State of Rhode Island

County of Washington

In Hopkinton on the eighteenth day of December 2023 A.D. the said meeting was called to order by Town Council President Michael Geary at 7:00 P.M. in the Town Hall Meeting Room, 1 Town House Road, Hopkinton, RI 02833.

PRESENT: Michael Geary, Scott Bill Hirst, Sharon Davis, Stephen Moffitt, Jr., Robert Burns; Town Manager Brian Rosso, Town Clerk Marita Murray and Solicitor Stephen Sypole.

CALL TO ORDER

The meeting was called to order with a moment of silent meditation and a salute to the Flag.

ROLL CALL

Councilors Hirst, Davis, Moffitt, Burns, and Geary announced they were present.

PUBLIC COMMENT

Joe Moreau of Old Depot Road stated that he had attended the December 13th Planning Board meeting, as well as a portion of the December 14, 2023, Planning Board meeting which did not end until 11:15 p.m. He wished to thank the Planning Board members, Interim Planner Ashley Sweet and Attorney Karen Ellsworth for the tremendous amount of work that they did.

Barbara Capalbo of Bethel Village asked the Council if they would be reviewing the proposed zoning ordinance amendments, and it was noted yes. She stated that she understood the need for housing and jobs and felt the town had entirely ignored this for in the past, everything was shot down. People need homes, a place that is safe to raise their families. The idea of high density is a problem because the town has no infrastructure. When thinking of low- to moderate-housing, people think about low-income but seem to forget about middle-class income. She would like to see Hopkinton become a blue-collar community with HVAC, carpenters, electricians and other technical trades. If the town continued to have large tracts of land, such as four and five acres being sold, this would attract New York and Massachusetts residents, but there are children living here looking for jobs. Instead of concentrating on the concept of low-income, they

should compromise and concentrate on middle-class income which meant instead of building condos and apartment buildings, they should think about making small neighborhoods, such as Bethel Village. There are currently small neighborhoods in Hopkinton that have a water system and individual septic systems. This could be done as a single-story home which would cost approximately $250,000 and they will have solved what the state is forcing them to do because every community does not want this in their back yard. We need to think of this in a different way, more along the way of a compromise. Small communities can be developed; they take care of their children and have a fenced yard for their dogs and become a neighborhood that works together. She felt that the state would approve that if it was in small doses. This would be family housing, not just low-income for there is already four senior housing complexes and a number of disabled housing and they were at one point up to 7% on their low-income housing. She wished to see small communities rather than apartments or condos because Hopkinton does not have the infrastructure for intense housing. She hoped the town could work with contractors and developers for his would benefit the town. Councilor Moffitt felt that this was the spirit that this Town Council had but he did not know if that was what the builders or state wanted. He noted that he agreed with what she was saying but did not know if they had the ability or the authority as the Town Council to do some of that. Ms. Capalbo believed that the state was rolling back these regulations because places like Warwick, Cranston and Providence have homeless people on the streets. No one helped and no one in the state wanted this near their homes. She felt Hopkinton should be willing to have low-income housing, just in a different form. She praised the new Planning Board members for their kindness to people who came before them. She felt they were not adversarial nor eco-conscious. She hoped that the Council would work with the Planning Board. Councilor Moffitt thought the market dictated this type of thing but now that the state had made it easier to obtain, Hopkinton could potentially be preyed upon due to its large amounts of land. Councilor Geary agreed with Councilor Moffitt and felt the biggest thing that restricts the town is infrastructure. Solicitor Sypole added that when Ms. Capalbo spoke about blue collar housing, the state referred to it as work force housing.

Councilor Geary noted that the council attended a conference with the state regarding a development shift to urban development growth centers and transportation corridors. He gave an example of twenty houses with a market, drug store, fitness center, all within this area. Ms. Capalbo believed the town did not need this for workforce housing, and no one would have the time for that because both people were working and raising kids. Ms. Capalbo thought the Council should state that the town does not have or want this type of infrastructure, but that Hopkinton has a different path they wish to take.

Sherri Aharonian of Dye Hill Road asked if there has been any discussion due to the ability to put a large amount of housing on a small amount of acreage, of how the state was going to handle setbacks for wells and septic. Councilor Geary noted that they would be going through the changes to the ordinances later on the agenda.

APPROVAL OF AGENDA ORDER

There were no changes to the agenda order.

CONSENT AGENDA

Councilor Hirst noted that he had not finished reading the Town Council Meeting Minutes of December 4, 2023.

A MOTION WAS MADE BY COUNCILOR HIRST TO APPROVE MONTHLY REPORT: TOWN CLERK. – This motion was not seconded.

A MOTION WAS MADE BY COUNCILOR DAVIS AND SECONDED BY COUNCILOR BURNS TO APPROVE TOWN COUNCIL MEETING MINUTES OF DECEMBER 4, 2023; APPROVE MONTHLY REPORT: TOWN CLERK.

IN FAVOR: Davis, Moffitt, Burns, Geary

OPPOSED: None

ABSTAIN: Hirst

SO VOTED

HEARINGS:

Proposed Zoning Ordinance Amendments

This matter was scheduled to open a hearing on amendments to various sections of the Zoning Ordinances in order to bring the Town's Zoning Ordinance into conformance with the amendments to the Zoning Enabling Act enacted by the State Legislature earlier this year.

Ashley Sweet from Weston and Sampson, the Interim Town Planner, explained that she has been working with the Planning Board and consultant Karen Ellsworth on the proposed Zoning Ordinance amendments. The document the Council had in front of them dated December 15, 2023, was a result of a series of amendments through her, the solicitor, and Planning Board's review and Attorney Ellsworth making the changes as they went along. It was agreed by the Council that they would go through the ordinance sections to see if there were any changes. Solicitor Sypole noted that he had found a few typos.

Councilor Davis began with Section 2, Definitions, page 4 noting that they had struck out Community water system and she wondered why. Attorney Karen Ellsworth explained that she had gone through all the definitions and conducted a word search on the entire document. If the words or phrases were not found in the ordinance, then they were removed from the definitions. Some of the definitions were used in the subdivision regulations and not the zoning ordinances, so she moved them over to the subdivision regulations. The phrase, community water system, had not been used anywhere in the zoning ordinance so she deleted it. Solicitor Sypole also noted that in the definition of "Community residence" the citation listed was 45-24-31(15) but he believed that should be 45-24-31(16). Councilor Davis went on to page 5, stating they had taken out the Conservation commission. She asked if there was a Conservation Commission now and if so, would it be disbanded if this definition was removed. Attorney Ellsworth advised that this would not dissolve the Conservation Commission and Solicitor Sypole added that there was a separate ordinance that created the Conservation Commission. On page 5, Councilor Davis noted a typo in the definition of "Day care – Day care center" where it read a facility other that… She believed that should be than. Councilor Davis asked why "drainage system" was deleted on page 6 and Attorney Ellsworth indicated that it was not used

anywhere in the text. On page 10, lot building coverage was taken out and she asked if this was needed in order to define lot coverage for the solar ordinance. Attorney Ellsworth noted that if the phrase was taken out, those words had not been used in the text. She thought there was a definition in the footnote in the dimensional table for lot building coverage. Page 12, regarding primary groundwater and wellhead protection zone overlay district, it stated, "The Groundwater and Wellhead Protection Areas Map, Hopkinton, RI shall be amended, at a minimum, of a bi-annual basis and the town planner shall be responsible for presenting an amended map to the town planning board for its review and referral to the town council..." Councilor Davis wondered when the last time this was amended. Attorney Ellsworth did not know and noted that this text was not new. On page 13, Councilor Davis indicated that they had struck out the "Recharge area" paragraph. She wondered if this referred to the solar ordinance, but Attorney Ellsworth once again stated that she had conducted a word search; however, it was possible that something she struck out was some place in the ordinance, but it was not on municode. If that was the case, they could restore those words and phrases. On page 14, Councilor Davis asked why underground storage tank had been removed and Attorney Ellsworth noted that it was not in the text. Page 15, Zoning Maps, Councilor Davis asked what would replace this section and Attorney Ellsworth explained that there was no need to replace the section, because it is self-evident from the way that the zoning ordinance was written. She felt this definition was a definition in the state enabling legislation to assist cities and towns with knowing what they need to put in their ordinances. Councilor Moffitt asked about the definition of abandonment, because in section 8 the word abandonment was used. Attorney Ellsworth replied that if it was explained in the section on non-conforming uses then there was no need for it to be in the definition section. Solicitor Sypole noted that there is a statute in the zoning enabling act that discussed when something was abandoned, so there can be no deviation from this. Councilor Davis referenced section 5, page 1, section (b)(a) where it read, "The zoning enforcement officer or the administrative officer has the authority to waive submission of supporting information at the request of the applicant, provided, however, that the zoning

board of review has the authority to require submission of any information for which submission was initially waived. If the zoning enforcement officer or the administrative officer denies a waiver request, the applicant has the right to appear before the zoning board of review or the planning board to request the waiver." She felt this sounded circular. Attorney Ellsworth noted that the current system was for the zoning board to hear requests for waivers from checklist items before a public hearing. She suggested to the Planning Board that she felt it was a bad idea to have the zoning board hear some of the details of an application before a public hearing was officially opened, because the zoning board acts in a quasi-judicial capacity, and they can only consider things that they hear during a public hearing. There was always a possibility that they might hear something when the waivers were discussed and use that in their decision, however, it would not be anywhere on the record. The main thrust of the changes in the enabling legislation was to make more things administrative. They tried to give the zoning enforcement officer or the administrative officer the authority to grant the waivers, and then if the applicant did not agree, the applicant could then go to the Planning Board or the zoning board and request the waiver. Regarding section 5.5, Attorney Ellsworth noted that in October she had requested word copies of all the ordinances but did not receive them in time for the meeting, so she used what was on municode. She now believed that there were errors on Municode and the solar ordinance listed is incorrect. Solicitor Sypole felt that Municode had updated the use table but not Section 5.5. He suggested the Council not do anything with Section 5.5 until they could sort out the issue with Municode. Attorney Ellsworth noted that once she received the correct version of this ordinance, she would bring it to the Planning Board and have them send the Council a revised proposed amendment. Councilor Davis went on to Section 7, Page 1, Section (A)(2), "A lot that is nonconforming by area shall not be required to merge with an adjacent lot if the nonconforming lot has an area at least as large as half of the lots within two hundred feet of the nonconforming lot." Attorney Ellsworth noted that this was from the enabling legislation, a 2023 amendment. Councilor Davis did not like the wording of section (B), "If a lot substandard in area was legally created and is not required to merge with an adjacent lot in the

same ownership, the owner of the lot shall not be required to obtain relief from the zoning board of review to construct a building on the lot simply because the lot is nonconforming in area." Attorney Ellsworth noted that Zoning Ordinances require people with substandard lots to obtain dimensional variances to build on those lots. The state law now specifically says that you cannot require anyone to obtain a dimensional variance if they have a legal substandard lot, they can build on it without any zoning relief. Councilor Moffitt commented that everything underlined had been added due to the enabling legislation it has been worded closely enough to be accepted and Attorney Ellsworth noted that was correct. Councilor Davis went on to note a typo on 9, Page 1, Section (B) "…may request that the planning board or the town planner report provide…" The word "report" should be removed. Councilor Moffitt noted that Attorney Ellsworth had gone with local circulation rather than general circulation for advertising and Ms. Sweet noted that they wanted to stick with state language as much as possible. Regarding Section 10, Special use permits, Councilor Davis advised that they had received an email from Deputy Building Official, Sherri Desjardins, regarding this ordinance. Attorney Ellsworth suggested that this was a topic that they would discuss in a month or so. Ms. Sweet stated that the Planning Board had discussed special use permits at length and it has been a more problematic sections of the law to implement. She noted that communities are coming up with alternative ways to deal with this, and one way was to go through the use table, and change uses that are relatively non-controversial to permitted and any others to not permitted uses temporarily to buy the town some time, because the consequence is that if you don't have specific and objective criteria for a special use permit in your ordinance, it becomes a permitted use. You could potentially lose control over how that special use got implemented. Councilor Geary wanted the Council and the Planning Board to be aware of Ms. Desjardins' concerns. Solicitor Sypole agreed that this was very difficult and had spoken to people who had different opinions about what the special use language meant. He felt this was something that would almost certainly end up in court. On Section 9, page 3, paragraph (3), Solicitor Sypole felt that the strike out regarding the comprehensive plan should be left in. Attorney Ellsworth stated that when they

revised the notice requirements, there was a separate bill that took effect last summer, that revised the notice requirements for public hearings. They included variances, but they forgot special use permits, and she thought they intended to take it out. Solicitor Sypole did not believe this was a change that was required, and they could take it out or leave it in. Ms. Sweet agreed stating that this was not a change that she had put into other communities, although she understood Attorney Ellsworth's point. Attorney Ellsworth noted that she would leave it in. Councilor Moffitt questioned the benefit of keeping this in and Solicitor Sypole noted that the board, when they were considering this, would also consider whether the application is consistent with the comprehensive plan and could potentially use that as a reason to deny the application. Ms. Sweet thought it was taken out of special use permits because those are considered conditionally permitted uses and the expectation is that if you made it a special use permit, it must be consistent with the comprehensive plan. With a variance, they are deviating from the zoning, so you're not automatically assuming that it is consistent with the comprehensive plan, therefore, Ms. Sweet felt the language should be left in. Solicitor Sypole felt there is a push towards special use criteria being specific and objective, the comprehensive plan is the opposite of that so he felt the language should be left in as well. Councilor Hirst asked when the comprehensive plan was required to be updated again and Mr. Rosso noted that it was every ten years, and 2016 was the last time it was updated. Therefore, in 2026 it will need to be updated and they planned to start work on that in 2024 because public outreach was required. Ms. Sweet mentioned that it is a 10-year update, so it is scaled down from a full re-write, therefore, there will need to be data updates and they would confirm goals, policies, and actions. It was decided that they would leave that line in the revised ordinance. Attorney Ellsworth felt the other argument was that if you had a Zoning Board decision that was based on consistency or inconsistency with the comprehensive plan, a court could find that the language should have been deleted and possibly deny the decision. She agreed with Solicitor Sypole that it is impossible to know what was going to happen with this legislation, since some of it is internally inconsistent and does not make sense. Solicitor Sypole noted if he had to defend a Zoning Board

decision and their only ground for denying a project was inconsistency with the comprehensive plan, he would have a difficult time defending the decision. Solicitor Sypole wished a change to Section 10, top of page 3, section (3), that it should start with "The proposed use will be…" On Section 11(3), Solicitor Sypole believed this should read, "Controlling the duration of use or development…" Councilor Moffitt questioned Section 12, Creation of vested rights, and the term "application". He noted that applications for development were being removed and Attorney Ellsworth explained that this was because they were moved to the Subdivision Regulations. This section currently covers both expiration of approvals and vesting for all different types of applications and because the General Assembly changed the law on expiration of approvals and vesting for development plan review applications, land development and subdivision regulations, those are now in the subdivision regulations. The only applications covered here were applications to the zoning board. Councilor Moffitt then asked if an application for a zone change vested you into an ordinance and Attorney Ellsworth noted that it did not, because it is a legislative decision, not an administrative decision. She explained that no one is entitled to a zone change. Councilor Moffitt wished to assure that the town was protected, because in the past there have been ordinances vested because they stated an application for zone change was put in before the application for development. Solicitor Sypole felt that this was language the Council had put in the zone change ordinance. Attorney Ellsworth explained that when the Council approves a zone change, requested by a property owner, they can put any conditions they want on it if the reason for the zone change is so the person can put a particular use there. Councilor Davis went on to Section 14 and Ms. Sweet noted that they ran into a problem with a few sections where it was not clear because what was on Municode did not match what the zoning office had as the most recent copies. They determined that in 2016 there were some amendments made where entire sections were repealed and replaced. It took her and Sherri Desjardins almost two hours to figure out the travel of development plan review. Ms. Sweet went on to state that they would have to do a little digging to assure that what they are amending is actually what is on the books and not the old version. They believe

they are okay with development plan review, although it does leave a hanging article in another section of code, because they repealed sections and then they took you out of the zoning ordinance and into the code itself and started establishing land development outside of zoning and subdivision. She and Ms. Desjardins will need to spend more time to figure out exactly what was adopted, how that relates to what is being amended, and then making sure that this gets amended properly and goes back into the zoning ordinance where it belongs, or into the subdivision regulations or into both. Her notes for this section were that they were supposed to repeal and replace this entire section. She was concerned that if you repeal and don't replace them then you don't have land development projects. Ms. Ellsworth noted that they have to be authorized in the zoning ordinance. Ms. Sweet mentioned that this is the approach she is taking with these types of applications, that you enable them in the zoning and then the user goes to the subdivision regulations, and that is where all the standards, the process, and the details of how the applications happen. She thought there needed to be something in the zoning ordinance that recognizes land development, development plan review, residential compounds, and residential clusters, but felt these were questionable as to what the language should be. Solicitor Sypole thought there should be a correction on Section 14, page 4, section (F)(2) in that residential compound be changed to cluster development. On Section 16, page 1, Councilor Davis believed that R.I.G.L. 45-24-50 gave the Town Council the right to start the zone change process. The Planning Board had always thought it should start with them. Solicitor Sypole explained that there was one statute that says that someone can come in and petition for a zone change or the zoning amendment can originate from the planning board; it could happen either way. Councilor Moffitt felt that Councilor Davis was referring to the precedence of approval. Solicitor Sypole noted that as far as the order in which you go to the Town Council and the Planning Board that statute was still there. Attorney Ellsworth indicated that what was in front of them was consistent with the changes to the enabling legislation. Ms. Sweet added that they did not change the precedence of approval sections of law, what they changed was unified development review which meant that when there was an application before the

Planning Board for some type of development and the applicant needed either a special use permit or a variance, they do not have to leave the Planning Board and go over to the Zoning Board. The Planning Board would have the ability to issue the variance or the special use permit. Solicitor Sypole noted that if someone came in with a land development project and needed a zoning amendment, they would go to the Planning Board first and get a conditional approval and then they would come before the Town Council for the zoning amendment. Ms. Sweet explained that this was designed this way to prevent an applicant from coming to the Town Council for a zone change and then going to the Planning Board, who would then deny their application when they already have the zoning. Councilor Moffitt wished for clarification on Section 17, page 1, section (D) which stated, "If a proposed use is not specifically listed in the zoning ordinance, the property owner may request, in writing, that the zoning enforcement officer determine whether the proposed use is of a similar type, character, and intensity as a specifically listed special use. Upon such a determination, the zoning enforcement officer shall consider the proposed use to be a use requiring a special-use permit." Ms. Sweet explained that previously if a use was not listed in the use category, it was considered a prohibited use, but this was no longer the case. Councilor Moffitt noted that this puts the decision administratively in the hands of the zoning official. He asked if the decision was appealable and was told yes. Attorney Ellsworth stated the zoning enforcement officer always had this authority. Ms. Sweet felt that zoning use tables hardly keep up with technology, noting that the problem was that they only kept this to special use permit uses, which now is even more problematic because you have to have specific and objective criteria. Solicitor Sypole stated that the way he has always looked at special use permits was a way for the Council to say that they were going to defer some discretion to the zoning board to exercise their judgement about whether to grant the special use permit. Now they were trying to take that discretion away. Ms. Sweet felt that special use permits will start to disappear. Councilor Davis went on to Section 22(B) the word "with" was missing between "compliance this ordinance". Section 26, page 1(A)(1) where it states "Court with twenty", that should be "within". Councilor Moffitt asked if there was a minimum number of

acres that someone needed to own in order to ask for a comprehensive permit. Ms. Sweet noted that there was nothing in the law that creates a minimum size of lot. It was all going to go back on what they could permit and if they could find a way to permit a large number of homes on a lot without public water and sewer than that would be allowed. She explained that they changed the comprehensive permit requirements substantially; it used to just be 25% and the rest of it was a negotiation. Now they have a staggered approach. If you can obtain those permits through DEM, then that is a guarantee now. Councilor Davis went on to Section 38, page 3, under "Municipal government subsidy", the word "assistance" was in there twice and needed to be removed. Then on page 4(E)(1), Pre-application conference, the last sentence had a typo, "The applicant may also submit and any other…" noting the word "and" should be removed. On the same page, under (F)(2) Councilor Davis questioned that the administrative officer had twenty-five days to certify the application as complete. If the application is incomplete, the administrative officer shall inform the applicant of the specific information that is missing. The running of the time period for certification shall stop when an application is incomplete and then the administrative officer should have at least ten days to certify a revised application as complete. Councilor Davis questioned why the time stopped and Ms. Sweet explained that the administrative officer has twenty-five days to certify and if its certified incomplete at day twenty, it would only leave five days on the clock. The time clock stops because if it is not certified complete or incomplete within the twenty-five days its automatically complete. So that puts a pause on everything and leaves only five days, but the law says that once they resubmit what they are missing, there would never be less than ten days. Councilor Moffitt asked if preliminary plan review was part of the application process and Ms. Sweet noted that it was. Councilor Moffitt questioned if they would still use the subdivision regulation checklist and Attorney Ellsworth noted that there would need to be a new checklist prepared because this was a substantial departure from the procedure that was used for land development projects. Ms. Sweet explained that though the law defines what needs to be submitted at preliminary plan in (a), (b) and (c), in (d) it requires that there be submitted the checklist and all items on the

checklist except state permits. Councilor Moffitt asked where phasing came in and Ms. Sweet noted that it had to be at preliminary because there was no more master plan. Attorney Ellsworth suggested that there was a specific addition to this section of the enabling legislation that stated permit caps and moratoria do not apply to comprehensive permit developments. Councilor Davis went on to page 5, under (G)(1), and noted that it said "If a timely decision is not rendered…" She asked what was timely and if that was within the ninety days. Attorney Ellsworth stated yes. Councilor Davis read Page 6(1)(b) and asked if this was a trump card. Attorney Ellsworth explained that the statute allows the planning board to change the requirements of the zoning ordinance and the subdivision regulations to help make the housing more affordable, which meant that even with those changes (the increase in density and the decrease in setbacks), the need for affordable housing outweighs any harm that would be done by departing from the zoning ordinance requirements. On page 7(I), Denial of approval, number (1) Councilor Davis asked what it meant by "Meeting local housing needs" means that as a result of the implementation of the approved affordable housing plan and the absence of unreasonable denial of applications that are made pursuant to that plan, at least 20% of the total residentials units approved by the planning board in a calendar year are for low- and moderate-income housing. Attorney Ellsworth and Ms. Sweet both noted they did not know. Ms. Sweet explained that there was a provision in the law that states that you could limit applications by for-profit developers if they were meeting local housing needs. The way that they changed this was to say meeting local housing needs now means that you are approving 20% of your overall approved units as low- to moderate- incoming housing and therefore you are meeting local housing needs. She thought this would give the Council the ability, by resolution, to limit applications by for-profit developers for low- to moderate- income housing, but she did not know exactly how it was being interpreted. Councilor Hirst indicated that they have been long told that they needed to have ten percent affordable housing and asked how this rule impacted this statement. Ms. Sweet noted that they would be required to obtain ten percent of all their housing units, which was a moving target because as you build that number moves. This was an annual

calculation that gives the town the ability to limit for-profit applications. Ms. Sweet noted that there are a lot of conversations with legislators and the Speakers staff that the new laws are problematic. Councilor Hirst stated that there was a January 1st deadline, and they should adopt something. Solicitor Sypole felt they should do the best they can, and it could all be amended at a later date. Councilor Davis went on to (J)(1) where it stated, "The applicant shall submit the following material for final plan approval: (a) All required state and federal permits; provided, however, that the administrative officer shall have the authority to require submission of state and federal permits before the first building permit is issued rather than at final plan submission." Solicitor Sypole explained that this allowed the developer a little more time to get their state permits and this was a special privilege that was given only to the comprehensive permit people. Councilor Moffitt asked if the new state law regarding final plan approval apply to anything that already had a preliminary plan now or would they go by the law before January. Attorney Ellsworth explained that it depended on what stage of approval they were at, and whether the approval was vested and for how long. Councilor Moffitt questioned section (I)(5) under Denial of approval, where it stated, "The proposed development may negatively impact the environment and the health and safety of current Hopkinton residents, and the applicant has not adequately addressed those concerns." Attorney Ellsworth stated that whether those concerns were adequately addressed would be up to the Superior Court. On Section 39, page 1, Councilor Davis asked about adaptive reuse concerning the Hope Valley school, should it be closed. It was noted that the town owned that school so it would not be an issue. It was noted that it would not matter what zone the building was in under adaptive reuse because any structure can be converted to residential as long as 50% of the floor area was dedicated to residential use. Councilor Davis wondered if a developer could come and want to have low-income housing in that school and was told that the town owned the school, and they would have to sell it to someone or obtain approval from the town for its use. Regarding Section 41, Technical Review Committee, Councilor Davis asked how this was different than the current checklist signoff and having applicants pay for peer review of the project. Ms. Sweet explained that Technical

Review Committee is something that exists in state law now, but it is an optional practice. She explained that the changes the Council was not seeing are the changes that are in the subdivision regulations because those go to the Planning Board. The changes that occurred in state law relating to land development applications have shifted a significant amount of review and authority outside of the Planning Board and over to the administrative officer. An application for a four-lot subdivision that does not create a street or ask for a waiver or a special use permit will not go to the planning board. It will go to the administrative officer who will have to do a review and approval of the application. There is no notification to abutters, no public meeting and no advertising of any kind. This is true for subdivisions of up to nine lots that do not create a street and do not request relief from the zoning ordinance. This is also true for minor land development applications, anything up to 7500 sq. ft. of commercial building. This will never go to the Planning Board, have a public meeting, or have notice to abutting property owners. The Technical Review Committee is the only mechanism to fill a piece of that hole. They would have a public meeting with an agenda which gets posted. They would perform a technical review of the application and provide a recommendation to the administrative officer. Ms. Sweet felt it was bad practice to have one individual reviewing and approving applications of that magnitude. Councilor Davis asked if the checklist went to the different departments for their input. Ms. Sweet noted that there was a significant difference between receiving the application and looking at the application as one person. She felt there was so much that happened at a Planning Board meeting for conversation, where better site design is a result of the conversation around the table. Things were improved, they can put conditions on an application, and she could have a collaborative conversation among the technical experts, and they could come to a resolution together. The applicant was present and was part of the process. She noted that they would post agenda and this would be the only notification to abutters or residents. Councilor Moffitt asked if this Committee was advisory to the Planning Department. Ms. Sweet explained that it was advisory to the permitting authority. It could be advisory to the administrative officer when they were authorized to make a decision on an application, or it

could be advisory to the Planning Board. Councilor Moffitt questioned if there was a minimum lot specification. Ms. Sweet gave an example of a two-lot subdivision, or if a resident carved off one lot from a 40-acre parcel, this may be plain and simple and not need the Technical Review Committee. The idea is to establish a Technical Review Committee that meets every month, the administrative officer is the chair who sets the agenda. If there are no applications then the meeting is cancelled. If there were applications that need to be reviewed, then the administrative officer would use that mechanism to take what used to go to the Planning Board and get that full discussion and conversation, so that they are not put in a position to make these decisions on their own. The legislation that passed puts a tremendous burden on the planning department, which in most cases does not have the resources to do this work. She felt that the burden shift to the administrative officer is frightening for most town planners in Rhode Island, because they are the only municipal position that their decisions are appealed directly to Superior Court. The Technical Review Committee was one way to spread this out and get other staff involved. Councilor Davis asked how she would set this committee up here in Hopkinton. Attorney Ellsworth recommended that the Town Council be the one to decide. Ms. Sweet noted that she was concerned with how this would be implemented and what the message to the attendees would be. Councilor Geary requested that someone from Public Works sit on this committee. Solicitor Sypole was in favor of giving the Town Planner the assistance that she needs, and the Technical Review Committee would need at least three members. Mr. Rosso noted that if a town employee is in the union, they may have issues if it is not in their job description and they may want additional compensation. Attorney Ellsworth noted that this Committee would meet during work hours. Ms. Sweet believed that this was something Building & Zoning and DPW did already because the application went to them, and they were asked to review it and provide comments. It is state law that the application has to go to these particular departments. The process now is that the application went to these particular departments, the department head reviewed the application, and provided comments related to their technical expertise, which then went back to the Planning Board and advising their

decisions. The idea of the Technical Review Committee was that instead of everyone doing this separately, they did it together at a meeting. She felt it should take them the same amount of time to review the application, but the difference would be instead of writing a memo and sending it to the Planning Board, they are going to sit at a daytime meeting, where the applicant will attend to discuss, and they can ask questions. It will then be the Town Planners' responsibility to write the recommendation and keep this record. Councilor Moffitt felt that someone hopefully would be able to attend from the fire department and it would be a good thing to put on a resume for volunteers. Councilor Davis mentioned that the Town Council could appoint a public member with technical expertise. Ms. Sweet felt that they could advertise this opening. Councilor Davis asked if Crossman Engineering could sit on the Committee, and we could have the applicant pay for it. It was noted that section (b)(7) was added to include the Town's consultant engineer. Ms. Sweet noted that this existed in the state law previously and the one distinct change they made was that they crossed out the planning board and inserted municipality, in terms of who organized this Committee. Ms. Sweet asked Solicitor Sypole if the Planning Board could retain the ability to appoint, could it be delegated to the Planning Board by the Council, or does the Council have to appoint. Solicitor Sypole thought that all three could be correct, and the state may have meant to give the towns that flexibility. He advised that he would be comfortable with the Town Council delegating that authority to the Planning Board or the Administrative Officer. There was discussion on whether the ordinance should read "shall" or "may". Ms. Sweet thought that in order to get staff to comply, even if it were to be self-appointed, the Council should memorialize this and help set this up, so staff knew this is what they needed to do now. Ms. Sweet explained again that as the administrative officer, she would be the gatekeeper to make sure that applicants submitted what they were supposed to so the application could move forward to the next review. Ms. Sweet noted that her worry was that once the Council passed this ordinance there may be a disconnect with forming the committee. Attorney Ellsworth thought that it should be the Town Manager's job to send a memo to all of the departments explaining the new committee and advising them

that someone from their department would need to attend a meeting once a month to review some plans. Ms. Sweet noted that state law required this Technical Review Committee to have written procedures. Mr. Rosso felt this directive needed to come from the Town Council because he could not tell the Fire Chief that he had to be a part of this committee and he also did not have any authority over any boards or commissions. Mr. Rosso asked if he would be expected to attend these meetings and Ms. Sweet thought that it would be great if he wanted to attend, but this did not need to be written in the ordinance. Councilor Davis continued to question the use of the word "shall" or "may". Attorney Ellsworth suggested instead of using the word "shall", they use "may, at the discretion of the administrative officer". This way it would be up to the administrative officer to contact people and get at least three people together to form a quorum. Councilor Moffitt questioned if the meetings would have to be posted with the Secretary of States Office and Attorney Ellsworth noted that they did. Ms. Sweet felt there needed to be some type of interaction above her, such as the Planning Board, and request they pick someone to serve. She thought this did not need to be a part of the Zoning Ordinance as long as the Town Manager, and Town Council are all on the same page and are in agreement. Councilor Moffitt questioned the need for a member of the public and it was agreed to change that to "one or more members of the public". Councilor Hirst questioned "Aggrieved party" in the Definition section and asked if the Town Council would be held liable if there was a court case regarding the administration of the zoning ordinance. Solicitor Sypole explained that this was with regard to who has standing to appeal decisions that are made by the administrative officer or one of the boards. He explained that if the Council were to pass a zoning ordinance, someone could appeal, but it is a different type of appeal. Ms. Sweet noted that the Planning Board was concerned that there was no specific and objective criteria for special use permits. They were discussing the approach of going through the use table and flipping the non-controversial ones over to permitted uses and turning the other ones to not permitted uses and then immediately stepping in and working through and figuring out how to address that. The Council liked this idea. Solicitor Sypole felt that the fewer special use categories, the better.

Barbara Capalbo noted that she liked the word “may” rather than “shall” for it gave them more flexibility. She felt Mr. Rosso needed to be involved in the Technical Review Committee because it would have to follow the budget and the ability of the town to accomplish it. She noted that R.I.G.L. 45-24-30(b), (c) and (d) were enacted in June of 2023 and would this mean that the Council had one year to approve or disapprove them. Solicitor Sypole explained that most of the state laws that were passed in June and stated they took effect on January 1, 2024. Attorney Ellsworth noted that the Technical Review Committee does not make policy decisions, only technical decisions.

A MOTION WAS MADE BY COUNCILOR DAVIS AND SECONDED BY COUNCILOR MOFFITT TO CLOSE THE HEARING.

IN FAVOR: Davis, Moffitt, Hirst, Geary

OPPOSED: None

SO VOTED

There was no more discussion by the Council.

Councilor Burns left the meeting at 9:00 p.m.

A MOTION WAS MADE BY COUNCILOR DAVIS AND SECONDED BY COUNCILOR MOFFITT TO APPROVE THE PROPOSED AMENDMENTS TO THE ZONING ORDINANCE AS MODIFIED DURING THE HEARING, WITH THE EXCEPTION OF SECTION 5.5 AND SECTION 37.

IN FAVOR: Hirst, Davis, Moffitt, Geary

OPPOSED: None

SO VOTED

NEW BUSINESS

This matter was scheduled to discuss, consider, and possibly vote to set a date to hold a workshop discussion regarding the Hopkinton School Construction/Hope Valley Elementary School closing, in January prior to the February 5, 2024, Chariho/RIDE construction presentation.

Councilor Moffitt did not like the wording that was on the agenda, because he did not want residents to think the Hope Valley school will be closing in January. Councilor Davis explained that over the summer, the Chariho School District had an elementary school facility feedback survey where they asked residents if they would wanted a capital plan that focuses on renovations to ensure all schools meet the needs of the 21st century learning, or would you want a capital plan that keeps all four elementary schools and provides ongoing maintenance, or would you want to have three new schools and close Hope Valley. Each town would get one new school which would be built on the site of the current school. Councilor Moffitt noted that there would be a meeting on February 5, 2024 in Hopkinton to discuss this and there will be many meetings leading up to February 5th. He did not believe there was a need for them to hold a workshop. Councilor Davis noted that she spoken with Tyler Champlin of the Chariho School Committee, who said there was a necessity for a new school construction committee meeting on January 8, 2024. Mr. Champlin felt that all three towns should meet together, which she agreed with. She felt they all should attend the school meeting on January 8, 2024, at 6:00 p.m. Councilor Moffitt felt they should attend the Richmond meeting on January 16, 2024, because the committee for the necessity for schools, and representatives from RIDE will be there to be able to obtain all the facts. Councilor Davis noted that she was not asking for a workshop but wished everyone to attend the January 8th meeting. The Council made a decision to attend the Community Vision Meeting on January 8, 2024, at 6:00 p.m.

A MOTION WAS MADE BY COUNCILOR DAVIS AND SECONDED BY COUNCILOR MOFFITT TO ATTEND THE CHARIHO COMMITTEE MEETINGS.

IN FAVOR: Davis, Moffitt, Geary

OPPOSED: Hirst

SO VOTED

PUBLIC COMMENT

There was no public comment.

Councilor Geary wished to thank the Ashaway Fire Department, Ashaway Ambulance, Hope Valley Fire Department, Hope Valley Ambulance and our DPW crew for all of their hard work in today's stormy weather. He also wished everyone a happy holiday and happy New Year.

ADJOURNMENT

A MOTION WAS MADE BY COUNCILOR HIRST AND SECONDED BY COUNCILOR MOFFITT TO ADJOURN IN HONOR OF ALL WHO MADE THE HOPKINTON VILLAGE STROLL A SUCCESS AND COUNCILOR BURNS WHO DONATED THE CHRISTMAS TREE.

SO VOTED

Marita D. Murray

Town Clerk

Sydney Fernandes

Deputy Town Clerk