

**Board of Selectmen
Regular Meeting Minutes
January 4, 2021**

Call to order 7:00 p.m. via Zoom Meeting

Present, Chair Brian R. Keyes, Selectman Louis J. Arcudi, III, Selectman Glenda Hazard, Town Administrator Diana Schindler

Chair Keyes convened the meeting at 7:00PM

Pledge of Allegiance

Consent Items

Approval of December 28, 2020 Regular Minutes

Chair Keyes asked if the December 28, 2020 minutes need to be updated regarding the discussion at last weeks meeting about the Tree Warden vacancy and what the protocol is regarding contacting a Town Employee. Selectman Arcudi stated that the minutes should not be changed as they are “for the record” the Board and Town Administrator will be able to clarify the Tree Warden vacancy at tonight’s meeting.

Selectman Arcudi made a motion to approve the December 28, 2020 Regular Minutes. Selectman Hazard seconded the motion.

Arcudi – Aye, Hazard – Aye, Keyes – Aye

Appointments and Resignations

Chair Keyes stated that there are no appointments or resignations for tonight’s meeting. Town Administrator Schindler explained to the Board and residents that the Tree Warden position is available for interested residents, more information regarding this vacancy can be found on the Town Website. The Town will be accepting candidates throughout the coming weeks. Town Administrator Schindler stated that we are hoping to get the appointment of the next Tree Warden on a the next agenda. Town Administrator Schindler clarified that Chris Nadeau, Highway Superintendent, is the point of contact for Tree Warden inquires, he is not the interim Tree Warden since he is not a resident of Hopedale. Schindler stated that we have had some applicants turn in their application already. If anyone else is interested in the Tree Warden vacancy to fill out a talent bank form that can be found on the website.

Town Administrator Schindler stated that regarding future Tree Warden inquires, until a new Tree Warden has been appointed, if there is an emergency to call 911 or Dispatch. If a resident has an issue with a tree, the Town does not yet have a Tree Warden to be able to assist residents with those issues. Once the new Tree Warden gets appointed, the Town will forward the residents inquires and information to the Tree Warden.

New Business*

Complete Streets Policy (Adopted by Road Commissioners on September 16, 2020); First Reading & Schedule Public Hearing

Town Administrator Schindler explained that the Hopedale Road Commissioner's voted to adopt this Policy at their meeting on September 16, 2020. A Complete Streets policy is indicating that a Town, when looking to do any road work is going to look at their streets as "Complete Streets". The Town is looking to see if they can implement any conditions that would help walkability, biking, accessibility for people of all ages and abilities. By setting this policy were making the commitment to do that each time we do some type of road construction. It does not mean we are always going to include Complete Streets amenities, that would be based on affordability and also the conditions of the road. The policy contains all the criteria that primarily would fall to the Highway Superintendent and Road Commissioners to be looking at those projects and then deciding regarding Complete Streets. The advantage of having a policy is you can get into a funding portal on through the mass DOT twice a year they give out \$400,000 of construction money and Town's can use that construction money to basically update or install sidewalks, crossings, bike paths or bike accommodations on roads. Most of Hopedale's streets are already what you would consider Complete Streets, the streets try to accommodate people of all ages and abilities. We generally would be just looking at areas where there are gaps in this or areas that could be improved.

Normally a Town will adopt the policy, this would require the Town to hold a public hearing. Town Administrator Schindler recommended we would advertise to get the policy out for the public hearing, take comments, and incorporate those into the policy. Then the Town would adopt it and then we would submit it to DOT. Once it's accepted and you are in the program, the next phase of it is that we are given a grant of \$35,000 for a prioritization plan so you would partner with an engineer consultant and the consultant and Town officials would review and determine what areas would be applicable.

Selectman Arcudi asked Town Administrator Schindler if this policy would require the Town of add bike lanes to the Downtown area? Town Administrator Schindler responded that the Town is not required to add bike lanes to the Downtown area. The policy is a commitment to review each project and see if complete streets would be able to be incorporated. However, it is not required to add bike lanes if the Town cannot support it or if it would affect other development of the Downtown area. Town Administrator Schindler stated that the Public Hearing is scheduled tentatively for January 25, 2021.

Old Business

License Renewal 2021 – Cumberland Farms, Common Victualler (Vote)

Selectman Hazard made a motion to accept the 2021 Common Victualler License Renewal for Cumberland Farms. Selectman Arcudi seconded the motion.

Hazard – Aye, Arcudi – Aye, Keyes – Aye

COVID Updates

Town Administrator Schindler stated that the Town Hall is still closed to the public, but appointments are available. Last week the Town was notified that the CARES Act funding that was expected to expire on December 30, 2020 has been extended for another year (December 2021). We expect at least \$100,000 or more depending on our final numbers on our FEMA reimbursement. We received communication from our Public Health Nursing contractor, Salmon VNA, they are contracted for some money for this year (roughly \$3,200). Salmon VNA asked for some additional monies for the work that they have done in the last few months and some money going into next year based on the work they expect to do regarding vaccines. Town Administrator Schindler stated that after reviewing the budget, she believes that we could support this request. The Town has been purchasing remote work devices to optimize Town employees working from home experience (battery backups, laptops, etc.).

Selectman Arcudi asked if there is a conflict between Town Hall being closed to residents and restaurants being allowed to be open at a certain percentage since it is a dual building? Town Administrator Schindler responded that she has been communicating with the owner, Richard Yancey, of Beyond Full, the restaurant located in the Town Hall building. They have discussed scheduling a meeting. Richard Yancey has agreed to doing take out only for the time being, instead of 25% capacity (this does not include staff). Town Administrator Schindler stated that the Town Hall does not have efficient ventilation. If customers are sitting in the restaurant unmasked, this will be ventilated throughout Town Hall. Beyond Full asked for a full abatement of their rent for the month of January since they are only doing take out. Town Administrator stated that she has a meeting with Richard Yancey to discuss how to move forward with this item. Administrator Schindler stated that she had spoke with a contractor regarding updated the Town Hall's ventilation system, however, the cost was more than the budget allowed. Selectman Arcudi asked if the Town could use some of the CARES Act funding to upgrade Town Halls ventilation system? Also, what is the plan of action to rectify this? Will we have a plan by next week? Selectman Arcudi feels that he would rather approve the rent abatement for Beyond Full for the month of January and come up with a strategy to upgrade the Town Hall's ventilation system than to put Town employee's health at risk. Town Administrator Schindler responded that she would put the rent abatement on the January 12, 2021 agenda.

Chair Keyes opened the meeting for comments. Town Administrator Schindler stated that most of the correspondence she has had with residents is regarding Tree's. Town Administrator Schindler stated that all other Departments are doing extremely well, almost every department is managing 1-2 grants, project initiatives and their day-to-day operations.

Right of First Refusal, 364 West Street, *Attorney Peter F. Durning, Special Counsel*
Attorney Durning provided a brief update from the last time he in front of the Board of Selectmen on December 21, 2020. At a previous meeting he stated that the Town will be going into mediation brokered by the Real Estate Board Association (REBA) with Judge Lombardi, a retired land court Judge, who will be serving as a third party neutral. This will take place on Friday, January 8, 2021. As part of the mediation agreement, the Board agrees to come back to not vote at the mediation session which is an executive session and come back to a public hearing on Monday January 11, 2021. Any material from the mediation that can be discussed openly and any agreement coming from the mediation will be discussed at the public portion of the meeting on January 11, 2021 meeting. Town Administrator stated that at a previous meeting, a question had been raised by a member of the public regarding bringing other persons into the mediation. Administrator Schindler stated that based on Attorney Durning's guidance, that the Board of Selectmen and the Town Administrator will be present at the mediation and that the information from the mediation will be brought back to an open session.

Chair Keyes opened this item for public questions. Resident Robert Fahey asked Chairman Keyes what his position is on the development at 364 West Street and if Chair Keyes supports this development? If yes, why? Chair Keyes stated that he supports development in the Town, and it is their duty to selectively explore what the Town should and should not develop. Chair Keyes stated that he is an advocate for listening. This will be an opportunity, based on guidance from Town Counsel, Attorney Durning and a strong recommendation and motion by a Judge in land court to listen and explore a potential agreement, in this case it is with the Railroad. Chair Keyes stated that he does not know what that development will consist of. He stated that he is not looking to compromise anything regarding water quality, water source, water protection or items associated with the environment. A resident asked Chair Keyes regarding the Freedom of Information Request that have been received by the Town and why all the requests wouldn't be brought up at public meetings? Chair Keyes stated that he asks that he be made aware of any requests regarding the Board and Department Heads. Chair Keyes stated that he does not have any apprehension regarding sharing these requested. Chair Keyes asked Town Administrator Schindler if every request could be made public? Town Administrator stated that going forward, she will begin adding these records requests to the Correspondence item on the agenda. Mainly, she is responsible for assisting with facilitate and organize these requests with the Town Clerk. The requests and responses are public. Town Administrator Schindler stated that the five Freedom of Information Act requests we have received for Town Officials are primarily for Water & Sewer Officials and the requests were made by the Grafton Upton Railroad, these have been responded to and the response is public. The first response is that the Town is not providing the records because the Town is currently in a mediation and litigation situation. Attorney Durning added that Brian Riley from KP Law with these requests, Durning feels that Riley is dealing with these requests well and correct. Attorney Durning stated that under the public request law in Massachusetts, there is no absolute requirement to bring awareness of a request being made to a public hearing.

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

Chair Keyes opened the meeting to the public and the Selectmen. Ed Burt, Chair of the Water & Sewer Commissioner's followed up on the email that was sent to Tim Watson and himself on December 31, 2020 regarding calls from residents regarding Water & Sewer equipment located at Tim Watson's, Water & Sewer Manager's property. Ed Burt stated that Tim Watson responded to Chair Keyes email that they were doing exploration on Ben's Way, they had cut a path through the golf course. Tim has worked out a pack with the abutters and that by storing the equipment on the golf course property, abutting Tim's property, Tim is saving the hassle of transporting the equipment back and forth and somewhere near \$10,000. Chair Keyes asked what the \$10,000 in savings is? Ed Burt responded that the savings is coming from not having to transport the equipment back and forth. Chair Keyes stated that Tim Watson did provide him with a detailed response regarding his inquiry. Chair Keyes concerns was the liability of the equipment while it is sitting at that property either vandalized or damaged. If the equipment was damaged while at the property, Chair Keyes was concern regarding the insurance coverage because the equipment is not parked where it states on the insurance. Ed Burt responded that Water & Sewer has taken care of these items.

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

Requests for Future Agenda Items:

Appointment of Tree Warden until regular election, January 11, 2021

Joint Meeting with Finance Committee, Date TBD

Complete Streets Public Hearing, January 25, 2021

Administrator Updates (In Packet)

Selectman Arcudi made a motion to enter into executive session, not to return to regular session.
Selectman Hazard seconded the motion.

Roll Call, Arcudi – Aye, Hazard – Aye, Keyes – Aye
Chair Keyes dissolved the meeting at 7:45PM

Executive Session

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

Purpose: Litigation strategy re: Town v. Jon Delli Priscoli, Trustee, et als, Attorney Durning present.



HOPEDALE FIRE DEPARTMENT

40 Dutcher Street - Hopedale MA. 01747

Tel. (508) 473-1050 Fax: (508) 902-0076

www.hopedale-ma.gov/fire-department

Thomas M. Daige – Fire Chief

David J. McMorrow – Deputy Chief



Board of Selectmen
Town Hall Offices
78 Hopedale Street
Hopedale MA 01747

January 5th, 2021

Re: Waiving Burning Permit Fees for 2021

Mr. Chairman,

In a continuous effort to follow Covid protocol and try to limit Fire Department members' interaction with the public and vice versa, I am respectfully asking that the Burning Permit Fee, which is a one-time \$5.00 charge, for the 2021 open-air brush burning season be forgiven for town residents.

Forgiving this fee will eliminate the need for the residents to come into the firehouse to pay the fee and fill out the paperwork. Our member's will simply keep a list of which residents are burning brush on a day-to-day basis.

We collect, on an average, \$600.00 annually from burning permit fees.

Respectfully,

Thomas M Daige

Thomas Daige
Fire Chief



HOPEDALE POLICE DEPARTMENT

70 Hopedale Street Hopedale, MA 01747
Tel: (508) 634-2227 Fax: (508) 634-2228



www.hopedalepolice.com

Chief of Police
Mark A. Giovannella

January 4, 2021

Board of Selectman
Town of Hopedale
Hopedale, MA 01747

Dear Board Members,

As a result of the departure of Officer Cody Carneiro to Milford PD, interviews for a full time police officer were conducted on November 4, 2020. As a result of those interviews, I respectfully request the board appoint, as Full Time Police Officer for the Town of Hopedale:

Kevin R. Kokansky of [REDACTED]

Kevin has graduated from Worcester State University with a Bachelor's Degree in Criminal Justice. He has also completed the Reserve/Intermittent Police Academy in Boylston in 2018. He currently works part-time as a police officer with the Hardwick/New Braintree Police Department since 2018.

If you have any questions or concerns please feel free to contact me..

Sincerely,

Mark A. Giovannella
Chief of Police

**KARLA HOPKINS
10 CUTLER ST
HOPEDALE, MA 01747**

December 31, 2020

Hopedale Board of Selectmen
Christopher Hodgens, Finance Committee Chairman
70 Hopedale St
Hopedale, MA 01747

Please accept this letter as my resignation from the Hopedale Finance Committee and Hopedale Capital Planning Committee effective January 7, 2021.

I have been privileged for many, many years to be a member of these committees and to serve the residents of Hopedale in that capacity. I have enjoyed the experience but have recently faced demands and changes in both my firm and personal life that I feel will not allow me to provide the level of dedication that these committees deserve from me.

I will continue to participate actively as a resident and wish you all the best as you continue to lead our community.

Sincerely,

Karla Hopkins

From: [Becca Solomon](#)
To: [Diana Schindler](#)
Subject: Tree Warden
Date: Tuesday, December 29, 2020 4:31:26 PM

Hi Diana,

I had heard at the BOS meeting last night that the Tree Warden had resigned. If the position is open, I would be happy to apply for it. I'm just not sure who to contact to do so.

I'm currently in the process of getting an ISA arborist certification and becoming ISA Tree Risk Assessment Qualified. If that, with my own degree in Natural Resources Management, which covers silvicultural and timber management practices is qualification enough, I'd be happy to put my name forward. Let me know who to contact and I can forward a resume or whatever else is needed. The ISA certifications will take some time to get, but I am already familiar with the process.

Thank you in advance,
-Becca Solomon

**TOWN OF HOPEDALE
BOARD, COMMISSION OR COMMITTEE
TALENT BANK FORM**

Local Government needs citizens to give of their time and talents serving the Town of Hopedale. A Talent Bank has been established to compile a list of interested citizens, willing to serve on a voluntary basis on boards, commissions and committees. Some groups meet often, others require less time, and still others are busy only at specific times of the year. Occasionally, there are requirements for ad hoc committees or sub-committees appointed to work on specific projects. Experience indicates that the two most appropriate qualities for successful service are an open mind and exercise of common sense.

If you are interested in serving, please list the position(s) you wish to be considered for:

Board, Commission or Committee applying for:

Tree Warden

Please return completed forms to:

Town Administrator's Office – Hopedale Town Hall 78 Hopedale Street, Hopedale, MA 01747

The Town Hall mailing address is: P.O. Box 7, Hopedale MA, 01747

Please Note:

- The Board of Selectmen may fill vacancies until next election.
- It is recommended that you attend a few meetings of the committee or board you are contemplating joining to help determine your interest.
- The board/committee will be asked for their recommendation on each applicant appointment.

Name: Becca Solomon

Are you a registered voter? Yes No

Address: [REDACTED]

How long have you lived in Hopedale? 17 yrs

Home Phone: [REDACTED]

Cell Phone: [REDACTED]

E-Mail: [REDACTED]

How would you like to be contacted? E-mail or cellphone

Occupation: Conservation Commission Chair

Please list any potential conflicts of interest, e.g. membership in an organization or your

business: N/A

Education and Experience: N/A

How many times during the last year have you attended a meeting of the Board/Committee to which you are requesting appointment? N/A

Have you ever had business before the Board/Committee to which you are requesting an appointment?

Yes No If yes what type of business? _____

Special interests and skills: Urban Forestry & Urban Sustainability

Activities, e.g. Government/Civic & Community/Charitable & Educational: Conservation Commission; Bachelor's Degree in Natural Resources Management (see below), and current continuing education with the International Society of Arboriculture. Volunteered work doing construction in Puerto Rico & Israel.
Reasons for wanting to serve: _____

Helps my community and furthers my career simultaneously.

The completion of this form in no way assures appointment. Citizens deemed most qualified to serve in a particular capacity will fill all board, commission or committee vacancies.

Applicant's Signature _____ Date _____

- * Courses included:
- Silviculture
 - Soils
 - Dendrology
 - Ecology
 - Mycology
 - Accounting
 - Natural Resource Economics
 - Natural Resources Law and Policy
 - Recreation Behavior and Management
 - Measurements & Sampling Practices
 - ArcGIS

LICENSE AGREEMENT

This License Agreement (this "License") is entered this _____ day of January, 2021, by and between the **Town of Hopedale**, acting by and through its Board of Selectmen (the "Town"), having an address of 78 Hopedale Street, Hopedale, Massachusetts 01747, and the **Hopedale Country Club, Inc.** ("Licensor"), having an address of 90 Mill Street, Hopedale, Massachusetts 01747.

Whereas, Licensor is the lessee of a parcel of land located at 90 Mill Street, Hopedale, shown on Assessors Map 18-34-0 (the "Property");

Whereas, the Town has requested Licensor to grant the Town a license for the purpose of investigating a well, the construction of a temporary access road, and for the staging of heavy equipment, including, but not limited to, an excavator and backhoe at the Property; and

Whereas, Licensor is willing to grant the Town access to the Property for such purposes.

Now, therefore, the parties wish to enter into this License to set forth the terms of the Town's use of the Property:

1. **Use, Purpose, Term.** Licensor hereby grants the Town, including the Hopedale Water and Sewer Department, their agents, employees, contractors and representatives a non-exclusive license to enter upon and use the Property for the purpose of investigating and monitoring a well, the construction of a temporary access road, and the staging of heavy equipment, including, but not limited to, an excavator and backhoe. The Town may conduct its business from 7 a.m. to 5 p.m. Monday through Friday. The right and use described herein may be exercised for a period of _____ () days from the date of this License, unless sooner terminated in accordance with the provisions of Section 4 below. **At the termination of this License, the Town shall restore the Property to its original condition, as close as reasonably practicable, and remove all personal property.**

2. **Conduct.** During the exercise of the rights hereby granted, the Town and Licensor will confer and coordinate the construction work so as not to unreasonably interfere with Licensor's access to and use of the Property. Further, Licensor shall observe and obey all applicable laws, statutes, ordinances, bylaws, regulations and permitting or licensing requirements.

3. **Condition of Property.** The Town acknowledges and agrees that it accepts the Property in its "as is" condition for the purpose of this License, and that Licensor has made no representation or warranty regarding the fitness of the Property. Licensor shall not be liable to the Town for any injury or harm to persons or property except if such injury or harm is caused by the gross negligence or willful misconduct of Licensor and/or its employees, agents or representatives. The provisions of this Section shall survive the expiration or termination of this License.

4. **Termination and Revocation.** This License may be revoked by Licensor upon written notice of revocation given to the Town at least fourteen (14) days prior to the termination date stated in said notice. In the event that this License expires or is terminated by revocation pursuant to this Section, the Town, at its own expense, shall remove all its personal property from the Property. This obligation shall survive the expiration or termination of this License.

5. **Modifications and Amendments.** Modifications or amendments to this License shall be in writing and duly executed by both parties hereto to be effective.

6. **Notices.** For purposes of this License, the parties shall be deemed duly notified in accordance with the terms and provisions hereof, if written notices are mailed to the addresses noted above. These addresses are subject to change, and the parties hereto agree to inform each other of such change as soon as practicable.

7. **No Estate or Obligation Created.** This License shall not be construed as creating or vesting in the Town any estate in the Property, but only the limited right of use as hereinabove stated.

8. **Governing Law.** This License shall be governed and construed in accordance with the laws of the Commonwealth of Massachusetts.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this License Agreement to be executed on the date first indicated above.

LICENSOR:

TOWN OF HOPEDALE,
By Its Board of Selectmen

By: _____
Name:
Title:

Brian Keyes, Chair

Louis Arcudi, III

Glenda Hazard

December 31, 2020

Brian W. Riley
briley@k-plaw.com

BY ELECTRONIC MAIL ONLY
(jondelli@firstcolonydev.com)

Mr. Jon Delli Priscoli

Re: Public Records Requests - Town of Hopedale

Dear Mr. Delli Priscoli:

The Town of Hopedale (“Town”) is in receipt of your correspondence seeking certain Town records from five (5) Town employees and/or officials – specifically from Edward Burt, James M. Morin, Timothy J. Watson, Christine Burke and Sandra Holland. This letter serves as the Town’s response to each request.

In your requests, you seek the following records (the requests are identical as to each of the five named employees/officials):

Copies of all correspondence (including emails, texts or other forms of communications including using non-government emails) to and from (name of employee/official) that include the following person, persons or agencies: Representative Murray, Elizabeth Reilly (aka Liz Buchanan Reilly), DEP, EPA and IRAP for the last three years.

Please be advised that the Town does not consider any of your correspondence to be requests for public records under the Public Records Law pursuant to 950 CMR 32.06(1)(g). As you know, you are involved in an ongoing litigation proceeding pending before the Massachusetts Land Court that involves the Town and to which the records requested pertain. *See* Town of Hopedale v. Jon Delli Priscoli, Trustee of the One Hundred Forty Trust and Grafton & Upton Railroad Company, Massachusetts Land Court, 20 MISC 000467. Specifically, the Public Records Access Regulations, 950 CMR 32.06(1)(g), provide in relevant part that “a request for records in which an individual, or representative of the individual has a unique right of access by statutory, regulatory, judicial or other applicable means, shall not be considered a request for public records.” In this instance, the emails and other records you have requested pertain to the issues before the Land Court. Accordingly, given the ongoing Land Court matter, your request does not comprise a public records request and the Town is not obligated to respond to same under the provisions of the Public Records Law. *See* SPR 20/2307, a copy of which is attached.

Without waiving the foregoing, please be advised that the Town’s duty to respond to records requests extends only to records that are in existence and in its custody, and the Town is under no obligation to create records in response to your request. *See* “A Guide to the Massachusetts Public Records Law,” March 2020, published by the Secretary of the Commonwealth, at page 40. Please

Mr. Jon Delli Priscoli
December 31, 2020
Page 2

note that nothing herein shall limit the Town's ability to assert applicable exemptions under state or federal law in the future. Moreover, if you choose to appeal this response and the Supervisor of Records disagrees and finds your correspondence to constitute five valid record requests, the Town reserves the right to supplement this response. The Town is authorized to charge for employee search and segregation time necessary to respond to your request, together with any redactions required by law. That time is charged at the hourly rate of the lowest paid person capable of compiling, segregating, redacting and reproducing responsive records, in accordance with 950 CMR 32.07(2)(i). Such hourly rate shall not exceed \$25/hour unless otherwise authorized by the Supervisor of Records. Please be advised that, if required to respond, the search for responsive records of Timothy J. Watson and Sandra Holland is estimated to require five hours at a rate of \$23.16 per hour, for a total fee of \$115.80. As stated above, however, it is the Town's position that your letters are not requests subject to the Public Records Law.

You may appeal this response to the Supervisor of Public Records pursuant to 950 CMR 32.08(1)(d). By law, the Supervisor is required to respond within 10 business days of receipt of your appeal. You may also seek judicial review of an unfavorable response by commencing a civil action in the superior court, under G.L. c. 66, §10A(c).

Very truly yours,



Brian W. Riley

BWR/
cc: Town Administrator
Town Clerk
744919/HOPD/0001