

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
COUNTY OF NEWPORT**

Amended 7/28/14

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 27th day of May 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

Denise M. deMedeiros-Vice President- Late arrival

James Arruda

Joan B. Chabot

William P. Gerlach

Jay J. Lambert

Brett N. Pelletier

Town Administrator, *Matthew Wojcik*, Assistant Solicitor Gina DiCenso and Town Solicitor, Andrew M. Teitz were also present. Town Clerk Mello noted this meeting would not be videotaped; technician not available.

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 Gerlach requested removal of item CA2j, Recreation Commission minutes and CA4, Thomas Ramotowski, Chair Conservation Commission - Copy of Letters From the U.S. Department of Transportation Federal Aviation Administration and the Rhode Island Airport Corporation Regarding the Closed Seaplane Base on Stafford Pond - Referred to Town Solicitor and Town Administrator for Ordinance Amendment Prohibiting Seaplanes on Drinking Water Reservoirs. Councilor Chabot requested removal of item CA2d, Historical Cemeteries Commission minutes and Councilor Pelletier requested removal of item CA7, Philomena Santos-Higgins, Development Director Cystic Fibrosis Foundation – Request Council Authorization for 62 and 25 Mile Bicycle Ride in East Bay on Saturday, September 27, 2014 from 7:30a.m. to 2:00 p.m. to Start and Finish at Sakonnet Vineyards –a. Police Chief Blakey Recommendation.

CA2j-Recreation Commission Minutes

Councilor Gerlach pointed out the minutes include increased beach and parking fees for the 2014 summer season, was not discussed by the Town Council. Request a member of the Recreation Commission appear before the Council to discuss the increased fees. Councilor Pelletier noted the fees are set by the Town Council, like to have a more in depth discussion. President Roderick requested the Town Administrator contact Recreation for a member to be here on June 23.

CA4-Thomas Ramotowski, Chair Conservation Commission - Copy of Letters From the U.S. Department of Transportation Federal Aviation Administration and the Rhode Island Airport Corporation Regarding the Closed Seaplane Base on Stafford Pond - Referred to Town Solicitor and Town Administrator for Ordinance Amendment Prohibiting Seaplanes on Drinking Water Reservoirs

Councilor Gerlach thanked Tom Ramotowski, Conservation Chairman for the joint efforts. On the record would like to thank Senator Jack Reed and his office for their efforts to clarify the closure of the Sea Plane Base on Stafford Pond.

CA2d-Historical Cemeteries Commission Minutes

Councilor Chabot, citing the annual report from the Historical Cemetery Commission, like to see a member come before the Council at the next meeting to present the annual report.

CA7-Philomena Santos-Higgins, Development Director Cystic Fibrosis Foundation – Request Council Authorization for 62 and 25 Mile Bicycle Ride in East Bay on Saturday, September 27, 2014 from 7:30a.m. to 2:00 p.m. to Start and Finish at Sakonnet Vineyards a. Police Chief Blakey Recommendation

Councilor Pelletier brought attention to the Cystic Fibrosis (CF) Bike Ride on September 27, starts and finishes at Sakonnet Vineyards in Little Compton. A contact number was included in the informational packet. Philomena Santos-Higgins, CF representative explained for the last 2 years the ride has been very successful. Funds raised benefit the CF Foundation for the MA/RI chapter to help provide research and support for families. Provides funds to Hasbro and RI Hospital, last year 169 riders raised \$69K.

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

The Consent Agenda, minus the removals was as follows:

CONSENT AGENDA:

A-1-Approval of Minutes of Previous Meetings:

- a. Approval of Minutes Regular Council Meeting May 12, 2014
- b. Approval of Executive Session Minutes May 12, 2014

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

- | | |
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| Pocasset Hill Cemetery Committee | e. Street Committee |
| b. Conservation Commission | f. Wastewater Management Commission |
| c. Economic Development Commission | g. Zoning Board of Review |
| h. Board of Canvassers (4) | i. Open Space and Land Preservation Commission |

A-3-Correspondence – Receive and File:

- a. Charlestown Town Council Resolution in Supporting H7178 and S2314 That Prohibits Retailers From Providing Free Single-Use Plastic Bags to Consumers
- b. Westerly Town Council Resolution in Support of Elimination of Master Lever
- c. Newport City Council Resolution in Support of H7593 and S2034 Regarding Legislators Subject to Ethics Commission

(C.A.) 5. Scheduling Public Hearing of Proposed Earth Removal/Quarry Licensing Ordinance Amendment on July 14th

(C.A.) 6. Distribution of Decision of Zoning Board Sitting as Planning Board of Appeal Regarding Eagleville Road Realty, LLC, a/k/a/ Site Ready Materials and Recycling

(C.A.) 8. Denise Saurette, Treasurer – Budget and Revenue Reports for April

OPEN PUBLIC FORUM FOR ANNOUNCEMENTS, COMMENTS, QUESTIONS:

Joe Souza, Hancock Street noted the overtime budget for the Fire Department did not increase next F/Y, would like to see an action plan at the beginning of the year. Noted the Police Department did not have to transfer for overtime. James Tabak, Linda Road commented on Tiverton Material and the noise, starts prior to 7am registers higher than 50 decibels, on blasting days is at 120dcb. Noted the quarry issue will be coming up, in the meantime suggest enforcement on the noise issue, called the Police Department, told it was an authorized use.

BUSINESS BROUGHT BEFORE THE COUNCIL

Agenda Item Moved Out of Order

Councilor Chabot made a motion, seconded by Councilor Lambert to move up item G4, Leroy Kendricks, Chairman Wastewater Management- Permission to Hire a Business Manager on a Temporary Contract to Assist Setting Up Wastewater Management District, after the Open Forum. Motion passed unanimously.

G - NEW BUSINESS: Leroy Kendricks, Chairman Wastewater Management- Permission to Hire a Business Manager on a Temporary Contract to Assist Setting Up Wastewater Management District

Leroy Kendricks, Wastewater Management Chairman requested permission to hire a temporary consultant in preparation to forming the Wastewater district. Need to have the books balanced; \$2,500 limit allowed by the State. Waiting for the legislation to vote, funds are in the Wastewater budget.

Councilor Pelletier made a motion, seconded by Councilor Chabot to grant permission for the Wastewater Management Commission to hire a Business Manager on a temporary contract basis. Motion passed unanimously.

PUBLIC HEARINGS & PUBLIC PRESENTATIONS:

Public Hearing Noise Ordinance St. Theresa Church – Public Hearing for Sound Variance and Special Event/Outdoor Entertainment License For Event to Take Place On Friday August 1st From 5pm to 9 pm, Saturday August 2nd From 3pm to 10pm and Sunday August 3rd From 12pm to 6pm

Jean Cameron, appearing for St. Theresa's Church explained the sound variance and special event license was for the annual feast. President Roderick called for comment from the public three times, seeing none closed the public hearing.

Councilor Pelletier made a motion, seconded by Councilor Chabot to approve a Variance to the Noise Ordinance and a Special Event/Outdoor Entertainment License for August 1, 2 and 3 for St. Theresa's Church annual feast. Motion passed unanimously.

Small Cities Community Development Block Grant– Second Public Hearing - Community Development Block Grant Application – Christian Belden – Church Community Housing

President Roderick opened the Public Hearing on the Community Development Block Grant (CDBG) Application. Christian Belden, Church Community Housing read the list of request ed amounts. The total application amount was \$334,000. At the last public hearing Councilor Chabot requested more information about set asides. Mr. Belden researched the difference; the State was adding money to other funding sources. Councilor deMedeiros arrived at this time, 7:25 pm. Mr. Belden gave the Clerk a copy of the form regarding Affordable Housing Set aside. President Roderick called for comment three times from the public, hearing none closed the public hearing. Councilor Chabot questioned number 13, funding to support costs for 17 affordable units at Apple Creek Apartments for expansion. Mr. Belden explained it was for comprehensive rehabilitation for affordable housing. Affordable housing activities do not count against the application maximum. Affordable housing includes some type of subsidy, Federal, State or local, can be for elderly, disabled, or low to moderate incomes. An income survey of the Apple Creek apartments showed they met the income requirements, to get grant funding need to show eligibility requirements. Deed restrictions come with grants to make sure they are affordable.

a.Approval of Authorizing Resolution

Town Administrator Matthew Wojcik read the Authorizing Resolution.

Councilor Gerlach made a motion, seconded by Councilor Chabot to approve the Authorizing Resolution as read. Motion passed unanimously.

Adopted Resolution attached at end of minutes.

Public Hearing Zoning Map Changes 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 with Findings b.Memo from Gayle Lawrence, President Union Public Library Association Board c.Letter from Barbara Donnelly, Chair Tiverton Library Board of Trustees

Rosalind Weir along with Attorney Timothy More appeared before the Council on the request for a Zoning Map amendment. Kate Michaud, Planning Board Administrative Officer explained two parcels were referred to the Planning Board (PB). After much discussion the PB made a positive recommendation conditioned upon the corrections to the plans listed and submission of a soil testing report. Mrs. Weir explained the change from R-80 to Village Commercial (VC) had the potential to add some additional square footage, potential to sell more merchandise, can increase, wouldn't be able to expand for another use. Nothing is immediately planned, would like to have future owners have the capability. Councilor Chabot questioned Ms. Michaud if it was legal non-conforming for R-80 would it still be legal non-conforming. Ms. Michaud explained the Roseberry Wood deed was restricted on occupancy for commercial and residential, would have to look at the use table. Milk & Honey (M&H) building with regard to use would become conforming to use. Additional construction or alteration on those lots would have to go to the PB for development plan review. An environmental review statement would also likely be required for expansion. Ms. Michaud further explained further expansion was an issue of discussion with the PB; the recommendation included a moratorium on further amendments to the VC district for a more thorough review of existing water and septic issues. A memorandum was sent to the Council by Gayle Lawrence, President Union Public Library Association and a letter from Barbara Donnelly, Chair of the Library Board of Trustees regarding parking for the Union Library. Richard Hart spoke about the history of the VC area and the various businesses.

Gayle Lawrence spoke about the neighborly parking arrangement, support new development in the district. The parking arrangement is at the largesse of Mrs. Weir. The Union Library seeks to find a legal arrangement like a right of way or a legal easement in perpetuity. Not raising an objection, just a deep concern. Thanked the Council for consideration of the memo and the Town staff for all the help. Did not get the notice, this issue has been corrected. More concerned about the expansion potential. Mrs. Weir explained M&H has small extension capability to the north, calculated parking for any expansion to the existing property. Will have a homeowners association which will take care of mowing, plowing and water. Hope to discuss the parking for the library with Mrs. Lawrence. Joe Souza, Hilton Street has spoken to business people in the area, zoning stifles a lot of activities, need to think hard about putting a moratorium in this area. Trish Hilton, Conservation Commission, noted this area to be near Nonquit Pond, need to look at the area as a whole, not piecemeal. Residents deserve some protection in terms of the moratorium. Mrs. Weir stated well aware of the fragility and the environment, have worked with DEM for over 30 years. Have taken precaution to make sure the impact is low. Mr. More noted the environmental report resides at Narragansett Electric. The report, NCS134, cannot leave the premises. Found the sph concentration to be non-detectable. President Roderick requested the Assistant Solicitor look into the report being public record. Peggy Siebrandt supported the usage.

President Roderick called for comment from the public 3 times, hearing none closed the public hearing.

Councilor Pelletier questioned Ms. Michaud on the PB recommendation regarding the typographical errors and the noted inclusions. Ms. Michaud noted the plan was correct that was submitted to the Council, will check on the other inclusions, believed all to be done. Mr. More explained the plan was to go to the Zoning Board to get specific use permits for the use of the Meeting House, not permitted as a matter of right. This zoning amendment was just for these two specific lots.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to grant the request by Main Road Properties, LLC for Zoning Map Amendment of Plat 706, Lot 106 and Lot 107 from R80 to VC (Village

Commercial) subject to meeting all legal requirements and subject to review by Kate Michaud, Motion included adopting the Planning Board Findings. Some discussion followed. Assistant Solicitor DiCenso noted the moratorium was a much separate issue. Councilor Pelletier added, in the event someone else petitions the Board they would have the right to go before the PB. Assistant Solicitor DiCenso cautioned for a moratorium, generally a difficult prospect to do appropriately. Motion passed unanimously.

**TOWN COUNCIL SITTING AS BOARD OF LICENSING:
ADVERTISED PUBLIC HEARINGS**

NON ADVERTISED LICENSES

**Step by Step Main Road- Renewal of Annual Licenses- Tobacco Dealer's, Holiday and Fireworks
Subject to Meeting All Legal Requirements a. Recommendation of DPW Director**

DPW Director Steve Berlucchi recommended renewal of the annual licenses for Step by Step on Main Road. The balance due has been paid in full for the Pay As You Throw bags. Spoke to the owner, will be on a cash basis going forward.

Councilor Gerlach made a motion, seconded by Councilor deMedeiros to renew the Annual Licenses, Tobacco Dealer's, Holiday and Fireworks for Step by Step Main Road, subject to meeting all legal requirements. Motion passed unanimously.

APPOINTMENTS & RESIGNATIONS:

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 12th
a.Recommendation of Planning Board b.Recommendations of DPW Director and Police Chief**

This item was continued from the May 12th Council meeting for further recommendations. Ms. Michaud discussed the PB memo dated May 21st; Meadow Woods (Ledoux Lane) lights were accepted in 2 phases. Winterberry Woods street lights recommended for acceptance upon establishment of a Homeowner's Association. Included a summary of how street lights are placed and a map of where the existing streetlights were located. They are typically on sharp curves and intersections, upon consultation of the Public Works Director and Police Chief. Chief Blakey, upon further examination did recommend a sharp right reflector sign be placed at the cul de sac, looking at one light at the cul de sac, the intersection of Teaberry and Ledoux. Director Berlucchi estimated the cost for the light fixture to be around \$2K, could hang a light on the existing pole there that has electricity. Waiting for a cost estimate on the conduit. Director Berlucchi did support a light at that location per the memo dated May 23. Do not support lights on the entire road. Councilor Lambert wanted to know the cost President Roderick suggested putting on the next meeting.

**Councilor Lambert – Discussion and Possible Action on Support of Grant by Paws Watch for Control of
Town's Feral Cat Population With a TNR Pilot Program – Continued from May 12th**

Councilor Lambert briefly discussed the Trap, Neuter, Release (TNR) pilot program proposed at the last meeting. This is an all-volunteer agency, with support of the Town; Paws Watch can apply for grants. Some ambiguity centering on releasing of the cats after spaying and neutering. Believed the release of spayed cats was not abandonment under RI State Law, Section 4-24-8. Section 4-24-3 addresses spaying. Section 4-1-1 (4) defines a "Guardian" as having the same rights and responsibilities of an owner. Councilor Lambert spoke to Senator Christopher Ottiano who agreed to sponsor legislation regarding the ambiguity. Forwarded an email to amend Section 4-24-8 that the release of a cat by a person in a spay/neuter program does not constitute and abandonment under this chapter. Section 4-24-2 includes Legislative findings. Propose the offer made by Paws Watch be adopted and the program that was discussed last week. Councilor Lambert read a proposed resolution regarding

the pilot program. Councilor Gerlach thanked Councilor Lambert for trying to clarify this issue. Will be funded by grants, support the program.

Councilor Gerlach made a motion, seconded by Councilor Chabot to accept the Resolution as read by Councilor Lambert. Motion passed unanimously.

The adopted resolution was as follows:

RESOLVE:

WHEREAS, Paws Watch is a 501(c) (3) public charity incorporated in RI and registered with the RI Department of Business Regulations,

WHEREAS, Paws Watch advocates and practices the recognized protocol of Trap-Neuter-and Release to humanely address RI's free roaming cat overpopulation problem.

WHEREAS, Paws Watch has offered the Town of Tiverton the Opportunity to be the site of a Pilot Program for a spaying and neutering program and for that purpose would seek grants totaling approximately \$50,000.

RESOLVED, that the Town Council of the Town of Tiverton confirms it's support and acceptance of the Paws Watch proposal presented on May 12,2014.

A five minute recess was taken at 8:45 p.m.

**Street Advisory Committee – Requests Council Proceed With Recommendations-Cont. from May 12th
a.Lawrence Court b.Winterberry Woods c.Beech Tree Hill d.Planning Board Memorandum on Beech
Tree Hill and Winterberry Woods e.Emails on Beech Tree Hill From DPW Director and Mr. D. Spitz**

Committee members Jim O'Dell and Audrey Gloddy appeared before the Council to answer questions for the Street Advisory Committee (SAC). Mr. O'Dell explained the SAC has met with the residents on Lawrence Court, research indicates 415' was previously accepted by the Town on 9/23/68. Recommend the remaining portion of 1385 feet remain private and the Town continues to maintain providing a legal agreement drawn by the Solicitor is signed off by all the residents. DPW will continue plowing, sanding, trash pick-up, grade and fill. Director Berlucchi explained, not generally in favor of services for private roads, but in this instance recommends it for this area. Estimate the cost to be less than \$500. Councilor Pelletier questioned why recommending service on a private street, know this is used as a turnaround, trying to rationalize. Ms. Gloddy explained Lawrence Court has an active Homeowner's Association (HOA). Councilor Gerlach noted the critical dependencies; an HOA must be formed in order for a street to be fully accepted by the Town in order for Town services to proceed. Director Berlucchi noted all services provided now, there is no impetus, no clout to make anyone form an HOA. Solicitor Teitz requested each item be voted on separately. Mr. O'Dell noted Winterberry Woods has started to get an HOA, should continue this for 90 days. Mr. O'Dell explained for Beech Tree Hill (BTH), just received new information, an HOA was formed however it is not in good standing, has never been filed and certified. Once that happens, will be qualified. Councilor Pelletier noted if the Council votes tonight, services will be suspended immediately. Town Clerk Mello explained the residents have to be notified, Council should just be accepting the recommendations. Solicitor Teitz noted if all other work has been done, development money could be used to provide legal services. Solicitor Teitz wanted the HOA recorded in Land Evidence Records to be indexed to all the deeds. Must maintain requirements, fairly minimal. Councilor Gerlach suggested creating a document that in order to be 100% and HOA need to do certain things, most don't know where to start.

Solicitor Teitz will discuss with the PB Solicitor Peter Ruggiero, different requirements for different subdivisions. President Roderick wanted to see the agreement first, like to put in wording as to their responsibilities, wants to be made clear about Town liability.

Solicitor Teitz will draft a document; send it to the SC for them to discuss, then on to Council. Notice is part of due process, if these people have been getting a service, gives them the opportunity to be heard. Beech Tree and Daniel Church could be taken on July 14. President Roderick suggested Solicitor Teitz draft a document for the SAC for their June 18th meeting regarding Lawrence Court, then put back on the Council agenda for June 23.

Councilor deMedeiros made a motion, seconded by Councilor Gerlach to schedule a Public Hearing for Beech Tree Hill on July 14, 2014. Motion passed unanimously.

President Roderick noted for Winterberry Woods, waiting for an HOA, status quo will remain in effect. Town Clerk Mello will send certified notices to both Daniel Church and Beech Tree Hill. Should have something from the SAC on the recommendation to the Council. Ms. Gloddy will forward to the Clerk, President Roderick thanked them for the hard work.

Item moved up in the Agenda

Councilor deMedeiros made a motion, seconded by Councilor Chabot to move up in the agenda item G5, G-5-Councilors Chabot/Arruda – Indoor Commercial Recreation/Shooting Ranges, to be taken before item G1. Motion passed unanimously.

NEW BUSINESS:

G-5-Councilors Chabot/Arruda – Indoor Commercial Recreation/Shooting Ranges

a.Solicitor Memorandum Regarding Shooting Gallery b.Zoning Officer Memorandum Regarding Indoor Commercial Recreation c.Indoor Shooting Range Information Provided by Sakonnet River Outfitters d.Zoning Use Table

Councilor Chabot noted at the last Council meeting a memo regarding Shooting Galleries was provided, looking to proceed with clarification on the requirements for indoor commercial recreation shooting ranges. Town Clerk Mello noted Mr. Lebeau had provided a handout, was given as information only. Solicitor Teitz explained, there are two separate and distinct issues, one is a zoning issue, the other one, and irrespective to zoning is a licensing issue. Solicitor Teitz had provided previously two memos regarding the zoning. State law gives Council the authority to license; currently do not have an ordinance. The Council can direct the Solicitor to draft an ordinance to provide for licensing. Council has the authority under State law to provide for a license application. Still is not legal without a specific license in place, is needed if the Council wants to proceed. Solicitor Teitz explained a copy of the State law was included in the May 8, 2014 memo on pages 2&3. Councilor Pelletier questioned if the ordinance would enable the Council to administer a license like the State authorizes the Council for liquor licenses, can there be protocols? Solicitor Teitz explained, can restrict the hours, will research other ordinances for noise. Has some of the elements of other licenses. Councilor Lambert offered to propose a motion, did not want to see Mr. Lebeau tied up in court proceedings. Councilor Lambert suggested a motion the Town Solicitor and Town Administrator be directed to draft an amendment to the Town Zoning ordinance to permit shooting galleries or ranges in the General Commercial and Highway Commercial Zone , and or clarify any ambiguity as to whether any such action is permitted and the Town Solicitor and Town Administrator be further directed to draft an amendment to the Code of Ordinances to license and regulate shooting ranges and the Town Clerk be requested to immediately schedule a public hearing for the adoption of the proposed amendment at the earliest date possible. Councilor Lambert requested the Solicitor look at the hypothetical motion. Solicitor Teitz suggested as far as the public hearing part should come back to the Council first before scheduling the public hearing, refer to the PB for consistency on the Comp Plan from a procedural issue. Mr. Lebeau envisioned opening in 16 weeks. President Roderick noted, was up to the Council to decide what to do about a license. Solicitor Teitz will draft a document to establish a license to amend the ordinance. Councilor Arruda questioned if a license was required, not sure. Solicitor Teitz explained the State enabling act allows the Council to put in a local ordinance.

Solicitor Teitz noted the memo from February was done as the result of a question at a Council meeting, not in reaction to this item. There was a meeting of the Technical Review Committee; the Zoning Official at that time did not have the Solicitor's memo. Licensing would be retroactive. Councilor Chabot questioned if other gun clubs in the State have licenses. Need to be consistent, have licenses for retail sale of guns and ammo. Do not have one in Tiverton, is different for each Town. This was put in place when there were shooting galleries in

carnivals. Question if there really is a State law to license this type of facility. Solicitor Teitz cited General Law, section 11-47-54 licensing of shooting galleries. – Every person who shall keep any pistol gallery, rifle gallery, or other building or other enclosure in any city or town of this state where firearms are used without a license from the duly constituted licensing authority of the city or town shall, upon conviction, be fined, etc. Have received complaints about the other existing rod and gun club, will be investigating. Councilor Lambert noted the ambiguities, suggested there is time to resolve. According to Solicitor Teitz memo dated 4/21/14 Mr. Bishop, Zoning Official, has the authority to make his own interpretation, the applicant was cautioned to proceed at his own risk. Councilor Lambert expected a favorable resolution. Solicitor Teitz noted there was no mechanism to deal with complaints, analogous to bar or restaurant inspection with proper licensing. This is selling the use of a service, a commercial enterprise. Craig Lebeau stated he had a Federal Firearms license which allows the selling of firearms and ammunition. Solicitor Teitz noted provided you meet the local ordinance. Estimated 3 months, 21 days for advertising a public hearing. Could go forward with just the licensing part of it.

Several residents spoke on this item. James Hind, Haskins Avenue, lives in that neighborhood, questioned under the new zoning proposal if this area would be changed to neighborhood business, needs to have proper oversight. Mr. Lebeau noted his gun shop would move to this location. Solicitor Teitz advised the Council not to give any legal advice, did not believe it was legal to operate a shooting range there. Evangeline Jandro, Springer Avenue, location about 20 feet to the back door from the line where the fence is, had a lot of questions, did not want that in her backyard. Tim Llewellyn, Sleepy Hollow Road, heard about difficulty with businesses in Town, hot topic, completely a legal issue. Hobson Avenue, had little warning; no one came in to the neighborhood to explain what was going on with this proposal. Found out by the clearing of the land, like to see the renderings, a traffic plan, would like more information.

Councilor Lambert made a motion, the Town Solicitor and Town Administrator be directed to draft an amendment to the Zoning ordinance to permit shooting ranges/gallery, to clarify any ambiguity and be further directed to draft an amendment to the Code and request to schedule a public hearing at the earliest time, following the approval of the Town Council, to adopt any proposal. Councilor deMedeiros questioned if there really was a need for a zoning ordinance. President Roderick noted the motion was only for the license of the shooting range. Councilor Pelletier agreed, no zoning issue at present, land is zoned for general commercial business. Solicitor Teitz disagreed with the use being permitted as a right in this district. An opinion from the Building Official, Solicitor Teitz drafted the State Enabling Act in the 1990's, had included a zoning certificate where people could rely on. President Roderick noted this should have two separate motions, requested Councilor Lambert amend the motion.

Councilor Lambert made a motion, seconded by Councilor Arruda that the Town Solicitor and Town Administrator be directed to draft an amendment to the Town Zoning Ordinance to permit shooting ranges in the General Commercial and Highway Commercial Zones in the Town of Tiverton. The motion failed on a vote of 1-6, Councilor Lambert voted in favor, Councilors Gerlach, Arruda, Chabot, Roderick, deMedeiros and Pelletier opposed.

Councilor Lambert motioned that the Town Solicitor and Town Administrator be directed to draft an amendment to the Code of Ordinances to authorize the Town Council to license and regulate shooting ranges. The motion was seconded by Councilor deMedeiros, some discussion followed. Councilor Gerlach questioned for clarification, the proposed ordinance comes back to the Council for review, Council gives go ahead for a public hearing on the ordinance permitting licensing. Solicitor Teitz will prepare an application as well, will follow format of other licenses. Anticipating getting back for review on June 23, will be available with rest of packet materials, anticipate setting public hearing for July 28. The motion passed on a vote of 5-2, Councilors Arruda and Chabot opposed.

FINANCIAL BUSINESS:

Town Administrator – Request Budget Transfer of \$6,820 from Acct 10250-6799 (Future Needs) to Acct #5540-5101 (Personnel DPW) for Contractual Increase Year One

T/A Wojcik explained, the transfer was necessary because of a contractual increase.

Councilor Pelletier made a motion, seconded by Councilor Gerlach to approve the request to Transfer \$6,820 from Acct 10250-6799 (Future Needs) to Acct #5540-5101 (Personnel DPW) for Contractual Increase Year One. Motion passed on a vote of 6-0-1, Councilor deMedeiros abstained, not at Council table.

Town Administrator/Fire Department – Request Budget Transfers

From Acct# 3310-5108 (Longevity) for \$3,934 Acct#3310-5105 (Differential) for \$1,500 Acct#3310-5107 (Holiday) for \$7,040 Acct#3310-5111(EMS Incentive) for \$4,700 Acct#3310-5110 (Educational Allowance) for \$5,000 Acct#3310-5168 (Clothing Allowance) for \$5,000
Totaling \$27,174 To Acct#3310-5104 (Overtime)

T/A Wojcik explained this transfer should be enough for Overtime for the rest of the FY. Fire Chief Robert Lloyd explained 3 people have left the department, taking a closer look within the budget.

Councilor Pelletier made a motion, seconded by Councilor Lambert to approve the request to transfer. Discussion followed, Councilor Gerlach, found this hard to swallow, trying to create a bridge to the end of the FY, action may need to be taken to mitigate. Chief Lloyd noted 2 people were out on long time illness, 2 men out injured, trying to fill vacancies. Tied up by minimum manning, contractual obligations. Started in December to hire, background checks did not pan out, went to another hiring list, doing another set of background checks. Chief Blakey explained the background checks while costly was money well spent. T/A Wojcik endorsed Chief Lloyd for not going forward with those candidates. Motion passed unanimously.

NEW BUSINESS:

Councilor Gerlach – Review and Approval of Council Resolution Regarding RIDEM Draft 2015 Park and Management Area Rules and Regulations Regarding Stafford Pond

Councilor Gerlach explained, had issues last year with RIDEM, have a public comment period before the hearing on June 3, will try to attend. It is a lengthy document, one section speaks specifically, intent was to provide a formal resolution regarding Stafford Pond to ensure the safety and health. In Section 6.6 opposing continued use of boat motors in excess of ten horse power, study data shows increased phosphorus levels by high horsepower engines. Will submit as a formal response for the Town.

Councilor Pelletier made a motion, seconded by Councilor Arruda to approve the Resolution as drafted. Motion passed unanimously.

Adopted Resolution attached at end of minutes.

Town Administrator – Notification of Hiring Recreation Coordinator Keith Cory

T/A Wojcik informed the Council of the hiring of Recreation Coordinator Keith Cory. Annual compensation of \$8,500 was the budgeted amount. This is an at-will position, no benefits, not eligible for unemployment compensation.

Town Administrator – Request to Establish Ordinance to Reorganize Planning Department Pursuant to Charter Section 407 (1) and (6) and Schedule for Public Hearing June 23rd

T/A Wojcik, looking to staff the Planner position, discussed with the Solicitor the need for formal authority, responsibilities. An important policy of the Town Council looked at previous documents. In the past an employment contract was approved, was advertised, 7 highly qualified individuals applied, 3 were forwarded

along with 1 alternate, intend to interview. Can draft the ordinance with Solicitor Teitz. Candidates will know where they stand. President Roderick suggested putting on the next agenda.

Jerry Bettencourt/Patrick J. Carr, A#1 Crane Co. – Seeking Guidance or Approval by Council to Install a Solar Panel Farm on Three Lots Off Bulgarmarsh Road

Mr. Bettencourt explained the land was owned by Frank Perrino, did not know the exact location, 10-12 acres off Bulgarmarsh Road. Intend to clear the property, all but 25 feet, level the ground put in as many solar panels as possible. Understand a solar panel is not in the use table, like to address obstacles before purchasing the land. Has a zero effect on plant life, maintenance free. President Roderick wanted to know exactly where this is. T/A Wojcik added it was in the area of Myrtle, Fern and Poinsetta Way. President Roderick requested some sort of map. Could impact the neighbors, solar arrays create light. Councilor Chabot was concerned about wetlands in that area, also in a residential area. Mr. Bettencourt explained the electricity would go to a panel, sent to the grid which purchases at a discount rate. President Roderick noted the interest of the Council, need more information, status of the property. Solicitor suggested referring to the Planning Board, a starting point, to deal with solar.

Councilor Gerlach made a motion, seconded by Councilor Chabot to request the Planning Board to review, consider a zoning ordinance with possible amendments with respect to solar installation in Town. Motion passed unanimously.

Councilor Arruda – Discussion on General Fund Reserve

Councilor Arruda, given the late hour, requested continuing to the next meeting. Town Clerk clarified the June 9 meeting will be at the High School, will put on the June 23 agenda. Councilor Pelletier requested the Long Term Financial Plan policy.

BIDS AND REQUESTS FOR PROPOSALS:

Town Administrator/Chief Blakey – Request Authorization to Solicit Bids for Two AWD (all-wheel drive) Police Package Vehicles to be Purchased with FY2014/15 Funding

Chief Blakey requested permission to solicit bids for 2 all-wheel drive police package vehicles. Town Clerk Mello requested this be approved along with the advertising cost.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to approve the request to Solicit Bids with advertising for Two All-Wheel Drive Police Package Vehicles to be purchased with FY 2014/15 Funding. Motion passed unanimously.

Town Administrator/DPW Director Stephen Berlucchi – Request Permission to Solicit Bids for New Mack Truck with Plow and Sander to be Purchased with FY2014/15 Funding

Director Berlucchi explained was budgeted for a new truck with plow. Will be trading in 2 sander bodies the DPW does not us, funds in the 2014/15 budget. Town Clerk requested the motion include advertising costs.

Councilor Pelletier made a motion, seconded by Councilor Gerlach to approve the request to Solicit Bids for New Mack Truck with Plow and Sander to be purchased with FY2014/15 funding. Motion passed unanimously.

TOWN ADMINISTRATOR ITEMS AND ANNOUNCEMENTS:

T/A Wojcik recognized Paul's House of Flowers for the efforts involved with the Fall River Historical Society on 5/31 to 6/3. Several Tiverton businesses featured in this event.

COUNCIL ANNOUNCEMENTS, COMMENTS AND QUESTIONS:

Councilor Roderick – Financial Town Referendum

President Roderick noted the FTR was held; had two petitions, the BC and an Elector's petition which won 1234 to 698. Some may not agree but it is the will of the people, request the T/A , Tax Officials and Treasurer work on what to expect, what the Town will have for next year's budget.

Councilor Pelletier and Councilor Chabot attended the Senior Project Presentations at the High School. Encourage anyone who has not been to attend in the future, get in touch with Peter Forest.

TOWN SOLICITOR – ITEMS AND ANNOUNCEMENTS:

1. Town of Tiverton v. James & Melissa Pelletier

a. Town's Sentencing Memorandum

Solicitor Teitz explained the Town's Sentencing Memorandum for the Superior Court hearing on July 16 was requested to be submitted by the Judge. The Defendants have until July 1 to submit a sentencing memorandum. The Town is not seeking jail time, asking for the fine to be paid, \$500 per day, defendants should not profit on illegal gains. Seeking restitution for legal fees, over \$103,000, 7 years' time including two weeks in Superior Court.

b. Motion for Remand Record Pending Sentencing

Solicitor Teitz explained both parties filed Joint Memorandum for the Appeal in Supreme Court. Both asking the Supreme Court to hold off on hearing the appeal until after the sentencing.

Memorandum Regarding Creamer Pond Dam and Daniel Church Estates Homeowners Association

Solicitor Teitz explained the issue with Creamer Pond Dam, the State essentially forced the Town to do mitigating process, the Town is entitled to receive \$3,000 for costs, acting out of public safety. Director Berlucchi made a grate for the sluiceway that was clogged. Most of the debris now collects at that gate. Will have a public hearing in the future, ask for more funds. Councilor Pelletier noted someone was trying to form a Home Owner's Association.

TOWN CLERK ITEMS AND ANNOUNCEMENTS:

Town Clerk Mello noted the fifth Monday, June 30, have a list of items for that agenda. Will post as a Special Meeting. Had the Legislators on June 9, will see if they want to come on June 23.

CLOSED EXECUTIVE SESSION:

3. Town of Tiverton v. LAL Construction, Inc. et al

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

Solicitor Teitz suggested item 3 & 4 come off Executive Session, nothing urgent with those two items.

1. Brian Janes, Co-Chair Open Space Commission – 42-46-5(a)(5) - Possible Property Acquisition

2. Town Administrator/Chief Blakey – 42-46-5(a)(2) – Litigation Maguire v. Town of Tiverton

5. Town Administrator – 42-46-5(a)(2) – Litigation – RIDEM v. Town of Tiverton

Councilor Lambert made a motion, seconded by Councilor Chabot to enter into Closed Executive Session pursuant to Brian Janes, Co-Chair Open Space Commission -42-46-5(a)(5) - Possible Property Acquisition. 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 Maguire v. Town of Tiverton. 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 – RIDEM v. Town of Tiverton.

The Council entered into Executive Session at approximately 11:38 p.m.

The Council returned to Open Session at approximately 12:30 a.m.

OPEN SESSION:

In Open Session President Roderick announced action had been taken on item #1 - Possible Property Acquisition. Councilor Pelletier motioned to seal the minutes of Executive Session. Seconded by Councilor deMedeiros, motion passed unanimously.

ADJOURNMENT:

Councilor Chabot motioned to adjourn, seconded by Councilor deMedeiros. Motion passed unanimously.

Council adjourned at approximately 12:35a.m.

A True Copy.

ATTEST: _____
Nancy L. Mello, Town Clerk

Authorizing Resolution

This is certified as a true copy of a resolution adopted by the Council of the Town of Tiverton at a meeting held on May 27, 2014.

WHEREAS, funds are available under the Rhode Island Community Development Block Grant Program, administered by the Department of Administration, Division of Planning, Office of Housing and Community Development; and,

WHEREAS, the Governor of the State of Rhode Island has authorized the Director of said Department/Office to disburse such funds; and,

WHEREAS, it is in the interest of the citizens of the Town of Tiverton that application be made to undertake a local Community Development Block Grant Program.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF TIVERTON

That the filing of this application for the amount of \$334,000 to implement the activities proposed herein hereby authorized and that Matthew Wojcik (Chief Executive Officer) is hereby authorized and directed to file this application with the Office of Housing and Community Development, to provide any additional information or documents required by said office, to make any assurances required in connection with this program, to execute an agreement with the State of Rhode Island and to otherwise act as the Representative of the Town of Tiverton in all matters relating to this application and any award which may be based upon this application.

RESOLUTION OF THE TIVERTON TOWN COUNCIL

Resolution in Response to the Draft RIDEM 2015 Park and Management Rules and Regulations

WHEREAS: Stafford Pond is Tiverton's only public drinking water supply, providing safe and clean drinking water for nearly 10,000 residents;

WHEREAS: The protection of the health and safety of Stafford Pond is of utmost important to the Town of Tiverton and that the ultimate loss of Stafford Pond as a drinking water supply would be catastrophic;

WHEREAS: Stafford Pond suffers from significant algal blooms which impede the production of quality drinking water, and that water quality has not met state standards for total phosphorus and chlorophyll since 2007;

WHEREAS: An independent study prepared by Dr. Ken Wagner, Ph.D. of Water Resource Services, entitled *Assessing Boating Impact of Stafford Pond*, and dated October 2013, concludes that study data indicates the use of high horse power boats during fishing tournaments impacts turbidity and likely increases total phosphorus, and presents a real and significant risk to water quality;

BE IT THEREFORE RESOLVED THAT the Town of Tiverton wishes to express its strong opposition to the RIDEM's proposed 2015 Park and Management Area Rules and regulations, dated April 24th, 2014. In particular, Section 6.6, which allows for the continued use of boat motors in excess of ten (10) horse power when launched from the state-owned boat ramp at Stafford Pond for organized fishing tournament activities permitted by the RIDEM.

BE IT FURTHER RESOLVED THAT the Town of Tiverton disagrees with the RIDEM's position that under the requirements of Section 42-35-3 of the Rhode Island General Laws, "*DEM has considered alternative approaches to the proposed regulations and has determined that there is no alternative approach among the alternatives that would be as effective and less burdensome, nor that the proposed regulations will not result in a significant adverse economic impact on any small business or any city or town.*" The Town of Tiverton maintains that there are numerous other fresh water bodies in the state which are more appropriate for high horse power engine use and fishing tournaments than Tiverton's sole drinking water reservoir, Stafford Pond, and that the ever-increasing costs of treating algal blooms and purifying water from Stafford Pond have a direct and negative economic impact on the small businesses and residents who rely on Stafford Pond as their water supply.

BY ORDER OF THE TIVERTON TOWN COUNCIL
May 27, 2014

Edward A. Roderick, Town Council President

CC: Tiverton State Legislative Delegation