

**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 10th day of March 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	

Town Administrator, Matthew Wojcik and Town Solicitor, Andrew M. Teitz were also present.

Approval of Consent Agenda:

All items listed with (CA) are to be considered routine by the Town Council and will be enacted by one motion. There will be no separate discussion of these items unless a member of the Council or a member of the public so requests, in which event the item will be removed from Consent Agenda (CA) consideration and considered in its normal sequence on the agenda.

President Roderick read the items on the Consent Agenda. Councilor Pelletier requested removal of item CA3b, City of Newport Mayor Invitation to Join the 58th Annual St. Patrick's Day Parade March 15, 2014 and CA6, Tiverton Garden Club - Proclamation Tiverton Clean Up Week. Councilor Gerlach requested removal of item CA2e, Planning Board (3) minutes. Councilor Arruda requested removal of item CA5, Town Administrator – Department Monthly Report February 2014.

Councilor Pelletier made a motion, seconded by Councilor Gerlach to approve the rest of the items on the Consent Agenda except for those removed. Motion passed unanimously.

The Consent Agenda was as follows:

CONSENT AGENDA:

A-1-No Minutes Available

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

- | | |
|-------------------------------------|---------------------|
| a. Street Advisory Committee | c. Arts Council |
| b. Wastewater Management Commission | d. Library Services |

A-3-Correspondence – Receive and File:

- a. Tiverton Land Trust – Awarded Accreditation by Land Trust Accreditation Commission
- c. Newport City Council Resolution Requesting Rhode Island Congressional Delegation Support a Sustainable Mechanism for Funding the Federal Highway Trust fund

A-4-Approval of Tax Assessor Abatements

A-7-Barbara Pelletier – Feb. Meeting Report of Newport & Bristol County Convention & Visitors' Bureau

A-8-Kate Michaud, Administrative Officer Report of Activities for February 2014

BUSINESS BROUGHT BEFORE THE COUNCIL

CA2e-Receipt of Minutes from the Following Boards, Commissions- Planning Board (3)

Councilor Gerlach had a question for Planning Board Administrative Officer Kate Michaud regarding comments received from various Boards and Commissions on the challenge grant. Town Clerk Mello will ask Ms. Michaud to reply by email.

Councilor Gerlach made a motion, seconded by Councilor deMedeiros to accept item CA2e, Planning Board Minutes (3). Motion passed unanimously.

CA3b-City of Newport Mayor Invitation to Join the 58th Annual St. Patrick's Day Parade March 15, 2014

Councilor Pelletier announced the Invitation to march in the 58th annual St. Patrick's Day Parade in Newport this Saturday March 15th, parade starts at 11:00 am. Councilor Pelletier has marched the last 3 years, encourage everyone to participate.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to accept item CA3b, City of Newport Mayor Invitation to Join the 58th Annual St. Patrick's Day Parade March 15, 2014. Motion passed unanimously.

CA5-Town Administrator – Department Monthly Report February 2014

Councilor Arruda noted on the monthly report the grading of Cynthia Avenue a second time, questioned the DPW Director on the condition of the street. Director Berlucchi explained it was smooth enough, could send a plow without any major problems. Use the black gravel mix to fill the holes.

Councilor Arruda made a motion, seconded by Councilor deMedeiros to accept item CA5- Town Administrator – Department Monthly Report February 2014. Motion passed unanimously.

CA6-Tiverton Garden Club - Proclamation Tiverton Clean Up Week

Councilor Pelletier noted Spring Clean Up Week was being held May 3 to May 10, kickoff at Grinnell's Beach on May 3rd from 9-2. Bags will be provided, bring gloves, encourage all to participate.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to approve the Tiverton Garden Club Proclamation Tiverton Clean Up Week. Motion passed unanimously.

OPEN PUBLIC FORUM FOR ANNOUCEMENTS, COMMENTS, QUESTIONS

Barbara Pelletier noted the need to remove the snowflake banners, suggested some slogans, Tiverton better tomorrow honoring the past or Tiverton looking to the future honoring the past. Mrs. Pelletier also suggested the Police Station would be a good place to get information, used to be indicated on highway signs. Chief Blakey pointed out there are highway signs indicating the Police Department, would have a spot in the lobby for pamphlets. Ms. Michaud, late arrival, responded to Councilor Gerlach, had not received any comments for Boards and Commission on the Challenge Grant.

PUBLIC HEARINGS & PUBLIC PRESENTATIONS:

Donald Medeiros – Annual Report Building Code Board of Appeals

Town Clerk Mello explained Mr. Medeiros was unable to attend; this Board did not receive any appeals during the 2013 calendar year.

DPW Director Stephen Berlucchi – Public Input Hearing for RIPDES (Rhode Island Pollution Discharge Elimination System) Small MS4 2013 Annual Report Required by RIDEM

DPW Director Stephen Berlucchi and Matt Ladewig, Stormwater Consultant, ESS Group appeared before the Council to present the 2013 annual storm water report. Director Berlucchi explained this was required to be submitted to DEM every year. The report includes the number of catch basins, how many have been cleaned, road sweeping to TDML in the Summerfield and Robert Gray areas. Nothing changed from prior except Wastewater Facilities Plan was updated. DEM was satisfied with the Plan. Continue to investigate illicit discharges, track, and have a follow up program. Will be tracking the state system on Main Road. Trying to purchase camera equipment to run through the pipes, part of a suggestion from DEM. President Roderick called for comment from the public three times, hearing none opened to Council. Councilor Gerlach sought clarification of the numbers in Minimum Control Measure #3, the Illicit Discharge Detection and Elimination grid. Indicates two illicit discharges and one was eliminated, questioned why chart shows zero unresolved. Mr. Ladewig explained there may not have been an illicit discharge. Director Berlucchi will check

with the Wastewater Management Superintendent John Lincourt before giving the report to DEM. President Roderick questioned if the camera was purchased yet. Director Berlucchi explained the request was in front of the Budget Committee (BC), has not cut it out, would be available for purchase after July 1st. Mt. Hope Bay still has issues due to ledge, a high water table and septic systems in the area, not a new issue, will be solved over time.

Councilor Gerlach made a motion, seconded by Councilor deMedeiros to accept the report (Small MS4 2013 Annual Report Required by RIDEM) pending clarification with Mr. Lincourt regarding a potential unresolved discharge in 2013.

Larry Pare- Presentation on South Coast Rail Project

Larry Pare gave a short presentation on the South Coast Rail Project which has support of Massachusetts Governor Patrick. Object is to get everyone behind the project regionally. Invited the Council to attend an update meeting on April 3rd at Good Shepard Parish, South Main Street in Fall River. Need regional support to continue this along, funding is there. Requested a document of support. Councilor Lambert planned to attend, questioned the long term involvement for Tiverton, railroad right of way goes through Tiverton. Fall River, New Bedford and Taunton are not regionally connected to the commuter rail system, has hurt economically, would help with jobs. Mr. Pare added, the rail is indicated on the Route 79 ramp plan; Army Corps of Engineers has approved the plan to 2016-17. President Roderick thanked Mr. Pare, requested the Clerk put on the next agenda for discussion and a possible resolution.

TOWN COUNCIL SITTING AS BOARD OF LICENSING: NON ADVERTISED LICENSES

James Aubin d/b/a Phantom Fireworks, 527 Main Road – Request Approval of Holiday and Fireworks License From June 15, 2014 to July 15, 2014 – Subject to Meeting All Legal Requirements

Mr. Aubin requested a Holiday and Fireworks License. Town Clerk Mello explained the inspections will not come until after set up. Mr. Aubin stated the location was the former hot dog spot. Chief Lloyd noted, do not have a floor plan layout, need to know what is stored on the premises, has the same restrictions. Chief Blakey noted sandwich signs on a sidewalk are prohibited by Town ordinance. Town Clerk Mello pointed out all licenses are subject to meeting all legal requirements and will not be issued until all inspections are completed.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to grant a Holiday and Fireworks License to James Aubin d/b/a Phantom Fireworks, 527 Main Road from June 15, 2014 to July 15, 2014 subject to meeting all legal requirements. Motion passed unanimously.

D & L CORP. 180 Main Rd. (for 79 Main Rd.)- Advertise for Public Hearing for License Renewal (only renewed through March 1, 2014) a.Recommendation of Gareth Eames, Building/Zoning Official

Town Clerk Mello explained this was the old Buddy's restaurant, Mr. Zhang was doing extensive renovations, at the time was granted for 3 months. Solicitor Teitz recommended another 3 months extension. Mr. Zhang indicated would be ready by mid-summer, just needed more time. Solicitor Teitz explained the license has not been issued yet, rules and regulations promulgated by the Department of Business Regulations. Looking for diligent progress.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to extend the license until July 28, 2014 subject to meeting all legal requirements. Motion passed unanimously.

APPOINTMENTS & RESIGNATIONS:

Annual Appointment of Administrative Officer- a. Recommendation of Planning Board-Kate Michaud

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to reappoint Kate Michaud as Planning Board Administrative Officer. The Planning Board unanimously voted to recommend reappointment. Motion passed unanimously. President Roderick thanked Ms. Michaud for doing a great job.

Appointment Councilor Pelletier (ex-officio) To Ad Hoc Land Use Procedures and Enforcement (LUPE) Committee

Councilor deMedeiros made a motion, seconded by Councilor Arruda to appoint Councilor Pelletier (ex-officio) to the Ad Hoc Land Use Procedures and Enforcement (LUPE) Committee. Motion passed unanimously.

Resignation – Robert Terlisner, Harbormaster

The resignation of the Harbormaster came as a surprise to Bruce Cox, Chair of the Harbor Commission as this was submitted directly to the Administrator and the Clerk. Requested for the next agenda an appointment of an Interim Harbormaster. Mr. Terlisner recommended the young man that has been assisting, very active with the Harbormaster. Meeting with the BC on Thursday, requesting an Assistant Harbormaster in the budget. Solicitor Teitz recommended continuing this request until the next meeting, not clear on the date the new job starts, to not accept the resignation continue to next agenda for discussion and possible advertising.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to continue the Resignation of Robert Terlisner, Harbormaster to the next meeting for further discussion and possible advertising. Motion passed unanimously.

UNFINISHED BUSINESS:

Town Council Goals and Objectives for Town Administrator – Continued to March 24

President Roderick noted the Council goals and objectives for the Town Administrator was continued to March 24 to allow Council more time to submit to the Town Clerk.

Town Administrator – Authorization to Advertise When Funding Allows for Maintenance Foreman/Laborer and Custodial/Maintenance – Continued to March 24th Meeting

T/A Wojcik explained the job description was being rewritten, will sit with Assistant Solicitor Mike Ursillo and the Union leadership to clean up loose language. Under the current AFSCME contract the positions have to be posted internally before advertising. The individual must be qualified to fill the position.

FINANCIAL BUSINESS:

Town Administrator – Approval of Transfer for Fire Dept. \$80,000 From Acct#3310-5101 (Base Salary) to Acct3310-5104 (Overtime)

T/A Wojcik explained the request, would be from a regular payroll account to the overtime account to cover an anticipated shortfall. Discussed with Chief Lloyd this is not pattern to continue. Chief Lloyd explained the salaries were from the vacancies, 3 vacancies awaiting word on the fourth one. Waiting for background checks from Chief Blakey before moving forward. T/A Wojcik noted, important to fill these positions, after July 1st two people can go on vacation at the same time. Chief Lloyd had discussed hiring per diem, prohibited by contract.

Councilor Pelletier made a motion, seconded by Councilor Chabot to approve the Transfer of Funds from Account # 3310-5101 (Base Salary) to Account #3310-5104 (Overtime) in the Fire Department's budget in the amount of \$80,000.00. Councilor Arruda questioned if there would still be funds for new hires. Chief Lloyd noted, only taken what not spent to this point. Motion passed unanimously.

Approval of Final Revenue Projections for FY 2014-15

T/A Wojcik discussed the revenue projections with Treasurer Denise Saurette, \$9.8 million revenue projected, \$5.8 from School Operations Aid funding formula. Some were very difficult to estimate, worked with all department heads to give the best estimate. Shows a 1.4% increase in revenues. Town Clerk Mello explained the BC would be receiving the revenue projection. Thought the State Funding for \$74K was coming this May, will double check with Treasurer Saurette. T/ A Wojcik noted in letter (f) of the Revenue Projections Incentive Aid was not included in FY 2014 Revenue Budget. Councilor Gerlach questioned the Clerk about the Fee Schedule. Town Clerk noted, usually done by the end of June. Councilor Pelletier suggested looking at the revenue and the fee schedule more in depth, want to understand those fees. Town Clerk suggested putting on more than one

agenda. Councilor Gerlach suggested benchmarking neighboring communities. Town Clerk noted some fees were set by the State. T/A Wojcik explained the Tower- Land Rental related to cell phone towers, needs to be itemized. Councilor Pelletier reiterated a request for a list of major assets, the returning investments. Town Clerk Mello explained the Treasurer did start that list.

Councilor deMedeiros made a motion, seconded by Councilor Gerlach to accept the Revenue Projections for FY 2014-15. Motion passed unanimously.

Approval of Final Municipal Budget FY 2014-15

There was some discussion on the Final Municipal Budget. Councilor deMedeiros noted a question was raised about the Maintenance Workers line item under Public Works at the BC meeting, was it 8 or 9. Discussion followed, should be 8.5 to reflect the maintenance helper. On page 17 Councilor deMedeiros suggested Clothing Allowance (Boots) should be moved up under Salary Account under that heading, similar to the Police and Fire Department, instead of being under Operating Expenses. Discussion followed on the Drainage and Paving accounts, both have the same account number. Councilor deMedeiros noted a question arose at the BC meeting about separate account numbers, DPW can carry forward all that is left in the paving account. Solicitor Teitz suggested should decide going forward, if a separate account number is created for drainage any unimproved roads that require drainage won't be able to be used with carry forward funds. Town Clerk Mello noted the Treasurer would add new account numbers after the budget was passed. President Roderick noted a need to track what you go out to bid for, still have to show detail, want to see the breakdown. Councilor Arruda agreed with President Roderick, Councilor Chabot preferred drainage to have separate numbers. Solicitor Teitz pointed out if separate numbers need to amend the resolution to incorporate guardrails, etc. Councilor Chabot suggested the BC amend that resolution. President Roderick requested the Clerk ask the Treasurer to have a separate number for drainage, ask the BC for a separate resolution to incorporate the accounts directly related to paving.

Town Clerk Mello wanted to make the changes tonight, change the Maintenance Workers to 8.5, ask Treasurer Saurette for a new account number for Drainage and move uniform rentals up. Director Berlucchi noted the BC suggested having \$20K for a second hand truck and \$30K for dozer tracks, keeping the bottom line the same number. Some discussion followed on the Recreation line items. Recreation pays 20 directors and councilors, was reduced to \$18K, Recreation Co-coordinator gets \$8, 550. Field maintenance is for reseeding the field, additional money earmarked for brush clearing. Sand and stone is for the beach regeneration.

Councilor Gerlach made a motion, seconded by Councilor deMedeiros to approve the Final Municipal Budget for FY 2014-15 including the administrative kind of housekeeping changes previously discussed. Councilor Pelletier noted the administrative changes were to give the Drainage Account a new number, make Maintenance Workers 8.5 and move Clothing (boots) to the Salary Account. The motion passed on a vote of 6-1, Councilor Chabot opposed.

NEW BUSINESS:

Street Committee – Discussion on Clarification of Mission for Street Committee

Audrey Gloddy, Street Committee (SC) appeared before the Council for clarification on the mission of the SC. Lengthy discussion followed. President Roderick explained Cynthia Avenue was a health and safety issue. Councilor Lambert explained a number of communities have the same problem; believe there are 163 unaccepted roads. Asked Director Berlucchi to reasonably identify how many streets represent a real risk to the Town and the cost to turn into accepted streets. Director Berlucchi estimated reasonably 25 streets approximate cost \$800-900K. Councilor Lambert proposes finding a program; some towns have a street betterment program. Have put together a plan for unaccepted streets; not presenting this evening that would broaden the SC purpose. Councilor Pelletier noted the SC was tasked with making recommendations to the Council. President Roderick added only committee members vote, should send their recommendation to the Council.

Solicitor Teitz agreed was a difficult task, easy ones done already. The SC looks at it, makes a recommendation, the Council will also look to the Solicitor. Let the Council deal with the issues. President Roderick added, was up

to the Council to devise a plan, decide how it's going to be done. Councilor Pelletier explained the Town Solicitor and Town Administrator could answer their questions. Michael Normandin, Chair of the SC questioned what the criteria were for deciding the utility of the streets. Councilor Chabot, Council liaison to the SC noted what was left were unaccepted streets can't find documentation for. Need some definition of roads; accepted roads met a particular standard at that time. Need to categorize the roads, take into consideration road definition, is a difficult task. Director Berlucchi noted the DPW always notifies abutters of the first meeting regarding a street on a public meeting. President Roderick noted only the agenda was needed to notify. President Roderick thanked Ms. Gloddy and Mr. Normandin.

BIDS AND REQUESTS FOR PROPOSALS:

Town Administrator – Authorization to Advertise RFP for Audit Services

T/A Wojcik requested permission to advertise for Audit Services. Solicitor Teitz explained was basically a requirement of the State, required to be received by the Town Administrator.

Councilor Gerlach made a motion, seconded by Councilor Chabot to Authorize the Town Administrator to Advertise Request for Proposals for Audit Services as shown in H1. T/A Wojcik will advertise in the Providence Journal. Solicitor Teitz added, the State maintains a list of who is authorized to do audit services, obligated to advertise as well. Motion passed unanimously.

TOWN ADMINISTRATOR ITEMS AND ANNOUNCEMENTS:

T/A Wojcik announced two employees retired, Building/Zoning Official Gareth Eames, that position is now vacant. Custodian, Rick Barrette will be retired as of March 13th. Thanked them for their service, wished them the best. T/A Wojcik explained the cleanest method to have a Building Official in the interim would be to allow the State Board to make an appointment of a qualified inspector. Hope to have done in a day or so. Jack Leyden, State Building Official is aware of the urgency. The Custodian is a union position has to be posted first before being advertised.

COUNCIL ANNOUNCEMENTS, COMMENTS AND QUESTIONS:

Councilor Chabot announced the Arts Council will be having a reception on Sunday, March 16th from 2-4 pm at the Town Hall. Over 40 pieces of art, 15 different artists, students and first time presenters. Quahog Man will also be here at Town Hall.

President Roderick noted the deal on the gas station at Grinnell's Beach closed, overwhelmed with positive phone calls, shows how important the water front is to the Town, was obtained with grant money.

TOWN SOLICITOR – ITEMS AND ANNOUNCEMENTS:

Solicitor Memorandum Regarding Library Construction

Solicitor Teitz memo was in response to an item brought up at the last Council meeting regarding the library construction. Provided attachments with the memo, building permits were pulled, a certificate of engineer (Form 128) was submitted with the building permit application, electrical permits pulled for temporary service and inspection reports. The Town's consulting engineer has done several inspections on site. Nothing prohibits the Building Official from doing inspections when the engineer has taken responsibility for inspection via Form 128. T/A Wojcik did speak with the construction supervisor regarding the building being properly grounded and kept neutral; done in future when that phase of the electrical work is done. Councilor Gerlach raised another issue, whether a private citizen can investigate and explore. Solicitor Teitz, just because a public citizen and a public building, does not give them the right to go on it. It is clearly a construction zone with various hazards, need to be escorted, need to have a hard hat. The Building Official and Town Officials can go on.

Status of McLaughlin Case

Solicitor Teitz provided a memo from Assistant Solicitor Gina DiCenso on the status of the decision, enforcement to remove the offending structure. Waiting for the transcript, was a bench decision from the Judge. Have to make further application for equitable relief. Will file a motion, motion day is April 7, 2013. Will ask the

Court for an order to have it removed, if not would have to go back for a contempt citation. Trying to avoid having the Town pay the cost to remove.

TOWN CLERK ITEMS AND ANNOUNCEMENTS

Town Clerk Mello noted that March 31 was reserved for a workshop with Historic Preservation Advisory Board. They are not ready to go forward, still holding that date in case it's needed.

CLOSED EXECUTIVE SESSION:

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

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

Councilor Lambert made a motion, seconded by Councilor Chabot to enter into Closed Executive Session pursuant to 42-46-5(a)(2) – Potential Litigation and 42-46-5(a) (4)-Investigation . 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) – Litigation. Motion passed unanimously.

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

The Council returned to Open Session at approximately 10:05 p.m.

OPEN SESSION:

In Open Session President Roderick announced action was taken on item#1 Potential Litigation and Investigation. There was a unanimous vote on a motion to hire Attorney Marc DeSisto to lead an investigation into issue sin the Fire Department.

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

ADJOURNMENT:

Councilor Pelletier motioned to adjourn seconded by Councilor Chabot; passed unanimously.

Council adjourned at approximately 10:10p.m.

A True Copy.

ATTEST: _____
Nancy L. Mello, Town Clerk