

**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 26th day of August 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.
Town Clerk absent for open session. Arrived for Executive Session.

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 A2a, Economic Development Commission. Councilors Gerlach and Lambert requested removal of item A3a, Received From Middletown Councilors Richard Adams and Barbara VonVillas Regarding Regional High School. Councilor Chabot requested removal of item A1a, Approval of Minutes Regular Council Meeting August 13, 2013- Councilor Pelletier Abstains – Absent.

Councilor deMedeiros made a motion, seconded by Councilor Arruda to approve the Consent Agenda without items A1a, 2a and 3a. Motion passed unanimously.

The Consent Agenda was as follows:

CONSENT AGENDA:

A-1-Approval of Minutes of Previous Meetings:

- b. Approval of Executive Session Minutes August 13, 2013 - Councilor Pelletier Abstains – Absent
- c. Approval of Executive Session Minutes Special Meeting August 19, 2013

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

A-3-Correspondence – Receive and File

b.Received From Tiverton Library Realty, Inc. Board Chair Barbara R. Donnelly Regarding Transfer of Title of Property Upon Completion of the Construction of New Library

A-4-Atty Brian Cunha – Claims (3) – Referred to Interlocal Trust

A-5-Approval of Tax Assessor Abatements

A-6-Scheduling of Public Hearing Oct. 15 on Proposed Amendment to Article 5, Section 1, Note 1 of Zoning Ordinance to Include Open Space Zones Requested by Audubon Society of RI

BUSINESS BROUGHT BEFORE THE COUNCIL

A1a-Approval of Minutes Regular Council Mtg August 13, 2013-Councilor Pelletier Abstains-Absent

Councilor Chabot noted page 2, at the bottom of the page, needed to be corrected regarding the appointment to the Board of Canvassers. Board of Canvassers in that sentence should be replaced with Democratic Party. President Roderick believed the wording should be the Democratic Town Committee requested Paul Amaral be nominated to that Board. Requested Mrs. Cook to make that change to the minutes.

Councilor Chabot made a motion, seconded by Councilor Lambert to accept item A1a, Minutes Regular Council Meeting August 13, 2013 as amended. Motion passed on a vote of 6-0-1, Councilor Pelletier abstained.

2a- Minutes from the Following Boards, Commissions: Economic Development Commission

Councilor Gerlach read the minutes, suggested getting a formal update from the EDC. President Roderick asked the Town Administrator to send a request to the EDC.

Councilor Gerlach made a motion, seconded by Councilor deMedeiros to accept 2a - Minutes from the Following Boards, Commissions: Economic Development Commission. Motion passed unanimously.

3a-Rec'd From Middletown Councilors Richard Adams and Barbara VonVillas-Regional High School

Councilor Gerlach read the correspondence from Middletown with interest. Questioned if the School Committee saw this item, should get it to them. President Roderick requested this be forwarded to the School Committee.

Councilor Gerlach made a motion, seconded by Councilor deMedeiros to accept 3a, From Middletown Councilors Richard Adams and Barbara VonVillas Regarding Regional High School. Motion passed unanimously.

OPEN PUBLIC FORUM:

Barbara Pelletier noted the Sakonnet River Bridge turned out to be a very nice little bridge, happy to see the Industrial Park moving along. Tom Ramotowski, Conservation Commission Chair noted on the last agenda an item regarding a motorcycle parade. Could be construed a nuisance, should be made aware of the noise ordinance, request the organizers limit to noise legal bikes to participate in the parade. President Roderick noted this was not on the agenda. Chief Lloyd clarified; the Fire Department was not sponsoring this, not involved, organizers just looking for a connection. President Roderick noted it would be on the next agenda.

PUBLIC HEARINGS & PUBLIC PRESENTATIONS:

Denise Saurette, Town Treasurer – Refinancing of TIF Bonds -Approval of a Resolution Authorizing the Issuance by the Town of up to \$5,400,000 in Tax Increment Bonds, 2013 Refunding Series, and the Execution and Delivery of Various Documents and Certificates in Connection Therewith

Town Treasurer Denise Saurette and Bond Counsel Norman Benoit appeared before the Council requesting approval of a resolution regarding refinancing bonds. Last here in March, possibility arose there might be savings in refinancing Tax Increment Financing (TIF) bonds, requested to explore. The Town financial advisor put out an RFP to review. Washington Trust presented significant savings. This resolution authorizes the Town Administrator, Town Treasurer and Town Council President or Vice President to issue bonds. These are not general obligation bonds of the Town; based on increased tax revenues. Extra revenue goes into the General Fund, similar to refinancing a mortgage. The 2002 bonds had a rate of 6.875%, interest has declined since then. Would be a refunding trust agreement to negotiate terms and conditions not to exceed more than 4.50% interest. The Tax Increment area consists primarily of the Village of Mount Hope Bay. There is a 1% prepayment penalty, have to add \$153,000 to the monies owed, built in a cushion, \$57,000 is the estimated for cost of issuance through various fees. The savings at net present value if interest of 3.52% is used would be \$742,000, 14% present value savings of the cost of bond refunding. The State has a 3% threshold for savings. Treasurer Saurette explained, in real dollars next year save \$100,000 in principal and interest payments in the budget. Would save approximately \$125,000 in the following year's budget. Mr. Benoit explained, Washington Trust agreed to buy up to \$5.4 million, will either refund all or none. Washington Trust is buying them and keeping them in their portfolio.

Councilor Gerlach made a motion, seconded by Councilor deMedeiros to approve the refinancing of TIF Bonds Resolution authorizing the issuance by the Town of up to \$5,400,000 in Tax Increment Bonds, 2013 Refunding Series, and the execution and delivery of various documents and certificates in connection therewith. Motion passed unanimously.

The approved Resolution attached at end of minutes.

David Robert, Tax Assessor – Brief Review of the Newly Revised Town Website: Tiverton.ri.gov

David Robert, Tax Assessor, provided an update on the revised Town Website. To date have not had any criticism, have had positive feedback, appreciate comments, all need to participate, forward ideas and suggestion to the Webmaster, David Robert. The Website now carries Town Council meeting videos, also looking for photos for the site. Last meeting supposed to do group photo of Council, did not happen, like to reschedule.

ADVERTISED PUBLIC HEARINGS:

Code of Ordinances - Proposed Amendments to Chapter 67, Flood Plain Management Program

For the record Town Solicitor, Andrew Teitz, explained, this is required, has updates from FEMA for the Flood Plain Ordinance, essentially a government mandate, if you want flood insurance have to implement the guidelines. This was last done in 2010, new changes and guidelines, were given a model. Solicitor Teitz introduced a floor amendment, handed out copies of a new first page with changes to Section 67-2, Applicability, for the flood plain map panels. The change has to do with referencing particular flood maps. Most of the changes reflect new information and some added definitions. In order to get insurance, there is a minimum height above the flood level. If one or two feet higher than that level, can get a reduction on insurance for each foot above the minimum providing a financial incentive. President Roderick called three times for public comments, there were none.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to adopt the Flood Plain Management Program, Chapter 67 as presented, with Amendment. Councilor Gerlach questioned where to get a 100 year map. Solicitor Teitz noted Gareth Eames was the Administrator of this program. The maps are a series of panels. Councilor Pelletier suggested going online to the FEMA website, has a map maker, just put in an address. Motion passed unanimously. President Roderick closed the Public Hearing.

Adopted Chapter 67-Flood Plain Management Program attached at end of minutes.

TOWN COUNCIL SITTING AS BOARD OF LICENSING

NON ADVERTISED LICENSE:

APPOINTMENTS & RESIGNATIONS:

UNFINISHED BUSINESS:

WWMC, Chairman Leroy Kendricks – Wastewater Facilities Plan Update as Prepared by AECOM of Chelmsford Massachusetts to the RIDEM for Review

Leroy Kendricks, Wastewater Management Commission (WWMC) Chair and Wastewater Superintendent, John Lincourt appeared before the Council on this continued item. Requested by Council to present figures, best interest of the Town. Prior studies done in 1968, 1975 and 2000. The studies showed the Town would benefit from sewers in the North end. Lots of changes since 2000 including the RI Cesspool Act of 2007 which requires all properties within 200 feet of the shoreline have to be in compliance. The Stormwater II and RIDEM study of Mount Hope Bay found a lot of areas with failed septic systems. Some of those areas include Riverside Drive, Stafford Pond and Robert Gray Avenue. RIDEM cited the Town, need to do something, need to commit to a schedule to put in sewers. In the Bay Street area, 90% have failed septic systems, fall on homeowner. Best way is to put in a sewer system, can't sell houses with failed systems. This would give some relief; add to property values from a Wastewater prospective. Several areas in Town will benefit from adding sewers. Looking to max funding sources, grants and loans. Have a couple of choices, putting in sewers or not, the expense is on the owner. No option of doing nothing, if failed the homeowner will have to replace the system. Looked at the cost to install the least expensive system is forming a sewer district to take advantage of grant money. Have a plan, would extend the deadline to comply to 2020, gives time to design, finance and construct.

Identified 4 phases for Riverside Drive, Bay Street and Robert Gray areas. The cost for Riverside Drive/Stone Bridge area, new septic systems from \$20-\$60K, monthly average \$210-500. Sewers, if getting 45 cents on the dollar cost approximately \$125 per month, without the USDA grant \$231 per month. Bay Street new septic would cost \$25-\$30K, average monthly cost \$270-\$320. Sewers in this area, \$11K, average \$105 per month. Without

the grant, \$20K, \$175 per month. The Robert Gray area, new septic system cost range from \$15K to \$25K, average monthly cost \$151 to \$171. Sewers in this area, \$14K, average \$115 per month cost, without grant money \$25K, \$206 for an average monthly cost. Financial advantage for sewers, more so for a district. Bay Street has 123 properties, 90% of those systems are failed or compromised. Robert Gray area has 566 properties and Riverside Drive area has 522 lots, issues there include size of the lots and the water table. The next step is to have the plan approved, submit it to RIDEM to get comments and address them. Would then hire a consultant to create legislation, need State law, then go to those neighborhoods to present the case to residents and have them vote by neighborhood. There will be consideration for those who have installed new septic systems, don't know what it will be yet, not proposing any at this time. Would like to know how many have septic systems and who put them in, need to see the whole picture. At some point it will be mandatory to tie in.

Councilor Lambert had several questions, thanked both for a tremendous effort. Page 93 lists the first areas of sewer implementation, what is the timetable, when should those residents start saving money, what are the highest priority areas? Chairman Kendrick explained Riverside Drive, Robert Gray and Bay Street were the highest priority areas. Cannot put an exact schedule, looking at 2015-16, continuing to look for other funding sources to bring down the cost. Will be going to Fall River to look to bring down the cost of hooking up to the sewers. For all the various costs and fees, it will cost the average residential user between \$11K to 16K, tried to include any sewer cost or administrative fee as well as the betterment fee, maintenance and operation cost. Councilor Gerlach questioned section 3.4 regarding possible easement agreements. Chairman Kendrick explained, that would not happen until the design phase, may or may not happen. Solicitor Teitz noted there may be a cost depending on the property. President Roderick questioned if there was a trunk line in existence today. Chairman Kendrick and Mr. Lincourt explained the 24" interceptor line runs north and south going to the Fall River treatment plant ending around the Villages, going halfway up Souza Road. Considering equal pay for equal service for the future, do not have all the answers yet. For the purposes of this report, did a pro rata share. Emphasized trying to do the right thing for the most people.

Councilor Chabot commended them on a great job, worked long and hard, the efforts are appreciated. This plan reflects changing times; the Commission went to find options available to the residents in these areas. Funding could be by the residents themselves, the Statewide Revolving Fund or USDA grants over 40 years that require a district. Councilor Chabot cited the Comprehensive Community Plan (Comp Plan) and how it meets most of the requirements of the Comp Plan for Wastewater to come up with a plan. Changes to the code or ordinances may have to be made. It is a good first step. Councilor Lambert referencing page 93, suggested Lepes Road be removed, not a high priority area.

Councilor Pelletier made a motion, seconded by Councilor Chabot to Approve the Wastewater Facilities Plan Update as prepared by AECOM and submitted for review to RI DEM with the aforementioned edit on page 93 to be consistent with charts and graphs throughout. Motion passed unanimously.

FINANCIAL BUSINESS:

David Perry, Chair Budget Committee – Joint Meeting With School Committee, Budget Committee and Town Council for Review of FY Ending June 30, 2013 Budget and Updates September 12, 2013

Dave Perry, Budget Committee Chair requested a joint meeting with the School Committee, Budget Committee and the Town Council to review the FY 2013 Budget to be held at the school library. Solicitor Teitz would not be available for this workshop. T/A Goncalo to provide the latest financial report. Chairman Perry noted, does listen to the Council meetings, do need new a new system for the Town Hall. Consensus was to hold the workshop on Thursday, September 12, 2013 at 6:30 pm at the High School Library.

NEW BUSINESS:

Town Administrator – Request Approval of Annual Salary Increases Effective July 1, 2013

a. Janice Gomes, Senior Center Director

T/A Goncalo requested approval of salary increases, at previous meeting performance reviews were gone over in Executive Session, recommend increases. Requesting the Senior Center Director salary be increased from

\$45,250 to \$49,055. Includes \$1,900 for longevity, a one-time adjustment for \$1,000 and a 2% merit increase for \$905.

Councilor deMedeiros made a motion, seconded by Councilor Chabot to Approve the Annual Salary Increase for the Senior Center Director, Janice Gomes from \$45,250 to \$49,055 which includes longevity for \$1,900, a one-time adjustment of \$1,000 and a 2% merit increase for \$905. Motion passed unanimously.

b.Toni Lyn McGowan, Tax Collector

T/A Goncalo requested approval on an annual salary increase for the Tax Collector, Toni Lyn McGowan. The increase was from \$29,355 to \$29,942, a 2% merit increase of \$587.

Councilor Lambert made a motion, seconded by Councilor deMedeiros to Approve the Annual Salary Increase for Toni Lyn McGowan, Tax Collector, from \$29,355 to \$29,942, a 2% merit increase of \$587. Motion passed unanimously.

c.John Lincourt, Wastewater Superintendent

T/A Goncalo requested approval of the annual salary increase, effective July 1, 2013 for the Wastewater Superintendent, John Lincourt. The increase from \$56,271 to \$57,396 represents a 2% merit increase of \$1,125.

Councilor Lambert made a motion, seconded by Councilor Chabot to Approve the Annual Salary Increase effective July 1, 2013, from \$56,271 to \$57,396, a 2% merit increase of \$1,125 for John Lincourt, Wastewater Superintendent. Motion passed unanimously.

Attorney Leary, Harkins' Stafford Pond, LLC – Request Town Council Approve the Signing of a Sidewalk Agreement by the Director of Public Works for a Sidewalk on the North Side of Bulgarmarsh Road as Requested by Planning Board for Subdivision

Attorney Jerry Leary for client Harkins' Stafford Pond LLC explained the request to approve the signing of a sidewalk agreement by the DPW Director. The client had master plan approval for a subdivision on the north side of Bulgarmarsh Road; the Planning Board requested the client build a sidewalk on that side. The sidewalk is 900 feet long; a tiny portion is on land owned by the State of RI. The State is agreeable provided the Town maintains the sidewalk once it is done. The DPW Director presented the agreement to the Planning Board Solicitor Peter Ruggiero. Mr. Ruggiero recommended getting Town Council approval before signing the agreement. Bill Smith, Civil Engineering Concepts pointed to the area on the plan, a small piece of wetlands. DEM regulates wetlands, DOT the road right of way. Solicitor Teitz reviewed the agreement, noted even on a State road the Town is responsible for maintenance. Kate Michaud, Planning Board Administrative Officer explained the sidewalk will be pushed away from the road with a wider grassy area. Director Berlucchi was fully aware the DPW was responsible to maintain all sidewalks. This particular sidewalk will connect to the Bliss Four Corners sidewalk on the North side and there will be a sidewalk on the South side from the playground to the intersection. Ms. Michaud explained the applicant received conditional master plan approval, need DOT alteration permit and DEM approvals under the preliminary plan review, hinges on this part. Councilor Chabot noted there were 2 exhibit B's but no exhibit A. Attorney Leary explained this was what DOT sent, will look at the sketches before signing. Solicitor Teitz had reviewed had no objection or comment.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to Approve the signing of a Sidewalk Agreement by the Director of Public Works, Stephen Berlucchi for a Sidewalk on the North side of Bulgarmarsh Road as requested by the Planning Board for a Subdivision referencing Harkins Stafford Pond, LLC's application. Motion passed unanimously.

Town Administrator – Tiverton Business Park – Request Town Council Review and Comment Regarding Request for Proposals (RFP) for Sale of Entire Business Park Incorporating Council Recommendations, Request Approval to Advertise

Administrator Goncalo explained the Town has had the Industrial Park (the Park) for many years, need to do something, request the Council put up for sale. Not long ago received an offer to purchase, seemed to be very

low, looking to issue a Request for Proposals (RFP) to see the interest and responses. Requested two changes, like to add the fax number to page 1 and delete Section F on page 4, Permitted uses, so the developer can tell the Town what they would do. Councilor Gerlach questioned including demographics, T/A Goncalo suggested referring to the website, can put in the RFP. Councilor Pelletier questioned what the Council was trying to accomplish, the Park is already for sale. Solicitor Teitz explained has been many years since the Park was actively marketed other development markets may not know. The Council has been receiving unsolicited offers, as a public entity, should get this out in the public. Seemed to be the most cost effective way to market. The Town may not take the highest bid based on what is best for the Town. T/A Goncalo requested advertising in the Providence Journal, Banker & Tradesman and the New England Real Estate Journal.

At this time Donna Cook, wanted to speak, President Roderick reminded Ms. Cook this was not a hearing. Ms. Cook also had questions about wastewater and septic. President Roderick reiterated, this is not a public hearing.

Councilor Pelletier suggested the exposure should be more national, Solicitor Teitz suggested sending directly to a handful of commercial real estate brokers, not offering a commission, another way to extend exposure at no cost to the Town. This would be in the Sunday section with real estate announcements, probably a small bordered ad. T/A Goncalo was unsure of the cost, proposed taking out of the Town Clerk's advertising budget. Solicitor Teitz explained the ads will run fairly close together for at least 30 days. Will contact those who submitted proposals and mail the RFP directly to them.

Councilor Gerlach made a motion, seconded by Councilor Chabot to Authorize the Town Administrator to issue an RFP for the Sale of the Industrial Park with the suggestions, additions and proposals with a cap of \$5,000 for the RFP advertising cost. Motion passed unanimously.

Councilor Chabot suggested putting a For Sale sign at the Park with the T/A contact information.

BIDS AND REQUESTS FOR PROPOSALS:

DPW Director Berlucahi – Request Permission to Advertise for Bids for the Supply and Installation of Various Guardrail Items to Be Used On “as Needed” Basis – Continued From August 13th Meeting

Director Berlucahi explained, when talking about paving, there are a myriad of things like painting lines, crack sealing, corners, etc., guardrail is kind of separate. T/A Goncalo explained would not be using carry forward funds only new FY 14 budget. President Roderick took issue regarding paving; guardrail should be taken from somewhere else. Director Berlucahi defined paving as maintaining the road from side to side except for drainage. Councilor deMedeiros noted the resolution was meant to be spent for paving. Director Berlucahi noted, in 6 years spent \$3,500 on guardrails due to accidents, and estimated \$1,000 per year. T/A Goncalo explained getting competitive quotes for possible replacement. Director Berlucahi will find the money somewhere else, not from paving. Councilor Chabot noted the request was for services, not buying guardrail, for a service contract to determine the company to choose. Solicitor Teitz suggested going out for the bids to see what they are, idea is to have the contractors lined up. Director Berlucahi can if need be create new accounts for those things other than paving. Solicitor Teitz suggested renaming, Council just being asked for a contract for services. President Roderick suggested need clarification of what goes into that account and further discussion.

Councilor Chabot made a motion, seconded by Councilor Gerlach to advertise for bids for the Supply and Installation of Various Guardrail Items to be Used on “as Needed” basis as identified in H1. Motion passed unanimously.

TOWN ADMINISTRATOR ITEMS AND ANNOUNCEMENTS:

Distribution of RI Community Development Block Grant Award for \$122, 612

T/A Goncalo explained the Town requested \$300,000 for the Community Development Block Program (CDBG), received a letter from Governor Chafee informing the Town would receive \$122,612. Did not receive anything requested for the Bayview Recreation area or for the Senior Center. Last year received \$173,000 for similar items.

1. Recycling for July 2013 was 186 tons versus 156 tons last year, 3rd highest improvement in RI.
2. Fire Dept. sponsoring a Blood Drive, 9/7, No. Tiverton Fire Station, 10am to 2pm.

COUNCIL ANNOUNCEMENTS, COMMENTS AND QUESTIONS:

There were no Council announcements.

TOWN SOLICITOR – ITEMS AND ANNOUNCEMENTS:

McLaughlin v. Zoning Board of Review –Tiverton Brief in Opposition to Plaintiff-Appellant’s Appeal

Solicitor Teitz had provided copies for distribution, has been going on for a while, Town’s position was not to push litigation, the offending structure is still sitting; now the Town is pushing, trying to resolve in court.

Report on Current Status of Sakonnet River Bridge Tolls Litigation

a.Plaintiff’s Motion to Compel Filing of Complete Administrative Record

b.Defendants’ Objection to Plaintiff’s Motion to Compel Filing of Complete Administrative Record

c.Plaintiff’s Memorandum in Response to Defendants’ Objection to Plaintiff’s Motion to Compel Filing of Complete Administrative Record

Solicitor Teitz explained, hoping for Motion to Intervene to be heard in September when the Judge returns. Most recent filing is for the record, the case was filed as an agency for the RIDOT and the Federal Highway Administration. Want them to submit the full record, the only record submitted was the reevaluated environmental impact record from the spring of 2013, want the 2001 and 2003 records that refer to no tolls.

Solicitor Teitz request to be Added for Discussion Only- Gifts to Government Employees

Councilor Pelletier motioned, seconded by Councilor Chabot to add for discussion only Gifts to Government Employees. Motion passed unanimously.

Solicitor Teitz was recently made aware of a request by Sam’s Club to distribute free memberships to Town employees; some departments have been contacted directly. The Solicitor’s opinion, these are worth more than \$25, not allowed under RI Ethics Commission regulations. This is a gift, regulations clear, unethical to receive a gift just because they are government employees. Those who received should return. The School Committee may have accepted, would be up to their attorney to advise.

TOWN CLERK ANNOUNCEMENTS:

Council Sound System

Town Clerk, Nancy Mello had received several complaints regarding the sound system used by the Council, just making the Council aware. Need to start looking into getting proposals, not a budgeted item. Councilor Arruda volunteered to help the Clerk with this item.

CLOSED EXECUTIVE SESSION:

1. Town Administrator – 42-46-5(a) (5) - Acquisition of Real Property for Public Purposes

2. Town Administrator – 42-46-5(a) (1) – Personnel Performance – Gareth Eames

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

Councilor Lambert motioned, seconded by Councilor Chabot to enter into Closed Executive Session pursuant to 42-46-5(a) (5) - Acquisition of Real Property for Public Purposes. Motion passed unanimously.

Councilor Lambert motioned, seconded by Councilor Chabot to stay in Executive Session pursuant to 42-46-5 (a) (1) – Personnel Performance – Gareth Eames. Motion passed unanimously. Mr. Eames, for the record was given written notice, elected to have in Executive Session.

Councilor Lambert motioned, seconded by Councilor Chabot to stay in Executive Session pursuant to 42-46-5 (a) (1) - Personnel Performance –Town Administrator – James Goncalo. Motion passed unanimously. Mr. Goncalo, for the record was given written notice, elected to have in Executive Session.

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

The Council returned to Open Session at approximately 11:20 p.m.

OPEN SESSION:

In Open Session, President Roderick announced action had been taken regarding Acquisition of Real Property for Public Purposes. No other action was taken.

Councilor Lambert motioned to seal the minutes of Executive Session, seconded by Councilor Pelletier. Motion passed unanimously.

ADJOURNMENT:

Councilor Lambert motioned to adjourn, seconded by Councilor deMedeiros, motion passed unanimously.

Council adjourned at approximately 11:25 p.m.

Minutes compiled by Clerk Leona Cook

A True Copy.

ATTEST: _____
Nancy L. Mello, Town Clerk

**RESOLUTION
TOWN OF TIVERTON, RHODE ISLAND**

RESOLUTION OF TOWN COUNCIL OF TIVERTON APPROVING THE ISSUANCE OF UP TO \$5,400,000 SPECIAL OBLIGATION TAX INCREMENT BONDS, 2013 REFUNDING SERIES, AND THE EXECUTION AND DELIVERY OF VARIOUS DOCUMENTS AND CERTIFICATES IN CONNECTION THEREWITH

WHEREAS, there are currently outstanding \$5,310,000 Town of Tiverton Special Obligation Tax Increment Bonds, 2002 Series A (Village of Mount Hope) (the "Bonds to be Refunded") bearing interest at the rate of 6.875%;

WHEREAS, interest rates have declined since the Bonds to be Refunded were issued in 2002, and debt service savings can be achieved by pre-paying and redeeming the Bonds to be Refunded;

WHEREAS, the Bonds to be Refunded are not general obligations of the Town but are secured primarily by certain Net Tax Increment Payments from a Tax Increment Area, consisting primarily of the Village of Mount Hope Bay area (all as defined in the Trust Indenture pursuant to which the Bonds to be Refunded were issued); and

WHEREAS, in order to pre-pay and redeem the Bonds to be Refunded and achieve debt service savings, the Town desires to issue up to \$5,400,000 in Special Obligation Tax Increment Bonds, 2013 Refunding Series (the "Refunding Bonds") which Refunding Bonds shall not be a general obligation of the Town and which will be secured by Net Tax Increment Payments similarly to the Bonds to be Refunded.

NOW, THEREFORE, the Town Council on behalf of the Town of Tiverton, resolves as follows:

SECTION 1. The Town Administrator, the Town Treasurer and the President or Vice President of the Town Council (the "Authorized Officers") are authorized to issue up to \$5,400,000 of the Refunding Bonds, (ii) to enter into a Trust Indenture to secure the Refunding Bonds with The Bank of New York Mellon Trust Company, N.A., as Trustee (the "Trustee"); (iii) to enter into a Refunding Trust Agreement with the Trustee in its capacity as Trustee for the Bonds to be Refunded; (iv) to negotiate the sale and private placement of the Refunding Bonds with The Washington Trust Company at an interest rate not to exceed 4.50% per annum, a final maturity date no longer than the Bonds to be Refunded, with such other terms, conditions and details as may be fixed by the Authorized Officers, and (v) to execute and deliver any and all other documents and certificates necessary or desirable to effectuate the intent of this resolution and the issuance of the Refunding Bonds.

SECTION 2. The Authorized Officers are further authorized to take all lawful action necessary or desirable under the Internal Revenue Code of 1986, as amended (the "Code"), to insure that the interest on the Refunding Bonds will remain exempt from federal income taxation to the extent provided in Section 103 of the Code, and to refrain from taking any action which will cause interest on the Refunding Bonds to lose the benefit of exclusion from gross income provided by Section 103(a) of the Code.

SECTION 3. This resolution shall take effect upon passage.

ADOPTED: Town Council Meeting: August 26, 2013

Adopted Chapter 67-Flood Plain Management Program

Chapter 67. FLOOD PLAIN MANAGEMENT PROGRAM

Section 67-1. Statement of Purpose.

The purpose of this ordinance is to ensure public safety; minimize hazards to persons and property from flooding, to protect watercourses from encroachment, and to maintain the capability of floodplains to retain and carry off floodwaters. The Town of Tiverton elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

Section 67-2. Applicability.

The Special Flood Hazard Areas are herein established as a floodplain overlay district. The District includes all special flood hazard areas within the Town of Tiverton designated as Zone A, AE, AH, AO, A99, V, or VE on the Newport County Flood Insurance Rate Map (FIRM) and Digital FIRM issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Newport County FIRM that are wholly or partially within the Town of Tiverton are panel numbers 44005C0116H and 44005C0117H panels dated April 5, 2010; and 44005C0037J, 44005C0039J, 44005C00102J, 44005C00103J, 44005C00104J, 44005C00108J, 44005C00111J, and 44005C00112J panels dated September 4, 2013. The exact boundaries of the District shall be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Newport County Flood Insurance Study (CFIS) report dated September 4, 2013. The office of the Building Official shall be responsible for floodplain management. The FIRM and FIS report and any revisions thereto are incorporated herein by reference and are on file with the Building Official.

Section 67-3. Administrative Provisions.

(a) *Permit required.* All proposed construction or other development within a Special Flood Hazard Area shall require a permit.

The National Flood Insurance Program Special Flood Hazard Area requires permits for all projects that meet the definition of development, not just “building” projects. Development projects include any filling, grading, excavation, mining, drilling, storage of materials, temporary stream crossings. If the construction or other development within a Special Flood Hazard Area is not covered by a building permit, all other non-structural activities shall be permitted either by the Rhode Island Coastal Resources Management Council and/or the Rhode Island Department of Environmental Management as applicable. Therefore if another State agency issues a permit, the local building official must have the opportunity for input and keep a copy of the respective permit in their files.

Prior to the issuance of a building or development permit, the applicant shall submit evidence that all necessary permits and approvals have been received from all government agencies from which approval is required by federal or state law.

A permit fee, which shall be established by Town Council resolution and based on the cost of the construction, shall be required to be paid to the Town of Tiverton and a copy of a receipt for the same shall accompany the application. An additional fee may be charged if the Building Official and/or board of appeals needs the assistance of a professional engineer.

(b) *Disclaimer of Liability.* The degree of flood protection required by the ordinance is considered reasonable but does not imply total flood protection.

(c) *Severability.* If any section, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.

(d) *Abrogation and Greater Restriction.* This ordinance shall not in any way impair/remove the necessity of compliance with any other applicable laws, ordinances, regulations, etc. Where this ordinance imposes a greater restriction, the provisions of this ordinance shall control.

(e) *Enforcement.* The building official shall enforce all provisions as applicable in reference to RIGL § 23-27.3-108.1.

(f) *Penalties.* Every person who shall violate any provision of this code shall be subject to penalties put forth in RIGL § 23-27.3-122.3.

Section 67-4. Notification of Watercourse Alteration.

In a riverine situation, the Building Official shall notify the following of any alteration or relocation of a watercourse:

Town of Little Compton, RI
40 Commons, P.O. Box 226
Little Compton, RI 02837

City of Fall River, Massachusetts
One Government Center
Fall River, MA 02722

Town of Westport, Massachusetts
816 Main Road
Westport, MA 02790

NFIP State Coordinator
Rhode Island Emergency Management Agency
645 New London Avenue
Cranston, RI 02920

NFIP Program Specialist.
Risk Analysis Branch
Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

The carrying capacity of the altered or relocated watercourse shall be maintained.

Section 67-5. Use Regulations.

(a) *Reference to Existing Regulations.* The Special Flood Hazard Areas are established as a floodplain district. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit, must be in compliance with all other local, state, & federal regulations including but not limited to the following:

Rhode Island State Building Code (SBC-1-2007 as established under Rhode Island General Law § 23-27.3);

Coastal Resources Management Act, Rhode Island Coastal Resource Management Council (RIGL § 46-23)

Endangered Species Act, Rhode Island Department of Environmental Management (RIGL § 20-1-2)

Freshwater Wetlands Act, Rhode Island Department of Environmental Management (RIGL § 2-1-18)

Minimum Standards Related to Individual Sewage Disposal Systems, Rhode Island Department of Environmental Management (RIGL § 5-56, 5-56.1, 23-19.15, 23-19.5, 23-24.3, 42-17.1, 46-13.2)

Water Quality Regulations, Rhode Island Department of Environmental Management (RIGL § 42-17.1, 42-17.6, 46-12)

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

(b) *Other Use Regulations.*

- 1) Within Zones AH and AO on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.
- 2) Within Zone AO on the FIRM, new and substantially improved residential structures shall have their lowest floor at least as high as the FIRM's depth number above the highest adjacent grade and non-residential structures shall be elevated or flood-proofed above the highest adjacent grade to at least as high as the depth number on the FIRM. On FIRMs without a depth number for the AO Zone, structures shall be elevated or floodproofed to at least two feet above the highest adjacent grade.
- 3) In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Newport County FIRM encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 4) All subdivision proposals must be designed to assure that:

- a.) such proposals minimize flood damage;
 - b.) all public utilities and facilities are located and constructed to minimize or eliminate flood damage;
and
 - c.) adequate drainage is provided to reduce exposure to flood hazards.
- 5) Detached accessory structures in Zones A, AE, A1-30, AO, and AH (i.e., garages, sheds) do not have to meet the elevation or dry flood-proofing requirement if the following standards are met:
- a.) The structure is no more than 100 square feet in size and has a value less than \$1000.
 - b.) The structure has unfinished interiors and must not be used for human habitation. An apartment, office or other finished space over a detached garage is considered human habitation and would require the structure to be elevated.
 - c.) The structure is not in the floodway.
 - d.) The structure is not used for the storage of hazardous materials.
 - e.) The structure is used solely for parking of vehicles and/or limited storage.
 - f.) The accessory must be wet floodproofed and designed to allow for the automatic entry and exit of flood water.
 - g.) The accessory structure shall be firmly anchored to prevent flotation, collapse and lateral movement.
 - h.) Service facilities such as electrical, mechanical and heating equipment must be elevated or flood proofed to or above the base flood elevation.
 - i.) The structure must not increase the flood levels in the floodway.
- 6) Existing contour intervals of site and elevations of existing structures must be included on plan proposal.
- 7) No person shall change from business/commercial to residential use of any structure or property located in the floodway of a Special Flood Hazard Area so as to result in a use or expansion that could increase the risk to the occupants.
- 8) The space below the lowest floor:
- a.) Free of obstructions as described in FEMA Technical Bulletin 5 “Free of Obstruction Requirements for Buildings Located in Coastal High Hazard Area in Accordance with the National Flood Insurance Program,” or
 - b.) Constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or,
 - c.) Designed with an enclosed area less than 300 square feet that is constructed with non-supporting breakaway walls that have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.

(c) Base Flood Elevation and Floodway Data.

- 1) Floodway Data. In Zones A, A1-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 2) Base Flood Elevation Data. Base flood elevation data is required for subdivision proposals or other developments greater than fifty (50) lots or 5 acres, whichever is the lesser, within unnumbered A zones.
- 3) Base Flood Elevations in A Zones. In the absence of FEMA BFE data and floodway data, the best available Federal, State, local, or other BFE or floodway data shall be used as the basis for elevating residential and non-residential structures to or above the base flood level and for flood proofing non-residential structures to or above the base flood level.

Section 67-6. Definitions.

Unless specifically defined below, words and phrases used in this ordinance pertain to floodplain management, have the same meaning as they have in common usage and to give this ordinance it's most reasonable application.

Accessory Structure - A structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

Area of Shallow Flooding- A designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard - see definition for "Special Flood Hazard Area".

Base Flood - The flood having a one (1) percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) - The elevation of the crest of the base flood or 100-year flood. The height, as established in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum where specified), in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

Basement - Any area of the building having its floor subgrade (below ground level) on all sides.

Building - see definition for "Structure".

Coastal A Zone – Area within a special flood hazard area, landward of a V Zone or landward of an open coast without mapped V Zones. The principal source of flooding must be astronomical tides, storm surges, seiches, or tsunamis, not riverine flooding. During the base flood conditions, the potential for breaking wave heights shall be greater than or equal to 1.5 feet.

Cost - As related to substantial improvements, the cost of any reconstruction, rehabilitation, addition, alteration, repair or other improvement of a structure shall be established by a detailed written contractor's estimate. The estimate shall *include*, but not be limited to: the cost of materials (interior finishing elements, structural elements, utility and service equipment); sales tax on materials, building equipment and fixtures, including heating and air conditioning and utility meters; labor; built-in appliances; demolition and site preparation; repairs made to damaged parts of the building worked on at the same time; contractor's overhead; contractor's profit; and grand total. Items to be *excluded* include: cost of plans and specifications, survey costs, permit fees, costs to correct code violations subsequent to a violation notice, outside improvements such as septic systems, water supply wells, landscaping, sidewalks, fences, yard lights, irrigation systems, and detached structures such as garages, sheds, and gazebos.

Development - Any man-made change to improved or unimproved real estate, including but not limited to the construction of buildings or structures mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials

Existing Manufactured Home Park or Manufactured Home Subdivision - A manufactured home park or manufactured home subdivision for which the construction of facilities for servicing the lots on which the manufactured home are to be affixed (including, as a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an Existing Manufactured Home Park or Existing Manufactured Home Subdivision - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Federal Emergency Management Agency (FEMA) The federal agency that administers the National Flood Insurance Program (NFIP).

Flood or Flooding - A general and temporary condition of partial or complete inundation of normally dry land areas from either the overflow of inland or tidal waters, or the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM) - The official map of a community on which the Federal Insurance Administrator has delineated both the special flood hazard areas (100-year floodplain) and the risk premium zones applicable to a community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (FIS) - The official study of a community in which the Federal Emergency Management Agency (FEMA) has conducted a technical engineering evaluation and determination of local flood hazards, flood profiles and water surface elevations. The Flood Insurance Rate Maps (FIRM), which accompany the FIS, provide both flood insurance rate zones and base flood elevations, and may provide the regulatory floodway limits.

Flood Proofing - Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. For the purposes of these regulations, the term "Regulatory Floodway" is synonymous in meaning with the term "Floodway".

Freeboard - A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

Functionally Dependent Use or Facility - A use or facility that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities.

Highest Adjacent Grade (HAG) - The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure - Any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.

Limit of Moderate Wave Action (LiMWA) - An advisory line indicating the limit of the 1.5 foot wave height during the base flood.

Lowest Floor - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; *Provided*, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of § 60.3.

Manufactured Home - A structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

Manufactured Home Park or Manufactured Home Subdivision - A parcel or contiguous parcels of land divided into two (2) or more manufactured home lots for rent or sale.

Market Value - Market value is the price of a structure that a willing buyer and seller agree upon. This can be determined by an independent appraisal by a professional appraiser; the property's tax assessment, minus land value; the replacement cost minus depreciation of the structure; the structure's Actual Cash Value.

New Construction - Structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent

improvements to such structures.

New Manufactured Home Park or Manufactured Home Subdivision - A manufactured home park or manufactured home subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain regulations adopted by the community.

Recreational Vehicle - A vehicle which is: (a) built on a single chassis; (b) four hundred (400) square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway - see definition for "Floodway".

Sheet Flow Area - see definition for "Area of Shallow Flooding".

Special Flood Hazard Area (SFHA) - The land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A is usually refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE, or V. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard."

Start of Construction - For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, substantial improvement or other improvement was within one hundred and eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erections of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure - For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

For insurance purposes, means:

1. A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site;
2. A manufactured home ("a manufactured home," also known as a mobile home, is a structure; built on permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or
3. A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws.

For the latter purpose, "structure" does not mean recreational vehicle or a park trailer or other similar vehicle, except as described in paragraph (3) of this definition, or a gas or liquid storage tank.

Substantial Damage - Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement – Any reconstruction, rehabilitation, addition or other improvements to a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include:

1. Any project to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
2. Any alteration of the "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

Variance - A grant of relief by a community from the terms of the floodplain management ordinance that allows construction in a manner otherwise prohibited and where specific enforcement would result in unnecessary hardship.

Violation - Failure of a structure or other development to be fully compliant with the community's floodplain management ordinance. A structure or other development without required permits, lowest floor elevation documentation, flood-proofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

Adopted by the Tiverton Town Council – August 26, 2013