

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
COUNTY OF NEWPORT**

At a meeting of the Town Council of the Town of Tiverton, County and State aforesaid, held at the Tiverton Town Hall, 343 Highland Road, on the 10th day of June 2013 A.D. at 7:00 p.m.

President Roderick opened the meeting with the Pledge of Allegiance to the Flag.

<b>Roll Call:</b>	<b>Edward A. Roderick-President</b>	<b>William P. Gerlach</b>
	<b>Denise M. deMedeiros-Vice President</b>	<b>Jay J. Lambert</b>
	<b>James Arruda</b>	<b>Brett N. Pelletier</b>
	<b>Joan B. Chabot</b>	

Town Administrator, James C. Goncalo and Town Solicitor, Andrew M. Teitz were also present.

**Approval of Consent Agenda:**

All items listed with (CA) are to be considered routine by the Town Council and will be enacted by one motion. There will be no separate discussion of these items unless a member of the Council or a member of the public so requests, in which event the item will be removed from Consent Agenda (CA) consideration and considered in its normal sequence on the agenda.

Vice President Denise DeMedeiros read the items on the Consent Agenda. Councilor Gerlach requested removal of item A1a, Approval of Minutes Regular Council Meeting May 28, 2013 Councilor deMedeiros Abstained – Absent. President Roderick requested removal of item A5, Town Clerk – Extension of Bay Street Moratorium to December 31, 2013. There were no other removals.

Councilor Lambert made a motion, seconded by Councilor deMedeiros to adopt the Consent Agenda except for items A1a, Approval of Minutes Regular Council Meeting May 28, 2013 Councilor deMedeiros Abstained – Absent and item A5, Town Clerk – Extension of Bay Street Moratorium to December 31, 2013. Motion passed unanimously.

The Consent Agenda was as follows:

**CONSENT AGENDA**

**A1-Approval of Minutes of Previous Meetings:**

b. Approval of Executive Session Minutes May 28, 2013 Councilor deMedeiros Abstained - Absent

**A-2-Receipt of Minutes from the Following Boards, Commissions**

- |                                      |                                     |
|--------------------------------------|-------------------------------------|
| a. Art's Council                     | d. Recycling/Landfill Committee (2) |
| b. Fogland Beach Oversight Committee | e. Wastewater Management            |
| c. Open Space Commission             | f. Planning Board (3)               |

**A-3-Correspondence – Receive and File**

- a. Middletown Council–Resolution Supporting the Municipal Road and Bridge Revolving Fund
- b. Prevention Coalition May Newsletter
- c. Hopkinton – Resolution Opposing Legislation Relating to Taxation – Levy & Assessment of Local Taxes

**A-4-Approval of Tax Assessor Abatement**

**A-6-Kate Michaud, Planning Board Administrative Officer – May Activities Report, Planning Board Site Walk Notes and Summary of Residential Petitions Under Review or Recently Approved**

**A-7-Audubon Society of RI Proposal to Amend Article 5, Section 1, Note 1 of the Tiverton Zoning Ordinance to Include Open Space Zones – Referred to Planning Board and Delegate Town Clerk to Schedule Public Hearing**

**A-8-Support Resolution Relating to a Constitutional Amendment to Include the RI General Assembly Under the Jurisdiction of the RI Ethics Commission**

**A-9-Distribution of Letters from Planning Board to Legislators Regarding Recent Proposed Legislation and Potential Impacts on Subdivision and Land Development**

**A-10-Distribution of Department Monthly Reports**

**BUSINESS BROUGHT BEFORE THE COUNCIL**

**Approval of Minutes Regular Council Meeting May 28, 2013 Councilor deMedeiros Abstained – Absent**

Councilor Gerlach requested a correction to a name on page 6, last paragraph; Clay Connors should be Clay Commons. Councilor Chabot requested the following sentence, Town Council – Personnel Performance – 42-46-5(a) (6) – Tax Collector, DPW Director and Fire Chief – Notice Provided Per Open Meetings Act as seen on page 11 be stricken as that was done earlier in the open session and the Executive Session items be listed with the identifying number just like the agenda.

Councilor Lambert made a motion, seconded by Councilor Chabot to approve item A1a, Approval of Minutes Regular Council Meeting May 28, 2013 Councilor deMedeiros Abstained – Absent, as amended. Motion passed unanimously.

**Town Clerk – Extension of Bay Street Moratorium to December 31, 2013**

Solicitor Teitz requested a correction to a typo on page 7, change December 10, 2012 to June 10, 2013. Rest of that section is fine.

Councilor Lambert made a motion, seconded by Councilor deMedeiros to Adopt as Amended the Extension of Bay Street Moratorium to December 31, 2013. Motion passed unanimously.

**OPEN PUBLIC FORUM**

Barbara Pelletier showed the new brochure promoting Tiverton memorializes assets of the Town.

**PUBLIC HEARINGS & PUBLIC PRESENTATIONS:**

**ADVERTISED PUBLIC HEARINGS**

**Public Hearing – Proposed Amendments to Code of Ordinances Chapter 15 – Drinking Water Reservoirs (Sections 15-1 Through 15-5) – Continued From May 28<sup>th</sup>**

Councilor Gerlach explained this proposed ordinance was revised since the last meeting to reflect the discussion with the Department of Environmental Management (DEM), removed some of the original items proposed. The red lined copy reflected the changes. President Roderick called for comments from the public several times. Since there were no public comments President Roderick closed the public comment portion. Councilor Gerlach explained the changes. On page 2 a copy or satisfactory proof that a RIDEM usage permit has been obtained was added. The filing fee of \$50.00 was removed. Not about generating revenue, about putting a process in place to protect the water. Still requiring insurance liability, changed the contact information section by requiring first and last name, mailing address, cell phone number, club or organization, the date, arrival time, start time and end time. Changed the Participating Vessels section regarding notification and number of participating boats. DEM can provide the Town with the number of vessels participating. Removed the section requiring a police detail, DEM is committed to staffing for the tournaments. Penalties remained the same. Still requiring, in Article II the Conservation Commission to investigate and report to the Council. Solicitor Teitz had reviewed the changes.

Councilor Pelletier arrived at this time, 7:20 p.m.

Councilor Gerlach noted Conservation Chair Tom Ramotowski noticed DEM regarding the amended ordinance. Requesting the Clerk send a notice to DEM Director Coit's office along with a copy of the new ordinance and request that copies be sent to those that have a permit on file. Councilor Chabot questioned 15-5A; the

prohibition of all fishing tournaments by January 1, 2014, if that was realistic, suggested not putting a date there. Councilor Gerlach agreed would likely be a more phased approach.

Councilor Gerlach made a motion, seconded by Councilor Chabot to adopt the Proposed Amendments to Code of Ordinances Chapter 15 – Drinking Water Reservoirs, Sections 15.1 Through 15-5, as amended. Motion passed unanimously.

The Adopted Ordinance attached at end of minutes.

**TOWN COUNCIL SITTING AS BOARD OF LICENSING**  
**NON ADVERTISED LICENSE**

**TNT Fireworks, West Haven, CT. - Requests Approval of Fireworks Permit & Holiday License at 527 Main Road - June 18 to July 9, 2013 – Subject To Meeting All Legal Requirements – Cont. From May 28**  
Fire Chief Lloyd met with the applicant late this afternoon, have a floor plan and manifest, recommend approval.

Councilor Lambert made a motion, seconded by Councilor Chabot to approve the request for Approval of Fireworks Permit and Holiday License at 527 Main Road from June 18, 2013 to July 9, 2013 for TNT Fireworks, West Haven, CT, subject to meeting all legal requirements. Motion passed unanimously.

**New Annual Fireworks Licenses – Subject to Meeting All Legal Requirements**

**a. Tiverton Convenience Point, Inc., 29 Stafford Road**

**b. Step by Step Mart, 429 Main Road**

**c. Elaine's Country Store, 1204 Fish Road**

**d. Nimraj Inc. d/b/a Crossroads Liquor, 1540 Bulgarmarsh Road**

Chief Lloyd explained, have the schematics, recommend approval.

Councilor Lambert made a motion, seconded by Councilor Chabot to approve the New Annual Fireworks Licenses subject to meeting all legal requirements.

**APPOINTMENTS & RESIGNATIONS:**

**Following Board and Commission Members Were Re-Appointed**

**Art Commission – Madeline Diogenes, 69 Ash Avenue**

Councilor Chabot made a motion, seconded by Councilor deMedeiros to approve the reappointment of Madeline Diogenes to the Art Commission for a 2 year term expiring 4/15/2015. Motion passed unanimously.

**Building Code Board of Appeals – Architect – Michael S. Zmich, 150 N. Christopher Avenue**

President Roderick explained the Town Administrator makes appointments to the Building Code Board of Appeals, no action taken by Council.

**Economic Development Commission – Leonard G. Schmidt, 9 South Court**

Councilor Lambert made a motion, seconded by Councilor Gerlach to approve the reappointment of Leonard G. Schmidt to the Economic Development Commission for a 4 year term expiring 7/15/2017. Motion passed unanimously.

**Harbor & Coastal Waters Management Commission – Christopher Clarendon, 171 Preservation Way**

Councilor Lambert made a motion, seconded by Councilor Gerlach to approve the reappointment of Christopher Clarendon, 171 Preservation Way, to the Harbor & Coastal Waters Management Commission for a 2 year term expiring 7/15/2015. Motion passed unanimously.

**Tiverton Housing Authority – Recommendation of Tiverton Housing Authority-Elaine Nearpass, 110 Stoney Hollow Road**

Councilor Lambert made a motion, seconded by Councilor deMedeiros to approve the reappointment of Elaine Nearpass to the Tiverton Housing Authority for a 5 year term expiring 10/15/2018. Motion passed unanimously.

**Library Board of Trustees – (3) - 3 Year Term Expiring 10/15/2016**

**a.Barbara Donnelly, 64 Kenyon Road b.Gregory Jones, 161 Highland Road**

**c.Colin L. Robinson, 58 Leonard Drive**

President Roderick thanked all for their service, Mr. Robinson was unable to attend. Town Clerk Mello explained there were three reappointment requests, received one late, agenda had two. President Roderick noted the correction.

Councilor Gerlach made a motion, seconded by Councilor deMedeiros to approve the reappointment requests for the Library Board of Trustees for Barbara Donnelly, Gregory Jones and Colin L. Robinson each for a 3 year term expiring 10/15/2016. Motion passed unanimously.

**Personnel Board – 4 Year Term Expiring 10/15/2017-James Camara, 1221 Crandall Road**

Councilor Lambert made a motion, seconded by Councilor Chabot to approve the reappointment of James Camara, 1221 Crandall Road to the Personnel Board for a 4 year term expiring 10/15/2017. Motion passed unanimously.

**Planning Board – 3 Year Term Expiring 7/15/2016**

**a.Stuart B. Hardy, 51 Summerfield Lane b.David Saurette, 45 South Avenue**

**c.Patricia Cote, 67 Wampanoag Lane**

President Roderick thanked all three for their service. Councilor Lambert took the opportunity to clarify a point with Stuart Hardy. Noted in the Charter under Section 1001 Planning Board the duties and responsibilities, the Planning Board shall act in an advisory capacity to the Town Council in all matters concerning the Comprehensive Community Plan (Comp Plan), land use, Zoning and Subdivision Regulations, physical growth and development of the Town. Councilor Lambert asked Mr. Hardy if the Planning Board had a role in the economic development of the Town. Mr. Hardy replied affirmatively, the Comp Plan makes that clear, the Planning Board has two major responsibilities, to work with prospective developers on specific development projects and to make sure the planning tools are up to date, that the Comp Plan is up to date and the zoning is up to date. Councilor Lambert thanked Mr. Hardy for a clearer understanding, able to get that message out to the entire Town.

Councilor Chabot made a motion, seconded by Councilor Pelletier to approve the reappointments to the Planning Board for Stuart B. Hardy, David Saurette and Patricia Cote each for a 3 year term expiring 7/15/2016. Motion passed unanimously.

**Zoning Board of Review – 5 Year Term Expiring 7/15/2018-Susan T. Krumholz, 68 South Avenue**

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to approve the reappointment of Susan T. Krumholz to the Zoning Board of Review to a 5 year term expiring 7/15/2018. Motion passed unanimously.

**Zoning Board of Review–1st Alternate - Annual Appointment-Wendy Taylor Humphrey, 3198 Main Road**

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to reappoint as the First Alternate, Wendy Taylor Humphrey to the Zoning Board of Review for a one year term. Motion passed unanimously.

**Conservation Commission – 3 Year term Expiring 4/15/2016-Natalie Cote, 146 Leger Lane**

Councilor Gerlach made a motion, seconded by Councilor Chabot to approve the reappointment of Natalie Cote to the Conservation Commission for a 3 year term expiring 4/15/2016. Motion passed unanimously.

**NEW REQUESTS FOR APPOINTMENT FOR BOARDS WITH VACANCIES**

**Personnel Board – One Vacancy – Term Expiring 10/15/2016-Stephen ONeil, 167 Field Stone Lane**

Mr. ONeil owned a computer consulting business, involved with set up and organization has experience with hiring and managing personnel. Town Clerk Mello explained these vacancies have been advertised several times. This term was expiring in 2016 because of conflicts with other expiring terms.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to appoint Stephen ONeil, 167 Field Stone Lane to the Personnel Board to a term expiring 10/15/2016. Motion passed unanimously.

**Open Space Commission – One Vacancy – 3 Year Term Expiring 4/15/2016-James L. Spears, 94 West DeMello Drive**

Mr. Spears has worked with the Land Trust for a number of years, interested in open space preservation, currently on the Historical Cemeteries Commission.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to appoint James L. Spears to the Open Space Commission to a 3 year term expiring 4/15/2016. Motion passed unanimously.

**Recreation Commission – One Vacancy – 3 Year Term Expiring 4/15/2016-Susan Zmich, 150 north Christopher Avenue**

Mrs. Zmich, local architect, has been interested in the recreation programs for several years, has good organizational skills and could help with this commission.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to appoint Susan Zmich, 150 North Christopher Ave. to the Recreation Commission to a 3 year term expiring 4/15/2016. Motion passed unanimously.

**Wastewater Management Commission – One Vacancy – 2 Year Term Expiring 4/15/2015**

**a.Peter Andromalos, 1506 Main Road**

President Roderick clarified, one person was up for reappointment and there were two alternate vacancies which were annual appointments. Town Clerk Mello explained, Clerk records show a vacancy, received a call from the Chair on Friday, the person up for reappointment sent in a request to be reappointed. These would be for the two alternate appointments. Wastewater Management Chair Leroy Kendricks and Peter Andromalos were in attendance. Mr. Andromalos, self-employed, was a hydrologist for many years. Chairman Kendrick noted Mr. Andromalos would be a great asset.

Councilor Pelletier made a motion, seconded by Councilor Gerlach to appoint Peter Andromalos, 1506 Main Road as an Alternate Member on the Wastewater Management Commission for a one year term. Motion passed unanimously.

**b.Michelle Tepfenhart, 27 Middle Avenue**

Chairman Kendrick explained Ms. Tepfenhart had a conflict, unable to attend, was highly qualified, has a degree in mechanical engineering and an MBA specializing in business process.

Councilor Gerlach made a motion, seconded by Councilor Chabot to appoint Michelle Tepfenhart, 27 Middle Avenue, to an Annual Term as an Alternate Member on the Wastewater Management Commission. Motion passed unanimously.

**Harbormaster Appointment – Annual Appointment-Robert Terlisner, Saunderstown, RI**

Robert Terlisner, originally from Newport was a retired Middletown Police Officer served in the Coast Guard involved with enforcement. Concerned with public safety, the environment and the waterways. Will work with the former Harbormaster to address problems that arise. Will be on Aquidneck Island during the week. T/A Goncalo noted the Harbor Chair recommended this appointment. Solicitor Teitz noted under RI Law no special licenses were needed.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to appoint Robert Terlisner, Saunderstown, RI to the Harbormaster Position for a term of one year. Motion passed unanimously.

**RESIGNATIONS**

**Recreation Commission -Coordinator Theresa Burke – 30 Years of Service**

Administrator Goncalo noted Mrs. Burke has served the Town for over 30 years as Recreation Coordinator.

Councilor Gerlach made a motion, seconded by Councilor Chabot to accept the Resignation of Recreation Coordinator Theresa Burke with regret and thanks for 30 plus years of service. Motion passed on a vote of 6-0-1, Councilor Pelletier abstained, not at Council table.

**FINANCIAL BUSINESS:**

**DPW Director Stephen Berlucchi – Request Authorization to Transfer \$4000 From Acct#450-457 (Trash Removal) to Acct# 554-102 (Overtime)**

DPW Director Berlucchi explained the shortage was due to the Sandy and Nemo storms which occurred on weekends, overtime account affected. Getting a partial reimbursement for Sandy this Fiscal Year, Nemo next FY. Working on that application with FEMA now.

Councilor Gerlach made a motion, seconded by Councilor Chabot to approve the Authorization to Transfer \$4,000 from Account #450-457 (Trash Removal) to Account #554-102 (Overtime). Motion passed unanimously.

**Town Administrator – Review and Approval of Wastewater Management Budget for FY 2013-2014**

T/A Goncalo explained the Wastewater Management Budget is submitted separately for review and approval. Councilor Gerlach questioned why it was separated, why an increase in the professional fees from \$5,000 to \$15,000, why Capital Expenses went from \$7,000 to \$29,000. T/A Goncalo explained Wastewater operates out of their own revenue. Wastewater Chair Leroy Kendricks and Superintendent John Lincourt explained the increases. The professional fees increased due to the final phase of the Facilities Plan, expect other fees as a result of this plan, for consultants for enabling legislation for a new sewer district. Capital expenses increased due to repairs for the pumping stations, \$9,000 for computer upgrades. President Roderick questioned why a reduction in administrative fees. Chairman Kendricks explained last year's budget done by spreadsheet; one of the newest members is an accountant, has changed to general accounting practices and restructured the budget. Revenue projections based on water consumption.

Councilor Chabot made a motion, seconded by Councilor Gerlach to approve the Wastewater Management Budget for FY 2013-2014 as identified in item F2. Motion passed unanimously.

**NEW BUSINESS:**

**Town Administrator – Ratification of Wastewater Management Superintendent 3 – Year Contract July 1, 2012 to June 30, 2015 – Noticed per Charter**

T/A Goncalo explained the Wastewater Superintendent requested this be in Executive Session.

**Town Administrator – Ratification of Town Administrator 3-Year Contract – August 15, 2012 Through August 14, 2015 – James Goncalo – Noticed per Charter**

T/A Goncalo requested this be taken in Executive Session.

**Town Administrator – Ratification of Building Official 3-Year Contract – March 20, 2013 Through March 19, 2016 – Gareth Eames – Noticed per Charter**

T/A Goncalo explained the Building Official requested this be taken in Executive Session.

Solicitor Teitz clarified, the discussion of the performance evaluations will be done in Executive Session, the vote to ratify is done in open session.

**Town Administrator – Ratification Teamsters Contract 7/1/13 to June 30, 2016 – Noticed Per Charter**

T/A Goncalo explained this contract was similar to Police and Fire, have been negotiating since February, reached an agreement. Attached a cost impact summary, is a 3 year contract from July 2013 to June 2016. The increases from year 1 to 3 are 1.5, 1.75 and 2.0%. There is no longevity for future hires, increase in reimbursement for CDL/operator's license, allowed to renew on Town time. Boot reimbursement in July, no receipt needed, increases to \$150 in year 2 and 3. Cost impact over the 3 year period, 2.2% increase, requesting Council approval. Councilor Lambert was important to note the T/A has been working on these contracts, now have with all the unions.

Councilor Pelletier made a motion, seconded by Councilor Lambert to approve the Ratification of the Teamsters Contract of July 1, 2013 to June 30, 2016 as indicated in item G4. Motion passed unanimously.

**Councilor Gerlach – Revisiting Results of the September 2012 Planning and Zoning Workshop and Identifying Next Steps**

Councilor Gerlach noted this workshop was done prior to this Council; has been on the back burner, had many good ideas. A continued process is important, could use additional vetting. Looking at additional steps, one idea was to create some sort of cross functional task force with Town officials to further research and investigate issues identified in the report, create a set of short and long term implementations and to make the Town Council, Town Administrator or other Town official or entity accountable for getting done in a the time frames outlined. Councilor Chabot noted usually done as a resolution drafted by the Solicitor. Solicitor Teitz agreed can draft as directed by the Council. President Roderick agreed, good idea, especially on zoning, needs to be looked at, need to ensure both Planning and Zoning are involved in the process. Suggest starting with a draft of a resolution, then set a workshop date. Councilor Chabot noted the need for a change in the process. Solicitor Teitz noted good idea to move forward with it. President Roderick requested the Solicitor draft a resolution for the next meeting.

**BIDS AND REQUESTS FOR PROPOSALS:**

**DPW Director Berlucahi – Request to Award Bid for Purchase of Two Roll-Off Containers for the Landfill to RI Container Products, Inc. of Johnston, RI for \$10,350**

DPW Director Berlucahi explained these containers would be used at the landfill for recycling of mattresses, box springs and hard plastics, funding from recycling account. Received only one bid, did call 3 companies, cost is in line with other containers, have approximately \$30,000 left over.

Councilor Pelletier made a motion, seconded by Councilor Gerlach to approve the Award of Bid for 2 Roll Off Containers to RI Container Products, Inc. for \$10,350. The motion passed on a vote of 6-0-1, Councilor deMedeiros abstained, not at Council table.

**DPW Director Berlucahi – Request to Award Bid for Purchase of Chipper to Schmidt Equipment Inc. of North Oxford, MA for \$31,150 (with trade in)**

Director Berlucahi explained received 2 bids, difference between the two is a small amount, the lower bidder did not meet some of the specific requirements. Funding from storm Sandy FEMA reimbursement already received.

Councilor Pelletier made a motion, seconded by Councilor Chabot to Award the Bid for Purchase of a Chipper to Schmidt Equipment, Inc. for \$31,150 with trade in. Motion passed unanimously.

**Town Administrator – Request Approval to Award Fuel Management System to Syn-Tech Systems, Inc. of Tallahassee, FL for \$15,602.31**

Administrator Goncalo explained, had discussed the dispensing of fuel archaic, fill out a slip. This system will be automatic with a key, a card; will know exactly from the pump to the computer. The fuel tank will be relocated from the Police Department to the Department of Public Works, will have 3 fueling stations. Reviewed with the staff, have 75 vehicles, everyone who pumps will pay, analysis done based upon usage. All departments including the School accept and are saving funds in this FY. Don Dettlinger, local area representative, explained the Town could see a 10-15% savings in the first year. This system can be loaded onto currently used computers, produces reports and can help with preventive vehicle maintenance. Will probably take 3-4 weeks to install, depending on movement of the tank. There is an override in the unit, if a loss of power, stores up to 10,000 transactions. One year parts and labor agreement, costs \$700 per year.

Councilor Chabot made a motion, seconded by Councilor deMedeiros to approve to award Fuel Management System to Syn-Tech Systems, Inc. of Tallahassee, FL for \$15,602.31. Motion passed unanimously.

**Chief Blakey – Request Permission to Advertise for Bids to Purchase (2) Police Package 4x4 Vehicles and (1) Police Cruiser or to Purchase Vehicles From Comparable State Bid List**

Chief Blakey explained, can go out to bid or purchase comparable police vehicles from the State bid list. By doing this early will save money, was budgeted.

Councilor Pelletier made a motion, seconded by Councilor Arruda to approve the request to Advertise for Bids to Purchase (2) Police Package 4x4 Vehicles and (1) Police Cruiser. Motion passed unanimously.

**Chief Lloyd – Request Authorization to Purchase From Multi-Town Wide Bid, (2) Zoll Monitor/Defibrillators in the Amount of \$69,000**

Chief Lloyd explained, was approved at the FTM, had provided an active community bid list for purchase of these items, can piggyback with other towns.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to Authorize Chief Lloyd to Purchase (2) Zoll Monitor. Defibrillators in the Amount of \$69,000. Motion passed unanimously.

**Chief Lloyd – Request Approval to Purchase From Sole Source Shipman’s Fire Equipment of Waterford, CT – (4) 2007 Edition SCBA Air Packs and (9) 30 Minute 4.5 Scott Air Bottles for \$24,990**

Chief Lloyd explained the funds were approved at the Financial Town Referendum (FTR). This is to upgrade the air packs which are on each truck.

Councilor Pelletier made a motion, seconded by Councilor Arruda to Approve the Purchase from Sole Source Shipman’s Fire Equipment of Waterford, CT, (4) 2007 Edition SCBA Air Packs and (9) 30 Minute 4.5 Scott Air Bottles for \$24,990. Motion passed unanimously.

**TOWN ADMINISTRATOR ITEMS AND ANNOUNCEMENTS:**

1. Applications for free trash bags are in the Tax Assessor’s Office. Total household income must be less than #22,000. Contact 625-6709 for full details, form is on the website, was mailed to this year’s participants.
2. Recycling, May 2013 was 160 tons, vs 172 last year.
3. The Tax Collector’s Office will be open through lunch the first 10 days of each quarter.
4. Library activities, 6/27 at 2:00 p.m. Christa Johnson reading poetry, 6/28 at 10:30 a magician for children.

**COUNCIL ANNOUNCEMENTS, COMMENTS AND QUESTIONS:**

**Councilor Lambert – Consideration and Possible Action for a “Straw Vote” on the Issue of Commercial Development at Souza Road**

Councilor Lambert withdrew this item.

Councilor Arruda received numerous calls about the EZ Pass. T/A Goncalo explained RITBA was here today, have a schedule. They are accepting applications; cost \$10 for a transponder, \$25 deposit, then a credit will be given for \$10, not usual the transponder is free. The information is on the Town website, AAA is only accepting new applications. Solicitor Teitz noted, Town does not have to allow to be sold here. Councilor Pelletier noted do not want to inconvenience people. Town Clerk Mello added was important for people to realize parking was going to be an issue as people are making first quarter tax payments.

Councilor Arruda received several phone calls regarding something that was mailed out with the tax bills. Should be informed ahead of time. Councilor Gerlach noted they were bill stuffers from the EDC. President Roderick agreed should be aware.

**TOWN SOLICITOR – ITEMS AND ANNOUNCEMENTS:**

**Sakonnet River Bridge Tolls**

**a. Town of Bristol and Town of Tiverton’s Joint Motion to Intervene**

**b. Town of Bristol and Tiverton’s Memorandum in Support of Their Joint Motion to Intervene**

**c. Proposed Verified Complaint in Intervention**

**d. Supplemental Memorandum in Support of Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction**

**e. Exhibits 11, 12, 14 and 15 to Supplemental Memorandum**

**f. Defendants' Objection to Plaintiff's Motion for Preliminary Injunction**

**g. Plaintiff's Reply Memorandum**

Solicitor Teitz explained, per Council instruction filed various documents and provided copies of Joint Motion to Intervene and Memorandum in Support. K1f is the Defendant's Objection for a Preliminary Injunction and the Plaintiff's Reply Memorandum. Solicitor Teitz, Assistant Solicitor Gina DiCenso, Portsmouth Town Solicitor Kevin Gavin and Attorney Terrence Tierney all filed under Solicitor Gavin. The Judge denied the Motion for Preliminary Injunction, called it speculative at best, decided the Town would not prevail. After discussions filed an appeal with the US Court of Appeals, First Circuit. Long shot to see if the First Circuit will stay this to hear it before July 1<sup>st</sup>. On the other hand, is harder in substantive law, once they collect will be hard to get a judge to cut off. Going forward the law says have to appeal to a District Court Judge for a stay, and now having to ask for a stay on the Preliminary Injunction to continue going forward with the First Circuit. Hoping for an expedited response, will discuss more about strategy in Executive Session.

Solicitor Teitz further explained there are 4 standards to grant the preliminary injunction, one of them being the likelihood of success on the merits. Would normally have testimony, accelerated, done on affidavits and arguments. Still have the Town's Joint motion to intervene, technically pending. The Judge did not rule on that day. Presumably if denied would bring a separate action.

**Town of Tiverton v. James and Melissa Pelletier**

Nothing new for the public portion will be discussed in Executive Session.

**TOWN CLERK ANNOUNCEMENTS:**

There was no announcement from the Town Clerk.

**CLOSED EXECUTIVE SESSION:**

**1. Town Solicitor–Litigation– 42-46-5(a) (2)–Sakonnet River Bridge Tolls**

**2. Town Solicitor–Litigation–42-46-5(a) (2)–Town of Tiverton v. James and Melissa Pelletier**

**3. Town Solicitor –Litigation – 42-46-5(a) (2) - Town of Tiverton v. LAL Construction Company, Inc. et. al. – Case #NC-2013-0087**

**4. Town Administrator - Prospective Business or Industry-42-46-5(a) (6) – Industrial Park**

**5. Town Council – Personnel Performance – 42-46-5(a) (1) – Building Official – Gareth Eames**

**6. Town Council – Personnel Performance – 42-46-5(a) (1) – Town Administrator – James Goncalo**

**7. Town Council – 42-46-5(a) (1) Personnel Performance Evaluation – Wastewater Management Superintendent – John Lincourt**

Councilor Lambert made a motion, seconded by Councilor Chabot to enter into Closed Executive Session pursuant to RI General Law 42-46-5(a) (2) – Litigation- Sakonnet River Bridge Tolls. Motion passed unanimously

Councilor Lambert made a motion, seconded by Councilor Chabot to stay in Closed Executive Session pursuant to RI General Law 42-46-5(a) (2) – Litigation – Town of Tiverton v. James and Melissa Pelletier. Motion passed unanimously.

Councilor Lambert made a motion, seconded by Councilor Chabot to stay in Closed Executive Session pursuant to Litigation –RI General Law 42-46-5 (a) (2) - Town of Tiverton v. LAL Construction Company, Inc., et. Al. – Case #NC – 2013-0087. Motion passed unanimously.

Councilor Lambert made a motion, seconded by Councilor Chabot to stay in Closed Executive Session pursuant to RI General Law 42-46-5(a)(6) - Prospective Business or Industry – Industrial Park. Motion passed unanimously.

Councilor Lambert made a motion, seconded by Councilor Chabot to continue in Closed Executive Session pursuant to RI General Law 42-46-5 (a) (1) – Personnel Performance – Building Official – Gareth Eames. Motion passed unanimously.

Councilor Lambert made a motion, seconded by Councilor Chabot to continue in Closed Executive Session pursuant to RI General Law 42-46-5 (a) (1) – Personnel Performance – Town Administrator – James Goncalo. Motion passed unanimously.

Councilor Lambert made a motion, seconded by Councilor Chabot to continue in Closed Executive Session pursuant to RI General Law 42-46-5 (a) (1) – Personnel Performance – Wastewater Management Superintendent – John Lincourt. Motion passed unanimously.

Solicitor Teitz requested a correction to #3, need to delete Possible, is just Litigation. For the Personnel Performances they were all notified in writing, did not exercise option to have in open session. These should be heard prior to the Litigation.

Councilor Pelletier made a motion, seconded by Councilor Chabot to take numbers 5, 6 and 7 first, taking 7 as the very first one. Motion passed unanimously.

The Council entered into Executive Session at approximately 9:15 p.m.

The Council returned to Open Session at approximately 10:50 p.m.

**OPEN SESSION:**

Councilor Roderick announced in open session to ratify contract for Mr. Lincourt. Councilor Pelletier motioned to ratify contract for Wastewater Management Superintendent John Lincourt for a term from 7/1/2012 to 6/30/2015 with salary increase of 3%. Seconded by Councilor deMedeiros. Motion passed unanimously.

Councilor Chabot noted change of name of duties on page two. Mr. Lincourt in agreement with contract other than life insurance amount where other Dept Heads receive 100,000 and his contract only has 50,000. No other major issues. Administrator stated not seen as Dept Head, works under Highway Director. Councilor Chabot noted no qualifiers, in the model contract. Suggested can add addendum to contract for insurance next week.

Councilor Lambert motioned to ratify Gareth Eames contract with salary increase over last year of 3% for term 3/20/13 to 3/19/2016, seconded by Councilor Pelletier. Motion failed 4 to 3. Councilors Chabot, Arruda, Gerlach and deMedeiros opposed.

Town Solicitor advised per Charter section 407-13, Town Council must return unratified contracts to the Town Administrator with reasons for further negotiations.

Councilor Pelletier at this time motioned to go back into Executive Session, seconded by Councilor Chabot. Motion passed unanimously.

The Town Council returned to Executive Session to continue at approximately 11:05 p.m.

The Council returned to Open Session at approximately 12:10 a.m.

**OPEN SESSION:**

In Open Session President Roderick announced action had been taken on the Sakonnet Bridge Tolls. No action taken on items 2, 3 & 4 Litigation and Prospective Business. Item 5 & 6 Personnel Performance of Building Official and Town Administrator are continued to next meeting.

Councilor Chabot motioned to seal the minutes of Executive Session, seconded by Councilor deMedeiros. Motion passed 6-1. Councilor Pelletier opposed.

**ADJOURNMENT:**

Councilor Chabot motioned to adjourn. Seconded by Councilor Arruda, motion passed unanimously. Council adjourned at approximately 12:15 a.m.

A True Copy.

ATTEST: \_\_\_\_\_  
Nancy L. Mello, Town Clerk

**ORDINANCE NO. 2013-**

**AN ORDINANCE IN AMENDMENT TO  
CHAPTER 15 – DRINKING WATER RESERVOIRS  
OF THE ORDINANCES OF THE TOWN OF TIVERTON**

WHEREAS, Stafford Pond is a Class AA water supply that is the source of drinking water for 10,000 people in the Town of Tiverton, via the Stone Bridge Fire District and the North Tiverton Fire District and the loss such supply would cause catastrophic consequences to the citizens of Tiverton; and

WHEREAS, Nonquit Pond is a Class AA water supply that is one of the drinking water sources for the Newport Water Supply and the loss of such supply would cause detrimental consequences for all of the Aquidneck Island communities; and

WHEREAS, the Town of Tiverton has already taken significant measures to improve the water quality of Stafford Pond and Nonquit Pond, including enacting numerous ordinances, adopting protective and restrictive zoning (for example the Watershed Overlay Protection District and the Onsite Wastewater Management Program), wastewater and stormwater management initiatives, and conducting educational and public outreach initiatives; and

WHEREAS, RIDEM (via its Division of Fish and Wildlife) has authorized intensification of the recreational use of Stafford Pond in 2013 through several fishing tournaments, and the continued stocking of trout into Stafford Pond; and

WHEREAS, R.I.G.L. 46-14-1 forbids any activity that will “pollute or corrupt or impair the purity or quality of a public drinking water supply or which renders the water supply injurious to health or poses a potential significant risk to public health.”

NOW, THEREFORE, the Town Council of the Town of Tiverton hereby finds that there exists a potential significant risk to public health from increased activities on Stafford Pond and that prompt action is needed to mitigate such risk in the short term, and that a further concerted effort is needed to reduce such risk to drinking water quality in the future; and

IT IS HEREBY ORDAINED by the Town Council of Tiverton, Rhode Island, that Chapter 15 (currently labeled as

“Reserved”) of the Ordinances of the Town of Tiverton be amended to add all of the following new provisions:

## **CHAPTER 15 – DRINKING WATER SUPPLY RESERVOIRS**

### **ARTICLE I – Fishing Tournaments on Drinking Water Supply Reservoirs**

#### **Sec. 15-1 Scope and Application**

This Article shall apply to any surface water supply used as a primary or secondary source of drinking water to a public water supply system, including without limitation, Stafford Pond and Nonquit Pond.

#### **Section 15-2 Fishing Tournaments – Permit Required**

Any organized fishing tournament consisting of more than six (6) boats shall require a permit issued by the Town Clerk, only after application on a form to be provided by the Clerk, and satisfaction of the following requirements.

- A. A copy of the RIDEM Permit for tournament use of launching ramp or satisfactory proof that a RIDEM usage permit has been obtained by the Applicant.
- B. Insurance – The Applicant shall submit proof of insurance in an amount of not less than One Million Dollars (\$1,000,000) covering personal liability and specifically including coverage for both environmental pollution damage and clean up.
- C. Contact Information – The Applicant shall provide an individual responsible for compliance with all rules and regulations, including but not limited to Town ordinances and RIDEM Rules. The specific contact information to be furnished by the Applicant is as follows: First and last name, Mailing address, cell phone number of such individual reachable during all hours of the tournament, club or organization affiliation (if any). In addition, the Applicant shall provide the date(s), arrival time(s), start time(s), and end time(s) of the permitted tournament.
- D. Participating Vessels – If known at the time of securing said permit from the Town of Tiverton, the Applicant shall provide the total number of boats scheduled to participate in the tournament. If not known at the time of permitting, and if RIDEM is unable to furnish to the Town after the tournament for which the Applicant is securing said permit, the Applicant shall notify the Town of the total number of participating boats not more than one business day after the conclusion of the tournament. Notification shall be in the form of an email or phone call to the Town Clerk’s office. Tournament boats, if not otherwise in compliance with all regulations including the limitation of motor horsepower, shall not be allowed at any times other those times set forth on both the RIDEM and Tiverton permits. If during the permitted tournament an accident or incident should occur involving any of the participating tournament boats resulting in need for further investigation by local authorities and/or environmental pollution damage, the Applicant shall provide the Town of Tiverton with a list of State Registration Numbers of all participating boats to assist in said investigation.

#### **15-3 Penalties**

Any violation of this Chapter shall be a violation of this Code of Ordinances punishable by a fine of up to \$500 per occurrence.

### **ARTICLE II – TIVERTON CONSERVATION COMMISSION – INVESTIGATION AND REPORT**

#### **15-4 Investigation**

The Conservation Commission (including its Stafford Pond Study Committee), as the local agency specifically charged by R.I.G.L. 45-51-3 to coordinate with any state agency necessary to resolve issues affecting the safety of drinking water or water quality, shall investigate and advise the Town Council and the RIDEM and RIDOH as to the physical and environmental condition of the Pond, the ownership of the pond, the riparian and water rights of the pond, and provide such recommendations as the Committee deems are reasonable and appropriate to preserve the ecological and drinking water quality of the drinking water reservoirs within the Town.

## **15-5 Reports**

The Commission shall issue a written report of its findings and recommendations not later than October 1, 2013, addressing at least the following questions and discussing any other relevant issues based on its investigation:

- A. The prohibition of all fishing tournaments to be phased in by a date to be recommended by the Conservation Commission.
- B. The regulation of the number of boats per reservoir, and the regulation of the type of power source and horsepower per boat.
- C. The prohibition of swimming and other activities.
- D. The prohibition of depositing any materials into any reservoir.
- E. The prohibition of seaplane activity on Stafford Pond, pending response from the FAA.

**This Ordinance shall take effect upon public hearing and passage.**