

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

At a Special 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 30th day of June 2014 A.D. at 7:00 p.m.

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

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

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

BUSINESS BROUGHT BEFORE THE COUNCIL

CLOSED EXECUTIVE SESSION:

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

The Council entered into Executive Session at approximately 7:03 p.m.

The Council returned to Open Session at approximately 8:15 p.m.

OPEN SESSION:

In Open Session President Roderick announced regarding number 1, received a report the Council is considering. No action was taken on number 2.

Councilor Pelletier motioned to seal the minutes of Closed Executive Session. Seconded by Councilor Lambert the motion passed on a vote of 6-0-1, Councilor deMedeiros abstained, not at Council table.

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 deMedeiros returned to the Council table. President Roderick requested removal of item number 1; Approval of Executive Session Minutes June 23, 2014, President Roderick was not at that meeting abstains.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to approve items 2, 3, 4 and 5 on the Consent Agenda. Motion passed unanimously.

CONSENT AGENDA:

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

A-3-Correspondence – Receive and File

A-4-Denise Saurette, Treasurer – Budget and Revenue Reports for May 2014

A-5-Narragansett Bay Wheelmen, Providence, RI – Request Permission to Hold Annual Bike Ride on Sunday, September 7, 2014 - Police Chief Recommendation

CA-1-Approval of Minutes of Previous Meetings-Approval of Executive Session Minutes June 23, 2014

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to approve Executive Session Minutes; Councilor Roderick abstains, not at meeting. Motion passed on a vote of 6-0-1.

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

B-PUBLIC HEARINGS & PUBLIC PRESENTATIONS:

Public Presentations

1. Kate Michaud, Planning Board Administrative Officer- Update on Progress-Community Visioning Project for the Stone Bridge Gas Station Property and Surrounding Public Facilities

Kate Michaud, Planning Board Administrative Officer and Jennifer Clark provided an update on the Stone Bridge Community Visioning Project. Ms. Clark, a student at Roger Williams University working on the project informed about the charrettes, informal input sessions on July 18 and 19. Looking to come up with input on the designs. The various times, on Friday July 18 from 10am to 2pm and 6pm to 9pm and on Saturday July 19 from 9am to 2pm, being held at Fort Barton School. Can visit the website, www.stonebridgereimagined.com, or send an email, address is on the flyers. Ms. Michaud appreciated the work of the students. Councilor Gerlach completed the online survey in a few minutes, great idea having a Facebook page. Ms. Michaud explained the final report would go to the Council. Ms. Clark was trying to get more advertisement and involvement. President Roderick requested the local press mention the charrettes, the importance to the Town of Tiverton, thanked both.

2. Leroy Kendricks, Wastewater Mgt Commission Chair–Newly Formed Tiverton Wastewater District

Leroy Kendricks, Wastewater Management Commission Chair hoped to celebrate the signing of the enabling legislation, waiting for the Governor's signature. The Governor has 7 days to sign, if not becomes law without his signature, asked to be placed on the next agenda. Hope to have the district set up and running by Septmeber1. In July expect to go into the 3 primary neighborhoods to update the residents with estimated costs. Anticipate having a vote in August. First phase expect to go out to bid in winter, ground breaking in the spring, tentatively. Councilor Gerlach requested being informed about the project plan by milestones and dates.

ADVERTISED PUBLIC HEARINGS

3.Bruce & Jean Cox,35 Sunset View Drive – Public Hearing for Sound Variance to Host a Wedding Reception on Property July 12, 2014 with a Live Band – Subject to Meeting All Legal Requirements

Bruce Cox explained the request for a Sound Variance, hosting a wedding reception on July 12, 2014, a small band, have spoken to the neighbors, have no objection. The cocktail hour is 4-4:30; dancing 7 to 11pm. President Roderick called for comment from the public 3 times, seeing none closed the public hearing.

Councilor Lambert made a motion, seconded by Councilor deMedeiros to grant the request for a Sound Variance to Host a Wedding Reception on Property July 12, 2014 with a Live Band, subject to meeting all legal requirements. Motion passed unanimously.

Item Moved Up in the Agenda

Councilor Pelletier motioned, seconded by Councilor deMedeiros to move up item C1, Bruce & Jean Cox, 35 Sunset View Drive – Request for Special Event Entertainment License to Host a Wedding Reception on Property July 12, 2014 with a Live Band – Subject to Meeting All Legal Requirements next to the current place in the agenda. Motion passed unanimously.

C-TOWN COUNCIL SITTING AS BOARD OF LICENSING ADVERTISED PUBLIC HEARINGS

NON ADVERTISED LICENSES

1. Bruce & Jean Cox, 35 Sunset View Drive – Request for Special Event Entertainment License to Host a Wedding Reception on Property July 12, 2014 with a Live Band – Subject to Meeting All Legal Requirements

President Roderick noted the Council just granted a sound variance, this is for the special event entertainment license to host the wedding.

Councilor Pelletier motioned, seconded by Councilor deMedeiros to grant the request from Bruce & Jean Cox for a Special Event Entertainment License to Host a Wedding Reception on Property July 12, 2014 with a Live Band, subject to meeting all legal requirements. Motion passed unanimously.

B-PUBLIC HEARINGS & PUBLIC PRESENTATIONS:

4. 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 – Continued From June 9th Meeting

a. Kate Michaud, Administrative Officer b. Town Solicitor Memorandum

Kate Michaud, Administrative Officer-Planning Board and Ken Buckland, Cecil Group Consultant answered further questions regarding the proposed Zoning Map Amendment for Form Based Code Zoning. Ms. Michaud referenced the June 18, 2014 memo to the Council, a summary of changes suggested at the public hearing on June 9th and how zoning would be affected. Solicitor Teitz, at direction of the Council consolidated those comments, summarized the public comments and Council comments. In the memo gave each item a separate number, suggest taking them in order. Gave thoughts recommendations on each one. There were issues raised regarding definitions, Council cannot address at this time. Changes were made to the use table for these items. Since this was the way it was advertised cannot go back and change definitions. In a couple of places added some asterisks. Need a more comprehensive overhaul of the use table. For example, if the definition for a hospital was changed it could affect other zones where it might be permitted. Solicitor Teitz noted this part did not make the online backup.

SPECIFIC USE TABLE ISSUES

1. Use Code Section 2c: Multi-family structure or apartment house:

President Roderick called for comment from the public three times. Solicitor Teitz noted the concern for lack of a definition related to scope and size. The number of units on any lot limited by zoning regulations recommended no change. Trish Hilton, 99 Peaceful Way, questioned how many units could be on a lot, encouraged Council to find potential build out. Difficult to compete, don't have a lot of infrastructure, sewer system would be good. Kate Michaud, Planning Board Administrative Officer responded, is a policy issue for the Council to consider, acreage described in the Traditional Main Street (TMS), would have to calculate square footage per district. Councilor Gerlach questioned if this included Bed & Breakfasts (B&B's), which is not qualified as a definition, requested adding to additional definitions and clarification. Solicitor Teitz explained, B&B's not regulated by density, has to be owner occupied. Not comfortable regulating density of residential as otherwise regulated in this ordinance references the nearest zone. Councilor Arruda pointed out Main Road is densely populated, can't see how adding more there makes sense. Councilor Pelletier called that a good conversation for the Comprehensive

Plan (Comp Plan). Ms. Michaud noted for the TMS multifamily already existing and discussed what it would take to bring into existing conformance. Councilor Chabot noted if General Commercial (GC) is zoned business commercial by adding residential now going the opposite way. State Ave. to Souza Road planned for business development, afraid of switching neighborhoods mid-stream. Mr. Buckland the design guidelines would drive development in those districts. Councilor Arruda was not totally against, the Pedestrian Friendly District (PFD) may become more residential, thought the goal was to expand the commercial tax base. Solicitor Teitz noted single family houses generate less tax money, multifamily even less.

2. Use Code Section 2d: Mixed use residential:

Solicitor Teitz as in 2c recommended no change. No motion was needed because there was no change.

3. Use Code Section 2e: Community Residence:

4. Use Code Section 2f: Family day care:

Solicitor Teitz explained for 2e along with 2f State law requires this use to be permitted in any zone in which a residence is permitted, changed use table to permitted for TMS and PFD. Councilor Chabot, going back to the multifamily item, wanted to understand if part of this change in the ordinance was to make non-conforming to conforming. Mr. Buckland affirmed, found differences under a review of the existing zoning, found a lot of non-conformities under the existing zoning. Councilor Chabot was concerned with unintended consequences. If zoned GC now there is a certain value to the property. If the idea of this program was to GC future potential, if you lose certain property rights as this use table does, only certain things can be put there. John Pagliarini, William Barton Drive, wanted to clarify, if now non-conforming by use, would be non-conforming by dimension, if a 4 family now would only be able to build a 4 family. President Roderick noted this was making the use conforming not the size of the structure. President Roderick called for public comment 3 times, seeing none entertained a motion.

Councilor Pelletier motioned, seconded by Councilor Gerlach to approve the Community Residence and Family day care amendments as stated. Motion passed unanimously.

4. Use Code Section 2h: Bed and Breakfast:

Solicitor Teitz explained, it was suggested to make this a permitted use across all 3 zones. Some concern because of a lack of definition came up with a size based on a review of some other communities. Make it a permitted use, asterisk the limit to 4 guest rooms and require 5,000 square feet of lot area per guest room. Above this make it a special use permit. President Roderick called for public comment 3 times, seeing none entertained a motion.

Councilor Pelletier motioned, seconded by Councilor Gerlach to approve Bed and Breakfast as drafted. Motion passed unanimously.

6. Use Code Section 2i: Motel or hotel:

Solicitor Teitz explained one Councilor suggested making this a non-permitted use, agreed in part. Concern was about it not fitting in. The Town has identified this as vital to tourism, should make it a special use permit in the PFD, the only suggested change. President Roderick called for public comment. Randy Lebeau, 22 Last Street, thought the whole thing should be scrapped, special use permits need to go. Should discuss more, not do in 5 minutes. Councilor deMedeiros noted the Council has made changes, has added permitted uses. Mr. Lebeau said the Council was changing the rules, making it up as they were going along. Councilor Gerlach respectfully disagreed, said this was the meeting, some things still special use permit, but a significant amount of special use permits have been reduced. Mr. Lebeau's opinion was the whole document should be scrapped. Councilor Pelletier noted this has been worked on for a long time, many public meetings. Councilor Pelletier submitted the most critical list; this 2nd draft is considerably better than the first on the use table. Overall it contributes to a set of guidelines for future development. Solicitor Teitz explained, of all his suggested changes this was the only one to go backwards. This is the end of a 2 year process between the Council and the PB. Was a concern a hotel would not fit into the zone, more consistent to make it a special use. Among the permits to get, getting a special use permit is not a significant deterrent, allows the Council more leverage. Peter Moniz, 83 Captain's Circle

expressed have to be careful it is not detrimental to the Town. A special use permit has merit, gives a developer an opportunity to present ideas to the Zoning Board and the neighbors. President Roderick called for public comment 3 times, seeing none called for a motion.

Councilor Gerlach made a motion, seconded by Councilor Pelletier to change the designation for item 2i, Motel or hotel for PFD from a permitted use to a special permit use. Motion passed on a vote of 4-3, Councilors Arruda, Chabot and deMedeiros opposed.

7. Use Code Section 2r: Accessory buildings:

Solicitor Teitz explained was suggested to change the accessory buildings from a special use permit to permitted for all 3 districts. Should be changed from an S to a P, use is permitted as a right, accessory use should be permitted, to be consistent. Can't have an accessory structure without having an accessory use. President Roderick called for public comment 3 times, seeing none called for Council comments. Solicitor Teitz explained it is the use that is prohibited, if it meets dimensional requirements doesn't change. Solicitor Teitz's proposed changes were in red, columns with the color blue were what were originally proposed. Rosemary Eva, 1439 Main Road questioned the Solicitor if the accessory use was a primary use or just for residential. Solicitor Teitz affirmed, this in itself would not allow a non-residential use. Mr. Pagliarini questioned if a single family was not permitted in TMS or PFD but an accessory building is, would the Zoning Board have a problem, thinks is an expansion of a non-conforming use. President Roderick noted it would not change what would happen now.

Councilor Pelletier motioned, seconded by Councilor Gerlach to approve the Modification of 2r, Accessory Buildings to allow this to be allowed as a Use of Right in all 3 zones. Motion passed on a vote of 5-2, Councilors Chabot and Arruda opposed.

Councilor Chabot questioned why 2e, Household was stricken. Ms. Michaud addressed, could not discern what a household is, looked at State laws, rather than guess, stricken from the table, could not define. Councilor Chabot noted the Solicitor said the Council couldn't change definitions for these uses, if trying to eliminate, can't do by striking it out. Ms. Michaud addressed, household is in the code now, has no definition. Solicitor Teitz added, the concern was what you do affects all zones, was comfortable seeing household stricken across all zones. Not changing definitions, changing the use table, is a description of a use. Change applies across the whole Town unless specifically limited by an asterisk. Councilor Chabot noted, was advertised, people on Main Road and Bliss 4 Corners area would be the only ones affected, no indication the entire Town would be affected. Solicitor Teitz noted the ad did say there would be changes, 2 separate changes, text and map changes.

8. Use Code Section 3-e: Accessory buildings:

The question for this section was what the triple asterisk refers to. It is a reference to the existing Zoning Ordinance to Section 14. Should remain unchanged. President Roderick called for public comment 3 times. Jeffrey Belli, 2 Birch Street, requested clarification on the question Councilor Chabot asked if this document was for Main Road and Bliss 4 Corners and also included the Industrial Park and the rest of Tiverton. Solicitor Teitz answered yes and yes, the changes in purple will affect the entire Town including Highway Commercial (HC) and Village Commercial (VC), advertised as such as well. Do not have to notify people unless zoning is changed, when a text change is made don't have to notify by certified mail, was advertised 3 times.

9. Use Code Section 3-f: Aquaculture:

Question about more definition here; since this was not advertised recommend no change. President Roderick called for public comment 3 times. No public comment on this item.

10. Use Code Section 4-d: Membership athletic club:

Question arose if a gym is not on the first floor and whether it could be on a higher floor understanding potential building height restrictions. Recommend no change. President Roderick called for public comment 3 times. Mr. Pagliarini noted by keeping the asterisk this was mandating an elevator. Councilor Pelletier questioned the

rationale. Mr. Buckland explained, just trying to encourage development. Several Councilors took issue with limiting to the second floor, suggested eliminating that asterisk and sentence.

Councilor Pelletier motioned, seconded by Councilor Gerlach to approve 4-d: Membership athletic club striking the asterisk to TMS. Solicitor Teitz clarified this motion was just for striking the asterisk. Motion passed unanimously.

Councilor Pelletier motioned, seconded by Councilor Gerlach to change the Special Use Permit (p) required to an as of right permitted use for Traditional Main Street (TMS) for Membership athletic club. Motion passed unanimously.

President Roderick noted in Section 4b- Nonprofit organization club, social or community center also had an asterisk, must be located on the first floor in the TMS district. Council Chabot was uncomfortable having to have a business install an elevator. Solicitor Teitz explained any public building would have to make those accommodations. Mr. Pagliarini suggested having activities on a first floor would be beneficial for business.

Councilor Chabot motioned, seconded by Councilor deMedeiros to strike in Section 4b the wording *Must not be located on the first floor on the building frontage in the TMS district. Motion passed unanimously. Solicitor Teitz noted that was striking the asterisk and the entire language with it.

President Roderick, at this time requested taking a break from the public hearing to take other Council business. Solicitor Teitz explained the motion would be to take recess the public hearing to later in the evening.

Councilor Pelletier motioned, seconded by Councilor Gerlach to Recess the Public Hearing to later this evening to address items D, E, F and G in the Agenda, then return to the Public Hearing. Motion passed on a vote of 6-0-1, Councilor deMedeiros abstained, not at Council table.

D-APPOINTMENTS & RESIGNATIONS:

Appointments and Re-appointments From Various Boards and Commissions Continued From June 23

1. Economic Development Commission – One Vacancy – 4 Year Terms to July 15, 2018

a. Melissa R. Hutchinson, 203 Hooper Street - New Request for Appointment

Councilor Pelletier motioned, seconded by Councilor Gerlach to appoint Melissa R. Hutchinson, 203 Hooper Street to the Economic Development Commission to a 4 Year Term to July 15, 2018. Motion passed unanimously.

2. Planning Board – 2 Vacancies – 3 Year Terms to 7/15/2017

a. Noel Berg, 281 Indian Point Road - New Request for Appointment

b. Edward T. Campbell, 90 Charles Drive #5 – New Request for Appointment

c. Susan Gill, 1392 Main Road - New Request for Appointment

d. Peter M. Moniz, 83 Captain's Circle – Seeking Re-Appointment

Councilor Pelletier made a motion, seconded by Councilor Lambert to appoint Edward T. Campbell and Susan Gill to the Planning Board, each to a 3 Year Term to 7/15/2017. Councilor Chabot discussed, Ms. Gill is on 2 other committees, Boards & Commissions policy calls for others if qualified, this would be 3rd; has concern. Ms. Gill commented, does not have a lot of daytime responsibilities, just started with Recreation, no conflict with meeting scheduling. Motion passed on a vote of 6-1, Councilor Chabot opposed.

Councilor Pelletier thanked Peter Moniz and Noel Berg, veteran volunteers, much appreciation. President Roderick requested the Clerk send a letter thanking Mr. Moniz for his service.

3. Housing Authority–One Vacancy–5Year Term to 10/15/2019 - Unexpired Term to 10/15/2018

a.Bobby J. Harris, 442 Stone Church Road – Seeking Re-Appointment

b.Christopher L. Nearpass, 110 Stoney Hollow Road - New Request for Appointment

Councilor Lambert made a motion, seconded by Councilor Pelletier to reappoint Bobby J. Harris to a 5 Year Term to 10/15/2019. Motion passed on a vote of 6-1, Councilor Arruda opposed.

Councilor Lambert made a motion, seconded by Councilor Pelletier to appoint Christopher L. Nearpass to a Vacancy Unexpired Term to 10/15/2018. Motion passed unanimously.

E-UNFINISHED BUSINESS:

1.Mike Normandin, Chairman Street Advisory Committee- Status Update Regarding Lawrence Court, Beech Tree Hill and Daniel Church Estates

Jim O'Dell, Street Advisory Committee (SAC), was looking for an update and a recommendation from the Solicitor, waiting for a Draft Agreement, was to be on the June 23 agenda. The SAC also waiting on a notice for 2 subdivisions that were to be on the July 14 agenda. Believe residents need to be notified 21 days prior to the hearing. Solicitor Teitz did have a road membership agreement draft, was talked about for July 28 for Daniel Church Estates. Need only 10 days' notice is not like an ordinance. Town Clerk Mello explained, have 5 other Public Hearings on July 14, one of which is the Quarry. Would be sending 50 letters, cannot put all this in one meeting. Quarry portion will not be short, have to set a schedule, this was not specified for the 14th. Beech Tree Hill is coming along with a Homeowner's Association; they would just need to be sent a letter. This is not a public hearing that needs to be advertised. The July 28 meeting also has a public hearing on the shooting gallery. Councilor deMedeiros suggested having an extra meeting on July 21. President Roderick noted it would only be to address Daniel Church and Beech Tree Hill. Councilor deMedeiros suggested seeing if the High School was free. Town Clerk Mello suggested not including Lawrence Court and notices will be sent by regular mail. President Roderick summed up will have a special meeting July 21 at the High School to address Daniel Church and Beech Tree Hill, Street Committee recommendations.

F-FINANCIAL BUSINESS:

1. Chief Blakey- Request to transfer \$7,872 From Acct #3330-5150 (Sick Buy Back) to Acct#3330-6667 (Operations)

Chief Blakey explained the transfer was to pay for laptop computers and downloading the network.

Councilor deMedeiros made a motion, seconded by Councilor Gerlach to approve the request to Transfer \$7,872 from Acct#3330-5150 (Sick Buy Back) to Acct#3330-6667 (Operations). Motion passed unanimously.

2. Town Administrator Year End Transfers – Documentation to Follow

T/A Wojcik explained the transfer request, done by letters on a spreadsheet. Letters a&b addresses Fire Overtime, those accounts slightly overdrawn due to 2 personnel events. Letters c to g deal with Beach Miscellaneous Supplies. Done over the off season, have to pay for the trash pick-up. Letter h- from positions left unfilled (Police) to pay for street lighting. Letter i- comes from the same account, going to unfunded liability for specific payments. Letter j – transfer for cost of the Fire Department investigation. Letters k-m for fully funded litigation. Letter n- to cover unemployment security. Letters o-t, are to establish a Human Resources handbook through the payroll system, for protocol procedures not up to par. One option is to use the Paychex system, working with the Treasurer to get a price, if computerized will save money. Using the T/A Unbudgeted items account and a few others to get the \$27,500 needed to fund the project using the resources of the office. Next FY would like to add maintenance of that system. Cannot do some sections without Labor Counsel. President Roderick agreed with the need for a personnel and HR segment.

Councilor Gerlach made a motion, seconded by Councilor deMedeiros to approve the Town Administrator's Year End Transfers as documented and defined in hand out #1 that goes with agenda item F2. Motion passed unanimously.

Councilor Roderick noted Council did not need to approve elected Town Clerk or Treasurer's transfers. Town Clerk Mello provided as a courtesy a list of items transferred in the Treasurer's and Clerk's budgets.

G-NEW BUSINESS:

1.Leroy Kendricks Wastewater Mgt Chairman –Request Town Council Appoint Members of the Wastewater Mgt Commission as the First Board of Directors for the Newly Formed Wastewater District in Accordance With RIGL S2805 Section 15 Paragraph (3) Enacted by the General Assembly
a.Noel Berg, b.John Christo, c.Leroy Kendricks, d.Christopher Nearpass, e.Colleen Stanton, f. Jeffery Sterns, g.Michelle Tepfenhart

Councilor deMedeiros motioned, seconded by Councilor Lambert to continue item G1, Appoint Members of the Wastewater Management Commission as the First Board of Directors for the Newly Formed Tiverton Wastewater District, to July 14, 2014. Motion passed unanimously.

A five minute break was taken at this time, 10:10 p.m.

B-PUBLIC HEARINGS & PUBLIC PRESENTATIONS:

4.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 – Continued From June 9th Meeting
a.Kate Michaud, Administrative Officer b.Town Solicitor Memorandum

Council returned from recess at approximately 10:15 pm.

11. Use Code Section 4e: Hospital, medical center or clinic:

Solicitor Teitz explained changed, in the proposed districts from S to a P*Up to 40,000 GFA in designated zones with an *. Over 40,000 GFA requires a Special Use Permit in such zones. Some discussion followed. An example of a building of that size would be 4 floors of the old Rite Aid. President Roderick called for public comment. Randy Lebeau questioned if a clinic could be placed in any of the 3 zones by changing to a P, answer was yes. President Roderick called for comment from the public 3 times, seeing none called for a motion.

Councilor Pelletier motioned, seconded by Councilor Gerlach to approve the Edits to 4e, Hospital, medical center or clinic as illustrated. Motion passed unanimously.

12. Use Code Section 4-i: Private non-profit school:

13. Use Code Section 4-j: Junior college, college or university:

14. Use Code Section 4-k: Private trade, professional or other school:

Solicitor Teitz suggested taking these three together, trying to treat more consistently, making a non-profit school a permitted use in the PFD, recommend same change for 4-j. For 4-k, did not recommend a change, just added an *Regulated under R.I.G.L to the P in TMS. President Roderick called for public comment 3 times, next called for a motion.

Councilor Gerlach motioned, seconded by Councilor Pelletier, to accept the changes in 4-I and 4-j, for 4-I in PFD from a Special Use Permit to Permitted and with 4-j PFD from Special Use to Permitted. Motion passed unanimously.

Councilor Chabot questioned the wording in the asterisked line, and above the first floor in the TMS Subdistrict, should be removed. Councilor deMedeiros agreed.

Councilor Chabot motioned, seconded by Councilor deMedeiros to remove the Asterisk for 4-I, 4-j and 4-k, the wording, and above the first floor in the TMS Subdistrict. Motion passed 5-2. Councilors Gerlach and Pelletier opposed.

15. Use Code Section 8b: Tavern or Night Club:

Solicitor Teitz noted this was at the bottom of page 3 recommended no change. Recommended no change for 8-c, Theater or concert hall because of no definition. Councilor Pelletier agreed should have a definition. Ms. Michaud explained through this process was clear definitions were lacking, should be an overall goal. President Roderick called for public comment 3 times. No changes were recommended.

17. Use Code Section 8d: Indoor commercial recreation:

Solicitor Teitz explained cannot change definitions at this time; do not recommend changes to the name of the use. The Council is faced with a request from Mr. Lebeau for a change that would apply to the entire Neighborhood Business (NB) district. Solicitor Teitz did not recommend changing what was already recommended by the Consultant. Councilor Pelletier citing a lack of a definition suggested reverting to the original GC zone which was P, for the two other districts, TMS and NB. President Roderick agreed should not be changed, should go back to P. Ms. Michaud noted this had much discussion, with no definition was cautious, Special Use was recommended because of the process. President Roderick called for public comment. Randy Lebeau was putting up an indoor range, bought the property. Explained the Zoning Official gave approval wholeheartedly, asked the Council to keep as a P which it was when Mr. Lebeau bought the property. Mr. Lebeau questioned the asterisk next to the section 8 heading that said may be subject to other licensing requirements separate from zoning compliance. Ms. Michaud explained the asterisk goes back to October 2013, was a request by a member to make it clearer the licensing requirement which included liquor and entertainment. President Roderick called for public comment 3 times, seeing none opened to Council. Councilor Arruda agreed should be permitted without a clear definition.

Councilor Pelletier motioned, seconded by Councilor Chabot to change Indoor Commercial from a Special Use to an as right Permitted Use in the TMS and NB sub districts. Motion passed on a vote of 6-1, Councilor Gerlach opposed.

Councilor Chabot questioned why in Section 8e-Restaurant with drive-through service was not allowed in TMS and NB but is allowed in PFD, should be the opposite. Ms. Michaud explained was a lot of opposition to drive – throughs in general. It was reasoned through the design and planning process it would not be appropriate in TMS or NB. Did not appear to fit in with residential development. Went back to Comp Plan that has language limiting drive through service. President Roderick called for public comment 3 times. No recommended changes.

18. Use Code Section 9f: Veterinary office for animal hospital:

Solicitor Teitz explained a veterinary office should be in a commercial zone, recommend changing from N to S in TMS zone. President Roderick called for comment from the public 3 times.

Councilor Gerlach motioned, seconded by Councilor Pelletier to change the designation for TMS for 9f, Veterinary office from not permitted to a Special Use permit. Motion passed unanimously.

19. Use Code Section 9g: General automotive repair shop:

Solicitor Teitz explained, was similar to previous item, was a special use in GC, moved it back to S in TMS. President Roderick called for comment from the public 3 times, called for a motion.

Councilor Gerlach motioned, seconded by Councilor Pelletier to make the recommended changes to TMS Subdistrict in 9g, General automotive repair shop from Non-permitted to Special Use Permit. Councilor Pelletier was concerned with uses like this and gas stations makes more difficult to recreate use. Motion passed unanimously.

20. Use Code Section 13b: Product assembly:

Solicitor Teitz noted a question was raised about this, was permitted in GC, recommend making permitted in all 3 zones with an asterisk for square footage requirements. President Roderick called for public comment 3 times, hearing none called for a motion.

Councilor Pelletier motioned, seconded by Councilor deMedeiros to Eliminate Special Use Permit required and change to an as of right permitted use required as a right up to 40,000 GFA and over 40,000 GFA requires a Special Use Permit in all 3 zones. Motion passed unanimously.

President Roderick, before moving on requested any further discussion or comments from Council. Councilor Arruda, going back to 2a&2b questioned non-permitted in TMS and PFD if it applied for existing buildings. Solicitor Teitz explained this was not changing what is there now. Ms. Michaud was planning to submit something to the Council in the future regarding developing a program.

C GENERAL USE TABLES

21. Watershed Protection Overlay District vs. commercial zoning:

Solicitor Teitz noted was pointed out the goals for Watershed Protection Overlay District (WPOD) conflict with commercial development goals. Do concur, did not advertise for WPOD, not part of these amendments. Mr. Pagliarini requested the Council put this on a list as a follow up to address. Puts a constraint in the Bliss 4 Corners area especially on the old Ranger School side which is in the overlay district. Noted the Council has gone to great lengths to protect the drinking water supply.

22. Regulatory Framework of Design Guidelines:

Solicitor Teitz noted a resident criticized the design guideline format, was to better encourage development. Do not recommend any other changes. Councilor Gerlach, going back to #21, WPOD, questioned what the next step would be to revisit this topic. Ms. Michaud explained Atlantic States Rural Water Association offered to perform 2 studies for Nonquit and Stafford Pond for source water protection plans will look at best practices and scientific data for these 2 areas. They will provide a report at no cost to the Town, expect to have concrete recommendations.

D MAP CHANGE ISSUES

23. DeMello:

Kate handed out map of parcel in question. Solicitor Teitz explained the request was to leave the GC zoning in place. Some discussion followed, if nothing was done would become R60. The map lines cannot be extended but can be shortened. This is for a very specific narrow piece of property. President Roderick called for public comment 3 times, hearing none opened to Council. Ms. Michaud explained, Mr. DeMello has submitted a proposed subdivision, is not recorded in land evidence. President Roderick suggested leaving as GC. Mr. DeMello requested leaving as GC.

Councilor Gerlach motioned, seconded by Councilor deMedeiros to keep the highlighted parcel as depicted in b4a, totaling 1.16 acres as zoned GC, referencing the map. Motion passed on a vote of 6-1, Councilor Pelletier opposed.

24. Hobson Avenue:

Solicitor Teitz explained a resident requested not to extend commercial zoning to the north side of Hobson Avenue, leave residential zoning in place. Ms. Michaud explained if a lot is bisected can shift the zone 50 feet in either direction, the resident does not want the line to move. House is zoned residential, lot is zoned commercial. The people requesting this are abutters to that lot. President Roderick called for comment 3 times. Councilor Arruda wanted to hear from the landowner, Ms. Michaud pointed out the abutters had received notice. It will not

have a negative effect on the property owner as far as use of the property. . Mr. Lebeau’s lot was also affected. Solicitor Teitz suggested leaving as what was proposed on the map.

Councilor Gerlach made a motion, seconded by Councilor Pelletier to adopt the entire proposed Zoning Ordinance as submitted October 23, 2013, further amended as revised April 2, 2014 and further set forth in the Memorandum from Kate Michaud on June 4, 2014 and as further amended tonight and also finding this is consistent with the purposes of Zoning and consistent with the Tiverton Comprehensive Plan. Some discussion followed. Councilor Chabot questioned the changes on Main Road for the NB, why the east side of Main Road would not be included. Mr. Buckland explained that side does not connect directly to Main Road; do not have actual access, residential single family dwellings. Councilor Chabot requested clarification, if currently GC and not part of the NB, that area would remain zoned as it is today. Solicitor Teitz clarified is not shown on the map as being changed then they stay the same. Councilor Chabot repeated the question if Main Road is zoned commercial, not shown on this map then it remains GC. Solicitor Teitz affirmed, some areas deliberately left out, if missed it remains the same. Ms. Michaud noted several other areas regarding GC need to be addressed. The motion passed on a vote of 5-2, Councilors Arruda and Chabot opposed.

BIDS AND REQUESTS FOR PROPOSALS:

TOWN ADMINISTRATOR ITEMS AND ANNOUNCEMENTS:

COUNCIL ANNOUNCEMENTS, COMMENTS AND QUESTIONS:

Councilor Gerlach thanked Ms. Michaud and Mr. Buckland for their work on zoning amendments. Councilor Chabot announced on July 4th at 9:00 am a reading of the Declaration of Independence will take place at the Doughboy Statue near Grinnell’s Beach.

TOWN SOLICITOR – ITEMS AND ANNOUNCEMENTS:

William C. McLaughlin v Zoning Board of Review – C.A. No. NC11-0535 – Order

Solicitor Teitz, as a follow up, provided Council with a copy of the Order on the deadline resetting back to May 9, 2014 taking the 90 days to August 9.

TOWN CLERK ITEMS AND ANNOUNCEMENTS

CLOSED EXECUTIVE SESSION:

Moved to Beginning of Agenda.

ADJOURNMENT:

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

Council adjourned at approximately 11:30 p.m.

A True Copy.

ATTEST: _____
Nancy L. Mello, Town Clerk