qualifying seniors receive toward their fiscal year 2024 tax bill. The cost-of-living increase is 6.5% in accordance with the Department of Revenue Informational Guideline Release No. 23-6.

THE FINANCE COMMITTEE RECOMMENDS FAVORABLE ACTION

**ARTICLE 20
INCREASE TAX EXEMPTIONS FOR OTHER QUALIFYING PERSONS
(Board of Assessors)**

To see if the Town will vote to increase the availability of tax exemptions to qualifying surviving spouses, minor children, or elderly persons owning real property pursuant to M.G.L. c. 59, §5, Clause 17D, by approving an increase in the value of the tax exemption based on the cost-of-living increase issued by the Department of Revenue, or take any other action related thereto.

MOTION: Move that the Town vote to increase the availability of tax exemptions to qualifying surviving spouses, minor children, or elderly persons owning real property pursuant to M.G.L. c. 59, §5, Clause 17D, by approving an increase in the value of the tax exemption, from \$282.23 to \$300.58.

Commentary: This will increase the tax exemption that qualifying persons receive toward their fiscal year 2024 tax bill. The cost-of-living increase is 6.5% in accordance with the Department of Revenue Informational Guideline Release No. 23-6.

THE FINANCE COMMITTEE RECOMMENDS FAVORABLE ACTION

ARTICLE 21
ESTABLISH MINIMUM CASH VALUE FOR TAXATION OF PERSONAL PROPERTY
(Board of Assessors)

To see if the Town will vote to accept M.G.L. c. 59, §5 (54) to establish a minimum fair cash value required for personal property accounts to be taxed, with the minimum value to be set at \$3,000; or take any other action related thereto.

Submitted by: Board of Assessors

MOTION: Move that the Town vote to accept M.G.L. c. 59, §5 (54) to establish a minimum fair cash value required for personal property accounts to be taxed, with the minimum value to be set at \$3,000.

Commentary: Acceptance of this statute allows communities to establish a minimum fair cash value required for personal property accounts to be taxed, not to exceed \$10,000 of value. The Board of Assessors recommends establishing a minimum value threshold of \$3,000, which equates to an approximate minimum annual tax bill of \$78 (\$19.50 per quarter), ensuring the bills being issued produce revenue beyond the costs associated with issuance.

THE FINANCE COMMITTEE RECOMMENDS FAVORABLE ACTION

ARTICLE 22
APPROPRIATION FROM OPIOID SETTLEMENT STABILIZATION FUND
(Select Board)

To see if the Town will vote to appropriate a sum of money from the Opioid Settlement Stabilization Fund to fund expenses associated with opioid treatment and addiction prevention, or take any other action related thereto.

MOTION: Move that the Town vote to appropriate \$60,000 from the Opioid Settlement Stabilization Fund to fund expenses associated with opioid treatment and addiction prevention. (2/3 majority vote required)

Commentary: This article seeks to appropriate funds from the Opioid Settlement Stabilization Fund, if tonight's Special Town Meeting voted to create said Fund. These funds will be used to develop programs to help reduce opioid and heroin addiction, prevent overdose deaths, and improve the quality of life for those in our community suffering from substance use disorders.

THE FINANCE COMMITTEE RECOMMENDS FAVORABLE ACTION

**ARTICLE 23
CHANGE TREE WARDEN FROM ELECTED TO APPOINTED OFFICE
(Select Board)**

To see if the Town will vote, pursuant to M.G.L. c. 41, §1 to change the office of Tree Warden from an elected office to an appointed office; provided that the incumbent Tree Warden, if any, as of the date of this vote shall become the first appointed Tree Warden for a three-year term; or take any other action related thereto.

MOTION: Move that the Town vote, pursuant to M.G.L. c. 41, §1B, to change the office of Tree Warden from an elected office to an appointed office, such change to become effective pursuant to said statute if approved by the voters on the 2024 annual election ballot; and provided that the incumbent Tree Warden, if any, as of the date of this vote shall become the first appointed Tree Warden for a three-year term.

Commentary: The intent of this change is to have someone that is readily available to address ongoing tree issues that occur on a regular basis. Further, it would allow for proper training for the Tree Warden.

THE FINANCE COMMITTEE RECOMMENDS FAVORABLE ACTION

**ARTICLE 24
ADOPT LOCAL MEALS TAX
(Select Board)**

To see if the Town will vote to accept M.G.L. c.64L, §2(a) to impose a local tax upon the sale of restaurant meals; or take any other action related thereto.

MOTION: Move that the Town vote to accept M.G.L. c. 64L, §2(a) to impose a local tax upon the sale of restaurant meals originating within the Town.

Commentary: As of 2009, Massachusetts communities have been authorized to impose a local option meals tax (excise) on sales of restaurant meals within that community. The rate is 0.75% of the cost of the meal (\$.75 on a \$100 meal bill). As of this writing, 248 out of 351 Massachusetts communities have adopted the local option meals tax.

THE FINANCE COMMITTEE RECOMMENDS FAVORABLE ACTION

**ARTICLE 25
DELETE AND REPLACE FINANCE COMMITTEE BY-LAW (CHAPTER 79)
(Select Board)**

To see if the Town will vote to amend the Town of Hopedale By-Laws by deleting in its entirety Chapter 79 (Finance Committee) and insert a new Chapter 79 Finance Committee and Budget Process, or take any other action related thereto.

MOTION: Move that the Town vote to amend the Town of Hopedale By-Laws by deleting in its entirety Chapter 79 (Finance Committee) and insert a new Chapter 79 Finance Committee and Budget Process, to read as follows:

Chapter 79 Finance Committee and Budget Process

§ 79-1 Applicability of General Law

§ 79-2 Finance Committee

§ 79-3 Submission of budget and budget message

§ 79-4 Budget proposal

§ 79-5 Action on the proposed budget

§ 79-6 Capital improvements program

§ 79-1 Applicability of General Law

In all matters concerning finances and financial procedures of the Town, the provisions of general law shall apply, together with such other requirements as are provided by Bylaws of the Town.

§ 79-2 Finance Committee

A Finance Committee of 9 members shall be appointed by the Select Board for staggered 3-year terms. The Finance Committee shall elect from its membership for one-year terms of office, a Chairman, a Vice-Chairman, and a Clerk. The Town Accountant and the Town Treasurer-Collector shall have ex-officio membership, without voting rights, on the Committee. No elected or appointed Town officer, or compensated Town employee who serves in more than part time employments, shall serve on the Committee. Committee members shall serve without compensation.

The Select Board shall annually appoint 3 members for 3-year terms. As of the effective date of this bylaw, the appointed terms of all then-serving members of the Finance Committee shall remain in effect and the Select Board shall make appointments upon the expiration of said terms. Vacancies on the Finance Committee shall be filled promptly by the Select Board for the unexpired term.

The Finance Committee shall carry out its duties in accordance with the provisions of general law, and bylaws, and it shall have regular and free access and inspection rights to all books and accounts of any Town department or office. The Committee shall carefully examine all budget appropriations proposals, warrant articles and Referenda and shall issue its recommendations thereon prior to consideration, debate and vote by the Town Meeting.

§ 79-3 Submission of budget and budget message

On or before February 1st of each year the Town Administrator shall submit to the Select Board and file copies with the Finance Committee a three -year fiscal forecast and the proposed budget for the ensuing fiscal year with an accompanying budget message and support documents.

The budget message shall explain the budget for all Town agencies in both fiscal and programmatic terms. It shall: (a) outline proposed financial policies of the Town for the ensuing fiscal year; (b) describe important features of the budget; (c) indicate any major variations from the current year in financial policies, expenditures and revenues, together with the reasons of such variations; (d) summarize the Town's debt position; and (e) include such other materials as the Town Administrator may deem desirable or the Finance Committee may require.

§ 79-4 Budget Proposal

The proposed budget shall provide a complete financial plan for all town funds and activities, including the proposed school department budget for the ensuing year.

Except for the school budget or may be required by general law, the proposed budget shall be in such form as the Town Administrator deems desirable.

In submitting the proposed budget, the Town Administrator shall utilize modern fiscal principals so as to afford maximum information and financial control. The budget shall detail all estimated revenue from the property tax levy and other sources and all proposed expenditures, including debt service for the previous, current and ensuing years, and shall indicate separately: (a) proposed expenditures for both current operations and capital projects during the ensuring year, detailed by agency, purpose and position, together with proposed financing methods.

§ 79-5 Action on the proposed budget

The Finance Committee shall conduct at least one (1) public hearing on the proposed budget at least 14 days prior to the Annual Town Meeting. The Finance Committee shall issue printed recommendations and make copies available prior to or at the time of the Town Meeting.

§ 79-6 Capital Improvements Plan (CIP)

Departments, Boards, Commissions, Committees including the School Committee, shall submit their 5-year Capital Plan to the Town Administrator by December 15th of each year.

On or before February 15th of each year the Town Administrator shall submit to the Select Board and file copies with the Finance Committee a 5-year Capital Improvements program, which shall include: (a) a clear summary of its contents; (b) a list of all capital improvements proposed to be undertaken during the next 5 fiscal years, together with supporting data; (c) cost estimates, methods of financing and recommended time schedules; and (d) the estimated annual cost of operating and maintaining any facility to be constructed or acquired.

The information requirements described above may be revised and extended annually with respect to capital improvements in the process of construction or acquisition. A capital improvement shall be defined by the Finance Committee, in consultation with the

Select Board and the Town Administrator and other town officials, such definition to be changed from time to time as necessary to reflect current economic conditions.

Commentary: This proposed change would formalize the budget process with timelines and set standards for what needs to be presented to the voters for both the annual operating budget and the capital plan.

THE FINANCE COMMITTEE RECOMMENDS FAVORABLE ACTION

**ARTICLE 26
DELETE CAPITAL PROGRAM COMMITTEE BY-LAW (CHAPTER 26)
(Select Board)**

To see if the Town will vote to amend the Town of Hopedale By-Laws by deleting in its entirety Chapter 26 (Capital Program Committee); or take any other action related thereto.

MOTION: Move that the Town vote to amend the Town of Hopedale By-Laws by deleting in its entirety Chapter 26 (Capital Program Committee).

Commentary: The Capital Program Committee hasn't had a quorum of members or held a meeting in more than 10 years. The responsibilities of this Committee have been included in the new By-Law created under the previous Article.

THE FINANCE COMMITTEE RECOMMENDS FAVORABLE ACTION

**ARTICLE 27
UPDATE CLASSIFICATION AND COMPENSATION PLAN
(Select Board)**

To see if the Town will vote to amend the Town of Hopedale By-Laws, Part I (Administration Legislation), Chapter 137 (Personnel), to update the Classification and Compensation Plan for non-union, non-contractual Town employees, excluding employees of the School Department, or take any other action related thereto.

MOTION: Move that the Town vote to amend the Town of Hopedale By-Laws, Part I (Administration Legislation), Chapter 137 (Personnel), to update the Classification and Compensation Plan for non-union, non-contractual Town employees, excluding employees of the School Department, in accordance with the attached Classification and Compensation Plan, as printed below:

Support Staff			Management		
Grade 1	Min	Max	Grade 1	Minimum	Maximum
Poll Worker	\$15.00	\$18.00	Dir of Public Health	\$70,000	\$90,000
Library Page	\$15.00	\$18.00	Building Comm	\$70,000	\$90,000
Summer Asst	\$15.00	\$18.00	COA Director	\$70,000	\$90,000
			Town Clerk	\$70,000	\$90,000
Grade 2			Grade2		
Library Assistant	\$20.00	\$25.00	Library Director	\$75,000	\$95,000
Outreach Worker	\$20.00	\$25.00	Principal Assessor	\$75,000	\$95,000
Staff Asst	\$20.00	\$25.00			
PT Dispatch	\$20.00	\$25.00			
Grade 3			Grade 3		
Asst Town Clerk	\$25.00	\$30.00	Town Accountant	\$80,000	\$100,000
COA Nurse	\$25.00	\$30.00	Treasurer Collector	\$80,000	\$100,000
Admin Asst	\$25.00	\$30.00	Deputy Fire Chief	\$80,000	\$100,000
Grade 4			Grade 4		
Sr Library Asst	\$30.00	\$35.00	Highway Supt	\$95,000	\$115,000
Youth Ser Librarian	\$30.00	\$35.00	Grade 5		
Executive Asst	\$30.00	\$35.00	Water/Sewer Director	\$100,000	\$120,000
			Police Lt	\$100,000	\$120,000
			Grade 6		
			Fire Chief	\$125,000	\$145,000
			Grade 7		
			Police Chief	\$130,000	\$150,000

Commentary: The Classification and Compensation Plan has not been presented to Town Meeting since 2014. This Plan shows the ranges for non-union positions. Several of the positions have contracts – Police Chief, Fire Chief, Principal Assessor, Treasurer/Collector, Accountant (private accounting firm), and Library Director. The Deputy Fire Chief and Police Lieutenant have employment agreements. The Building Commissioner and Health Director are part-time so their compensation is pro-rated. The Town Clerk is elected.

THE FINANCE COMMITTEE RECOMMENDS FAVORABLE ACTION

**ARTICLE 28
DELETE AND REPLACE PERSONNEL BY-LAW (CHAPTER 137)
(Select Board)**

To see if the Town will vote to amend the Town of Hopedale By-Laws Part I (Administration Legislation), by deleting in its entirety Chapter 137 (Personnel) and inserting a new Chapter 137, or take any other action related thereto.

MOTION: Move that the Town vote to amend the Town of Hopedale By-Laws by deleting in its entirety Chapter 137 (Personnel) and inserting a new Chapter 137, to read as follows:

CHAPTER 137 PERSONNEL BY-LAW

- § 137-1 Purpose and Intent**
- § 137-2 Application**
- § 137-3 Personnel Administration**
- § 137-4 Adoption of Policies**
- § 137-5 Personnel System**

§ 137-1 Purpose and Intent

The purpose of this Chapter is to establish a fair and equitable system of personnel administration based on merit principles and to ensure a uniform and efficient application of policies.

§ 137-2 Application

All employees of the Town, excluding elected officials and employees of the School Department, shall be subject to the provisions of this by-law and personnel policies adopted pursuant thereto. To the extent that the terms of any collective bargaining agreement conflict with any provision of this chapter or personnel policies adopted pursuant thereto, the provisions of the collective bargaining agreement shall prevail.

§ 137-3 Personnel Administration

The Town Administrator shall be responsible for the administration and development of a human resources system which meets the needs of the Town. In this capacity, the Town Administrator, upon approval by the Select Board, shall have the authority to carry out the following functions, including, but not limited to:

- Appointment and removal of employees (excluding employees who by statute are appointed by officials other than the Select Board)
- Annual review of compensation and benefits and development of associated recommendations for consideration by the Select Board
- Development of methods and standards for selection and appointment of personnel
- Development and administration of performance standards
- Supervision of performance appraisals

- Additional functions as circumstances necessitate

§ 137-4 Adoption of Policies

The Select Board shall be empowered and authorized by this Chapter to adopt personnel policies that establish the rights, benefits and obligations of employees subject to this By-Law.

§ 137-5 Personnel System

The personnel policies adopted pursuant to this Chapter shall establish a personnel system which shall include, but need not be limited to, the following elements:

- Method of administration: a system which assigns responsibility for the personnel system, including
 - maintenance of personnel records
 - implementation of effective recruitment and selection processes
 - maintenance of the classification and compensation plans
 - oversight of the application of policies
 - periodic review and evaluation of the personnel system
- Rights and obligations of employees
- Other elements of a personnel system as deemed appropriate and necessary

Said By-Law to take effect January 1, 2024.

Commentary: The current by-law is completely outdated and inadequate. Further, personnel matters should be an administrative, not legislative, function. This change would allow the Select Board to adopt and maintain personnel policies; enacting this by-law as of January 1, 2024 gives the Board time to do so.

THE FINANCE COMMITTEE RECOMMENDS FAVORABLE ACTION

**ARTICLE 29
DELETE CONTRACTS; PROCUREMENTS BY-LAW (CHAPTER 49)
(Select Board)**

To see if the Town will vote to delete in its entirety Chapter 49 Contracts; Procurements from the Town's By-Laws, or take any other action related thereto.

MOTION: Move that the Town vote to delete in its entirety Chapter 49 Contracts; Procurements from the Town's By-Laws.

Commentary: All procurement is covered by Massachusetts General Law and a local By-Law is not necessary.

THE FINANCE COMMITTEE RECOMMENDS FAVORABLE ACTION

**ARTICLE 30
AMEND ZONING BY-LAW TO ADD MARIJUANA OVERLAY DISTRICT
(Planning Board)**

To see if the Town will vote to amend the Town of Hopedale Zoning By-Laws by adding a Marijuana Overlay District, or take any other action related thereto.

MOTION: Move that the Town vote to amend the Zoning Map of the Town, as it is established and referenced in Section 3.2 (Location of Districts) of the Zoning Bylaw, and to adopt a new Article of the Zoning Bylaw entitled "Marijuana Overlay District", the complete Article text is printed below and the map relative to such overlay district map as shown on Appendix A. And further that the Town Clerk is authorized to renumber any subsections necessary to insert this amendment into the Zoning Bylaw.

Marijuana Overlay District Bylaw

Section ___ Purpose

The purpose of the Marijuana Overlay District Bylaw is to provide for the placement of Medical Marijuana Treatment Centers ("MMTCs") and Adult Use Marijuana Establishments ("MEs") in locations suitable for such uses in accordance with G.L. c. 94G and all applicable regulations, including 935 CMR 500.000 and 935 CMR 501.000, in order to support the public's right to access marijuana and marijuana products while mitigating community impacts and protecting public health, safety and welfare.

Section ___ Establishment

The Marijuana Overlay District ("MOD") is hereby established as an overlay district and consists of the areas(s) shown on the map entitled Proposed Marijuana Overlay District, Town of Hopedale, Massachusetts, Produced by CMRPC, on file with the Town Clerk, as it may be amended from time to time.

Within the MOD, all requirements of the underlying zoning district shall remain in effect, except where these regulations provide an alternative to such requirements. Land within the MOD may be used for a (1) MMTC; and (2) any state-licensed MEs, including Marijuana Cultivator (indoor or outdoor), Marijuana Product Manufacturer, Marijuana Retailer, Marijuana Research Facility, Independent Marijuana Testing Laboratory, Marijuana Transporter, Craft Marijuana Cooperative, Marijuana Micro Business, and Marijuana Delivery Licensee, in which case the requirements set forth in this section shall apply; or (3) a use allowed in the underlying district, in which case the requirements of the underlying district shall apply. If the provisions of the MOD are silent on a zoning regulation, the requirements of the underlying district shall apply. If the provisions of the MOD conflict with the requirements of the underlying district, the requirements of the MOD shall control.

Section ___ Definitions

1. Where not expressly defined in the Zoning Bylaws, terms used in the MOD Bylaw shall be interpreted as defined in G.L. c.94G, § 1 and the regulations governing Adult Use of Marijuana (935 CMR 500.000), Medical Marijuana (935 CMR 501.000) and otherwise by their plain language.

Section ___ Limitation and Prohibitions

1. **Retail Establishments:** No more than four (4) Marijuana Retailers shall be permitted within the Town of Hopedale.
2. **Social Consumption Establishments:** No marijuana or marijuana product shall be smoked, eaten or otherwise consumed or ingested on the premises of any MMTC or ME. The prohibition on on-site consumption shall also include private social clubs or any other establishment which allows for social consumption of marijuana or marijuana products on the premises, regardless of whether the product is sold to consumers on site.

Section ___ Location and Dimensional Controls

1. MMTCs and MEs may be permitted in the MOD pursuant to a Special Permit and Site Plan Approval.
2. MMTCs and Marijuana Establishments may not be located within 500 feet of the pre-existing public or private school providing education in kindergarten or grades 1 through 12, the Draper Gym, public or private libraries, the Hopedale Community House, Draper Field, Phillips Field, or the Hopedale Town Park.

The distance under this section shall be measured in a straight line from the geometric center of the ME or MMTC Entrance to the geometric center of the nearest School Entrance, unless there is an Impassable Barrier within those 500 feet; in these cases, the buffer zone distance shall be measured along the center of the shortest publicly-accessible pedestrian travel path from the geometric center of the ME or MMTC Entrance to the geometric center of the nearest School Entrance.

3. Cultivation and Product Manufacturing Establishments located within the MOD shall be separated from adjacent uses by a 100-foot buffer strip, unless the applicant can demonstrate, and the Planning Board finds, that adequate buffering can be provided in a narrower buffer strip.
4. All aspects of a MMTCs and MEs relative to the cultivation, possession, processing, distribution, dispensing or administration of marijuana, marijuana products, or related supplies must take place at a fixed location within a fully enclosed building and shall not be visible from the exterior of the building. All sales shall be conducted either within the building or by home delivery pursuant to applicable state regulations.
5. MMTCs and MEs shall be located only in a permanent building and not within any mobile facility, storage freight container, or other similar movable enclosure, unless operating as a licensed Marijuana Transporter or Marijuana Delivery Licensee.
6. Unless explicitly stated otherwise, MMTCs and MEs shall conform to the dimensional requirements applicable to non-residential uses within the underlying zoning district.
7. All MMTCs and MEs shall conform to the signage requirements of the Zoning Bylaw. The Planning Board may impose additional restrictions on signage, as appropriate, to mitigate any aesthetic impacts.
8. No drive-through services shall be permitted at MMTCs and MEs.

Section ___ Special Permit

1. **Procedure:** The Planning Board shall be the Special Permit Granting Authority (SPGA) and the Planning Board shall conduct Site Plan Review for an applicant for a MMTC or ME.
- a. **Application:** In addition to the materials submission requirements of Sections 18 and 10.6 of this Bylaw, the applicant shall also include:
 - i. A detailed floor plan of the premises of the proposed MMTC or ME that identifies the square footage available and describes the functional areas of the facility;
 - ii. Detailed site plans that include the following information:
 1. Compliance with the requirements for parking and loading spaces, for lot size, frontage, yards and heights and coverage of buildings, signage and all other provisions of this Bylaw;
 2. Convenience and safety of vehicular and pedestrian movement on the site to provide secure and safe access and egress for clients and employees arriving to and from the site;
 3. Convenience and safety of vehicular and pedestrian movement off the site, if vehicular and pedestrian traffic off-site can reasonably be expected be substantially affected by on-site changes;
 4. Adequacy as to the arrangement and the number of parking and loading spaces in relation to the proposed use of the site, including designated parking for home delivery vehicle(s), as applicable;
 5. Site design such that it provides convenient, secure and safe access and egress for clients and employees arriving to and from the site.
 6. Design and appearance of proposed buildings, structures, freestanding signs, screening and landscaping; and
 7. Adequacy of water supply, surface and subsurface drainage and light.
 - iii. A description of the security measures, including employee security policies;
 - iv. A copy of the emergency procedures;
 - v. A copy of proposed waste disposal procedures;
 - vi. A copy of all licensing materials issued by the Cannabis Control Commission and any materials submitted to the Cannabis Control Commission by the applicant for purposes of seeking licensing to confirm that all information provided to the Town is consistent with information provided to the Cannabis Control Commission;
 - vii. A copy of an odor control plan that provides for proper and adequate ventilation at MMTCs and MEs in such a manner so as to prevent pesticides, insecticides or other chemicals used in the cultivation or processing and/or keeping of marijuana or marijuana related products from being dispersed or released outside the facilities and to prevent odor from marijuana or its processing from being detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of such facility or at any adjoining use or property; and

- viii. Evidence of the applicant's right to use the proposed site for the MMTC or ME, such as a purchase and sale agreement, deed, owner's authorization, or lease.
 - b. The SPGA shall refer copies of the application to the Building Department, Fire Department, Police Department, Board of Health, the Conservation Commission, the Highway Department and the Water and Sewer Department. These boards/departments shall review the application and shall submit their written recommendations. Failure to make recommendations within 35 days of referral of the application shall be deemed lack of opposition.
 - c. After notice and public hearing in accordance with Section 10.9 of the Bylaw and consideration of application materials, consultant reviews, public comments, and the recommendations of other town boards and departments, the SPGA may act upon such a permit and request for site plan approval.
- 2. Special Permit Findings: In addition to the standard findings for special permit set forth in Section 10.6, the SPGA shall not issue a special permit for a MMTC or MC unless it makes the following findings:
 - a. The MMTC or ME does not derogate from the purposes and intent of this Section and the Zoning Bylaw.
 - b. The proposed MMTC or ME is designed to minimize any adverse impacts on abutters and other parties in interest, as defined in MGL c. 40A, § 11.
 - c. The applicant demonstrates that the MMTC or ME will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will comply with all applicable state laws and regulations;
 - d. The security plan provides sufficient assurance that adequate security controls will be implemented to ensure the protection of the public health and safety during hours of operation and that any marijuana or marijuana related products are adequately secured on-site or via delivery.
 - e. The odor control plan proposed adequately provides for the ongoing safe operation of the MMTC or ME and minimizes any adverse impacts to abutting properties from odor-emitting activities to be conducted on-site.
 - f. The proposed design and operation of the MMTC or ME will meet the requirements of this Bylaw.
- 3. Special Permit Conditions on MMTCs and MEs: The SPGA shall impose conditions reasonably appropriate to improve site design, traffic flow, public safety, protect water quality, air quality, and significant environmental resources, preserve the character of the surrounding area and otherwise serve the purpose of this section. In addition to any specific conditions applicable to the applicant's MMTC or ME, the SPGA may include the following conditions in any special permit granted under this Bylaw:
 - a. Hours of Operation, but if none are specified in the special permit, hours of operation for retail sales shall be limited to 8:00 a.m. – 10:00 p.m.
 - b. The use shall not generate outside odors from the cultivation or processing of marijuana and marijuana products.

- c. A Security Plan shall be required for all MMTC and MEs, which shall be subject to approval by the Hopedale Fire and Police Chiefs and submitted to the SPGA.
- d. The permit holder shall provide to the Zoning Enforcement Officer and Chief of the Police Department, the name, telephone number and electronic mail address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder.
- e. MMTCs and MEs may not operate, and the special permit will not be valid, until the applicant has obtained all licenses and permits issued by the Commonwealth of Massachusetts and any of its agencies for the facility.
- f. A special permit granted under this Section shall have a term limited to the duration of the applicant's ownership and use of the premises as a MMTC or ME. A special permit may be transferred only with the approval of the SPGA in the form of an amendment to the special permit.
- g. The special permit shall lapse upon the expiration or termination of the applicant's license by the Cannabis Control Commission.
- h. The permit holder shall notify the Zoning Enforcement Officer and SPGA in writing within 48 hours of the cessation of operation of the MMTC or ME's expiration or termination of the permit holder's license with the Cannabis Control Commission

Section ___ Prohibition Against Nuisances

No use shall be allowed in the MOD which creates a nuisance to abutters or to the surrounding area, or which creates any hazard, including but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive sound or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.

Section ___ Curbside Retail Operations

Notwithstanding anything to contrary set forth within this Bylaw, if and only if (a) the Commonwealth of Massachusetts allows Marijuana Retailers to conduct curbside retail sales and (b) there is a government-ordered shutdown (of a like nature to that which occurred during the COVID-19 pandemic) which prevents customers of Marijuana Retailers from entering the premises of such Marijuana Retailers, then curbside retail transactions shall be allowed only to the extent permitted by Massachusetts laws and regulations; provided however, that the Marijuana Retailer shall first notify the Hopedale Chief of Police of its intent to conduct curbside retail operations not less than ten (10) days prior to the commencement of such operations and shall comply with reasonable safety measures and other restrictions imposed by the Chief of Police. . Such measures and restrictions may include, but shall not be limited to, the implementation of mitigation plans to help ensure that the curbside operations do not block traffic, sidewalks, or result in increased lines or crowds. Curbside operations must occur on the licensed premises and shall be located so as to minimize compromises to security, taking into consideration camera locations, foliage or other obstructions, proximity to the MMTC or ME entrance and similar considerations.

Section ___ Severability

The provisions of this Bylaw are severable. If any provision, paragraph, sentence, or clause of this Bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Bylaw.

Commentary: This Marijuana Overlay District is being proposed by the Planning Board to create an area where marijuana retail and cultivation is allowed. This was presented at the Fall 2022 Town Meeting but was passed over due to a mapping error.

THE PLANNING BOARD HELD A PUBLIC HEARING ON MAY 3rd AND RECOMMENDS FAVORABLE ACTION.

THE FINANCE COMMITTEE RECOMMENDS FAVORABLE ACTION

**ARTICLE 31
REZONE PROPERTY AT 1 AIRPORT ROAD EXTENSION
(Planning Board)**

To see if the Town will vote to amend the Zoning Map of the Town of Hopedale, MA, specifically Lot 22-15-1 (1 Airport Rd. Ext.) thereon, by rezoning said property from GB-A to Commercial, or take any other action related thereto.

MOTION: Move that the Town vote to amend the Zoning Map of the Town of Hopedale, MA, specifically Lot 22-15-1 (1 Airport Rd. Ext.) thereon, by rezoning said property from GB-A to Commercial.

Commentary: This rezoning is proposed by the Planning Board. The property was inadvertently included in a prior zoning change that rezoned many properties from Commercial to GB-A, but this property was not intended to be included.

THE PLANNING BOARD HELD A PUBLIC HEARING ON MAY 3rd AND RECOMMENDS FAVORABLE ACTION.

THE FINANCE COMMITTEE RECOMMENDS FAVORABLE ACTION

**ARTICLE 32
REZONE PROPERTY AT 124 HARTFORD AVENUE
(Citizen Petition)**

To see if the Town will vote to amend the Zoning Map of the Town of Hopedale, MA, specifically Lot 25-20-0 (124 Hartford Ave.) thereon, by rezoning said property from GB-A to Commercial, or take any other action related thereto.

MOTION: Move that the Town vote to amend the Zoning Map of the Town of Hopedale, MA, specifically Lot 25-20-0 (124 Hartford Ave.) thereon, by rezoning said property from GB-A to Commercial.

Commentary: Similar to the prior Article, this property was inadvertently included in a prior rezoning. This Article would correct that error.

THE PLANNING BOARD HELD A PUBLIC HEARING ON MAY 3 AND RECOMMENDS FAVORABLE ACTION.

THE FINANCE COMMITTEE RECOMMENDS FAVORABLE ACTION



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

ANDREA JOY CAMPBELL
ATTORNEY GENERAL

(617) 727-2200
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May 10, 2023

OML 2023 – 79

VIA EMAIL ONLY

Mina S. Makarious, Esq.
Anderson & Kreiger LLP
mmakarious@andersonkreiger.com

RE: Open Meeting Law Complaint

Dear Attorney Makarious:

This office received two complaints on September 6, 2022,¹ from Attorney David Click on behalf of his client Grafton & Upton Railroad Company (the “Complainant”) alleging that the Hopedale Select Board (the “Board”) violated the Open Meeting Law, G.L. c. 30A, §§ 18-25.² The first complaint was filed with the Board on June 21, and you responded on behalf of the Board by letter dated July 14. The second complaint was filed with the Board on July 6, and you responded on behalf of the Board by letter dated August 28. We understand the complaints to allege that the Board 1) posted insufficiently specific notices for its May 23 and June 21 meetings; and 2) improperly met in executive session on June 21.³

We appreciate the patience of the parties as we reviewed these matters. Following our review, we find that the Board violated the Open Meeting Law by posting insufficiently specific notices for its meetings held on May 23 and June 21. We find that the Board did not otherwise violate the Open Meeting Law. In reaching this determination, we reviewed the Open Meeting

¹ All dates are in 2022, unless otherwise stated.

² The complaints were originally filed with the Board by Attorney Donald Keavany, Jr.

³ We decline to review allegations related to whether the Board properly voted to invite Anderson & Kreiger LLP to speak with the Board, whether the Board voted to retain Anderson & Kreiger LLP, or whether Anderson & Kreiger LLP sent a letter to the Board suggesting the firm had been retained. The Division of Open Government’s review concerns compliance with the Open Meeting Law, G.L. c. 30A, §§ 18-25. Where these allegations, even if true, would not constitute violations of the Open Meeting Law, we decline to review them. See OML Declination 7-23-18 (Norwell Board of Selectmen); OML Declination 1-25-16 (Nahant Housing Authority Board of Commissioners); OML Declination 5-21-12 (Hampden-Wilbraham Regional School Committee).

Law complaints; the Board's responses; the requests for further review; notices for the Board's May 23 and June 21 meetings, video recordings of the Board's open session meetings held on May 23 and June 21, and executive session minutes for the Board's June 21 meeting.⁴

These complaints relate to a dispute between the Town, a group of residents, and the Complainant over property located at 364 West Street in Hopedale. There is a lengthy legal history regarding this dispute with lawsuits having been filed in Superior Court, the Land Court, and United States District Court, as well as a petition to the Surface Transportation Board.⁵

FACTS

We find the facts to be as follows. On May 16 the Board posted notice for a meeting to be held on May 23. Relevant here, the notice included the following topics: "Update re: GU RR Request for Support of IRAP Grant" and "Update re: 364 West Street."

During the May 23 meeting, when the Board reached the notice topic "Update re: GU RR Request for Support of IRAP Grant," the Chair, Glenda Hazard, began by noting that the purpose for the discussion was to update a new Board member, Bernard Stock, regarding a letter the Board had previously voted to sign expressing its support of the Complainant's Industrial Rail Access Program ("IRAP") grant application and to discuss the status of that letter. The discussion lasted for approximately an hour and ten minutes and covered topics ranging from past dealings with the Complainant, questions the Chair had about the grant application, concerns Member Stock had about the Board's earlier vote to support the grant application, litigation matters, and the property at 364 West Street. The discussion included Board members and members of the public, including Michael Milanoski—one of the trustees of the property at 364 West Street and the President of the Complainant—who spoke at length. After the lengthy and sometimes contentious discussion, Member Stock moved that the Board communicate to the Massachusetts Department of Transportation that the Board no longer supported the Complainant's IRAP grant application. Chair Hazard seconded the motion. Member Brian Keyes stated that the prior Board voted to support the IRAP grant application, that the letter had already been sent, and that he saw no reason to object to the application now. Ultimately, Member Stock's motion passed two to one.

Next, Member Stock stated that he wanted to discuss a court decision issued on May 5 which related to an earlier settlement agreement between the Town and the Complainant. Member Stock moved to seek separate counsel to advise the Board about the settlement agreement and prior litigation, and to direct the Board as to how to move forward. Member Stock suggested the law firm Anderson & Kreiger. After some discussion, the Board voted unanimously to invite Anderson & Kreiger to talk to the Board about the settlement agreement and potential next steps.

⁴ A video recording of the Board's May 23 meeting may be found at https://townhallstreams.com/stream.php?location_id=56&id=45588. A video recording of the Board's June 21 meeting may be found at https://townhallstreams.com/stream.php?location_id=56&id=46169.

⁵ For further background see Reilly v. Hopedale, Mass. App. Ct., No. 22-P-314, slip op. (Mar. 7, 2023).

On June 16 the Board posted notice for a meeting to be held on June 21. The notice included the following executive session topics:

Motion: To move into Executive Session, pursuant to M.G.L. c.30A, § 21(a) for purpose # (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 if the chair so declares and purpose #(6) (To consider the acquisition of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body); Roll Call Vote. Purpose: Litigation strategy re: Town v. Jon Delli Priscoli, Trustee of the One Hundred Forty Realty Trust, et als, and other related matters. Attorneys Mina Makarious and David Mackey present.

The notice for the June 21 meeting also included one substantive open session topic—"Call for Special Town Meeting and Sign Warrant."

The Board met on June 21. During the announcement before entering executive session, Chair Hazard announced that the Board would convene in executive session under Purpose 3 "to discuss strategy with respect to the Delli Priscoli litigation and other related litigation in the Superior Court, Land Court, Appeals Court, and in front of the DPU. . . ." Chair Hazard also stated that the Board would convene in executive session under Purpose 6 to "consider the acquisition of real property, namely at 364 West Street. . . ." Thereafter the Board held a brief discussion regarding the fact that the motion to enter executive session differed from the language included on the notice. The Board discussed that the decision to change the motion was made in consultation with Town Counsel and was intended to address concerns raised about the meeting notice and cure any problems therewith.

The executive session minutes have not yet been released to the public; therefore, we only summarize their content here. During the June 21 meeting, the Board discussed with counsel strategy with respect to ongoing litigation matters, taking property at 364 West Street by eminent domain, and strategy with respect to potential litigation related to such taking.

After adjourning the executive session, the Board reconvened in open session. Chair Hazard explained that the Board had discussed in executive session the possibility of calling a Special Town Meeting to address one article regarding whether the Town would authorize an eminent domain taking of 130 acres on West Street. Member Stock moved to open a warrant for July 11 at 7:00 p.m. with the warrant consisting of one article "specific to the eminent domain proceeding with the Grafton and Upton Railroad," and that the Board close the warrant. Member Keyes seconded. After some discussion, the Board voted unanimously in support of the motion.

On July 11 a Special Town Meeting was held to consider a single warrant article that would authorize the Board "to acquire, by purchase, eminent domain, or otherwise, certain property, containing up to 130.18 acres, more or less, located at 364 West Street . . ." The warrant article passed.

DISCUSSION

The Open Meeting Law was enacted “to eliminate much of the secrecy surrounding deliberations and decisions on which public policy is based.” Ghiaglione v. School Committee of Southbridge, 376 Mass. 70, 72 (1978). To that end, the law requires that meetings of a public body be properly noticed and, unless lawfully convened in executive session, open to members of the public. See G.L. c. 30A, §§ 20(a)-(b), 21. Public bodies may enter a closed, executive session for any of the ten purposes enumerated in the Open Meeting Law. G.L. c. 30A, § 21(a). One such purpose is to “discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares.” G.L. c. 30A, § 21(a)(3) (“Purpose 3”). Purpose 3 offers the narrow opportunity to discuss strategy with respect to litigation that is pending or clearly and imminently threatened or otherwise demonstrably likely; the mere possibility of litigation is not sufficient to invoke Purpose 3. See Doherty v. School Committee of Boston, 386 Mass. 643, 648 (1982); Perryman v. School Committee of Boston, 17 Mass. App. Ct. 346, 352 (1983); OML 2012-5. Another purpose is “[t]o consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body.” G.L. c. 30A, § 21(a)(6) (“Purpose 6”).

Meeting notices must include, among other things, a list of topics that the chair reasonably anticipates will be discussed. G.L. c. 30A, § 20(b). Notice topics must be listed with sufficient specificity to reasonably advise the public of the issues to be discussed at the meeting. 940 CMR 29.03(1)(b). We generally consider a topic to be sufficiently specific when a reasonable member of the public could read the topic and understand the anticipated nature of the public body’s discussion. See OML 2015-35. Our office discourages the use of abbreviations or acronyms that are not widely understood by members of the public. See OML 2016-5 (finding that “PILOT” is not a widely understood acronym); cf. OML 2015-172 (concluding that “FAA” is a widely understood acronym). When reviewing a meeting notice for sufficiency, unless it is clearly insufficient on its face, we do not review a meeting notice standing alone. Rather, we review what was actually discussed at the meeting to determine if the notice was sufficiently detailed to make the public aware of the discussion topics. See OML 2014-155; OML 2021-116; OML 2022-125.

Executive session topics must be described, both in the meeting notice and in an announcement during open session, in as much detail as possible without compromising the purpose for which the executive session was called. See G.L. c. 30A, § 21(b)(3); see also District Attorney for the N. Dist. v. Sch. Comm. of Wayland, 455 Mass. 561, 567 (2009) (“[a] precise statement of the reason for convening in executive session is necessary . . . because that is the only notification given the public that a [public body] would conduct business in private, and the only way the public would know if the reason for doing so was proper or improper”); OML 2020-146. When convening in executive session pursuant to Purpose 3, a public body must identify the litigation matter that will be discussed, if doing so will not compromise the lawful purpose for secrecy. See OML 2019-163. Likewise, when convening in executive session pursuant to Purpose 6, a public body must identify the property that will be discussed, if doing so will not compromise the lawful purpose for secrecy. Id.

I. We Find that the May 23 Meeting Notice Was Insufficiently Specific.

The Complainant alleges that the notice topics “Update re: GU RR Request for Support of IRAP Grant” and “Update re: 364 West Street” were insufficiently specific. We agree, in general. We find that the use of the acronyms “GU RR” and “IRAP” rendered the topic “Update re: GU RR Request for Support of IRAP Grant” insufficient to inform members of the public unfamiliar with this matter of the anticipated nature of the discussion. However, we find that the topic was otherwise sufficiently descriptive of the anticipated topic, which was further discussion by the Board regarding its prior action taken on the Complainant’s request that the Board issue a letter in support of the Complainant’s Industrial Rail Access Program grant application. Next, we find the topic “Update re: 364 West Street” insufficient where it did not include any information whatsoever regarding the nature of the discussion to be held about the listed property. Although we acknowledge that the Board had discussed related matters at several prior meetings and these two topics may have been meaningful to the Board and members of the public who regularly follow the Board’s business, they were insufficient to inform members of the public not already familiar with these matters of the nature of the anticipated discussions. See OML 2022-4; OML 2020-132; OML 2020-164; OML 2013-55. Finally, we note that the Complainant was clearly aware that the Board would discuss the Complainant’s property and the Board’s support of the Complainant’s IRAP grant application, as evidenced by the attendance of the Complainant’s president at the May 23 meeting, and further that the Complainant surely understood the meaning of the acronyms “GU RR” and “IRAP.”

II. We Find that the June 21 Executive Session Was Held for a Proper Purpose.

The Complainant alleges that the Board improperly met in executive session where the Town had already entered into a stipulation to dismiss the litigation matter listed on the notice and therefore, the Complainant asserts, no longer had a litigating position. The Complainant further alleges that the executive session was improper with respect to discussions under Purpose 6 because “there is no negotiating involved in an eminent domain taking.” Based on our *in camera* review of the Board’s executive session minutes, and notwithstanding the stipulation of dismissal, we find that the entire discussion in executive session on June 21 related to litigation strategy with respect to both pending litigation and potential litigation that was demonstrably likely. Therefore, we find that the Board properly met in executive session on June 21. Additionally, we are not persuaded by the Complainant’s blanket assertion that discussions of eminent domain are not appropriate for executive session under Purpose 6. See OML 2020-157; OML 2018-7. However, because we find that the June 21 discussions related to litigation strategy, we need not reach this issue.

III. We Find that the Notice for the June 21 Meeting Was Sufficiently Specific with Respect to the Executive Session Topic and Insufficiently Specific with Respect to the Open Session Topic.

The Complainant alleges that the notice for the Board’s June 21 meeting was insufficient where it did not identify the property or litigation matter to be discussed in executive session and did not provide any detail regarding the Special Town Meeting warrant.

As explained above, when convening in executive session, a public body must describe the purpose for the executive session in as much detail as possible without compromising the purpose for the executive session. In general, this means that public bodies must identify the litigation matters to be discussed under Purpose 3 and the property to be discussed under Purpose 6, unless doing so would compromise the lawful purpose for secrecy. While we generally defer to a public body's assessment of whether the inclusion of such details would compromise the purpose for the executive session, a public body must be able to demonstrate a reasonable basis for that claim if challenged.

The June 21 notice identified the litigation matter to be discussed in executive session as "Town v. Jon Delli Priscoli, Trustee of the One Hundred Forty Realty Trust, et als." During the June 21 executive session, the Board briefly discussed other closely-related litigation matters. Generally, a public body should identify all litigation matters to be discussed in executive session; however, where the litigation matters discussed on June 21 were closely related to each other, we find the topic was sufficient as posted.

We now turn to the Purpose 6 executive session notice topic and the open session notice topic. Because the Board identified the property to be discussed in executive session in its announcement prior to convening in executive session, it should have also identified the property on the meeting notice and should have included additional detail about the warrant article to be discussed in open session. However, in this instance because the Board's entire executive session discussion properly fell under Purpose 3 such that the Board could have included the Purpose 3 notice topic alone, and because the Purpose 3 notice topic was sufficient, we find no violation with respect to notice of the Board's June 21 executive session. See OML 2020-76 ("When a discussion may properly be held under multiple executive session purposes, the public body may choose which executive session purpose(s) to cite."). We do, however, find a violation with respect to the open session topic where it did not include any detail regarding the warrant article to be discussed.

Next, we must determine whether the Board's violation was, as the Complainant urges, intentional. See G.L. c. 30A, § 23(c). An intentional violation is an "act or omission by a public body or a member thereof, in knowing violation of [the Open Meeting Law]." 940 CMR 29.02. An intentional violation may be found where the public body acted with deliberate ignorance of the law's requirements or has previously been advised that certain conduct violates the Open Meeting Law. Id. We have not previously warned the Board against the violation found here, nor do we find other evidence that would support a finding of an intentional violation. Therefore, we decline to find that the violation was intentional.

CONCLUSION

For the reasons stated above, we find that the Board violated the Open Meeting Law by posting insufficiently specific notices for its meetings held on May 23 and June 21. We find that the Board did not otherwise violate the Open Meeting Law. We order the Board's immediate and future compliance with the Open Meeting Law and caution that future similar violations may be considered evidence of an intent to violate the law. Because the Complainant understood that its property and the Board's support of its IRAP grant application would be discussed during the

May 23 meeting, and because, on July 11, Special Town Meeting voted in favor of the warrant discussed during the June 21 meeting, we do not order additional remedial action.

We now consider the complaints addressed by this determination to be resolved. This determination does not address any other complaints that may be pending with the Board or with our office. Please feel free to contact our office at (617) 963-2540 if you have any questions regarding this letter.

Sincerely,



Elizabeth Carnes Flynn
Assistant Attorney General
Division of Open Government

cc: Glenda Hazard, Chair, Hopedale Select Board (via email: ghazard@hopedale-ma.gov)
Brian W. Riley, Esq., KP Law (via email: briley@k-plaw.com)
David S. Mackey, Esq., Anderson & Kreiger LLP (via email: dmackey@AndersonKreiger.com)
Grafton & Upton Railroad Company c/o David Click, Esq. (via email: dmclick@Nealonlaw.com)
Hopedale Town Clerk (via email: lpedroli@hopedale-ma.gov)

This determination was issued pursuant to G.L. c. 30A, § 23(c). A public body or any member of a body aggrieved by a final order of the Attorney General may obtain judicial review through an action filed in Superior Court pursuant to G.L. c. 30A, § 23(d). The complaint must be filed in Superior Court within twenty-one days of receipt of a final order.



TOWN OF HOPEDALE

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Select Board
Glenda A. Hazard, Chair
Brian R. Keyes
Bernard J. Stock

Town Administrator
Jeff Nutting
Interim Town Administrator

May 8, 2023

TO: Jeff Ellis, Hopedale Cable Access
Lindsay Peterman, Administrative Assistant to the Town Administrator and
Select Board

FROM: Jeff Nutting, Interim Town Administrator

RE: Establishing Zoom Accounts for Boards and Committees

COPY TO: Select Board

I know I speak for many Boards and Committees, as well as the staff who work with them, in thanking you both for your work to establish new Zoom accounts for each board.

As you know, many of Hopedale's Board and Committee meetings are held entirely remotely or in "hybrid" format. Therefore, ready access to Zoom is essential for the productive functioning of the Town's business. However, in the past, if two or more boards were meeting at the same time, there were occasional conflicts with Zoom access.

Through your efforts, with each Board and Committee having their own account, the conflicts we previously experienced should not reoccur.

Thank you very much!