

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

Approved 8/13/13

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 22nd day of July 2013 A.D. at 7:00 p.m.

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

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

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.

President Roderick read the items on the Consent Agenda. Councilor Gerlach requested removal of item A3b, Tiverton Conservation Commission Opposing Use of Landfill as “Staging Area” by RI-DEM for Storm Related Debris and Councilor Pelletier requested removal of item CA2d, Receipt of Minutes from the Personnel Board.

Councilor Pelletier made a motion, seconded by Councilor Gerlach to approve the remaining items on the Consent Agenda. Motion passed unanimously.

The Consent Agenda was as follows:

CONSENT AGENDA

A-1-Approval of Minutes of Previous Meetings:

- a. Approval of Minutes Regular Council Meeting July 8, 2013
Councilor Roderick and Councilor Pelletier Abstained - Absent
- b. Approval of Executive Session Minutes July 8, 2013
Councilor Roderick and Councilor Pelletier Abstained - Absent

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

- a. Arts Council
- b. Cemetery Commission
- c. Conservation Commission
- e. Recreation Commission

A-3-Correspondence – Receive and File:

- a. Charlestown Town Council–Resolution Supporting Municipal Road and Bridge Revolving Fund
- c. Town of Middletown Resolution Supporting Developing of a Model for a Regional High School

A-4-Approval of Tax Assessor Abatement

A-5-Kate Michaud, A/O Planning Board – Activities Report for June 2013

A-6-Distribution of Department Monthly Reports For June 2013

A-7-Tiverton Historic Preservation Advisory Board – Requesting Historic District Zoning Ordinance for Tiverton Four Corners – Schedule for Council Workshop on September 30, 2013 and Referred to Planning Board for Informal Advisory Opinion by September 30th

A-8-Kate Michaud – Distribution For Information of Draft Comprehensive Community Plan Update Strategy Submitted to Planning Board for Discussion on August 6th

Receipt of Minutes from the Following Boards, Commissions- Personnel Board (CA2d)

Councilor Pelletier read the Meeting Notes of the Personnel Board, similar to Closed Executive Session. Questioned if they were sealed similar to the Council process, then go back to unseal or stay sealed. Solicitor Teitz explained in the affirmative, stay sealed unless an applicant wants in public. With the Personnel Board a labor issue, right of privacy, qualifications, some people do not want identities revealed, have other jobs. Council minutes are broader, involve litigation and strategy. Councilor Pelletier questioned if it should be a policy of the Town as defacto. Solicitor Teitz explained for the Personnel Board, yes, governed by privacy interest of the applicants. As far as the Council, need to look at a case by case basis, have been looking at older Executive Session minutes, do not automatically seal, up to the Council collectively.

Councilor Gerlach made a motion, seconded by Councilor deMedeiros to receive and file CA2d, the Minutes of the Personnel Board. Motion passed unanimously.

Tiverton Conservation Commission Opposing Use of Landfill as “Staging Area” by RI-DEM for Storm Related Debris (A3b)

Councilor Gerlach had attended the Conservation Commission meeting, should review the request by RI DEM to leverage part of the landfill for storm debris, discussed at the last Council meeting. The Conservation Commission meeting discussion shed a new and important perspective. The letter from Chairman Tom Ramotowski raises concern on the activity, the impact on private wells, surface drainage, Nonquit pond water supply, increased traffic and more logistical matters. President Roderick agreed suggested putting on the next agenda. Councilor Lambert also agreed, copy of the letter just given to the Public Works Director Steve Berlucchi, may be an issue for future discussion, other issues the Council could address.

Councilor Gerlach made a motion, seconded by Councilor deMedeiros to Receive and File the Correspondence from Tiverton Conservation Commission Opposing Use of Landfill as “Staging Area” by RI-DEM for Storm Related Debris (A3b). Motion passed unanimously.

OPEN PUBLIC FORUM

Linda Larsen, Celebrate Tiverton 2013, reminded about the events scheduled for this weekend. On Thursday, July 25th will hold a kick off at Four Corners at 6pm, all invited. On Friday, July 26th at 5:30 pm, Music on the Middle at the Gazebo, refreshments available. At 8:00 pm a Bonfire will be held at Grinnell’s Beach. On Saturday, July 27th a Parade will begin at 10:00 am at Judson Street going down Main Road to Little Bear. Check the website, www.celebratetiverton.org for more details. On Saturday evening at 4:30 pm a Cookout at Sandywoods followed by a Cajun Dance and Stargazing. On Sunday, July 28th a 5K Run will be held at Tiverton High School, registration at 9:00 am, run at 10:00 am. A Kayak Kruise will also be held at 10:00 am at Inlet Drive, Seapowet. Ms. Larsen took the opportunity to thank everyone on the Council, the Fire and Police Department Chiefs, Town Administrator., and Town Clerk President Roderick thanked Ms. Larsen.

BUSINESS BROUGHT BEFORE THE COUNCIL

PUBLIC HEARINGS & PUBLIC PRESENTATIONS:

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

Arthur Mello d/b/a Mello’s Farm Stand/The Tasty Tomato - Requests Approval of Holiday License – Subject To Meeting All Legal Requirements

President Roderick called for comments from the Council.

Councilor Lambert made a motion, seconded by Councilor Chabot to approve the request from Arthur Mello d/b/a Mello's Farm Stand/The Tasty Tomato, subject to all legal requirements. Laura Mello, applicant, just arrived explained the location was at 1493 Bulgarmarsh Road, is for sale of produce and related farm products. The location used to be a hot dog stand. The applicant had received approval from the Building Official. Motion passed unanimously.

APPOINTMENTS & RESIGNATIONS:

UNFINISHED BUSINESS:

FINANCIAL BUSINESS:

NEW BUSINESS:

BIDS AND REQUESTS FOR PROPOSALS:

Chief Thomas Blakey - Request Award of Bid for Purchase of (3) New Police Vehicles to Central Dodge of Raynham, MA for \$80,377. One Front Line Police Cruiser and Two 4x4 (SUV) Vehicles.

Police Chief Thomas Blakey explained, only received one bid, made phone calls to other dealers, can take 2013 vehicles and save \$7,000. Can be delivered quickly, recommend award of bid. Usually takes one month, have to take the color available, total savings including the SUV's around \$10,000, funds approved by voters at Financial Town Referendum (FTR).

Councilor Gerlach made a motion, seconded by Councilor Chabot to authorize the Award of Bid for Purchase of (3) New Police Vehicles to Central Dodge of Raynham, MA for \$80,377 for One Front Line Police Cruiser and Two 4x4 (SUV) Vehicles. Motion passed unanimously.

DPW Director Berlucchi – Request Permission to Advertise for Bids for the Purchase of a New Mack GU712 (6)-Wheel Dump Truck With Plow – Funds Approved at FTR

DPW Director Berlucchi requested permission to advertise for a new dump truck, explained a GU712 was a specific model, will advertise this way. Need a new plow trucks the last three taken out by winter storms, replacement duly needed, cost approximately \$200,000, last one lasted 30 years. Will advertise for a Mack or an approved equal.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to approve the Request to Advertise for Bids for the Purchase of a New Mack GU712 (6) Wheel Dump Truck with Plow or approved equal, funds approved at FTR. Motion passed unanimously.

TOWN ADMINISTRATOR ITEMS AND ANNOUNCEMENTS:

1. Website now live, work in process, improvements made along the way.
2. Basic computer class begins Wednesday, August 14th from 10-12, 4 weeks, for clerical staff.
3. Tax payments FY 2013, 28.13%, in FY 2014, 28.60 %, behind .47% or \$10,554,547. Introduced monthly or quarterly debit program, application form online or at Tax Collector's office.
4. There are 107 properties noticed for tax sale.
5. Local roads program deleted from the 2014 State budget, \$191,000, planned for King Road, looking at alternatives.
6. DEM Shellfish program on July 18th & 19th, crews walked shores of the Sakonnet River & Nanaquaket Pond looking for sources of shellfish pollution.

President Roderick questioned if the tax sale properties increased from last year. Councilor Pelletier recalled that to be in the 90's, Administrator Goncalo explained must be delinquent for two years.

COUNCIL ANNOUNCEMENTS, COMMENTS AND QUESTIONS:

Councilor Chabot – Arts Council Reception to be Held July 28th From 4-7pm at Town Hall

Councilor Chabot noted the Arts Council will be holding a reception this Sunday, July 28th from 4-6pm. The five artists Ron Wenzel, Lois Marshall, Meredith Cornell, Martha Taradash and Mackenzie Crossman have displays that are exceptional.

TOWN SOLICITOR – ITEMS AND ANNOUNCEMENTS:

Update on Stafford Pond – Superior Court - RIDEM vs. Town of Tiverton

Solicitor Teitz had provided the Council with the materials filed by DEM, received at approximately noon on Friday for a hearing at 2:00 pm. Action by the DEM to enjoin and stop enforcement on fishing. Made it to the courthouse in time, suggested a compromise not to enforce the insurance policy until September 1st, still want to collect the information on the tournaments. DEM attorney did not agree to the compromise, the Judge denied DEM's Motion to Stay. In contact with the two organizers for July, will send to those scheduled in September, up to DEM to schedule further action. Councilor Gerlach thanked the Solicitor for going to Court on short notice, questioned if the Ordinance still stands. Solicitor Teitz voluntarily waived enforcement for the two tournaments for July. Councilor Gerlach questioned, on page 27, what was meant by the defendant is restrained and enjoined from enforcing Chapter 15 of the Tiverton Code of Ordinances. Solicitor Teitz explained this was a draft order submitted by DEM, was not granted. Solicitor Teitz asked for a word version of the order, still working on actual language. Solicitor Teitz was given the actual order upon arrival at the court.

Councilor Gerlach noted it was unfortunate this transpired, made several efforts to correspond on the revised ordinance, what remained reflected open issues and important safety nets. Did meet with DEM today at the boat ramp, will make strides to continue to work with them, is troubling. Councilor Arruda noted it was ironic that DEM was trying to stop the Town from protecting the water supply. Solicitor Teitz also noted, had received correspondence from DEM on March 29, 2013 threatening to sue the Town, kept private, did not release. Now public since a lawsuit has been filed.

TOWN CLERK ANNOUNCEMENTS:

CLOSED EXECUTIVE SESSION:

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

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

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

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

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

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

Councilor Lambert made a motion, seconded by Councilor Chabot to remain in Executive Session pursuant to 42-46-5(a) (2) – Litigation – Sakonnet River Bridge Tolls. Motion passed unanimously.

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

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

Solicitor Teitz wanted the minutes to reflect that the Town Administrator and Mr. Eames received written notice; both did not choose to have in open session. Solicitor Teitz wanted Gareth Eames and James Goncalo to publicly acknowledge and confirm the right to have in open session, but chose to have in Executive Session. Both Mr. Eames and Mr. Goncalo agreed, wanted to have in Executive Session.

The Council entered into Executive Session at approximately 7:40 p.m.

CLOSED EXECUTIVE SESSION

The Council returned to Open Session at approximately 9:10 p.m.

OPEN SESSION:

In Open Session President Roderick announced action was taken in Executive Session relative to Personnel Performance – Building Official – Gareth Eames. Action was also taken relative to Litigation–Sakonnet River Bridge Tolls. No action was taken on Prospective Business or Industry- Industrial Park or Litigation– Town of Tiverton v. James and Melissa Pelletier.

Councilor Pelletier motioned, seconded by Councilor deMedeiros to seal that portion of the minutes of Executive Session, passed unanimously.

Councilor Pelletier motioned that the Council acknowledged the Town Administrator’s performance improvement plan for Gareth Eames, Building Official and when the Town Administrator is ready to make a recommendation for a contract in six months or less, Council will reevaluate at that time

A brief 5 minute recess was taken at this time.

Council returned to closed Executive Session at approximately 9:25 p.m.

Council returned to Open Session at approximately 11:45 p.m.

OPEN SESSION:

In Open Session President Roderick announced action was taken.

Councilor Chabot motioned to seal the minutes of Executive Session, seconded by Councilor Lambert, passed on a vote of 6-1, Councilor Pelletier opposed.

ADJOURNMENT:

Councilor Gerlach motioned to adjourn, seconded by Councilor Lambert passed unanimously.

Council adjourned at approximately 11:50 p.m.

A True Copy.

ATTEST: _____
Nancy L. Mello, Town Clerk