

**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 24th day of February 2014 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	

Interim Town Administrator/Town Clerk Nancy L. Mello 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 Pelletier requested removal of item CA5, DARC Realty, 400 Main Road – DEM Notice of Violation – March 25 -Scheduling for Review and Setting Date for Possible Show Cause Hearing and President Roderick requested removal of item CA1b, Approval of Minutes Special Meeting February 15, 2014.

CA5-DARC Realty, 400 Main Road – DEM Notice of Violation – March 25 -Scheduling for Review and Setting Date for Possible Show Cause Hearing

Councilor Pelletier requested clarification on the Notice of Violation and the next step. Solicitor Teitz explained DEM issued the Notice was mainly for administrative filings to keep records on underground tanks for inventory control. The Town issues its own license subject to meeting all legal requirements. DEM has given them 45 days, suggest continuing to March 25th. Town Clerk Mello noted this business has petroleum and a holiday license, sent a letter, suggested notifying our office as soon as it is resolved.

CA1b-Approval of Minutes Special Meeting February 15, 2014

President Roderick requested a minor correction in the first sentence, change January to February.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to accept CA5, DARC Realty, 400 Main Road – DEM Notice of Violation – March 25 -Scheduling for Review and Setting Date for Possible Show Cause Hearing. Motion passed unanimously.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to approve as amended the Minutes from the Special Meeting February 15, 2014. Motion passed unanimously.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to approve the rest of 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 February 10, 2014

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

a. Prevention Coalition b. Open Space Commission

A-3-Correspondence – Receive and File:

a. Town Council, Town of Charlestown- Resolution to Support Repeal Of Master-Lever Voting Per S2019

A-4-Michael Marc Jean – Request Town Grant an Easement In, Through, Under and Over Roy Street for the Installation of Utilities and Passage – Referred to Planning Board, DPW Director and Tax Assessor for Recommendations

BUSINESS BROUGHT BEFORE THE COUNCIL

President Roderick requested a motion to move up item G2, Father John Higgenbotham – Holy Trinity Church – Request Use of Town Property on Wednesday, March 5th from 6am to 9:30pm – Entrance to Grinnell Beach.

Councilor deMedeiros made a motion, seconded by Councilor Pelletier to move up item G2. Motion passed unanimously.

NEW BUSINESS:

G-2-Father John Higgenbotham – Holy Trinity Church – Request Use of Town Property on Wednesday, March 5th from 6am to 9:30am – Entrance to Grinnell Beach

Father Higgenbotham requested the use of the entrance to Grinnell’s Beach to distribute ashes. President Roderick noted, has been done before but at the beach, will be giving free coffee.

Councilor Lambert made a motion, seconded by Councilor Chabot to approve the request from Holy Trinity Church to use Town Property from 6am to 9:30am on Wednesday, March 5th at the entrance to Grinnell Beach. Motion passed unanimously.

A-6-OPEN PUBLIC FORUM FOR ANNOUNCEMENTS, COMMENTS, QUESTIONS:

Rosemary Bowers, President of the Tiverton Lions Club invited the Council to attend the 1st Annual Recognition Night on March 28th at White’s of Westport to recognize Sgt. Daniel Raymond, Jr (Police), Joshua Ferreira (Firefighter/EMT), William Phillips (High School), Christine Costa (Middle School) and Susan Petrarca (Ranger School) .The Social is at 6pm, dinner at 7pm, tickets \$25 per person. It is not a fundraiser; they are being recognized for the outstanding contributions made to the Town of Tiverton. Ms. Bowers left some tickets with the Clerk as well as flyers describing the Tiverton Lions Club.

Jeff Belli, regarding Town issues, read from a brief statement, displeased with construction of the new library. President Roderick suggested submitting an agenda request, Councilor Lambert agreed so that a representative from the Library Trustees could attend to answer questions.

President Roderick requested a motion to change the order of the agenda, moving up items G1a, b and c.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to take items G1a, b and c after A-6, Open Public Forum. Motion passed unanimously.

NEW BUSINESS:

G1-Interim Town Administrator

a.Approval of Town Administrator Contract

IT/A Mello explained the Council was given a copy of the proposed contract, was made public as required by the Charter, some suggested changes were made, handed out an amended contract in a red-lined copy. The applicant did look at it, was satisfied, suggest the Council take action as is, can amend in the future if necessary. Councilor Gerlach discussed the issue of not using a Town vehicle, if there was enough granularity on what is or isn’t

covered by the \$2,500. IT/A Mello distributed copies of a memo from the Interlocal Trust, was explained to the applicant. President Roderick noted it would be two tier insurance, the applicant's would be used first over the Trust. IT/A Mello received some good suggestions on goals and objectives from Councilor Arruda. Councilor deMedeiros suggested putting that on a future agenda. Councilor Pelletier questioned if there was a policy on reimbursement expense, an understanding of what that covers, was not specific in the contract. The applicant suggested it would be for mileage reimbursement, will be providing documentation. President Roderick pointed out the contract states for official use. Solicitor Teitz explained the applicant would account for mileage used on official business.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to approve the Town Administrator contract, G1a in the Council packet, as amended with tracked red-lined changes. Motion passed unanimously.

b.Goals and Objectives for Town Administrator

Councilor Chabot made a motion, seconded by Councilor deMedeiros to continue G1b, Goals and Objectives for Town Administrator until the next Town Council meeting. Motion passed unanimously.

c.Appointment of Town Administrator

Solicitor Teitz, before the motion was made questioned when the appointment would be effective for technicality purposes. President Roderick noted it would be effective at 8:00 a.m. Tuesday morning.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to appoint Matthew J. Wojcik as Town Administrator effective Tuesday, February 25th at 8:00 a.m. subject to the employment contract. Motion passed unanimously.

A round of applause followed, President Roderick explained it was a unanimous vote of the Council to offer Mr. Wojcik the position. President Roderick invited Mr. Wojcik to sit as a guest at the Council table for the rest of the meeting.

Mr. Wojcik was happy to accept, introduced his family, appreciated the opportunity and accepted President Roderick's invitation to sit at the Council table.

PUBLIC HEARINGS & PUBLIC PRESENTATIONS:

Brian Janes - Open Space Commission Annual Report

Brian Janes, Co-Chair of the Open Space Commission summarized the annual report. The primary mission is to enhance the open space lands, Weetamoo Woods, Pocasset Ridge, High Hill Point and Fort Barton (FB). An ongoing maintenance project at FB is repairing 15 bridges and stairways, published a new field guide, the rest is surrounded by Fort Barton Woods. Open Space took stewardship and management of the day to day activities, demolished a cabin, developed a master plan for those woods. At Weetamoo, continuing the restoration of meadows and brush, DPW helped to expand the parking area. For Pocasset Ridge, completed a management plan in cooperation with the RI Nature Conservancy, Tiverton Land Trust and RIDEM. For High Hill Point submitted a plan to CRMC to control invasive plants. Secured two grants, \$208,000 to assist with acquiring the former SeaSide Gas property at Grinnell's Beach and \$100,000 for a trails grant program. Conducted education tours, lectures and research. Now have a spreadsheet program to list all Town Open Space property records. Rely on volunteers every day, like to acknowledge Dana Summer, Mo Fiola, Mary Sexton, Tiverton High School students who give community service hours and Carl Dumas. President Roderick thanked the Commission, do wonderful work.

A five minute break was taken at this time, 7:42 pm.

TOWN COUNCIL SITTING AS BOARD OF LICENSING:
ADVERTISED PUBLIC HEARING

Foodworth, Inc., 70 Shove Street – Requests Approval for Transfer of BV Liquor License Subject To Meeting All Legal Requirements **a.Objection to Issuance of License from Paul J. Pisano, Esq.**

Bernadette Almeida, applicant, explained the business would be called Atlantic Sports Bar and Restaurant. The menu had a variety including Panini and seafood, hired a great chef. President Roderick noted the objection from Attorney Paul Pisano because of monies owed. Brian Dupere, current owner, handed out two letters, one from RI Distributing Co. showing paid in full with a request to release objection and one from Horizon Beverage Company noting a zero balance for Atlantic Sports Pub. Town Clerk Mello explained, was not unusual with a transfer of liquor license, they usually send a release.

Councilor Pelletier made a motion to approve the request to Transfer BV Liquor License subject to meeting all legal requirements from Atlantic Sports Pub and Restaurant to Foodworth, Inc., d/b/a Atlantic Sports Pub. The motion was seconded by Councilor deMedeiros. President Roderick called for public comment three times, hearing none closed the public portion. The motion passed unanimously.

NON ADVERTISED LICENSES:

Foodworth, Inc., 70 Shove Street

a.Requests Approval for Transfer of Entertainment License - Subject To Meeting All Legal Requirements

b.Request for Victualling License – Subject to Meeting All Legal Requirements

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to grant the approval for Transfer of Entertainment and Victualling License to Foodworth, Inc. subject to meeting all legal requirements. Solicitor Teitz questioned what type of entertainment if it included amplification. Ms. Almeida explained it would be the same as there now, band on some Saturday nights. Solicitor Teitz wanted to clarify, if it was coupled to the electrical switch system. Mr. Dupere explained everything was tied in, has been inspected, shuts off with the smoke detectors, have karaoke on Wednesday's. Chief Lloyd concurred that system was installed. Solicitor Teitz noted with the transfer whatever restrictions were on the previous license will carry forward. The victualling license request was addressed while the Clerk checked for any restrictions.

Councilor Pelletier restated the motion to grant the approval for a Victualling License to Foodworth, Inc. subject to meeting all legal requirements. Motion passed unanimously.

Town Clerk Mello noted the license had stipulated Indoor Only as specified on the floor plans.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to approve the Transfer of Entertainment License subject to meeting all legal requirements to Foodworth, Inc. Motion passed unanimously.

W. Walsh Company, Inc., 32 Walton St., Attleboro, MA –Requests Approval of Street Excavator License – Subject To Meeting All Legal Requirements

DPW Director Steve Berlucchi recommended approval for this license.

Councilor Gerlach made a motion to request approval of Street Excavator License subject to meeting all legal requirements for W. Walsh Company, Inc., 32 Walton St., Attleboro, MA. Seconded by Councilor Pelletier motion passed unanimously.

Milk and Honey Kitchen LLC d/b/a Milk and Honey - 3838 Main Road – Requests Approval of Holiday License – Continued from 2/10/14-Subject To Meeting All Legal Requirements

a. Solicitor Memorandum

Solicitor Teitz had requested continuance on this item from the previous meeting looked at legal use of the property and provided a memorandum; the Town had issued building permits and certificates of occupancy.

Withdrew the concern regarding the legal use, for the current use it is legal. Cannot be expanded without further relief.

Councilor Gerlach made a motion, seconded by Councilor Pelletier to approve a Holiday License for Milk and Honey Kitchen LLC d/b/a Milk and Honey, 3838 Main Road, subject to meeting all legal requirements. Motion passed unanimously.

Foodworth, Inc., 70 Shove Street

a.Requests Approval for Transfer of Entertainment License - Subject To Meeting All Legal Requirements

b.Request for Victualling License – Subject to Meeting All Legal Requirements

Going back to the Entertainment License request the Town Clerk noted it stipulated Indoor Only as specified on the floor plan.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to approve the Transfer of the Entertainment License subject to meeting all legal requirements to Foodworth, Inc., 70 Shove Street. Motion passed unanimously.

Step by Step Mart, 429 Main Road – Renewal of Annual Licenses – Request Continuance of Licenses Subject to Meeting Payment Agreement - DPW Director Recommendation Attached

DPW Director Berlucchi explained three months ago the Council put an extension on this license request because of monies owed for Pay As You Throw bags. Has met payments owes \$3,000, have been paying \$500 per month. President Roderick suggested extending the licenses for 3 months.

Councilor Lambert made a motion, seconded by Councilor Chabot to continue the Licenses for Step by Step, 429 Main Road for 3 months subject to meeting the payment agreement submitted by the DPW Director. Motion passed unanimously.

APPOINTMENTS & RESIGNATIONS:

Lizabeth Cottrell- Request Appointment to Conservation Commission, 3 Year Term Expiring 4/15/2017

Ms. Cottrell was interested with drinking water quality protection. Councilor Gerlach thanked for getting involved.

Councilor Lambert made a motion, seconded by Councilor Chabot to appoint Lizabeth Cottrell to the Conservation Commission for a 3 Year Term expiring 4/15/2017. Motion passed unanimously.

UNFINISHED BUSINESS:

FINANCIAL BUSINESS:

Request Council Approval of Transfers of Funds

a.From Acct# 2190-5268 (Insurance) to Acct#5540-6698(Sand & Salt) \$30,000

b.From Acct#2190-5268 (Insurance) to Acct# 5540-6451 (DPW Contract Services–Private Plows) \$11,000

IT/A Mello listed the transfers separately, looked at accounts that had shortages, still have some funds available. At this point just the DPW is in red, tried to clear some of it up. Director Berlucchi explained the storms have cost more for sand and salt, getting \$3,000 worth, will be additional \$11,000 when the rest of it comes. Have enough for 2 storms.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to approve the Transfer of Funds from Account # 2190-5268 (Insurance) to Account # 5540-6698 (Sand & Salt) for \$30,000 and from Account #2190-5268 (Insurance) to Account #5540-6451(DPW Contract Services – Private Plows) for \$11,000. Councilor Pelletier questioned why there was flexibility in the Insurance account. IT/A Mello explained Town

Treasurer Denise Saurette made a spreadsheet, savings from Health Savings Accounts, allowed for enough to cover through the June payment. Motion passed unanimously.

Request Council Approval of Transfers of Funds

a.From Acct#2190-5268(Insurance) to Acct#1120-7980 (T/A Unbudgeted Items) \$12,500 for Giroux (Industrial Park) b.From Acct#2190-5268(Insurance) to Treasurer's Accrual Acct \$16,500 for Sakonnet River Bridge Toll Litigation

Solicitor Teitz explained the Council the first one dealt with a payment in December. Goes back a dozen years ago, the Industrial Park was marketed, Mr. Giroux was a realtor securing buyers. The Council at that time walked away trying to sell the Park as a whole. As part of the settlement agreement Mr. Giroux would be paid in five years or when the first lot was sold. The note came due, did not sell any lots, \$10,000 is principal, \$2,500 is simple interest.

The \$16,500 for the toll comes from services by experts, traffic studies and consultants in Washington, one of whom was the former head of the Federal Highway. Had allocated up to \$38,000 for that, may still need more. IT/A Mello explained the Treasurer set up two accounts, a T/A Unbudgeted Items Account and a Treasurer's Accrual Account. Tried to keep clean for unbudgeted expenses. If funds are transferred to litigation will inflate the litigation account.

Councilor Pelletier made a motion, seconded by Councilor Gerlach to approve the request to Transfer Funds from Account # 2190-5268 (Insurance) to Account #1120-7980 (T/A Unbudgeted Items), \$12,500, and to Treasurer's Accrual Account , \$16,500 for Sakonnet River Bridge Toll Litigation. Motion passed unanimously.

Request Council Approval of Transfer of Funds From Acct#1120-5100 (T/A Salary) to Acct#1060-5102 (Building Office Staff Salary) \$2,860

IT/A Mello explained the transfer was for additional work the prior T/A directed that office to do, covered some of that expense and the part time clerk who covers for vacations. There will be enough funds for the T/A salary through June with some left over.

Councilor Gerlach made a motion, seconded by Councilor Chabot to approve the request to Transfer of Funds from Account #1120-5100 (T/A Salary) to Account #1060-5102 (Building Office Staff Salary) for \$2,860. Motion passed unanimously.

Request Council Approval of Transfer of Funds

\$1,870 From Acct#5130-6690 (Rental Maintenance)

\$1,000 From Acct#1960-7533 (Municipal Court Computer)

\$195 From Acct#2200-7156 (Audit Services) ----- Totaling \$3,065

To Acct#1120-7980 (T/A Unbudgeted Items) To Pay For Shortfall in Fuel System Expenses

IT/A Mello explained this was for the new fuel system, the DPW Director informed the IT/A of the shortfall, conferred with the Treasurer who agreed to transfer some funds as well. Expense came mostly from renting a crane to move the other tank. Director Berlucchi explained the island had to be extended, concrete poured, incurred other miscellaneous expenses. Covered the rest of the cost under the DPW budget. Trying to sell the old tank, hard to do as it involves moving costs. Fuel system works very well.

Councilor Gerlach made a motion, seconded by Councilor Chabot to approve the request for Transfer of Funds, \$1,870 from Account #5130-6690 (Rental Maintenance), \$1,000 from Account #1960-7533 (Municipal Court Computer) and \$195 from Account #2200-7156 (Audit Services), totaling \$3,065 to Account #1120-7980 (T/A Unbudgeted Items) to pay for shortfall in fuel system expenses.

Request Council Approval of Transfer of Funds

\$1,565 From Acct#1020-6890 (Council Contingency) to Acct#1120-7980 (T/A Unbudgeted Items) to Cover Costs for Senior Center Sink Required by Health Department

IT/A Mello explained the Senior Center sink was required by the Health Department, is just for the purchase of the sink, in the process of getting quotes from the plumber and carpenter.

Councilor Gerlach made a motion, seconded by Councilor Chabot to approve the request for Transfer of Funds for \$1,565 from Account #1020-6890 (Council Contingency) to Account #1120-7980 (T/A Unbudgeted Items) to cover costs for Senior Center Sink required by Health Department. Motion passed unanimously.

President Roderick, before discussing the budget publicly thanked the Interim Town Administrator/Town Clerk Nancy Mello and Town Treasurer Denise Saurette for all their hard work on the Budget. Council has spent a lot of time on the budget, grateful for all Mrs. Mello's hard work. The Council publicly acknowledged both hats worn by the Clerk and the Town Treasurer for all the budget reports. A round of applause followed.

Discussion of Municipal Budget FY 2014-15

IT/A Mello noted this budget reflected the changes made on Saturday the 22nd. Chief Lloyd provided, at the request of the IT/A, current budget status of vacancies. The overtime account depends on who works, new hires and who stays. IT/A Mello had requested the impact on the budget. Chief Lloyd explained, depended on the vacancies, provided a synopsis and an organizational chart. Councilor deMedeiros questioned if minimum staffing was 7 per shift. Chief Lloyd explained each shift should have an assignment of 8. Councilor deMedeiros noted shifts 3 & 4 always pay overtime. Chief Lloyd noted having a full complement of personnel will save around \$80,000 in overtime. Discussion followed on the EMS incentive. Currently have 2 basic, 16 paramedics and 14 cardiac EMT's. President Roderick noted last year budgeted for \$79K spent \$63K. Councilor deMedeiros noted with transfers asking for \$92,950. Chief Lloyd explained have 4 others going to paramedic school, amount based on current contract, staffing at this time. President Roderick noted the Council needs actual numbers.

Police Chief Blakey, upon request from the IT/A produced figures for the Animal Shelter contract. Costs \$27,500 per year, has already been reduced by \$1,500. The cost is \$12.25 per cage for 6 cages for 365 days. Can also be dealing with unknowns, quarantines cost \$500. President Roderick suggested reducing this to \$28,500. Code Red is a yearly service, should be kept in the budget. Councilor Pelletier looked for clarification on the bull dozer tracks. Director Berlucchi explained every 5 years would get a new dozer, used at the landfill to bury trash, need to have 2, DEM requires a backup. The old one is 12 years old, newer one 7 years old. Town Clerk Mello had another issue, recent Board of Elections (BOE) meeting with the Board of Canvassers (BOC), BOE Director Bob Kando had a lot of concerns, only have a part time BOC clerk. Mr. Kando sent a letter, wants to know what is being planned. Share a clerk with the Treasurer, would have to have a part timer through the election cycle. Clearly cannot run an election with a 16 hour clerk, BOE displeased it was still running like this. Regarding clarification on the \$12,000 requested to reseed the soccer field, Recreation Commission Chair Gary Rose unable to make it to this meeting, received an email from him, the soccer league has paid, contributes to the soccer fields. Will contact Chairman Rose tomorrow, suggest he send a breakdown. The Recreation agenda also had an item for hiring a coordinator, is a process for hiring. Councilor deMedeiros reminded there is a joint meeting of the Council and the Budget Committee tomorrow night. Councilor Chabot noted, may need to reconsider the Police Pension budget, only required to put in \$700K, may need to trim \$100K, put some in Council contingency. Councilor Pelletier was comfortable with reducing, may be some flexibility in that account.

Councilor Chabot made a motion to reduce the Police Pension liability by \$50,000 to \$750,000. There was no second for this motion.

President Roderick noted the need to discuss further, leery about underfunding.

NEW BUSINESS:

Interim Administrator – Request Authorization to Advertise When Funding Allows for Maintenance Foreman/Laborer and Custodial/Maintenance

IT/A Mello requested permission to advertise subject to funding. President Roderick briefly discussed, needs to be reviewed, wait until clarified what is being advertised, what the position entails. Councilor Pelletier cited the old job description, needs additional wording. President Roderick suggested holding off until the next meeting.

BIDS AND REQUESTS FOR PROPOSALS:

TOWN ADMINISTRATOR ITEMS AND ANNOUNCEMENTS:

IT/A Mello attended a Street Committee meeting last week, have some concerns about their mission, their actual charge. They have requested a workshop with the Council, did explain the Budget takes precedence. Asked to send issues ahead of time. Will put on next agenda.

COUNCIL ANNOUNCEMENTS, COMMENTS AND QUESTIONS:

TOWN SOLICITOR – ITEMS AND ANNOUNCEMENTS:

Solicitor Teitz requested moving from Executive Session item 5-1, Acquisition of Real Property for Public Purposes– Stone Bridge Gas Station, before item K1.

Councilor Pelletier made a motion, seconded by Councilor Gerlach to change Closed Executive Session item 5-1, Acquisition of Real Property for Public Purposes– Stone Bridge Gas Station to open session before K1. Motion passed unanimously.

Solicitor – Acquisition of Real Property for Public Purposes– Stone Bridge Gas Station

Solicitor Teitz announced basically there for the acquisition of the property known as the Seaside Gas Station, or Stone Bridge Gas Station owned by the Cutillo Family Trust. All the pieces are in place, will record tomorrow morning and release the documents afterwards. The sale price of \$400,000 includes closing costs, \$16,313 included a survey, phase 1& 2 for environmental testing, \$40,000 to remove the underground storage tank, not leaking . DEM requires removal within 6 months of closing, have money allocated for that. Director Berlucchi had 2 price quotes from 2 State certified contractors; have to be certified for removal. Solicitor Teitz explained on the funding side, there was no current cost out of the operating budget to the taxpayers. Received \$200K from DOT, \$204K, increased for the Stone Bridge Abutment project and \$200K from an old environmental grant from DOT, part of \$2.6 million. Waited for the signed agreement for the funds from the \$2.6 million. An Open Space grant up to \$50,000 can be used to enhance the property. Kate Michaud, Planning Administrative Officer will be applying to Roger Williams University Community Partnership program for study on the use of the property. DEM recreation easement allows for recreational use, possible uses could include a beach concession stand or demolition of the building. Councilor Lambert thanked Solicitor Teitz for an excellent job in negotiating this for the Town and to point out there was no conspiracy when the Council did not reveal every detail, for various reasons could not disclose details, did accomplish something for the Town. Part of the purchase and sales agreement was not to disclose details. Solicitor Teitz noted the original agreement had a December deadline, depended on the good will of the sellers while working with DOT, like to give special thanks to Stephen and William Cutillo for gracious to continuously extend the deadline, wanted to see this for the Town of Tiverton. President Roderick thanked for the Town as well.

K1.Stafford Pond Fishing Tournament Letters

Solicitor Teitz had provided a list of people who received permits from DEM last year, sent a letter with the statute and the application. Have not received any responses to date.

K2.Amended Resolution Ad Hoc Land Use Procedures and Enforcement (LUPE) Committee

a.Original Resolution Approved June 24, 2013

Solicitor Teitz explained, was originally called the Land Use Committee, amended the resolution, changes are red lined.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to amend the Resolution as indicated. Solicitor Teitz noted the members were all Town staff. Councilor Gerlach noted the value of trying to get more input from the public. President Roderick explained this is just an ad hoc committee, will have public hearings. Motion passed unanimously.

Councilor Pelletier volunteered to be the designated member of the Town Council.

Amended Resolution attached at end of minutes.

K3.Solicitor Memorandum Regarding Shooting Ranges a/k/a Shooting Galleries

Solicitor Teitz had provided a Memorandum regarding shooting galleries, part 1 of a 2 part issue, There is a question of whether there is a shooting gallery in Town , asked what would they need to do if they wanted to get a license. State Law goes back well over a century, appears the Town has the authority to license or not. This is just for information; nothing has to be done tonight. The Zoning ordinance would have to be amended, probably the Comp Plan as well and an enacting ordinance for licensing and standards. The Town does not permit shooting ranges. Shooting on private property is a separate issue, while a particular use is allowed, need to follow footage requirements, allowing on your own land is okay, charging money is not okay. Money or consideration becomes a business, an illegal shooting gallery. Solicitor Teitz first needs to be discussed, looked at. Not making this as opinion on any particular use at this point, just wanted to provide the Council with the law.

K4.Donna Banville v. Peter Brennan et al Decision

Solicitor Teitz explained, not really a Town item, concerns a recent Supreme Court decision. Had issues before about private property owners and a dispute over the boundary, because of that brings the Town into it. This case went to the Superior Court and the Supreme Court, Mrs. Banville prevailed, her survey of the property line was correct. Now two issues, one about the property, Mr. Brennan had to post a \$50,000 bond, now the Town has a definition of finding. The Town can find a violation; the Courts have held repeatedly it is not for the Town to decide who owns property only the Supreme Court can decide who the real owner of the property is. Solicitor Teitz believed the Town would take action, not a party to the case. Councilor Arruda questioned the Town's liability regarding a certified letter sent to the Zoning Official. Solicitor Teitz noted was not for the Zoning Official to decide the question of ownership. There are requirements of the Building Permit Code, must be issued within a certain number of days, Town can be liable for refusing. Does not appear an appeal went to the Zoning Board on the building permit, would need to ask Peter Ruggiero, Solicitor for Zoning. The proper mechanism is to appeal to the Zoning Board, acts as an automatic stay until the Zoning Board rules. This was a private suit, a disagreement between two property owners.

Councilor Arruda questioned if a motion was filed for March in the McLaughlin case. Solicitor Teitz explained was waiting for the official order from Superior Court denying the appeal. It is moving forward, don't have a date yet. At the last meeting the Solicitor noted Newport County only has a motion calendar once a month. When that decision came it was too late to file for March.

TOWN CLERK ITEMS AND ANNOUNCEMENTS:

IT/A Mello received permission from the Auditor General to go out for RFP for Audit Services, on next agenda.

CLOSED EXECUTIVE SESSION:

2. Open Space Commission – 42-46-5(a) (5) - Acquisition of Real Property for Public Purposes

3. Interim Town Administrator–Personnel Performance–42-46-5(a) (1)–Gareth Eames–Code Enforcement Officer – Notice Given

4. Solicitor – 42-46-5(a) (2) – Potential Litigation

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

Councilor Lambert made a motion, seconded by Councilor Chabot to stay in Closed Executive Session pursuant to 42-46-5(a)(1) -Personnel Performance)–Gareth Eames–Code Enforcement Officer – Notice Given. IT/A Mello noted Mr. Eames was noticed, elected to have in Executive Session. Motion passed unanimously.

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

The Council entered into Executive Session at approximately 9:50 p.m.

The Council returned to Open Session at approximately 11:15 p.m.

OPEN SESSION:

In Opens Session President Roderick announced formal action had been taken on item 4 – Potential litigation.

Councilor Pelletier motioned to seal the minutes of Executive Session. Seconded by Councilor Arruda passed unanimously.

ADJOURNMENT:

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

Council adjourned at approximately 11:20.

A True Copy.

ATTEST: _____
Nancy L. Mello, Town Clerk

Town of Tiverton - Resolution
Establishing
The Ad Hoc
Land Use Procedures and Enforcement (LUPE) Committee

WHEREAS, on September 8, 2012, the Town held a Planning and Zoning Workshop, which was assisted by the RI Statewide Planning Office and the Cecil Group; and

WHEREAS, at such workshop, the populace brought forth many ideas for the improvement of planning and zoning in the Town, both short-term procedural ideas and long-term conceptual goals, and many ideas in between, and the Cecil Group collected these issues; and

WHEREAS, the Town Council wishes to proceed from this workshop and implement as many of the ideas and suggestions as desirable and practical and legal:

IT IS HEREBY RESOLVED by the Town Council of Tiverton that the Ad Hoc Land Use Procedures and Enforcement (LUPE) Committee (“Committee”) is hereby established and organized as follows:

1. Purposes

The purposes of the Committee shall be to:

- a. Further research and investigate the issues identified in the Cecil Group compilation.
- b. Divide out the short-term procedural ideas from the long term procedural ideas and from the Comprehensive Plan concerns.
- c. Develop a referral of the Comprehensive Plan Concerns to the Comprehensive Plan Advisory Committee
- d. Develop a set of recommendations to implement the short term and long term ideas.
- e. Develop recommendations of timeframes and responsible parties for implementation of the short term ideas.
- f. Develop recommendations of timeframes and responsible parties for implementation of the long term ideas.

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 Administrator (Chair)
- b. The Administrative Officer (staff)
- c. The Zoning Enforcement Officer (staff)
- d. The Town Solicitor (staff)
- e. The Chair (or designee) of the Planning Board
- f. The Chair (or designee) of the Zoning Board
- g. One Member of the Town Council, appointed by the Town Council (ex-officio)

3. The Committee shall report its referrals and recommendations as set forth in #1c, 1d, and 1e above, to the Town Council by December 31, 2014, and the Town Council shall hold a Public Hearing within 90 days.

4. The Committee shall cease to exist as of June 30, 2015.

Adopted by the Town Council on the 24th day of February, 2014.

Nancy Mello, Town Clerk