

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

**Approved 6/10/13**

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 28th day of May 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- Absent</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.

President Roderick announced the Wastewater Management Public Input Hearing was not being held today, scheduling of hearing being discussed later in the agenda.

**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.

President Roderick read the items on the Consent Agenda, requested removals. Councilor Gerlach requested removal of item CA3e, Town of Scituate Resolution Opposing Legislation to Create the Ocean State Regional Water Authority. There were no other removal requests.

Councilor Lambert made a motion, seconded by Councilor Arruda to approve the items on the Consent Agenda except for item CA3e. Motion passed on a vote of 5-0.

The Consent Agenda was as follows:

**CONSENT AGENDA**

**A-1-Approval of Minutes of Previous Meetings:**

- a. Approval of Minutes Regular Council Meeting May 13, 2013
- b. Approval of Executive Session Minutes May 13, 2013

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

- |                         |                                     |
|-------------------------|-------------------------------------|
| Board of Canvassers (3) | d. Wastewater Management            |
| Economic Development    | e. Historical Cemeteries Commission |
| Prevention Coalition    | f. Personnel Board                  |

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

- a. Charlestown Town Council–Resolution Opposing H-5953 and S-815 Regarding Large Scale Commercial Production Wind Energy Generators (Wind Turbines)
- b. South Kingstown Town Council – Resolution In Support of S-836 & H-5935 Related to Streetlights Reform Program
- c. Town of North Kingstown – Resolution Opposing Legislation Related to Renewable Energy That Does Not Comply With RI Statewide Planning and URI RESP Guidelines
- d. Jamestown Resolution Related to Constitution Amendment to Include RI General Assembly Under the RI Code of Ethics

#### **A-4-Distribution of Department Monthly Reports for April**

#### **A-5-Approval of Tax Assessor Abatement**

#### **BUSINESS BROUGHT BEFORE THE COUNCIL**

#### **Town of Scituate Resolution Opposing Legislation to Create the Ocean State Regional Water Authority**

Councilor Gerlach questioned if the Solicitor or Administrator had received any correspondence from the State about usurping the municipalities. President Roderick pointed out the discussion was in the Legislature on creating a state wide water authority. Councilor Gerlach will research further.

Councilor Gerlach made a motion, seconded by Councilor Chabot to accept item CA3e, Town of Scituate Resolution Opposing Legislation to Create the Ocean State Regional Water Authority. Motion passed on a vote of 5-0.

#### **Items moved up in the agenda.**

Councilor Lambert made a motion, seconded by Councilor Gerlach to move up item K2a&b relative to the Sakonnet Tolls to be taken before the Open Public Forum. Motion passed on a vote of 5-0.

Councilor Lambert made a motion, seconded by Councilor Chabot to move up from Executive Session item 2, Possible Litigation-Sakonnet River Bridge Tolls to the open. Motion passed on a vote of 5-0.

#### **Possible Participation In Federal Lawsuit Regarding Sakonnet River Bridge Tolls**

#### **a.Letter from Portsmouth to FHA/RIDOT**

#### **b.Portsmouth's Complaint in United States District Court**

#### **Town Solicitor-Possible Litigation- 42-46-5(a) (2)-Sakonnet River Bridge Tolls**

Solicitor Teitz explained, the issue of the Tolls on the Sakonnet Bridge, the Town of Portsmouth has filed a lawsuit with the Federal District Court in RI that the tolls are illegal for a variety of reasons. At the direction of the Council given, met with the Portsmouth Town Solicitor discussed strategy for the Town to join litigation. Portsmouth has filed a preliminary injunction, DOT has erected the gantry for the tolls, Portsmouth filed a temporary restraining order and injunction. Bristol voted unanimously to join; the advantage of having one Solicitor is a reduced rate. Solicitor Teitz handed out previously prepared documents, a Joint Motion to Intervene, a Memorandum in Support of the Joint Motion to Intervene and a Proposed Verified Complaint in Intervention. Using what Portsmouth did, added the harm to Tiverton and Bristol.

Request a vote of the Council to join in the litigation, will send a text to Assistant Solicitor Gina DiCenso who will electronically file to attend a conference tomorrow. Hope for a conference scheduled for agencies to respond to the motion and for a timetable before July 1<sup>st</sup>. Using the same complaint as Portsmouth, no question about Tiverton's right to intervene, trying to make as easy as possible.

Councilor Pelletier arrived at this time, 7:10 p.m.

Councilor Gerlach made a motion that the Town of Tiverton joins Portsmouth and Bristol enjoining the lawsuit against the Sakonnet River Bridge tolls. Seconded by Councilor Arruda, some discussion followed. Councilor Pelletier was updated, using the complaint drafted by Portsmouth, adding grounds for damages. In 2003 the impact study not changed for tolls, never looked at this issue. The Feds said did not have to redo just reevaluate, the Town argument is can't reevaluate if it was not looked at in the first place. Motion passed unanimously.

Councilor Lambert made a motion, seconded by Councilor Gerlach to move up out of order and take before the Open Public Forum items E1, 2 and 3, Ratification of Contracts for Tax Collector, Fire Chief and DPW Director and move up and out of Executive Session item 7, Town Council – Personnel Performance – 42-46-5(a) – Tax Collector, DPW Director and Fire Chief- Notice Provided Per Open Meetings Act. Solicitor Teitz explained this was under open and closed because the Department Heads can exercise their right in open session. The Council evaluated the Town Administrator and he evaluates the Department Heads. The personal evaluation can remain in private or can be in public discussion if they waive that right. Councilor Pelletier questioned if both were being moved out of order and the executive session part in the open. Councilor Lambert amended the motion item 7 remains as Executive Session. Councilor Gerlach seconded the amended motion. Solicitor Teitz explained it would only be in Executive Session if the Department Head wanted the evaluation discussed in Executive Session. The motion passed on a vote of 5-1-0, Councilor Pelletier opposed.

**UNFINISHED BUSINESS:**

**Town Administrator – Ratification of Tax Collector 3-Year Contract – July 1, 2012 Through June 30, 2015 – Toni Lyn McGowan – Noticed per Charter**

Administrator Goncalo requested ratification of the contract for the Tax Collector as proposed. President Roderick explained to Ms. McGowan the right to have the evaluation discussed in open. Ms. McGowan agreed to the discussion in open session. Solicitor Teitz explained to Ms. McGowan also had the right to have the evaluation discussed in private. Ms. McGowan chose the open discussion. At this time copies of the evaluation needed to be made for the Council, a brief five minute break was taken at 7:35 p.m.

After the break T/A Goncalo explained the contract was from July 1, 2012 to June 30, 2015, standard contract, 3% salary increase to \$29,355, includes a job description. Relative to the performance evaluation attendance was very good, devotes the needed time to complete the job, has a positive attitude, demonstrates initiative, is knowledgeable, communicates effectively, and manages the budget within the confines of the appropriation. Goals include enrolling in a tax offset program and explore avenues to increase collection rates on mobile homes. Ms. McGowan read the evaluation, agreed with it and the contract. Councilor Pelletier questioned the T/A on the retro pay raise, was it budgeted in this year. T/A Goncalo explained it was budgeted in the Future Needs account, some contracts being done in arrears, next year's raises also accounted for in the Future Needs account.

Councilor Lambert made a motion, seconded by Councilor Pelletier to ratify the Tax Collector 3 year contract for Toni Lyn McGowan as presented in the exhibit attached at item E1. Motion passed unanimously.

**Town Administrator – Ratification of Fire Chief 3-Year Contract – January 4, 2013 Through January 3, 2016 – Chief Robert Lloyd – Noticed per Charter**

President Roderick asked Fire Chief Robert Lloyd if he wanted his Performance Evaluation in Executive Session. Chief Lloyd had no problem waiving. T/A Goncalo explained the contract would be effective from January 4, 2013; a 3 year standard contract as approved for the Model Contract includes a job description. Relative to the Performance Evaluation the Chief is here whenever any calls of significance occur, very good attendance, positive attitude, takes the job seriously, knowledge is commendable, as the EMA does a good job managing the budget. Goals to establish officer training, reduce paperwork, stress higher education and develop public policy training. Chief Lloyd read the evaluation, did not have any issues.

Councilor Lambert made a motion, seconded by Councilor Gerlach to ratify the Fire Chief 3 year contract, January 4, 2013 to January 3, 2016 for Fire Chief Robert Lloyd as attached in item E2. Councilor Chabot noted this agreement superseded all previous agreements, had a contract in place. Motion passed unanimously.

**Town Administrator – Ratification of DPW Director 3 – Year Contract – January 7, 2013 Through January 6, 2016 – Stephen Berlucahi – Noticed per Charter**

T/A Goncalo requested ratification of the 3 year contract for the DPW Director. Director Berlucahi waived the right to have in closed session. T/A Goncalo explained, a standard contract, salary of \$82,400 first year, a 3% salary increase, job description attached. Relative to the Performance Evaluation, Director Berlucahi joined the Town in 2008, has improved substantially through the years, attendance good, positive attitude, demonstrates initiative, assists other departments when needed, is a professional engineer and demonstrates that knowledge, manages that budget effectively. Goals to develop a pavement management plan maintain the Stormwater II license and maintain the landfill license. Director Berlucahi agreed with the contract and the evaluation.

Councilor Lambert made a motion, seconded by Councilor Pelletier to ratify the DPW 3 year contract for Stephen Berlucahi for January 7, 2013 to January 6, 2016 as attached in item E3. Motion passed unanimously.

**OPEN PUBLIC FORUM**

Barbara Pelletier provided a hand out on the dog park, requested help from the Council and T/A in drafting a request to use the area near the park and ride. Sally Black thanked the Budget Committee, Town Clerk, Council and Town Treasurer for working on and compromising on a budget. Roger Bennis had 130 local articles, letters and a DVD of the Portsmouth toll hearings to provide if any could be of assistance to the Solicitor. Solicitor Teitz was looking for a tape of the meeting in 2003, had documentation, would take the DVD.

**PUBLIC HEARINGS & PUBLIC PRESENTATIONS:**

**PUBLIC PRESENTATIONS**

**ADVERTISED PUBLIC HEARINGS**

**Proposed Amendment to Code of Ordinances Adding New Chapter 8: Substances Prohibited**

President Roderick opened the Public Hearing on the proposed amendment to the Code of Ordinances Adding New Chapter 8: Substances Prohibited. Police Chief Thomas Blakey was basically looking to ban the sale and distribution of bath salts or hallucinogens. Neighboring Fall River has banned those substances which are being ingested by people, can be quite harmful. A fee would be imposed or a loss of license for a violation. Rebecca Ellwell, Prevention Coalition, spoke in favor of the proposed ordinance. These substances are often sold to minors, important to understand these are chemicals, have no redeeming benefit, escape regulation by the FDA because specifically labeled not for human consumption. Sold with other smoking devices, sometimes referred to as incense or bath salts. Do not have any RI statistics, is the third most substance abused after alcohol and marijuana. Chief Blakey thanked Ms. Ellwell for the work. Christine Bandoni, Assistant Councilor at Cumberland High School agreed with Ms. Ellwell, making this illegal would be positive for the community. Josh Pavao, in the tobacco business for many years, agreed with ordinance, these products are marketed to kids.

Chief Blakey planned to properly notify businesses, will take progressive steps. Solicitor Teitz explained, don't have the ability to impose sentences like the Feds, would be a misdemeanor, trying to choke off the supply, will have more of an effect due to the loss of license. Chief Blakey noted possession would also be prohibited, also is something before the General Assembly. Solicitor Teitz explained this would be effective upon passage.

Councilor Pelletier made a motion, seconded by Councilor Lambert to approve the Proposed Amendments to Code of Ordinances Chapter 8- Substances Prohibited as attached in item B1. Motion passed unanimously.

The Adopted Amendment was as follows: TOWN OF TIVERTON  
PROPOSED AMENDMENT TO TOWN CODE  
ADDING NEW CHAPTER 8: SUBSTANCES PROHIBITED

Chapter 8. Substances Prohibited.

8-1. Possession, Distribution & Display of certain substances.

It has been reported by various agencies that synthetic cannabinoids, synthetic cathinones and synthetic hallucinogens have been linked to serious physical effects resulting in hospitalization and death when ingested, inhaled or otherwise consumed. These synthetic cannabinoids, synthetic cathinones and synthetic hallucinogens pose health, safety, and welfare issues to the residents of the Town of Tiverton.

## 8-2. Definitions.

As used in this Chapter, the following terms shall have the meaning ascribed to them below:

(a) *Cannabimimetic agents*. Unless specifically exempted by law, any material, compound, mixture or preparation which contains any quantity of cannabimimetic agents, their salts, isomers, and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation. As used in this Chapter, cannabimimetic agents mean:

1. Any substance that is a cannabinoid receptor type 1 (CB 1 receptor) as demonstrated by binding studies and functional assays within the following structural classes:
  - a. 2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the penolic ring by alkyl or alkenyl, whether or not substituted on the cyclohexyl ring to any extent;
  - b. 3-(10naphthoyl)indole or 3-(1-naphthyl)indole by substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the naphthoyl or naphthyl ring to any extent;
  - c. 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the indole ring to any extent, whether or not further substituted on the naphthoyl ring to any extent;
  - d. 1-(1-naphthylmethyl)indene by substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to any extent;
  - e. or 3-phenylacetylindole or 3-benzoylindole by substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the phenyl ring to any extent.
2. Any substance which includes any one (1) or more of the following chemicals:
  - a. CP 47, 497; 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol;
  - b. Cannabicyclohexanol; 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol;
  - c. JWH-015; (2methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone;
  - d. JWH-018; 1-pentyl-3-(1-naphthoyl)indole;
  - e. JWH-019; 1-hexyl-3-(1-naphthoyl)indole;
  - f. JWH-073; 1-butyl-3-(1-naphthoyl)indole;
  - g. JWH-081; 1-pentyl-3-(1-4 methoxynaphthoyl)indole;
  - h. JWH-122; 1-pentyl-3-(4-methyl-1-naphthoyl)indole;
  - i. JWH-200; 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole;
  - j. JWH-203; 1-pentyl-3-(2-chlorophenylacetyl)indole;
  - k. JWH-250; 1-pentyl-3-(2-methoxyphenylacetyl)indole;
  - l. JWH-398; 1-pentyl-3-(4-chloro-1-naphthoyl)indole;
  - m. AM2201; 1-(5-fluoropentyl)-3-(1-naphthoyl)indole;
  - n. AM694; 1-5-fluoropentyl-3-(2-iodobenzoyl)indole;
  - o. SR-19 and RCS-4; 1-pentyl-3-(4-methoxy-benzoyl)indole; and
  - p. SR-18 and RCS-8; 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole.
3. Any substance which includes any one (1) or more of the following chemicals:
  - a. 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E);
  - b. 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D);
  - c. 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C);
  - d. 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I);
  - e. 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2)
  - f. 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4);

- g. 2-(2,5 Dimethoxyphenyl)ethanamine (2C-H);
- h. 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C-N); and
- i. 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P).

(b) *Illegal chemical product*: Any substance which includes and one (1) or more of the following chemicals:

1. 3,4-methylenedioxy-methcathinone, MDMC;
2. Medphradone (4-methylmethcathinone);
3. 4-methylmethcathinone, 4- MMC;
4. 4- methoxymethcathinone, bk –PMMA, PMMC;
5. 3,4- fluoromethcathinone, FMC;
6. Naphthylpyrovalerone, NRG-1;
7. Beta-keto-N-methylbenzodioxolylpropylamine;
8. 2-(methylamino)-propiophenone; OR alpha-(methylamino)propiophenone;
9. 3-methoxymethcathinone;
10. 2-(methylamino)-1-phenylpropan-1-one;
11. 4-ethylmethcathinone;
12. 3,4-dimethylmethcathinone;
13. Alpha-Pyrrolidinopentiophenone;
14. Beta-Keto-Ethylbenzodioxolybutanamine;
15. 3,4-methylenedioxy-N-ethylcathinone;
16. 4-methyl-alpha-pyrrolidinobutyrophenone;
17. Methylenedioxypropylvalerone or [(MDPV) (1-(1,3-Benzodioxol-5-yl)-2-(1-pyrrolidinyl)-1-pentanone)]; and
18. MDAI; 5,6-methylenedioxy-2-aminoindane.

(c) *Person*: An individual, corporation, partnership, wholesaler, retailer, or any licensed or unlicensed business.

#### 8-3. Prohibition and Scope.

- (a) No person shall sell, offer to sell, gift, or publicly display for sale any cannabimimetic agent, illegal chemical product, or like products that shall intentionally or willfully induce the symptoms of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, or dulling of the senses or nervous system, distortion of audio, visual, or mental processes, that is similar to a controlled substance or imitation controlled substance.
- (b) This Chapter shall apply whether the cannabimimetic agents or illegal chemical products, as herein defined, are displayed as tobacco, herbs, incense, spice, bath salts, plant food or any blend thereof, regardless of whether the substance is marketed for the purpose of being smoked or ingested.

#### 8-4. Enforcement and Penalties.

- (a) This Chapter shall be enforced by the Tiverton Police Department through any lawful means in law or in equity including, but not limited to, prosecution of a misdemeanor.
- (b) Any person who violates this section shall be guilty of a crime, and upon conviction, may be imprisoned for a term of no more than one (1) year and/or a fine of up to five hundred dollars (\$500).
- (c) Any person who violates this section shall also be subject to revocation of any municipal licenses and permits including, but not limited to, sales licenses.

**Public Hearing – Proposed Amendments to Code of Ordinances Chapter 15 – Drinking Water Reservoirs (Sections 15-1 Through 15-5) a.Councilor Gerlach Report on Meeting with DEM Director Coit on May 15<sup>th</sup> b.Resolution by North Tiverton Fire District Supporting Any and All Measurers to Restrict motorized Recreational Activity on Stafford Pond**

President Roderick requested comments from the public at this time. Councilor Gerlach updated, a continuous effort to try to work with DEM, on May 15<sup>th</sup> attended a meeting aimed at engaging DEM Director Janet Coit in these discussions. This meeting also included Trish Hilton (Conservation), Cathy Sparks, Liz Scott, Tom Ramotowski, Carl Destremps and Frank Raposa from Stone Bridge Water Authority, Clay *Commons* (DOH) and Senator Walter Felag. It was a good discussion; Town clearly stated the position was to protect the water quality of that drinking water from Stafford Pond. Agreed that the increased recreational traffic and lifting of 10

horsepower boat limits contribute to degradation of water quality, compromises boating safety and increases the potential for invasive species. Water quality testing done by URI has shown degradation since 2008, a rise in phosphorous levels. Still a lot of work to do, moving forward in trying to develop a sound manageable plan. This working group will continue to meet on a regular basis. Stone Bridge offered to pay for additional water quality testing, looking at a nonprofit, Save the Lakes to monitor invasive species. DEM to review existing signage and the boat ramp. A public port a potty will be there year round. DEM looking to decrease the number of fishing tournaments and boat horsepower to 10, reviewing parking and better enforcement. President Roderick closed the Public Hearing at this time.

Councilor Gerlach recommended to the Council, in light of the feedback based on the meeting with Director Coit to go back and redraft the ordinance to reflect some of that discussion and bring back for the June 10<sup>th</sup> meeting.

Councilor Gerlach made a motion to continue. Solicitor Teitz noted in order to change the ordinance the Public Hearing would have to be reopened. President Roderick reopened the Public Hearing on the proposed change to the Code of Ordinances Chapter 15-Drinking Water Reservoirs. Councilor Gerlach made a motion to continue the Public Hearing to June 10, 2013. The motion was seconded by Councilor Pelletier. Councilor Lambert suggested notifying DEM so they would know what the Town is doing. President Roderick noted at some point have to determine what is in the best interest of the Town. Councilor Gerlach noted this was a step in the right direction, will require a greater role for the Conservation Commission. Motion passed unanimously.

The Town Council was sitting as the Board of Licensing Commissioners:

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

**TNT Fireworks, West Haven, Ct. - Requests Approval of Fireworks Permit and Holiday License at 527 Main Road, From June 18, 2013 to July 9, 2013 – Subject To Meeting All Legal Requirements – Response From Fire Department**

Chief Lloyd was still trying to get in touch with the applicant in order to inspect the property, recommend approving pending inspection. President Roderick explained it would be subject to meeting all legal requirements anyway. Chief Lloyd wanted to inspect prior to set up of the store, not after, is incumbent on any distributor to check on the ordinance. Jamin McLaughlin, TNT liaison for the Town will cooperate with the Chief. Town Clerk Mello noted, if not in order the license will not be issued. Solicitor Teitz suggested continuing to the next meeting.

Councilor Lambert made a motion, seconded by Councilor Chabot to continue the request from TNT Fireworks, West Haven, CT. for a Fireworks Permit and Holiday License to June 10, 2013. Motion passed unanimously.

Solicitor Teitz reminded the applicant everything must be in order by the Wednesday before that meeting.

**Joshua Pavao d/b/a Cigarsmiths - Requests Approval of Tobacco Dealers and Holiday License at 115 Stafford Road– Subject To Meeting All Legal Requirements**

Chief Blakey conducted a background check, no disqualifiers from obtaining a license. Mr. Pavao explained the location was in the same plaza as Macray's Seafood.

Councilor Pelletier made a motion, seconded by Councilor Arruda to approve the request from Joshua Pavao, d/b/a Cigarsmiths, for a Tobacco Dealers and Holiday License at 115 Stafford Road, subject to meeting all legal requirements. Motion passed unanimously.

**APPOINTMENTS & RESIGNATIONS:**

**Wastewater Management Commission – 3 Year term Expiring 4/15/2016-Leroy E. Kendricks, 53 Rhododendron Drive**

Councilor Lambert made a motion, seconded by Councilor Chabot that Leroy E. Kendricks be reappointed to the Wastewater Management Commission to a three year term expiring April 15, 2016. Motion passed unanimously.

**FINANCIAL BUSINESS:**

**Town Administrator – Request Council Approval to Transfer Funds Within Fire Department to Cover Overtime as Result of Resignations Causing Overtime to Meet Minimum Staff Requirements**

**From Acct 331-101 (Base Salary) to Acct 331-102 (Overtime) Amount \$25,000**

**From Acct 331-105 (Holidays) to Acct 331-102 (Overtime) Amount \$3,100**

**From Acct 331-106 (Longevity) to Acct 331-102 (Overtime) Amount \$3,600**

Administrator Goncalo requested Council approval to transfer funds to the Overtime account, have excess funds due to resignations in the Fire Department. Chief Lloyd explained, is an ongoing problem, increasing training of recruits, trouble retaining at minimum staffing.

Councilor Lambert made a motion, seconded by Councilor Arruda to approve the request for the Transfer of Funds within the Fire Department as set forth in the attachment, F1, from Acct 331-101 (Base Salary) to Acct 331-102 (Overtime) Amount \$25,000, from Acct 331-105 (Holidays) to Acct 331-102 (Overtime) Amount \$3,100 and from Acct 331-106 (Longevity) to Acct 331-102 (Overtime) Amount \$3,600. Motion passed unanimously.

**NEW BUSINESS:**

**Library Board of Trustees and Building Committee – Request Tiverton New Library Project be Exempted from Town Agencies Fees**

Lee Hoyer, Library Board of Trustees and Building Committee, requested certain fees be exempt regarding construction. Mr. Hoyer explained the budget for this project was limited; request the Fire Department and Building Inspector fees be waived. Solicitor Teitz explained the Council had the legal authority to waive those fees, will be a Town building. Chief Lloyd noted those fees around \$33,000, would normally go back to the Town in the General Fund. Gareth Eames, Building/Zoning Official, explained some portion of the building fees need to be preserved, 28% of the permit fees needed for the Plumbing, Mechanical and Electrical Inspector, also some fees need to remit to the State, have not seen the estimated cost of the building. Mr. Hoyer estimated \$67,000 in total fees. Mr. Eames explained the calculation of the fees bases on the project and the build out. Solicitor Teitz suggested doing as a percentage, don't know the actual fee.

Councilor Pelletier made a motion, seconded by Councilor Chabot to approve the request from the Library Services Board of Trustees and Building Committee to be exempt from Town agency fees for the New Library Building Project with the exception of any fees paid by the Town to a subcontractor or any outside agency for remittance. Motion passed unanimously.

**Councilor Lambert – Landfill Closing: Projections for Revenue, Costs and Closing Data**

Councilor Lambert noted additional copies of this item were available in color, gave a brief history on projections for Landfill Closing costs. Funding has been set aside since 1994, was an agreement with DEM to set aside \$168,304 per year. Understanding with DEM this would be increased each year, was never increased. To fully address the cost of closure, retained PARE Engineering to research, make projections. Under the plan increased recycling and cost of revenue involving Pay As You Throw (PAYT) bags, the interest on the fund. The Budget Committee (BC) recommended against any appropriation of \$168k. Received a number of calls about the comments made by members of the BC at the Financial Town Referendum (FTR) hearing; was stated made no difference whatsoever if they appropriated \$168k, would still have enough money for the landfill closure. Object to the BC reasoning. Revenue from PAYT, the appropriation and interest as seen on page 2 would be less than 9 million dollars in 2017. Assuming interest rate of 3.5% the fund estimate for 2018 would be \$10,317,939. The

BC came to a different conclusion; the Town will have to go to bond based on the numbers estimated, assumptions and scenarios. According to the BC will have 7.8 million in 2017 and 8.4 in 2018. The difference being 1.8 million dollars. The difference in bottom line is the 168k appropriation. Hopefully in the next budget cycle can get the BC to see the real numbers.

**BIDS AND REQUESTS FOR PROPOSALS:**

**Town Maintenance, Bob Martin – Request Authorization to Advertise Bids for Replacement of North Tiverton Fire Station Roof**

Administrator Goncalo requested permission to advertise for bids to replace shingles on the No. Tiverton Fire Station roof will be for the entire roof. The initial \$24,000 funding request was approved.

Councilor Gerlach made a motion, seconded by Councilor Pelletier to authorize the Town Administrator to Advertise for Bids for Replacement of the North Tiverton Fire Station Roof. Motion passed unanimously.

**TOWN ADMINISTRATOR ITEMS AND ANNOUNCEMENTS:**

1. Pump out boat, waiting for transport estimate to obtain funds from current owner, then contact a hauler.
2. Pocasset drainage completed, Town has paid 50% of the cost.
3. Real estate tax bills to be issued mid-June.
4. The library will hold a basic computer session in mid-August.
5. RI Turnpike & Bridge Authority will be selling EZ Pass transponders at the Town Hall during June. Dates and times to be announced, all sales final. Solicitor Teitz questioned if the T/A had that in writing.
6. The Planning Board has relocated to the lower level in the Town Hall.
7. Four rain barrels are left, cost \$80.00 each.
8. On June 1<sup>st</sup> Site Walk on Souza Road at 9am, assemble at the Park & Ride on Fish Road.
9. URI has arranged for a 15% discount on well water testing, information on table at back of Chambers.
10. Collected 91.67% of levy, behind last year by .24% or \$88,094. Sent 945 late notices.

**COUNCIL ANNOUNCEMENTS, COMMENTS AND QUESTIONS:**

Councilor Chabot questioned the Interlocal Trust report on bond dividends, would like additional information at the next meeting. T/A Goncalo explained, don't know at this point, should know by end of June.

President Roderick noted just had the FTR, asked the Clerk for the cost. Town Clerk Mello estimated close to \$12,000. President Roderick saddened by the number of voters, no battle on the budget, gives pause, FTR might need a Charter change to make more workable. Town Clerk Mello explained the Board of Canvassers has reviewed the cost, will be discussing, probably have ballot questions for next election. Early voting had the most voters, was well advertised, is only the second year for the FTR.

**TOWN SOLICITOR – ITEMS AND ANNOUNCEMENTS:**

**LAL Construction Company, Inc., Eagleville Road Realty, LLC, Pleasant Rentals, Sales & Construction, Inc. d/b/a Site-Ready Materials and Construction Company and Marcello Louro v. Town of Tiverton**

**a. Summons for United States District Court b. Plaintiff's Complaint in United States District Court c. Indemnification of Individuals Named in Suit**

Solicitor Teitz explained, provided copies of various filings, was successful in getting them to remove the single stream recycling. They are suing in Federal Court alleging violation of rights. Provided copies of the Summons and the Complaint. Solicitor Teitz handed out copies of a letter from the Interlocal Trust indicating they received copies, assigned DeSisto Law, expect they will have a reservation of rights, will assist in defense. In the complaint three people were sued individually and in their official capacity, James Goncalo as Town Administrator, Steven Hughes as Chairman of the Planning Board and Stephen Berlucchi as Director of Public Works. Do not see any merit to the claims; the Town policy is to indemnify employees. Request Council

approval of a Resolution Indemnifying Certain Town Officials in this case given the circumstances, protecting them acting in their official capacity.

Councilor Pelletier made a motion, seconded by Councilor Gerlach to approve the Resolution Indemnifying Certain Town Officials. Motion passed unanimously.

The Adopted Resolution was as follows: **Town of Tiverton**

**Resolution Indemnifying Certain Town Officials**

**WHEREAS**, the Town of Tiverton (“Town”) has been sued by LAL Construction Company, Inc., and several related entities (“LAL”) in that certain Complaint filed in United States District Court for the District of Rhode Island, CA13-344M (the “Lawsuit”); and

**WHEREAS**, certain Town Officials - James Goncalo, Town Administrator, Stephen Hughes, Chairman of the Planning Board, and Stephen Berlucchi, Director of Public Works (the “Individuals”) - were also sued individually in addition to in their official capacities; and

**WHEREAS**, the Individuals were acting in good faith in carrying out their official duties to the Town:

**BE IT RESOLVED:** That the Town of Tiverton hereby indemnifies and holds harmless the Individuals that have been named in their individual capacity in the Lawsuit, for expenses, fees (other than fees for private attorneys retained by said Individuals), and judgments incurred by each of them, so long as each of said Individuals acted in good faith, and that each of said Individuals reasonably believed that he was acting lawfully and reasonably believed that his conduct was in the best interests of the Town of Tiverton.

Nothing herein shall be construed to limit the responsibility or liability of the Rhode Island Inter-Local Insurance Trust to defend and pay all appropriate claims pursuant to its policy with the Town of Tiverton. Nothing herein shall be construed to limit or otherwise affect the liability of any person for damages resulting from the person's intentional misconduct. Adopted by the Town Council, May 28, 2013

**Possible Participation In Federal Lawsuit Regarding Sakonnet River Bridge Tolls**

**a.Letter from Portsmouth to FHA/RIDOT**

As indicated earlier in the agenda, this was electronically filed in Federal Court.

**Nonquit School a. Letter from Narragansett Indian Tribe’s Attorney b. Town Solicitor’s Response**

A letter was received from Attorney John Killoy regarding the sale of Nonquit School. Solicitor Teitz response, protest was too late, did not violate responsibility.

**Town of Tiverton v. James & Melissa Pelletier (Tiger Tree)**

Solicitor Teitz updated attended a conference with Judge Thunberg who is hearing the criminal case, is an appeal in Superior Court, at the close the defendant brought a motion to acquit. Trying to get moving again, looking to have all cases heard by one judge. Solicitor items 1, 3 and 4 were also put on Executive Session for possible Council questions.

**TOWN CLERK ANNOUNCEMENTS:**

**Scheduling and Advertising of Public Input Hearing for Wastewater Facilities Plan Update As Council Workshop/Meeting at Tiverton High School**

Town Clerk had polled the Council for meeting dates; suggest keep future additional meetings on Mondays most convenient to Council schedule. Wastewater Management has to be advertised, checked with the School, suggest Monday, June 17.

**Schedule Council Workshop Regarding Wind Energy**

Town Clerk suggested two Mondays in July the 15<sup>th</sup> or the 29<sup>th</sup>, the fifth Monday normally held for workshops. Agreed to July 29th.

T/A Goncalo requested moving #5 Executive Session on Industrial Park as first.

**CLOSED EXECUTIVE SESSION:**

**1. Town Solicitor–Litigation – 42-46-5(a) (2)–LAL Construction et el v. Town of Tiverton**

Councilor Lambert made a motion, seconded by Councilor Pelletier to enter into Closed Executive Session pursuant to RI General Law 42-46-5 (2) - LAL Construction et al v. Town of Tiverton - Litigation. Motion passed unanimously.

**3. Town Solicitor–Possible Litigation–42-46-5(a) (2)–Narragansett Indian Tribe**

Councilor Lambert made a motion, seconded by Councilor Pelletier to stay in Closed Executive Session pursuant to RI General Law 42-46-5(a) (2) – Narragansett Indian Tribe- Possible Litigation. Motion passed unanimously.

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

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

**6. Town Administrator - Collective Bargaining - 42-46-5(a) (2) – Teamsters**

Councilor Lambert made a motion, seconded by Councilor Pelletier to stay in Closed Executive Session pursuant to 42-46-5(a) (2) – Collective Bargaining – Teamsters. Motion passed unanimously.

~~Town Council – Personnel Performance – 42-46-5(a) – Tax Collector, DPW Director and Fire Chief – Notice Provided Per Open Meetings Act~~

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

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

The Council entered into Executive Session at approximately 9:40 p.m.

The Council returned to Open Session at approximately 11:05 p.m.

**OPEN SESSION:**

In Open Session President Roderick announced action had been taken regarding Collective Bargaining – Teamsters.

Solicitor Teitz announced in response to Items 1, 3 and 4 regarding litigation, no action or discussion was held.

Regarding Item 6 – Collective Bargaining Teamsters action was taken to request contract be placed on next Council meeting in open session for ratification. Minute will remain open.

**Town Administrator – Collective Bargaining – Teamsters (Minutes from Exec Session)**

Administrator informed Council have tentative agreement with Teamsters with salary increases of 1.2%, 1.75% and 2% over three years of contract. Union brought to body and accepted. Contract from 7/1/2013 to 6/30/2016.

Health insurance co-pay increases, we have increased safety boot allowance, CDL Licenses, insisted all employees must maintain up to date CDL and Hoisting Operating Licenses and pass drug testing all consistent with RIDOT regulations. All agreed. Changed medical coverage from percentage to values, recall added after 6 months, removed one-time payment under article XXVI. Rest of changes are dates as appropriate. Increases will carry to longevity, call back, overtime, sick leave buy back. Cost summary approximately 15K first year, 17K second year and 18K third year for total estimate of 50,000 over three year period. Councilor Chabot raised issue with removing the overtime paragraph. Concern could be out sick two days and come in and get overtime; was good item to have in contract. Administrator stated not abused, only overtime is during storms, etc. Councilor Chabot also addressed page 13 could have wording changed. Administrator will tag for next renewal.

Item #5 – Industrial Park. As owners of the Industrial Park, Council directed the Town Administrator and the Planning Board Administrative Office to record the first plan option.

Councilor Lambert motioned, seconded by Councilor Arruda to seal the minutes of Closed Executive Session regarding the Industrial Park. Motion passed unanimously.

**ADJOURNMENT:**

Councilor Chabot motioned to adjourn, seconded by Councilor Arruda passed unanimously.

Council adjourned at approximately 11:15 p.m.

A True Copy.

ATTEST: \_\_\_\_\_

Nancy L. Mello, Town Clerk