

**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 7th day of April 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 - Absent
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.

PROCLAMATION – NATIONAL FRIENDS OF LIBRARIES WEEK

Councilor Pelletier read the Proclamation for National Library Week.

President Roderick read the items on the Consent Agenda. Councilor Chabot requested removal of item A1a, Approval of Minutes Regular Council Meeting March 24, 2014 for a correction on page 7. President Roderick requested removal of item CA3c, Thank You Letter from Rachel Peckham Elder Regarding Stone Bridge Gas Station. Town Clerk Mello explained the scheduling of the Public Hearing for items CA 6 & 7 may change due to the number of abutters being noticed. Will put on next agenda if dates change.

A-1-a.Approval of Minutes Regular Council Meeting March 24, 2014

Councilor Chabot recused from the Bourne Mill Tax Appeal, did not appear in the minutes. Town Clerk Nancy Mello will correct.

Councilor Chabot made a motion, seconded by Councilor Arruda to approve the Minutes of the Regular Council Meeting March 24, 2014 as amended on page 7 regarding the Bourne Mill Tax Appeal. Motion passed unanimously.

A-3-Correspondence – Receive and File:

c.Thank You Letter from Rachel Peckham Elder Regarding Stone Bridge Gas Station

President Roderick read the letter from Ms. Elder in support of the purchasing of the Stone Bridge Gas Station.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to receive and file the Thank You Letter from Rachel Peckham Elder Regarding Stone Bridge Gas Station. Motion passed unanimously.

Councilor Pelletier requested removal of item CA6, Scheduling Public Hearing on May 27th - Request by Main Road Properties, LLC for Zoning Map Amendment of Plat 706, Lot 106 and Lot 107 From R80 to VC (Village Commercial) a.Planning Board Recommendation/Request for Moratorium on Further VC Amendments.

A-6-Scheduling Public Hearing on May 27th - Request by Main Road Properties, LLC for Zoning Map Amendment of Plat 706, Lot 106 and Lot 107 From R80 to VC (Village Commercial)

a.Planning Board Recommendation/Request for Moratorium on Further VC Amendments

Councilor Pelletier questioned the request for a moratorium from the Planning Board (PB). Steve Hughes, Planning Board Chair explained the PB received a request for a zoning change for 2 lots, was a concern the PB may get other petitions. Rather than do piecemeal changes in that area the PB is recommending a moratorium in order to do the whole Village Commercial area as a whole unit.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to receive and file CA6a, acknowledge the scheduling of a Public Hearing of CA6. Motion passed unanimously.

Councilor Pelletier made a motion, seconded by Councilor Arruda to approve the rest of the items on the Consent Agenda. Motion passed unanimously.

Town Clerk Mello noted being approved on the Consent Agenda does not automatically set the moratorium. Solicitor Teitz explained it would have to come before the Council, not drafting anything immediately, will not be on the next agenda.

President Roderick thanked Barbara Pelletier and Joe Sousa for getting the banners hung at the Town Hall.

The Consent Agenda was as follows:

CONSENT AGENDA

A-1-Approval of Minutes of Previous Meetings:

- b.Approval of Executive Session Minutes March 24, 2014
- c.Approval of Special Meeting February 22, 2014
- d.Approval of Special Meeting Executive Session Minutes February 15, 2014
- e.Approval of Executive Session Minutes February 10, 2014

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

- a.Budget Committee (10)
- b.Harbor Commission
- c.Board of Canvassers
- d.Conservation Commission
- e.Prevention Coalition
- f.Pocasset Hill Cemetery Commission
- g.Wastewater Management Commission

A-3-Correspondence – Receive and File:

- a.Smithfield School Committee – Opposing H7757 Relating to School Committees and School Superintendents
- b.Town of Foster- Resolution Opposing S2677 & H7631 Relating to Levy and Assessment of Taxes
- d.Tiverton School Committee – Letter to Commissioner of Education Deborah Gist with Attached Resolutions – Elimination of NECAP Graduation Requirement and Resolution Supporting H7095- Common Core Standards

A-4-Approval of Tax Assessor Abatements

A-5-John Cordeiro, Megan L. Cordeiro Memorial Foundation – Request Permission to Hold 6th Annual Miles for Megan Bike Ride/Walk on Saturday, October 4, 2014 – Tiverton and Little Compton Referred to Police Chief for Recommendation

A-7-Scheduling of Public Hearing on June 9th – Zoning map Amendment and Zoning Ordinance Text Amendment to Implement Form Base Code Zoning (Bliss Corners and North Main Road) and General Changes to Use Table for Commercial Uses

a.Planning Board Recommendation

A-8-Approval of Town Council Resolution in Support of Common Core State Standards

A-9-Town Administrator – Monthly Department Reports

BUSINESS BROUGHT BEFORE THE COUNCIL

OPEN PUBLIC FORUM FOR ANNOUNCEMENTS, COMMENTS, QUESTIONS

Joe Sousa suggested the Town should look at privatizing ambulance services and trying to get back to having volunteer firefighters as a way to train and assist full time firefighters.

PUBLIC HEARINGS & PUBLIC PRESENTATIONS:

Planning Board Chair Stephen Hughes – Presentation of Planning Board Annual Report

Stephen Hughes, Planning Board Chair appeared before the Council to answer questions pertaining to the Planning Board (PB) annual report. Solicitor Teitz noted the need to draft a formal resolution for a moratorium on zoning changes in the Village Commercial district. Chairman Hughes explained several subdivisions occurred, administrative subdivisions were handled, looked at items recommended to the PB by Council, worked on the Challenge Grant, dealt with the Library and the parcel for that building. Councilor Chabot noted this was the opportunity to make the public aware of what the PB does, give highlights from the past year. Councilor Pelletier questioned how to achieve a comprehensive zoning review in the current administrative makeup of the PB, has a small staff. Chairman Hughes explained the Cecil Group was hired to guide the PB through the process of the change to the commercial areas. The Challenge Grant was given through the Newport County Chamber of Commerce, used that money to get a consulting planner, had several meetings, developed design guidelines and what areas would be encompassed for this grant. Need a full time Planner without this would need to hire outside help; still have to change zoning for other areas of Town. Trying to get commercial areas done before residential, village commercial and waterfront. Estimate that will take up to 2 years. Councilor Arruda requested an update on Tiverton Crossings. Chairman Hughes noted the PB did not have an application for that at this point. Kate Michaud, Administrative Officer for the PB has been in contract, waiting for the Master Plan application. President Roderick thanked Chairman Hughes and the PB for all the hard work.

TOWN COUNCIL SITTING AS BOARD OF LICENSING:

NON ADVERTISED LICENSES

Robert Vital d/ b/a East Coast Wholesale– Requests Approval of Fireworks Permit at 1560 Bulgarmarsh Road, Rte 177 Flea Market From April 12, 2014 to October 13, 2014 – Subject To Meeting All Legal Requirements

Mr. Vital, for the 3rd year requested a Fireworks Permit, mostly weekend sales until June when daily sales will occur. The excess is stored in a secure vehicle prominently marked. Chief Lloyd did not have a problem with this license, recommend approval. Town Clerk Mello noted Mr. Vital needs to apply for a Holiday License.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to approve a Fireworks Permit for Robert Vital d/b/a East Coast Wholesale at 1560 Bulgarmarsh Road, Rte. 177 Flea Market subject to meeting all legal requirements. Motion passed unanimously.

Charles Mulcahy, 65 Beech Avenue, Tiverton – Requests Approval of Annual Renewal of Private Detective License - Subject To Meeting All Legal Requirements – Recommendation of Police Chief

Town Clerk Mello noted this was for annual renewal.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to grant approval of Annual Renewal of Private Detective License for Charles Mulcahy, 65 Beech Avenue, subject to meeting all legal requirements. Motion passed unanimously.

Biszko Contracting Corp, 20 Development St., Fall River, MA. - Request Approval of Street Excavator License – Subject to Meeting All Legal Requirements

Mike Biszko, a Tiverton resident, was requesting a Street Excavator License for the first time. The petition had the approval of DPW Director Steve Berlucci.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to grant a Street Excavator License to Biszko Contracting Corp., 20 Development St., Fall River, MA, subject to meeting all legal requirements. Motion passed unanimously.

Alejandro Arteaga d/b/a Palagis Ice Cream Co, 237 Suffolk Ave, Pawtucket – Requests Renewal of Peddler’s License - Subject To Meeting All Legal Requirements

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to grant a Peddler’s License to Alejandro Arteaga d/b/a Palagis Ice Cream Co, 237 Suffolk Ave, Pawtucket, subject to meeting all legal requirements. Motion passed unanimously.

APPOINTMENTS & RESIGNATIONS:

Appointment of Interim Harbor Master - Tyler Loomis, 89 John Duggan Road

Mr. Loomis assisted the Harbor Master including David Vannier former Harbor Master, currently works at a boat yard doing marine maintenance. Will turn 18 on May 9th. Mr. Vannier appearing for the Harbor Commission (HC) explained the HC had discussed, unanimous Tyler Loomis should be Interim Harbor Master, problem for a month, will not have a Harbor Master.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to appoint Tyler Loomis as Interim Harbor Master effective May 9th upon the condition of there not being a permanent Harbor Master by that time. Motion passed unanimously.

UNFINISHED BUSINESS:

Chief Blakey –Update on Status of In-Street Pedestrian Crossing Sign on Main Road in the Area of Coastal Roasters Coffee Shop

Chief Blakey was not in attendance, Solicitor Teitz noted this could be received and filed. President Roderick read the update on the status of the proposed crosswalk on Main Road near Coastal Roasters Coffee Shop. The original crosswalk location would have resulted in the loss of 6-8 parking spots, a serious concern to business owners. The new proposed location of the crosswalk will be 80 feet south of the original site. This location will provide an approved site line for motorist traveling in either direction when approaching the crosswalk, as well as pedestrians utilizing the crosswalk. Because the location now incorporates the area where a fire hydrant is located and parking is currently prohibited this location will result in the loss of only two parking spots. The new location has already been approved by the State DOT.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to Receive and File the correspondence from Chief Blakey - Update on Status of In-Street Pedestrian Crossing Sign on Main Road in the Area of Coastal Roasters Coffee Shop. Motion passed unanimously.

FINANCIAL BUSINESS:

Treasurer Denise Saurette – Request Approval of Master Lease Agreement Between Town of Tiverton and U.S. Bancorp for New DPW Truck

Solicitor Teitz, in the absence of Treasurer Saurette has reviewed the lease agreement, will be preparing an opinion letter. The Town has financed capital equipment expenditures through another company All American Investment Group. The Treasurer requested proposals from All American and US Bancorp for financing bids. Found the US Bancorp rate 1.89% vs 2.975% for All American. Looking for approval from the Council to enter into a Master Lease agreement with US Bancorp. The Town currently has a Master Lease agreement with All American; every time a new piece of equipment is purchased they do supplemental funding. The Treasurer has shopped around to get the best financing. Going forward if a better price is found just do an addendum.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to approve the Master Lease Agreement between the Town of Tiverton and US Bancorp subject to the attached supplemental information. Motion passed unanimously.

Council Proposed Optional Budget or Resolutions

Town Clerk Mello distributed and sent electronically the completed budget from the Budget Committee (BC). Put this on the agenda just in case the Council wanted to take action on an optional budget. The Clerk distributed copies of last year's resolution regarding sale of Town buildings. President Roderick suggested changing the resolution; remove Nonquit School, not planning on selling other Town buildings except maybe the Community Center. Councilor Pelletier suggested editing the language at the end, provided that any such transfer is at not less than Fair Market Value (FMV), gives the impression there is a certain threshold. Solicitor Teitz noted the original draft did not have this language included, was added by another Council. If multiple people are interested in buying it makes a difference, without this phrase the Council has latitude. With this language would have to sell to the highest bidder.

Councilor Pelletier's argument was the highest bidder does not necessarily make it FMV. Solicitor Teitz cited an interesting case in Narragansett, over paying for something does not make it FMV. Solicitor Teitz recommended striking the last clause, it constrains from acting in the best interests of the Town. Councilor Pelletier noted that language creates more problems than it settles. Councilor Chabot noted this would be setting a precedent, fair market value should be the bar. Councilor Pelletier explained FMV is not an empirical measure that is a number already established. President Roderick suggested changing that language to "is in the best interest of the Town of Tiverton."

Solicitor Teitz clarified the language would be: Resolved, that pursuant to Section 204 of the Town Charter, the Town Council is hereby authorized to transfer ownership of the Judson Street Community Center, provided that such transfer is in the best interest of the Town of Tiverton. Made as a motion by Councilor deMedeiros, seconded by Councilor Chabot passed unanimously.

Councilor deMedeiros pointed out the proposed increase in the budget was 1.6% or \$75 for the year, the lowest increase in the last ten years. Thanked the Budget Committee, Town Council and School Committee for a great job.

NEW BUSINESS:

Barbara Pelletier- Update on Tourism

Mrs. Pelletier explained that Tourism and Travel is 1/3 of the State's economy, uniquely positioned with open space, on the water and a growing economy with farm fresh produce. Bristol is getting a new hotel, should facilitate moving ahead here. Can get a donation for mounted binoculars for Fort Barton. Fogland Beach has

windsurfing, should make more of it. All the Boards and Commissions have great ideas, should meet as a group, form a master plan to focus on one thing. Councilor Chabot noted there was an open space/recreation plan, has not been updated since 1988. Councilor Arruda suggested increasing events like Tiverton celebrates, keep building on that. Lower taxes, eventually will not be able to cut anything more. Need to increase the commercial tax base by 1% per year. President Roderick thanked Mrs. Pelletier for the update.

BIDS AND REQUESTS FOR PROPOSALS:

Tax Assessor – Request Authorization to Award Bid to Vision Government Solutions for Statistical Reappraisal of Real Property Effective December 3, 2014 for \$130,000

David Robert, Tax Assessor recommended the Bid Award for Statistical Reappraisal to Vision Government Solutions (VGS) for \$130,000, a second bid was submitted for \$108K, going with the higher option which has software conversion. Net result to the Town is \$8,500. The current software is usable, most important is the GIS feature which will integrate with the CAMA software. The annual budget for this item is \$53K in a restricted account, based on 2 reappraisals and a full revaluation. There is a bill before the General Assembly that would change the statistical revaluation from 3 years to every 5 years. The VGS software is all inclusive. When the Assessor started in 2005 a reappraisal was under way by Appraisal Resource which is now Northeast Appraisal using essentially the same software. The software conversion at that time did not work, tried a third vendor, Cesspro to convert. Northeast is utilizing the Cesspro software, have concerns about that conversion, could be some proprietary issues.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to award the bid to Vision Government Solutions for Statistical Reappraisal for Real Property Effective December 3, 2014 for \$130,000. Motion passed unanimously.

TOWN ADMINISTRATOR ITEMS AND ANNOUNCEMENTS:

1. T/A Wojcik noted the Town was beginning to go through the Comprehensive Plan process, many of Mrs. Pelletier's ideas on recreation and tourism could be worked into the document. Suggest she attend one of the many public meetings on the Comp Plan.
2. The annual Community Development Block Grant process where the Town will assess priorities to benefit low to moderate income people especially in the northern part of Town. In the past was somewhat closed but efficient, have asked the Department Heads to find eligible activities for their departments.
3. Enjoyed meeting with the Four Corners Merchants Association, listened to how to promote that part of Town. This area was recently added to the Jitney Tours, received as part of a Public Utilities Commission notice.

COUNCIL ANNOUNCEMENTS, COMMENTS AND QUESTIONS:

Councilor Lambert attended a public hearing for the Southeast Neighborhood Association on the Southcoast Rail System. Listened to Jean Fox, was enthusiastically received, Representative John Edwards also attended. Should just keep monitoring what will happen. Regarding the proposed casino Tiverton would be included in the definition as part of a surrounding community. The Chamber of Commerce quote in the Herald News was specific in identifying Tiverton by name with respect to mandatory hiring and purchasing from vendors, have to monitor. Suggested a letter be drafted by the T/A acknowledging the inclusion with copies to Mayor Flanagan, Ken Fiola and FR Chamber of Commerce. President Roderick agreed no objection from Council.

TOWN SOLICITOR – ITEMS AND ANNOUNCEMENTS:

Tiverton v. James Pelletier, Tiger Tree – Report on Superior Court Conference of April 3, 2014

Solicitor Teitz did have a conference with Judge Thunberg, finally able to get the long delayed physical judgment entered and signed by the Judge. Able to get moving on the sentencing, to be on July 16th, time and place to be determined, have 45 days to get the sentencing memos to the Court. There is a civil case as well and a civil case

between the neighbors and Tiger Tree. Needed to get the judgment and sentencing entered, was appealed to the Supreme Court. The criminal case has to be beyond a reasonable doubt, the civil case is only a preponderance of the evidence. Can take the criminal judgment case decision to the civil court case.

McLaughlin v. Tiverton – Report on Superior Court Hearing of April 7, 2014

Received a decision just this morning in Superior Court, Mr. McLaughlin did not show. The Order entered was he has 90 days to move or remove to comply with the zoning ordinance, if not will be in contempt subject to a fine of \$200 per day.

Added to the Agenda per request of Solicitor Teitz – Town of Tiverton v Richard Tosi & Ann Tosi

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to add to the agenda for discussion only the Status on Town of Tiverton v Richard Tosi and Ann Tosi. Motion passed unanimously.

Solicitor Teitz handed out a copy of a Decision received on Friday afternoon. It was a procedural decision, there was a motion to dismiss the proceedings regarding a procedural defect, the Town argued this did not exist. The defendant's motion to dismiss was denied. Will be going forward with the criminal trial, have to wait for the Court to schedule.

TOWN CLERK ITEMS AND ANNOUNCEMENTS:

Financial Town Referendum Update

Town Clerk Mello put in the packets a schedule of important dates for the Financial Town Referendum (FTR). Have the Budget proposal, will add the Town Council resolution to the ballot. Elector petitions require 50 qualified elector signatures; need to return to the Clerk's office by April 22nd. Last day for voter registration for the FTR is Monday, April 21st, final canvass is April 28th. The public hearing is May 1st at the Tiverton Middle School cafetorium. Absentee ballot applications have been sent out, have until May 5th to return the application. Will put on the website home page a box for the FTR, will have all the dates.

CLOSED EXECUTIVE SESSION:

1. Town Administrator – 42-46-5(a) (5) – Disposition of Town Held Property – Industrial Park

2. Town Administrator – 42-46-5(a) (2) – Collective Bargaining AFSCME and Teamsters

3. Solicitor- 42-46-5(a) (2)–Litigation– Town of Tiverton v. LAL Construction, Inc. et al CA - NC2013-0087

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

5. Solicitor – 42-46-5(a) (2) – Litigation – Larry Faulkner v. Tiverton

Councilor Lambert made a motion, seconded by Councilor Chabot to enter into Closed Executive Session pursuant to 42-46-5(a) (5) – Disposition of Town Held Property – Industrial Park. 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) – Collective Bargaining AFSCME and Teamsters. 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 – Town of Tiverton v. LAL Construction, Inc. et al CA - NC2013-0087. 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 and 42-46-5(a) (4)-Investigation – Fire Department. 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 – Larry Faulkner v. Tiverton. Motion passed unanimously.

The Council entered into Executive Session at approximately 8:30 p.m.

The Council returned to Open Session at approximately 9:15 p.m.

OPEN SESSION:

In Open Session Council President Roderick announced action was taken in Closed Executive Session on item #1 Disposition of Town Held Property- Industrial Park. No formal action was taken on items 2 through 5.

Councilor Chabot motioned to seal the minutes of Executive Session, seconded by Councilor deMedeiros, motion passed unanimously.

ADJOURNMENT:

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

Council adjourned at approximately 9:20 p.m.

A True Copy.

ATTEST: _____
Nancy L. Mello, Town Clerk