

**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 28th day of October 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-Late Arrival
	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.

Council President Roderick read the items on the Consent Agenda. Councilor deMedeiros requested removal of item CA3a, David Paull – Request Permission to Apply for Lifespan Grant for AED Device at Town Farm Referred to Town Administrator and Recreation Commission. Councilor Gerlach requested removal of item CA3b, Copy of Letter from Harbor Commission Chair Bruce Cox to Eastern Rhode Island Conservation District Regarding Seapowet Marsh.

Councilor Gerlach made a motion, seconded by Councilor deMedeiros to approve the rest of the 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 October 15, 2013- Councilors deMedeiros and Lambert Abstained - Absent
- b. Approval of Executive Session Minutes October 15, 2013 -Councilors deMedeiros and Lambert Abstained - Absent
- c. Approval of Joint Workshop Minutes October 17, 2013- Councilors Arruda, deMedeiros and Lambert Abstained - Absent

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

- a. Board of Canvassers (2)

A-3-Correspondence – Receive and File

A-4-Approval of Tax Assessor Abatements

A-5-Chief Thomas Blakey – Permission to Advertise for Position of Dispatchers

A-6-Scheduling of Municipal Court Judge Appointment November 12, 2013

a. Request for Re-appointment by Attorney James A. Donnelly, Jr.

b. Request for Appointment by Robert H. Humphrey, Esquire

A-7-Authorize Advertising Ordinance Amendment Public Hearing December 9th on Sewers and Sewage Disposal Section 18-9.6 Education Program and Phased Implementation Paragraph #3

BUSINESS BROUGHT BEFORE THE COUNCIL

CA3a-David Paull – Request Permission to Apply for Lifespan Grant for AED Device at Town Farm Referred to Town Administrator and Recreation Commission

Councilor deMedeiros suggested letting Fire Chief Robert Lloyd take the lead on this request, people need training. T/A Goncalo noted training would be provided. Councilor deMedeiros noted the person would have to be certified, device should be stored in a secure location. T/A Goncalo explained the device would be stored for 6 months at the Town Farm in a locked concession stand. Councilor deMedeiros repeated Chief Lloyd should take the lead. Chief Lloyd did agree with the need for an AED in that building, the Fire Fighters can do the training.

Councilor deMedeiros made a motion, seconded by Councilor Gerlach to Approve Permission to Apply for Lifespan Grant for AED Device at Town Farm Referred to Town Administrator and Recreation Commission. Motion passed unanimously.

CA3b-Copy of Letter from Harbor Commission Chair Bruce Cox to Eastern Rhode Island Conservation District Regarding Seapowet Marsh

Councilor Gerlach read with interest the letter from Bruce Cox, Harbor Commission Chair as it relates to Seapowet Marsh, references high bacteria levels, requests assistance to approach a resident in that locale to mitigate the run off. Questioned how the Council would go about this. Solicitor Teitz explained to engage the public a workshop would be appropriate or invite the Professor cited in the letter to speak on the subject. This is not in the Council jurisdiction, DEM has the jurisdiction. Councilor Gerlach suggested asking Chairman Cox to send a copy of the letter to DEM, request the Clerk contact Mr. Cox.

Councilor Gerlach made a motion, seconded by Councilor deMedeiros to accept Consent Agenda item 3b, Copy of Letter from Harbor Commission Chair Bruce Cox to Eastern Rhode Island Conservation District Regarding Seapowet Marsh. Motion passed unanimously.

OPEN PUBLIC FORUM

Barbara Pelletier, citing an article in the Newport Daily News regarding taxes that Sandywoods generates brought up availability of information in the Town. Suggest a component of the website could be to submit a question, should be anonymous, simple way of dispensing information. President Roderick suggested Mrs. Pelletier submit an agenda request to discuss in the future.

PUBLIC HEARINGS & PUBLIC PRESENTATIONS:

Middletown Town Councilors Richard Adams and Barbara VonVillas - Request to Appoint Members to a Unified High School Exploratory Committee

a.PowerPoint Presentation and Relevant Data

b.Request for Tiverton Council Support

Council President Roderick suggested a short statement first, thanked both for coming, noted this should really be presented to the School Committee (SC). The Council would take recommendations from the SC. Middletown Town Councilors Richard Adams and Barbara Von Villas thanked the Council, proceeded with a slide show presentation. Explained the Middletown Town Council was very supportive, need to see if it makes sense. The Tiverton, Middletown and Newport High Schools are small, maybe can do something in a sustainable way, needs to be done at Council level. If it is not supported by the Council the proposal will not go anywhere. Looking at economies of scale, the spreadsheet tells the numbers, per pupil cost is high. A quality education generates legitimate economic growth. Visited larger schools with 1,800 to 2,000 students, is a great challenge, how to create a unified school. The plan is to meet, discuss and collaborate, expect to put in a referendum, larger

question of finance. Initial meetings are just about exploring the possibilities. Not trying to convince anyone to do anything, need to collect all the information.

Councilor Pelletier arrived at this time, 7:25 pm.

Councilor deMedeiros suggested presenting to the SC, if a worthwhile endeavor they will get involved, not Council responsibility. Was on the SC for 8 years, should start at the SC level. Councilor Lambert agreed with Councilor deMedeiros did agree with the concept but have no right to direct the SC to do anything. Not sure the Council would do anything without the input of the SC. Councilor deMedeiros explained the SC comes to the Council if they want a referendum. Mrs. Von Villas explained a subsidizing of regionalization is required. Councilor deMedeiros reiterated looking at that legislation is the SC responsibility. Councilor Gerlach echoed Councilors deMedeiros and Lambert in referring this to the SC. Mrs. Von Villas added, this will be on an agenda for three other Town Councils. President Roderick thanked both for coming; this should begin with the SC. The SC knows the size of the buildings, projected growth and requirements, the recommendation should come from the SC. Suggested contacting Sally Black, Chair of the SC.

Stone Bridge Abutment Repair Project

a.Council Vote to Proceed

T/A Goncalo explained the 30% design drawing for the Stone Bridge (SB) abutment was being submitted. The SB Committee has adopted, moving forward presenting this to Council. Kate Michaud, Planning Department, briefly explained the stones will be reset where possible, the cantilevered sidewalk will be removed, rail replaced with a closed railing, drive to be resurfaced, will comply with DEM to bring up to current standards. Light poles will have electrical service, water service to the dock, dry stand pipe for the Fire Department. The dock will be brought back to usable condition also used for Town boats. Parking on the north side will be reduced; stamped concrete cobblestone in a u shaped pattern will be for emergency vehicles. The Doughboy and a Flag pole will be lit up near the blue star monument. Will be two panels of explanations; the bronze plaque will be replicated in granite. The drainage system will be upsized; the length of the bridge will be the same, need to see the Army Corps of Engineers for permitting, minimal work to be done to not block the channel. Councilor Gerlach suggested incorporating bike racks. Ms. Michaud will try to find grant funds, put in a comment to the engineers.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to grant permission to proceed on the Stone Bridge Abutment Repair Project as referenced in item B2a. Motion passed unanimously.

Ms. Michaud thanked all the Dept. Heads and the Stone Bridge Committee for all their hard work on this project over the years.

Public Hearing for Proposed Ordinance Amendment–Chapter 47-Foreclosed and Vacant Properties

a.Town Solicitor’s Proposed Further Amendments for Presentation at P.H–Continued from Oct. 15, 2013

Solicitor Teitz reviewed the comments submitted by Mr. Bennis at the last meeting, adopted several of those suggestions particularly the ones defining terms and notice. Not concerned the words will be misused, this is meant to deal with a problem without hamstringing an official, want to be able to move on a problem. Suggest eliminating in Section 47-1 the part that references derelicts, vagrants and criminals. President Roderick called for public comment. Mr. Bennis handed out ten copies with more changes, complained most comments were not addressed adequately or at all. Highlighted in yellow the key items, especially page 2, when a property should be considered vacant including overgrown grass. President Roderick requested the Solicitor review the comments again, Councilor Pelletier agreed, need time to read Mr. Bennis handout. Mr. Bennis questioned if the proposed changes were accepted. Solicitor Teitz explained the changes show up as red or blue will be included in the final version. T/A Goncalo who requested the amendment explained the intent of the ordinance was for unoccupied or vacant homes, not for people who don’t mow lawns. Councilor Chabot noted the residents who go south for the winter, summer cottages and businesses closed for the winter, this ordinance would apply to those locations. The

ordinance has unintended consequences, named some at the last meeting, have a whole other list that goes way beyond . Councilor Pelletier noted the ordinance only applies if a violation meets certain criteria specifically enumerated which causes action to be taken. Councilor Chabot noted already have state law and local ordinances that pertains to uninhabitable buildings on the books. President Roderick called for any more comments from the public. Jeffrey Belli called all valid arguments, argued, military have deployments unexpectedly. Chief Blakey noted public safety was the concern.

Solicitor Teitz did not agree with the argument about overgrown grass, part of the overall issues included but not limited to, is not a violation under this ordinance does reference the Code, can't define every term within every definition. A violation if not maintained to code. President Roderick closed the Public Hearing, suggest Solicitor Teitz do a final proofing. Solicitor Teitz requested a continuance for a vote only.

Councilor Gerlach made a motion, seconded by Councilor deMedeiros to continue the Proposed Amendment to Foreclosed and Vacant Properties, to be reviewed by the Town Solicitor for a vote at the next meeting. Motion passed unanimously.

TOWN COUNCIL SITTING AS BOARD OF LICENSING:
BOARD OF LICENSING - PUBLIC HEARINGS – ADVERTISED

APPOINTMENTS & RESIGNATIONS:

Comprehensive Plan Advisory Committee – Vote on Revised Resolution

Appointment of Three Public Members

<u>a.Susan Anderson, 1137 Main Road</u>	<u>e.Scott Humphrey</u>
<u>b.Jonathan Cottrell, 35 Main Road</u>	<u>f.Cecil Leonard</u>
<u>c.Renee de Jesus-Jones</u>	<u>g.Peter Mello</u>
<u>d.John Foley</u>	

Solicitor Teitz explained, Council did not vote on resolution at last meeting, seemed to be a consensus, no motion, second or a vote. The resolution was revised September 23rd with the proposed amendments in red, was postponed to advertise for more members.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to adopt the Revised Resolution Establishing the Comprehensive Plan Advisory Committee. Discussion followed on additional wording. Councilor Lambert preferred to leave in the third paragraph beginning with “whereas” to be as inclusive as possible. Councilor Chabot pointed out the number of public members was reduced to three. Solicitor Teitz explained the Planning Board (PB) has created a subcommittee, already working on it. This proposed committee is not the main driver, is a vehicle to vet publicly, similar to liaison

Councilor Gerlach amended the motion to accept including the additional language in the third “whereas” paragraph shown as red lined. Councilor deMedeiros seconded the amendment. Motion passed unanimously.

The Adopted Revised Resolution appears at the end of the minutes.

Councilor Arruda suggested making this as balanced as possible for no majority of any one type of group. Solicitor Teitz reminded is an advisory committee, in the end sent to the Council by the PB. Town Clerk Mello did advertise for volunteers, these names are listed alphabetically.

President Roderick requested the applicants briefly explain their interest in this committee. Susan Anderson, Co-Chair of the Historic Preservation Advisory Board will bring a historical perspective. Jonathan Cottrell was unable to attend. Renee deJesus-Jones liked to take the long view, what the build out impact will have. John Foley, on the board of the Tiverton Land Trust also had a long vision, what the Town wants to be, should be.

Scott Humphrey, Chair of the Economic Development Committee (EDC), sees as a visionary document. President Roderick noted according to the membership breakout, the EDC Chair is on the committee. Cecil Leonard had various roles in Town, former Councilor, has years of public service. Peter Mello, due to a last minute commitment was unable to attend.

Councilor deMedeiros made a motion, seconded by Councilor Lambert to appoint John Foley as a Member of the Comprehensive Plan Advisory Committee. Motion passed unanimously.

Councilor Roderick made a motion, seconded by Councilor deMedeiros to appoint Cecil Leonard as a Member of the Comprehensive Plan Advisory Committee. Motion passed 6-1, Councilor Arruda opposed.

Councilor Lambert made a motion, seconded by Councilor Arruda to appoint Jonathan Cottrell as a Member of the Comprehensive Plan Advisory Committee. Motion passed on a vote of 4-3, Councilors Gerlach, Chabot and deMedeiros opposed.

Councilor Lambert asked the applicants not to take personally, voted for a broad based group. President Roderick thanked everyone who applied, requested they show up at meetings, value their input.

UNFINISHED BUSINESS:

FINANCIAL BUSINESS:

DPW Director Stephen Berlucchi – Request Transfer of \$7,195.17 from Acct#5540-6648 (Tires, Parts & Maintenance) to Acct#5530-7645 (Bulldozer Repairs) to Cover Shortage on Invoice for Repairs

T/A Goncalo explained the Bulldozer needed repairs, cost \$14,791, necessary to transfer funds, not enough remains in that account. Director Berlucchi explained, was customary to replace every 5 years, want to last longer, needs more maintenance, coming out of the normal maintenance account. Have to have both dozers by DEM permit, will put \$55,000 in next year's budget. A new one costs between \$300-350K. T/A Goncalo added, used to be on a replacement program, five year financing.

Councilor Pelletier made a motion, seconded by Councilor Gerlach to Authorize the Transfer of \$7,195.17 from Account #5540-6648 (Tires, Parts & Maintenance) to Account #5530-7645 (Bulldozer Repairs) to Cover Shortage on Invoice for Repairs. Motion passed unanimously.

NEW BUSINESS:

Town Administrator – Request Council Approval for Annual Salary Increase from \$82,209 to \$83,853 (2%) for Year Two of Three Year Contract for Police Chief Thomas Blakey

T/A Goncalo explained, the Police Chief was in the second year of a three year contract, the annual salary increase for the second year is 2%, would be effective September 8th.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to approve the request for Annual Salary Increase from \$82,209 to \$83,853, increase of 2% for Police Chief Thomas Blakey effective September 8, 2013. Motion passed unanimously.

Request to Auction DPW Surplus Equipment – (2) 2006 Ford Crown Victorias, Essick Cement Mixer, Compressor (portable) and 1999 Ford Taurus

T/A Goncalo explained, have some surplus equipment still in operating condition, trying to get more value, have minimum bids. The bid is open to anyone including Town employees.

Councilor Gerlach made a motion, seconded by Councilor Pelletier to Authorize the Auction of DPW Surplus Equipment as illustrated in item G2. Motion passed unanimously. The revenue will go into the General Fund except the 1999 Ford Taurus which goes to the Police Dept.

BIDS AND REQUESTS FOR PROPOSALS:

TOWN ADMINISTRATOR ITEMS AND ANNOUNCEMENTS:

T/A Goncalo clarified relative to health insurance, except for the Executive Assistant's contract, the model contract mentions the AFSCME contract in all contracts at this point and all contracts in existence.

1. Started with 107 properties on the tax sale list, down to 22, auction Nov.8th at 10:00 am, Town Hall.
2. Tax levy, collected 52.21%, .11% less than LY, \$41,272.
3. Children's summer reading program, 64 libraries participated, Tiverton was #7.
4. Fire Dept. members will wear pink shirts in recognition of Breast Cancer awareness.

Distribution of Five Year Capital Plan

T/A Goncalo explained the Five Year Capital Plan was a draft, more formalized after receiving the Dept. Budgets. Given to Council to review in detail before the Budget meeting. Solicitor Teitz explained when it's ready, need to refer to the Planning Board which reviews for consistency with the Comp Plan. Councilor Gerlach suggested a public process. Solicitor Teitz anticipated another meeting for Council feedback to the T/A, then a public hearing, then send to the PB. President Roderick suggested putting on the next agenda.

Distribution of Police Actuarial Report – July 1, 2013

T/A Goncalo explained the funding status increased from 50.6% to 54.8% prior to the annual contribution of \$825,000. The requirement this year is \$544,000 for an excess of \$280,000. Could be out of critical status next year. Submitted here for review for comments at another meeting.

Distribution of Employee Handbook

T/A Goncalo cited the voluminous handbook, given so the Council can formulate questions and comments, comes from Paychex, is a template, can be modified. Chief Blakey noted the Police Dept. has a separate handbook and guide, does not want the two to conflict, may need to be considered as well. Chief Lloyd has internal documents for the Fire Department as well. Solicitor Teitz explained, the Town does not have a personnel director, as federal laws change the document will also, will provide updates for the municipality. Could have something in the resolution as those being separate. Councilors Gerlach and Pelletier suggested need for some modifications, seems somewhat dry, not all applies to municipalities, needs some softness. Town Administrator will consider.

COUNCIL ANNOUNCEMENTS, COMMENTS AND QUESTIONS:

Councilor Chabot announced the Tiverton Senior Center conducting knitting and quilting sale at the Sakonnet Bay Manor on Nov. 2&3 from 9-3. Handcrafted items, profits last year provided 3 scholarships, all profits donated to charity. Second sale to be held in December. Councilor Gerlach thanked everyone who attended the groundbreaking for the new library, was well attended, well organized. Councilor Chabot thanked Senior Center Director Janice Gomes and Town Clerk Nancy Mello for all their hard work with volunteer appreciation night, was a wonderful spread.

TOWN SOLICITOR – ITEMS AND ANNOUNCEMENTS:

Sakonnet Bridge Toll Update

Solicitor Teitz explained, not much happening in Court right now, the Judge had a separate motion to amend the complaint, denied the motion, has not scheduled anything. Anticipate after the first of the year, still working on

it. Attorney Gavin would like to have a meeting of the 3 Town Councils, Tiverton, Portsmouth and Bristol, will work with the Clerk.

Bay Street Contamination Update

Solicitor Teitz had good news, coming to a closure, excavations proceeding with Bob Hoffman in charge. Most should be done by the end of November, data points in the hundreds of thousands, will come back for releasing, goal is March 31, 2014.

Lawsuit: Fireman’s Fund Insurance Company v. Joseph Fiorenzano v. Gareth T. Eames

Solicitor Teitz was just informing of a lawsuit in Federal Court on a third party complaint, the insurance company is suing the contractor, the contractor is suing the Town on failing to recognize what the contractor did improperly. The Town will vigorously defend.

TOWN CLERK ANNOUNCEMENTS:

CLOSED EXECUTIVE SESSION:

Personnel Performance–42-46-5(a) (1)–James C. Goncalo, Town Administrator- Notice Given

Councilor Lambert made a motion, seconded by Councilor deMedeiros to enter into Closed Executive Session pursuant to 42-46-5(a)(1)- James C. Goncalo, Town Administrator – Notice Given. Motion passed unanimously. President Roderick noted for the record the T/A received notice, elected to have in Executive Session.

Town Solicitor – 42-46-5(a) (2) – Litigation Report

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

Town Solicitor - 42-46-5(a) (4) – Investigative Proceedings – Procedure

Councilor Lambert made a motion, seconded by Councilor Chabot to remain in Closed Executive Session pursuant to 42-46-5(a) (4) – Investigative Proceedings – Procedure. Motion passed unanimously.

The Council entered into Executive Session at approximately 9:25 p.m.

The Council returned to Open Session at approximately 10:20 p.m.

OPEN SESSION:

In open session Council President Roderick announced accusations have been made against a Town employee. The Rhode Island State Police are investigating the accusations.

No action was taken in Executive Session.

ADJOURNMENT:

Council adjourned at approximately 10:25 p.m.

A True Copy.

ATTEST: _____ Nancy L. Mello, Town Clerk

Town of Tiverton – Revised Resolution Establishing The Comprehensive Plan Advisory Committee

WHEREAS, the Tiverton Comprehensive Community Plan (the “Plan”) is due for an update Amendment by 2014; and

WHEREAS, Rhode Island General Laws § 45-22.2-8(a) (3) (ii) requires “citizen participation through the dissemination of information to the public and solicitation of both written and oral comments during the preparation of the plan:”

WHEREAS, the Town Council wishes to make the process as inclusive as possible, so that the Amendment to the Plan can best express the wishes of the people of Tiverton as to how and where the Town should develop and grow over the next two decades:

IT IS HEREBY RESOLVED by the Town Council of Tiverton that the Comprehensive Plan Advisory Committee (“Committee”) is hereby established and organized as follows:

1. Purpose

The purpose of the Committee shall be to provide additional citizen participation in the Plan amendment process and advise the Planning Board in the drafting of the Amendment and further advise the Planning Board and Town Council in the timely adoption of such Amendment.

2. Membership

All members of the Committee shall be electors of the Town, unless serving ex-officio or as staff (including legal advisors or planning consultants) to the Committee. The membership of the Committee shall be composed of:

- a. The Town Planner
- b. The Chair (or designee) of the Planning Board The Chair (or designee) of the Conservation Commission
- c. The Chair (or designee) of the Harbor and Coastal Waters Commission
- d. The Chair (or designee) of the Wastewater Management Commission
- e. The Chair (or designee) of the Open Space Committee
- f. The Chair (or designee) of the Economic Development Committee
- g. The Town Administrator (ex-officio)
- h. Two Members of the Town Council, appointed by the Town Council (ex-officio)
- i. Three Members to be appointed by the Town Council from the public, as set forth below:
 - i. Applications shall be solicited widely through print and electronic media.
 - ii. Applicants will be requested to identify their relevant experience.

3. The Town Council shall appoint a Chair and Vice-Chair and a Secretary. The Committee shall meet at the call of the Chair or Vice-Chair. The Committee shall be deemed a public body and subject to all requirements of the Open Meetings Act and the Access to Public Records Act.

4. The Committee shall report at least quarterly to the Town Council, setting forth its achievements, projects and goals.

5. The Committee shall cease to exist on January 1, 2015.

Adopted by the Town Council on the 28th day of October, 2013.

Nancy Mello, Town Clerk