

**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 High School - Auditorium**, 100 North Brayton Road, on the 9th day of June 2014 A.D. at 7:00 p.m.

President Roderick opened the meeting with the Pledge of Allegiance to the Flag.

<b>Roll Call:</b>	<b>Edward A. Roderick-President</b>	<b>William P. Gerlach</b>
	<b>Denise M. deMedeiros-Vice President</b>	<b>Jay J. Lambert</b>
	<b>James Arruda</b>	<b>Brett N. Pelletier</b>
	<b>Joan B. Chabot</b>	

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.

Council President Roderick read the items on the Consent Agenda. There were no removals.

Councilor Gerlach made a motion, seconded by Councilor deMedeiros to approve the Consent Agenda. Motion passed unanimously.

The Consent Agenda was as follows:

**CONSENT AGENDA:**

**A-1-Approval of Minutes of Previous Meetings:**

No Minutes Available

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

a. Art Council      b. Library Services      c. Wastewater Management Commission

**A-3-Correspondence – Receive and File:**

a. Tiverton Prevention Coalition News Letter

**A-4-Rescheduling of Public Hearing to July 14th to Establish Ordinance to Reorganize Planning Department Pursuant to Charter Section 407 (1) and (6)**

**A-5-Kate Michaud, Administrative Officer – Distribution of May Activities Report**

**A-6-Town Administrator- Distribution of Department Monthly Reports for May**

**BUSINESS BROUGHT BEFORE THE COUNCIL**

Councilor Lambert made a motion, seconded by Councilor deMedeiros to move up in the agenda item C1, request for a victualling license, following A7, Open Public Forum. Motion passed unanimously.

**A-7-OPEN PUBLIC FORUM FOR ANNOUCEMENTS, COMMENTS, QUESTIONS:**

There was nothing for the Open Forum.

**TOWN COUNCIL SITTING AS BOARD OF LICENSING:**  
**NON ADVERTISED LICENSES**

**C-1-Manuel J. and Deborah Linhares d/b/a J&D Hotdogs, 1540 Bulgarmarsh Road – Request Approval of Victualling License - Subject to Meeting All Legal Requirements**

Town Clerk Mello explained the applicants were unable to make the meeting.

Councilor Lambert made a motion, seconded by Councilor Chabot to approve the request for a Victualling License for Manuel J. Linhares and Deborah Linhares d/b/a J&D Hotdogs, 1540 Bulgarmarsh Road, subject to meeting all legal requirements. Motion passed unanimously.

**PUBLIC HEARINGS & PUBLIC PRESENTATIONS:**

**Historical Cemetery Commission Annual Report**

Robert Martin and James Spears, Tiverton Historical Cemetery Commission (THCC) Co-Chairs presented the Annual Report. Mr. Martin explained the mission was to supervise the many small cemeteries located in Town, normally have some veterans, place flags with those. There are more than 80 historical cemeteries in Town. Four cemeteries not under this Commission's purview include Pocasset Hill, Hillside, Lake Road and Pleasant View. Mrs. Isobel Hart is the local expert, documents the headstones, in time the stones will fade. The Hambly Family Cemetery, #41 is located above Souza and Main Road. They have contributed money for maintenance. There is a mound at Heritage Park mobile home community that has remains from the colonial era. State archivists have looked at it, have no record, working with the residents there, will monitor. The THCC has a goal to adopt a cemetery, not belonging to the landowners but the descendants, hope the people who own the land will help, researching the liability. Councilor Gerlach thanked both, questioned other ways for people to get involved. Mr. Spears suggested contacting the THCC, have guidelines if working on their own time. Councilor Chabot, Council liaison to the THCC, requested congratulations be extended THCC member David Bell for his appointment to the RI State Historical Cemeteries Advisory Commission.

**Public Hearing– 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.Project Summary and Timeline**

**b.Correspondence from Catherine Leger-Godek Regarding 1019 Main Road**

**c.Correspondence from Randy Lebeau**

Ken Buckland, Principal with the Cecil Group explained for Form Based Code (FBC) the need to understand what kind of development and neighborhoods. Trying to create alternative commercial districts without being too onerous, a clear set of standards, a manageable permitting process. This proposal is not a true FBC but a hybrid, involved public input. Recommend update to the Comprehensive Plan (Comp Plan) to include the infrastructure process for the State owned roads. The Town has more limited capability; the Comp Plan can be used to encourage investment by the State in the General Commercial District (GCD) of Main Road, Stafford Road and Bliss Four Corners. The existing GCD cuts through lots both commercial and residential. Proposed amendment is to line up the districts with lot lines. In the existing GCD minimal street parking in front, not full development. Looked at 3 areas that would be zoned more appropriately to fit development. Proposed Traditional Main Street (TMS), zero setbacks, may be residential or commercial, more of a New England type development. Neighborhood Business District (NBD), more residential, allows for commercial development. Pedestrian Friendly District, clusters of businesses, safe pedestrian environment.

The TMS district would be the North end of Main Road, Canonicus to State Avenue, setbacks would provide for buildings to be moved up with parking in the rear, 2 travel lanes with one parking lane. The NBD would be in 2 areas on Main Road, Canonicus to Russell Drive, Grandview Avenue south to the area of Rocky Avenue. Lot

diagrams show setbacks commensurate with a residential neighborhood. The PFD, significant enough as a commercial district, 2 areas on Main Road from Russell Drive south to Grandview Avenue and from the area of Rocky Avenue south to Souza Road. Already significant development, encourages landscaping, make comfortable for walking, redesigned to slow traffic, safer turning. For Bliss the proposed PFD does not include the new library. Last year a roundabout was proposed for Stafford Road. Gateways will be identified at intersections with signage. Also proposed changes to the District Use Table (the Table), found many prohibited uses in the Table, with changes may conform to State law. Retail uses are more specific, put in by size. Added definitions for accessory structures. In the proposal are photos and drawings, design guidelines. Key points-would be more user friendly, have more specific design sections. Mr. Buckland thanked the Planning Board and Kate Michaud, Planning Board Administrative Officer for all the help.

President Roderick noted some issues from letters received. Pauline and John Nery, not in favor of moving the property lines for split lots. Randy Lebeau requested delaying the vote on rezoning commercial properties. Catherine Leger-Godek provided a history of 1019 Main Road, best economic use for that property is commercial. Mr. Buckland noted as a pre-existing use doesn't change, only when development occurs those regulations apply. In the State of RI zoning, some existing uses have protections as a continuation of the use as long as it is not abandoned.

President Roderick requested public input. Joseph Sousa, 49 Hancock Street, noted the need to be more flexible in the code to attract business, noted the number of special use permits, questioned if research was done for pre-existing non-conforming use, if selling will be further restricted, requested the Council look closely. Randy Lebeau, 22 Last Street, has a project started for an indoor use recreation, wants to know if this proposed business will be held to these proposed uses. President Roderick explained Mr. Buckland will address at the end of all the comments. John Pagliarini, William Barton Drive, local attorney with a Master's in Planning was concerned, expressed such at the charrette. With this proposed district can put in a gas station, vehicle repair shop, mulch, auto sales. Did not understand how the use table conformed to pedestrian friendly. The Town Council needs to incentivize, matter of economics. Retail is usually about the total footprint, need to be specific. Mark DeMello, Old Stafford Road, gave the Clerk a handout, concerned about lot lines on Stafford Road; spending \$1.5 million on a development, this proposal would take that opportunity away. Mr. Buckland explained the PFD has a low roof line based on the dimensions of the building, have an allowance for not requiring a zero setback, allow up to 10 feet. The use chart, some uses not allowed, varies by district, zoning is not immutable. Sidewalks, right of way, done in coordination with the State, recommend the design concept be incorporated in the Comp Plan.

Did not consider an overlay district for Stafford Road, strictly for GC, retail would be gross leasable area. Mr. Sousa questioned how many businesses would be affected by the proposed zoning change, an issue at this time because of pre-existing non-conforming. Ms. Michaud, PB A/O and a resident of North Tiverton, explained, did look at existing businesses closely. Spoke to business owners, looked at the Use Table, tried to eliminate special use permits. Spent a lot of time on this issue to minimize pre-existing non-conforming to bring existing businesses to conform. Peter Moniz, Captains Circle, noted in a Watershed District, was not easy to develop in those areas. Sally Black, 64 Broadview Drive, was happy to hear Ms. Michaud talk about being more business friendly, not many can afford to be in an R80 zone. The State is losing population, Tiverton grew by 550, thanked the Council for the hard work. President Roderick called for comment from the public three more times, hearing none closed the public comment portion.

Mr. Buckland responded to the various questions, if a development project makes sense, could request rezoning. Solicitor Teitz explained the proposed district lines could not be extended this evening, boundaries of the proposed zone change have been advertised, could shrink and eliminate parcels, cannot add anything more. Solicitor Teitz address Mr. Lebeau's earlier question whether a use was vested, is an individual determination based on that situation, cannot opine on tonight. Mr. Pagliarini was correct before, a community residence should be an allowed use. Solicitor Teitz suggested rather than vote tonight without a prepared motion, to continue the

Public Hearing to one of the next two meetings, can prepare a resolution, could reopen the hearing for comment, vote at that time. Mr. DeMello sought clarification, would be fine if the west side line stayed the same. Mr. Buckland pointed out it was the small gray area on the Stafford Road map that Mr. DeMello questioned. Ms. Michaud explained that would stay in the PFD with the rest as shown. Councilor Gerlach clarified the new zone and the design specs would only apply to new development or redeveloped parcels, appreciated the legal proceeding in terms of vesting. Questioned if there was a legal precedence specifically as it applied to Mr. Lebeau's situation. Solicitor Teitz commented, was a policy decision of the Council, is a separate legal decision. Question tonight is whether the Council wants to pull back the line or change the use table elements and whether this is the vision the Council wants to encourage commercial development. Indirectly lies with the Zoning Board, members appointed by Council, they apply the law. Vision will change over time, cited Bristol as an example. In the late 80's voted to have a boardwalk, is almost there. Ms. Michaud explained the design guidelines are just that, not regulations. The guide allows new and existing property owners to make sure it fits the vision. Have worked for the PB for 13 years, most developers ask to tell them what the Town wants.

Councilor Arruda informed existing permitted use was changed to a special use permit 25 times, existing changed to permitted use 11, created roughly 14 special use permits. Questioned why the district did not extend to Old Stafford Road. Ms. Michaud explained the PB did discuss, the Cecil Group did not recommend that are because the lots were separated, PB recommended further study on those lots. Not part of the original scope of this project. Councilor Pelletier questioned if the Council would be doing a disservice for uses not specifically defined. On page 10 do not know the definition of other open commercial recreation uses. Mr. Buckland noted Section 6 has specific uses, falls to the Board of Appeals to look at the specific use, what is permitted. Councilor Pelletier cited page 11, Indoor Recreation, special use permit, seems like a blanket use. Did not like special use permits, should be compelling, discourages a number of developers. In Mr. Buckland's opinion, a special use permit would be accepted under certain conditions, gives an opportunity to look at the specifics of the project. Councilor Pelletier looked at the mixed use districts looked at what was economically feasible, physically possible, why prohibiting uses to have people go through an arduous process. Have multiple layers of review on these types of things. Whenever possible should try do without them. President Roderick and Councilor deMedeiros also had a problem with special use permits. President Roderick gave an example of kayak rentals not being a permitted use for the waterfront district. Mr. Buckland explained there was no Waterfront in the GCD, spent hours looking at the use table. Councilor Pelletier questioned page 12, gas stations not permitted in 2 districts, if there was a motivation to continue non-conforming status. Mr. Buckland explained commercial uses exist because of the market; it is the Council choice to zone areas for a gas station.

Councilor Chabot questioned how much it cost for the certified mailings, how many were returned. Ms. Michaud did not have an exact count, sent out 1,160, most claimed. Town Clerk Mello noted some people called the Town Hall did not quite understand. Councilor Chabot noted, want to be business friendly. The Industrial Park was a blank slate, was subdivided. Main Road and Bliss Corner more difficult to do, already existing uses, is built out. Not many properties on Main Road not built out, lot of existing buildings. Difficult to have that vision, left with property not easily developed. A few concerns were brought up about indoor recreation and the Ranger School lot, need answers, some certainty. May not be allowed, or need a special use permit, arduous and costly, not guaranteed. Councilor Chabot also counted the special use permits, reduced usage and those with an asterisk. Sees the future plan for the roadway and the parking may make more difficult for parking in the North end. Have many concerns, need to review the use table more closely.

Solicitor Teitz urged the Council not to let the perfect be the enemy of the good. This use table is not comprehensive, just part of this Challenge Grant project, allowed for the use of the consultants to go through the use table, allowed for a start. Suggest making a motion for specific items and or as part of a motion for the next meeting. Urge not to reject the entire thing, spent approximately \$6,000 on advertising and notice. President Rodrick noted the need to continue this hearing to the 23<sup>rd</sup> or the 30<sup>th</sup>. Find this document confusing in some areas, permitted in some areas not others. Know something has to be done regarding zoning in this Town. Look at

it in totality, not take away rights from people already there. Mr. Buckland explained did not change the CD as a whole, zoning should be more specific to those areas, give some direction. That was the thought behind the 3 sub districts, based on the development already in place. Councilor Pelletier's only concern was the special uses, is a wonderful planning document. Input from the public is not lost. President Roderick requested the Council to put forth some specifics. President Roderick will not be attending the meeting on the 23<sup>rd</sup>. Solicitor Teitz suggested continuing this public hearing to the Council meeting at the Town Hall on June 30 at 7: 00 pm. Requested the proposed changes be emailed to the Clerk or Ms. Michaud for compilation for the meeting on the 23<sup>rd</sup>. Solicitor Teitz explained the public hearing needs to be continued to a date certain.

Councilor Gerlach made a motion, seconded by Councilor Pelletier to continue the Public Hearing 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 to June 30, 2014 and forward to the Clerk edits, potential changes, ahead of the June 23 meeting to be compiled accordingly. Motion passed unanimously. President Roderick noted the public hearing will continue to June 30, will be at the Town Hall at 7:00 p.m.

### **APPOINTMENTS & RESIGNATIONS:**

#### **1. Resignations**

**a.Historic Preservation Advisory Board – Cynthia P. Allen, 46 Peaceful Way**

**b.Juvenile Hearing Board - Cynthia R. Costa, 335 Stone Church Road**

**c.Planning Board – David Holmes, 3631 Main Road**

**d.Tree Commission – Rose Marie Teixeira, 10 Evans Ave**

**e.Wastewater Management Commission – Peter Andromalos, 1506 Main Road**

President Roderick suggested accepting with regret, requested the Town Clerk send letters thanking them for their service to the Town.

Councilor deMedeiros made a motion, seconded by Councilor Gerlach to accept with regret the Resignations as listed above. Motion passed unanimously.

### **UNFINISHED BUSINESS:**

**Pauline Richard – Request for Streetlights Installed on Ledoux Lane from Winterberry to Teaberry- Recommendation from DPW Director and Police Chief Blakey – Continued from May 27th**

The Town Clerk informed Mrs. Richard DPW Director Berlucchi had called, sent several emails, still waiting for an estimate on the cost for a streetlight. President Roderick suggested putting on next agenda, June 23.

### **FINANCIAL BUSINESS:**

**Town Administrator/DPW Director – Request Budget Transfers Totaling \$5,500 to Acct# 5540-7611 (Gas, Oil & Fuel) to Cover This Year's Fuel Deliveries From Acct# 5540-5150 (Sick Leave) for \$1,500 Acct# 5540-6698 (Sand, Salt, Gravel & Pipe) for \$4,000**

Town Administrator Wojcik had left the meeting, DPW Director Berlucchi explained, was end of year, wanted to cover fuel deliveries in June, could not get a salt delivery, transferred funds out of that account.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to authorize the transfer totaling \$5,500 to Account #5540-7611 (Gas, Oil & Fuel) from Account #5540-5150 (Sick Leave) for \$1,500 and from Account #5540-6698 (Sand, Salt, Gravel & Pipe) for \$4,000. Motion passed unanimously.

**Town Administrator/Chief Blakey – Request Budget Transfers Totaling \$35,300 to Acct#1120-7980 From Acct#330-5107(Holiday-Police) for \$14,500**

**Acct#1060-5100 (Dept Mgr Salary-Code Enforcement) for \$2,800**

**Acct#5130-5102 (Staff Salaries – AFSCME Maintenance) for \$18,000**

Chief Blakey explained the transfer was needed to cover the paving at the Police Department parking lot. Believed the \$14,500 was in the paving account, found out was not put there, taking care of the bill, total cost \$35,300. Last year the Budget Committee approved \$20,000 for the paving. Town Clerk Mello noted Account #1120-7980 was the FY Unbudgeted Items account.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to authorize the Transfer totaling \$35,300 to Account #1120-7980 (FY14 Unbudgeted Items) to pay for paving as indicated in F2. Motion passed unanimously.

**NEW BUSINESS:**

**Town Clerk – Internal Posting of Full Time Board of Canvass Clerk With Job Description**

Town Clerk Mello requested internal posting of a Full Time Board of Canvass Clerk along with the job description, funding has been approved in next FY budget.

Councilor Gerlach made a motion, seconded by Councilor Chabot to approve the Internal Posting of Full Time Board of Canvass Clerk with Job Description as indicated in G2. Motion passed on a vote of 6-0-1, Councilor Lambert abstained, not at Council table.

**Treasurer – Internal Posting/Request for Adv of Part Time Accounts Payable Clerk With Job Description**

Town Clerk Mello explained the Treasurer was requesting internal posting or advertising should no one apply from within. The Licensing Clerk in the Town Clerk's Office is retiring June 30.

Councilor deMedeiros made a motion, seconded by Councilor Gerlach to approve the Internal Posting/ Request for Advertising of Part Time Accounts Payable Clerk with Job Description. Motion passed unanimously.

**Town Administrator – Ratification of 2 Year Contract for Part Time, Non-Union Municipal Court Clerk Eugene Gauthier**

Town Clerk Mello explained Municipal Court was one of the Clerk's departments. The Municipal Court Clerk works 12 hours per week, a non-union position, the hourly rate is for one year, the impact statement and contract were made public per Charter.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to ratify the 2 Year Contract for Part Time, Non-Union Municipal Court Clerk Eugene Gauthier. Motion passed unanimously.

**Councilors Gerlach and Pelletier – Improving Trash and Recycling Infrastructure and Performance at Town Parks and Beaches**

Councilors Gerlach and Pelletier provided two additional slide handouts to slide presentation including views of all parks and possible locations of barrels; trying to address the problem of trash and recycling at parks and beaches. More of environmental issue and has put forth ideas to try to improve the efficiency of recycling. Best practices are to put a trash barrel and a recycling bin together close to the concession areas. Suggest increase signage also. The additional handout includes a summary of goals and round numbers indicating the cost of different styled barrels and units. Recommends on short term base leveraging profit sharing funds received from RI Resource Recovery Corp to be used for promoting municipal recycling. Town has current balance of \$47,270.12; could invest in some appealing trash and recycling bins and increase signage. Councilor Lambert requested a cost to install the side-by-side trash & recyclable stations for all play grounds. Councilor Gerlach explained the T/A will work with the DPW Director to see what makes sense. Councilor Lambert suggested

Director Berlucchi put on the next agenda for the Landfill/Recycling Committee. Director Berlucchi has tried to put barrels at the beaches before, makes more litter when the barrels are left out overnight, supports this effort for parks. Councilor Gerlach agreed, should meet with Landfill Committee, President Roderick thanked both Councilors. Will be back on agenda once meet with the Landfill/Recycling Committee.

**BIDS AND REQUESTS FOR PROPOSALS:**

**DPW Director Berlucchi – Requests Permission to Advertise Bids for a New Ford F-450 Truck Cab & Chassis for Utility Truck**

Director Berlucchi explained, this was in the budget, the Budget Committee reduced the original amount to \$45K, will be able to put this on a used utility truck body, \$7K for the body, \$38K for the cab and chassis.

Councilor Gerlach made a motion, seconded by Councilor Chabot to approve and grant permission to Advertise Bids for a New Ford F-450 Truck Cab & Chassis for Utility Truck. Motion passed unanimously.

**TOWN ADMINISTRATOR ITEMS AND ANNOUNCEMENTS:**

There were no announcements from the T/A.

**COUNCIL ANNOUNCEMENTS, COMMENTS AND QUESTIONS:**

President Roderick went to the High School graduation, impressed with the students and the achievements.

**TOWN SOLICITOR – ITEMS AND ANNOUNCEMENTS:**

**Distribution of Memorandum Regarding Changes in Personnel at Ursillo, Teitz & Ritch, Ltd.**

Solicitor Teitz noted the staff changes; Nancy Letendre is leaving the firm. Amy Goins has been hired, top notch associate has municipal experience, will be doing some Council meetings.

**TOWN CLERK ITEMS AND ANNOUNCEMENTS:**

Town Clerk Mello received notice from the Secretary of State's office regarding local questions for the November ballot. First comes to the Council then the Board of Canvassers for certification, must be received at the Secretary of State's office by August 6, 2014 by 4:00 p.m.

**CLOSED EXECUTIVE SESSION:**

There was nothing for Executive Session from the agenda.

**ADJOURNMENT:**

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

Council adjourned at approximately 10:15 p.m.

A True Copy.

ATTEST: \_\_\_\_\_  
Nancy L. Mello, Town Clerk