

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

At a meeting of the Town Council of the Town of Tiverton, County and State aforesaid, held at the Tiverton Town Hall, 343 Highland Road, on the 14th day of July 2014 A.D. at 7:00 p.m.

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

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

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

Approval of Consent Agenda:

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

Council President Roderick read the items on the Consent Agenda, requested removals. Councilor Lambert requested removal of items 3a, J. Karam Regarding Ongoing Trash and Debris Nuisance in Nanaquaket Bridge Area & 3b, Recreation Member Susan Gill Regarding Trash and Recycling Receptacles at Town Facilities.

Councilor Gerlach made a motion, seconded by Councilor Pelletier to approve the remaining items on the Consent Agenda.

CONSENT AGENDA

A-1-Approval of Minutes of Previous Meetings:

- a. Approval of Minutes Regular Council Meeting May 27 2014
- b. Approval of Executive Session Minutes May 27, 2014
- c. Approval of Executive Session Minutes Special Meeting June 30, 2014

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

- a. Economic Development Commission
- c. Wastewater Management Commission
- b. Tiverton Prevention Coalition

A-3-Correspondence – Receive and File:

A-4-Tax Assessor – Approval of Abatements

A-5-Distribution of Agreement on Transfer of Assets to Wastewater District – Scheduling For Special Meeting 7/21 at Tiverton High School

A-6-Town Administrator – Distribution of Department Monthly Reports for June

BUSINESS BROUGHT BEFORE THE COUNCIL

3a. J. Karam Regarding Ongoing Trash and Debris Nuisance in Nanaquaket Bridge Area

3b. Recreation Member Susan Gill Regarding Trash and Recycling Receptacles at Town Facilities

Councilor Lambert noted the ongoing problem with trash and debris nuisance. Administrator Wojcik has come up with a plan to address this issue. Councilor deMedeiros also spoke with the T/A, went to Nanaquaket Bridge, picked up trash as well as DPW Director, need a resolution.

Solicitor Teitz, for item CA5, Distribution of Agreement on Transfer of Assets to Wastewater District, handed out copies of the proposed agreement to the Council, will be on the next meeting agenda. Town Clerk Mello will add this to the Special Meeting agenda for June 21.

Councilor Gerlach motioned, seconded by Councilor Pelletier to accept correspondence for items 3a, J. Karam Regarding Ongoing Trash and Debris Nuisance in Nanaquaket Bridge Area and 3b, Recreation Member Susan Gill Regarding Trash and Recycling Receptacles at Town Facilities. Motion passed unanimously.

OPEN PUBLIC FORUM FOR ANNOUNCEMENTS, COMMENTS, QUESTIONS:

President Roderick informed Mr. Finglass and Mr. Tabak who signed up to speak since there is a public hearing that would be the appropriate time to speak on that topic. Barbara Pelletier announced the first business to fund a dog poop station was LB Corporation Materials, Fish Road. Costs \$350, usually done by baking and selling dog biscuits. They also donated \$100 for tourism to fund a distribution station.

B-PUBLIC HEARINGS & PUBLIC PRESENTATIONS:

ADVERTISED PUBLIC HEARINGS

Item moved up in the agenda

Councilor deMedeiros motioned, seconded by Councilor Pelletier to move up in the agenda items C1, 2 and 3, requests for Entertainment Licenses and item E1, appointing members to the Wastewater District to follow items B1-3. Motion passed unanimously.

1.Jane Bitto, Evelyn’s Restaurant – Public Hearing for Sound Variance For Outdoor Music Event “Singing Out Against Hunger “ To Take Place On Friday, September 12th, Saturday, September 13th and Sunday, September 14th from 11:30am to 9pm

Jane Bitto explained this event has been held for many years, helps the community food resource, funds stay in the community, canned goods go to the local food bank. Keep a decibel level reader for the event. President Roderick called for public comment 3 times. Police Chief Thomas Blakey requested, for public safety a cruiser be stationed for people crossing the street.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to approve the Sound Variance for Outdoor Music Event “Singing Out Against Hunger “To Take Place On Friday, September 12th, Saturday, September 13th and Sunday, September 14th from 11:30am to 9pm. Motion passed unanimously.

2. Lisa Machado, Coastal Roasters – Public Hearing for Sound Variance For Outdoor Music Event “Singing Out Against Hunger “To Take Place On Saturday, September 13th and Sunday, September 14th from 9:00am to 1:00pm

Ms. Machado explained the music would be one/two member groups. Event benefits the food bank. President Roderick called for public comment 3 times. There was no public comment.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to approve the Sound Variance For Outdoor Music Event “Singing Out Against Hunger “To Take Place On Saturday, September 13th and Sunday, September 14th from 9:00am to 1:00pm, subject to meeting all legal requirements. Motion passed unanimously.

3.Tiverton Land Trust – Public Hearing for Sound Variance Special Event/Outdoor Entertainment for Event “Country Day at Pardon Gray” To Take Place On Saturday, September 13, 2014 With Rain Date of Sunday, September 14th from 10:00am to 4:00pm

Wayne Browning, on the Board of the Tiverton Land Trust explained the music similar to past years. Will have a rock band in the afternoon amplified at a low level, will follow the 70db level. President Roderick called for public comment 3 times, hearing none called for a motion.

Councilor Pelletier made a motion, seconded by Councilor Gerlach to approve the Sound Variance Application for Tiverton Land Trust for Outdoor Entertainment for Event “Country Day at Pardon Gray” To Take Place On Saturday, September 13, 2014 With Rain Date of Sunday, September 14th from 10:00am to 4:00pm . Motion passed unanimously.

At this time President Roderick announced the Public Hearing would be recessed to take items C 1-3.

C-TOWN COUNCIL SITTING AS BOARD OF LICENSING:

1.Jane Bitto, Evelyn’s Restaurant – Request for Special Event Entertainment License for Outside Music Event “Singing Out Against Hunger “ - Friday, September 12th, Saturday, September 13th and Sunday, September 14th from 11:30am to 9pm

President Roderick called for public comment 3 times, hearing none called for a motion.

Councilor Gerlach made a motion, seconded by Councilor deMedeiros to approve the request for Jane Bitto, Evelyn’s Restaurant for Special Event Entertainment License for Outside Music Event “Singing Out Against Hunger “ - Friday, September 12th, Saturday, September 13th and Sunday, September 14th from 11:30am to 9pm. Motion passed unanimously.

2. Lisa Machado, Coastal Roasters – Request for Special Event Entertainment License for Outdoor Music Event “Singing Out Against Hunger “To Take Place On Saturday, September 13th and Sunday, September 14th from 9:00am to 1:00pm

President Roderick called for public comment 3 times, hearing none called for a motion.

Councilor Gerlach made a motion, seconded by Councilor deMedeiros to approve the request for Lisa Machado, Coastal Roasters for Special Event Entertainment License for Outdoor Music Event “Singing Out Against Hunger “To Take Place On Saturday, September 13th and Sunday, September 14th from 9:00am to 1:00pm. Motion passed unanimously.

3.Tiverton Land Trust – Special Event/Outdoor Entertainment License for Event “Country Day at Pardon Gray” To Take Place On Saturday, September 13, 2014 With Rain Date of Sunday, September 14th from 10:00am to 4:00pm

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

Councilor Gerlach made a motion, seconded by Councilor deMedeiros to approve the request from Tiverton Land Trust – Special Event/Outdoor Entertainment License for Event “Country Day at Pardon Gray” To Take Place On Saturday, September 13, 2014 With Rain Date of Sunday, September 14th from 10:00am to 4:00pm. Motion passed unanimously.

E-UNFINISHED BUSINESS:

1.Leroy Kendricks Wastewater Management Chairman –Request Town Council Appoint Members of the WMgt Commission as the First Board of Directors for the Newly Formed Tiverton Wastewater District in Accordance With RIGL S2805 Section 15 Paragraph (3) Enacted by the General Assembly

a.Noel Berg, 381 Indian Point Road to 4/15/2016

b.John Christo, 48 Canonicus Street to 4/15/2017

c.Leroy Kendricks, 53 Rhododendron Drive to 4/15/2017

d.Christopher Nearpass, 110 Stoney Hollow Road to 4/15/2017

e.Colleen Stanton, 50 Craig Ave to 4/15/2015

f.Jeffery Stearns, 110 Teaberry Drive to 4/15/2016

g.Michelle Tepfenhart, 27 Middle Avenue to 6/10/2015 (changed to 4/15/2015)

Leroy Kendricks, Wastewater Management Commission (WWMC) Chairman requested the Town Council assign the WWMC as listed above be appointed as the first Board of Directors. Councilor Gerlach requested what the procedure would be after the Board is appointed. Mr. Kendrick explained after the Board is established would get a tax ID number, need operating capital, get vehicles, rent an office. Will set a time and date to go into the three priority neighborhoods, hoping to hold a vote in early August. If the residents vote no, would still as a Wastewater District (WWD) basically run sewers for the residents, provide onsite management. Solicitor Teitz noticed one person, Michelle Tepfenhart has a term expiring June 10,2015 , should be April 15,2015 as the date

when the term expires, all the others expire in April of different years, probably happened to fill a term. Mr. Kendricks agreed, should be changed.

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to Appoint as listed the members of the Wastewater Management Commission as the First Board of Directors of the Newly Formed Tiverton Wastewater District for the terms as amended. Motion passed unanimously.

Mr. Kendricks thanked the Council and members of the community for all the support.

B-PUBLIC HEARINGS & PUBLIC PRESENTATIONS:

ADVERTISED PUBLIC HEARINGS

4.Board of Canvassers –Public Hearing Pursuant to Section 1205 of the Town Charter for November Ballot Question Regarding Amending the Charter to Change the Date of the Financial Town Referendum From Third Tuesday in May to Third Saturday in May

President Roderick reopened the public hearings. Bobby Harris and DeEtta Moran, Board of Canvassers explained the reason for the requested Charter change. By changing the Financial Town Referendum (FTR) from the third Tuesday in May to the third Saturday in May, will get more people to vote, poll will be open 8am to 8pm. The FTR is not held accountable to the same election process as other elections under Title 17. Trying to add simplicity to the voting process along with consistency, will save money. Councilor deMedeiros pointed out this was only asking to put the question on the November ballot. President Roderick called for public comment 3 times, hearing none called for a motion. Solicitor Teitz was fine with the Charter amendment as to the form.

Councilor Pelletier made a motion to Approve the Ballot Question regarding Amending the Charter to Change the Date of the Financial Town Referendum from the Third Tuesday in May to the Third Saturday in May. Seconded by Councilor deMedeiros for discussion. Councilor Pelletier questioned how much money would be saved. Town Clerk Nancy Mello estimated \$600 by combining polls in one location. Was also vetted through the budget process and the Council. Too many different combined polling places for various scenarios, voters get confused. Will not affect absentee ballots or absentee voting. Savings depends on how many poll workers. Motion passed unanimously.

5. Public Hearing Amendments to Town Code Chapter 38 – Environment, Article III; Earth Removal, Division 1. – Generally and Division 2 – License

a.Correspondence From Robert Toolin, 40 Linda Road

b.Correspondence From L. B Corp d/b/a Tiverton Materials

Kate Michaud, Planning Board Administrative Officer explained the proposed amendments were the result of a discussion of a joint meeting with the Council and the Planning Board (PB). Solicitor Teitz commented on the long history, some pre-existing 70 years became legal non-conforming. Several quarries in receivership, trying to get cleaned up. Received a letter from the Attorney for J.H. Lynch and Sons objecting to the proposed ordinance. Solicitor does not agree the Town is powerless to regulate rock quarry. President Roderick opened the public hearing for comments. Resident Robert Toolin read a number of dates and problems with blasting listed in a letter distributed to the Council. Problems included cracks in the driveway, foundation, chimney, broken skylights and water leaks. Mr. Toolin also passed out color photos of a pit full of water. Did not go into the property. There is no fence, does not have a license to operate. Have suggested in the letter to reduce blasting in half. Have lived here 40 years, did not have a problem until the 1990's. This pit is not too far from the gas line. Resident Patrick Finglass commented on the proposed ordinance; suggests this ordinance conflicts with the Comprehensive Plan (Comp Plan) and Town Zoning Article 14. Does not correct problem with setbacks. Have cracks in the foundation and ceiling. State standards for blasting are inadequate. Section should be added regarding dust control measures. Only one of the Town's quarries has met all the requirements and has a permit. Recommend for Section 38 adding as a requirement a chain of title. Suggest a license should be granted for a period of one year. Suggest adding on page 6 a site map, all facilities and equipment being used at that site. Need to know where stock pile areas are located. Had given clerk memo with listing of suggestions handed out to Council. Thanked the Council for taking the time to address this issue.

Resident James Tabak noted the 200 foot setback was grandfathered in, requested a 500 foot buffer for blasting, should add a border on depth. Like to see license renewed on an annual basis. There is a lack of signage, fencing, particulate matter and the water issue. Suggest the ordinance contain a blasting limit. No enforcement action should be squarely with someone. Resident Joseph Souza noted quarries were regulated more on a State and Federal level. Required to have a pond and dust control. Should leave open to have a use in the future. Trish Hilton, Conservation Commission, had concerns regarding groundwater. Stone Bridge treats organic material. Suggest water quality testing for wells within a certain radius, test wells near Stafford Pond. Resident Jim O'Dell reiterated comments of other speakers, lack of safety fencing. Request Council considers measuring blasting as part of the license. President Roderick again called for public comments. Resident Marcia Rodrigues feels every blast, shakes walls, fed up with the dust. Resident Dan Featherstone noted the lack of enforcement. Lawrence McCarthy, General Counsel for LB Corp listened to the testimony. A State Law passed in 1973 did not apply to quarrying of granite, said the Town had to use existing language. If now want to include quarrying of granite, is a matter for the general assembly. Bought the property in 2013, at the time was clear it was a lawful pre-existing non-conforming use. The Zoning Official at the time issued a certificate as such. Addressed the issue of dust, put in a pre-wash truck. Hire a sub-contractor to do the blasting. Offered pre blast surveys to residents outside the 500 foot zone. Fencing is on the horizon. Governed by Federal and State regulations. Received a 200 page permit, was given to the Town, gave a contour plan showing elevations, living within the letter of the law. For the third and final time President Roderick called for any more public comments, hearing none closed that portion and opened for comments from the Council. Councilor Lambert questioned Solicitor Teitz on how far the Council could go in addressing issues raised tonight including blasting, the pond and fencing and what criteria the Council could apply.

Solicitor Teitz noted the issue predated the Solicitor, have tried to meet with the owners to discuss the issues first. This issue has a series of overlapping jurisdictions, the Fire Marshall for the blasting. DEM, Federal Mine Safety and the State. Need to do further research on the specific enabling act for Tiverton. Zoning prohibits rock quarrying operations, allows as a legal non-conforming use. Also has overlapping of uses, quarrying of rock, sand and gravel. Settled law can't totally prohibit, do have the ability to regulate and license which has been done for a number of years. Recommend at this point to continue in order to give a more formal written response to the memo and the case law. Perhaps reexamine, split the ordinance, have one specifically for the licensing for rock quarries. Should have a draft for the second meeting in August. Councilor Gerlach supported a closer review of this proposed ordinance based on the testimony. Thanked the residents, was concerned safety protocols should have been set from day one. Councilor deMedeiros agreed about the safety issue, fencing needs to be put up as soon as possible. Solicitor Teitz was concerned would need to be re-advertised. Councilor Arruda requested a copy of the certificate issued at that time, suggested another scientific study might be needed, was done over 20 years ago. Councilor Lambert questioned what the Council could reasonably do for this issue, how far can the Council legally go. President Roderick agreed, need to know the legal ramifications, may need to speak to the Legislators. Councilor Chabot noted the Solicitor would look at the legal arguments and was concerned about the residents today. Suggested more conversation with LB Corp and the Town, get a plan, a time frame for fencing and dust suppression. Concerns about hours of operation, the gas line and propane distribution. Suggest contacting the owners of those two. Councilor deMedeiros went to the propane company, Chief Lloyd talked to the Fire Marshall, was of the opinion there was no danger. Councilor Chabot suggested the T/A could contact the gas company, do further research. Town Clerk Mello noted any documents for advertising for the end of August would have to be received by next week. Solicitor Teitz noted the 21 day advertising requirement. Councilor deMedeiros suggested an additional meeting for September 2. President Roderick suggested continuing to September 8 for the legal memo and any additional information. Suggested the T/A work with the Solicitor and the Planning Department on the gas line, propane and water concerns, contact DEM regarding blasting. Councilor Gerlach requested notice of blasting; perhaps someone could measure with a sound meter. Town Clerk Mello explained the Clerk's office gets a call, goes through the Dispatcher to the Fire Dept. Councilor Pelletier requested sending notice to the State delegation for September 8.

Councilor Pelletier motioned, seconded by Councilor deMedeiros to continue the Public Hearing on Amendments to Town Code Chapter 38 – Environment, Article III; Earth Removal, Division 1. – Generally and Division 2 – License to September 8, 2014. Motion passed unanimously.

A brief recess was taken at this time, 9:07 pm.

Council returned from the recess at 9:20 pm.

6. Public Hearing on Proposed Amendment to Code of Ordinances to Insert New Chapter 59 Entitled Planning Department

T/A Wojcik explained the request to create the position formally by ordinance, making it a policy decision to fill the position. Makes very clear the Council has the authority within its powers to establish this position. Council policy recommendation is the Town needs a Planner, will meet the requirements of the Comprehensive Plan (Comp Plan) , to work on project specific issues already discussed- the Roundabout, Stone Bridge abutment, Seaside Gas and any grant money. Need a planner, should create the legal authority. Solicitor Teitz basically took language agreed upon from some of the previous Councils for the job description. President Roderick asked the current A/O Kate Michaud for comments. Ms. Michaud, from the perspective of the A/O noted according to the subdivision regulations the A/O reports to the Planning Board not the Town Planner. State law contains that language. President Roderick opened the hearing to public comments.

Madeline O'Dell, Budget Committee member had a problem with this being put into an ordinance. Handed out the legal definition of an ordinance, has nothing to do with personnel. Suggested should be done as a Charter change. Handed out copies of the State Constitution, cited Section 8, an amendment to a Charter is by referendum vote. This ordinance is in conflict with the Constitution and law of the State. Request the Council reconsider. Resident Sally Black noted the budget contained \$20K for a Planner, people did not vote to cut it. Joseph Souza, also a member of the BC, did not think there is a need for a full time planner. Resident Cecil Leonard questioned why the Town needed a Planner, what would stop the next Council from repealing this ordinance, what is the full cost and why AICP is desired and not required. Resident Nancy Driggs requested seeing a legal opinion as to how the Town Council can create by Town ordinance this department. Resident Donna Cook agreed with prior speakers, was not in favor, questioned fees for recreation. Point was not enough money to go around because of debt. Sally Black explained, there is no pay to play, State law. Wants the Town to grow, develop, in agreement with the Council for the past 2 years, do need a Planner. Resident Jim O'Dell had problems, last person not a certified planner. Matters pertaining to personnel under the Charter. Agreed the Town Council makes policy, BC recommends the budget. If this ordinance passes it will be challenged under Section 1212 of the Charter. Resident Linda Larsen was of the opinion the Town cannot afford not to have a Planner. Resident John Moran Jr suggested without the certification does not have a Planner. Rosemary Eva, Planning Board member noted this subject was not brought up before the PB, personally believe should be certified. President Roderick called for final public comments 3 times, hearing none opened to the Council.

Councilor Lambert in reading from the Charter noted the Town Council shall create, change and abolish Town offices, departments and committees not established by this Charter, etc. Ms. Driggs directed a question to the Solicitor as to why the voters don't get to vote, every department is a Chartered department. Solicitor Teitz believed the Council has the authority. Was not the idea of the Solicitor to draft, was requested by Council. Charter establishes minimum requirements. Regarding the AICP issue, Solicitor Teitz is one of four attorneys in the State of RI who holds that qualification. The Council decided by majority vote, should not necessarily be required if looking for a consultant for \$20K. The AICP is a self-governing specific body. Noted Ms. Michaud was correct about the A/O reporting to the PB. If moving forward suggest in Section 59-3, Administrative Officer, cross all that out, insert "The Town Planner shall also be the Administrative Officer" and in 59-6 take out the last sentence and in the first line should be "The Town Planner shall report to the Planning Board and the Town Administrator". President Roderick respected the comments of all the speakers. Did think there was a need for a Planner to move forward. All the voters did was vote to take \$602K out of the reserve. Councilor deMedeiros was not rushing anything through, did not think an ordinance was needed. A Planner was a line item in the Budget. Policy of the Council to have a full time Planner is also in the Comp Plan. Councilor Pelletier believed a Planner was necessary; the Council was in its authority to do so.

Councilor Chabot motioned to change in Section 59-4(b) the word "desired" to "required" for the certification. Seconded by Councilor Arruda for discussion. Councilor Lambert suggested that be part of the

contractual obligation for the applicant, perhaps 6 months or a year requirement. Solicitor Teitz suggested clarifying by the end of the probation period or with a certain period of time. Councilor Pelletier was not certain the AICP certification was required. Councilor Chabot noted the certification would hold up better in court, moved the question. Solicitor Teitz explained, if no debates have a vote on the motion to move the question essentially cutting off debate. Councilor Chabot noted the motion to move doesn't need a second, Solicitor Teitz agreed; need a vote on moving the question. Councilor Pelletier checked Robert's Rules of Order; the motion to move does need a second. Councilor Arruda seconded the motion to move the question. The motion failed on a vote of 2-5, Councilors Chabot and Arruda in favor, Councilors Gerlach, Lambert, Roderick, deMedeiros and Pelletier opposed. Back to the original motion pending on the proposal to change the word desired to required. Councilor Pelletier wanted clarification on whether the AICP certification was held higher in a court of law. Solicitor Teitz replied, was possible but unlikely, an expert witness can also be someone with experience or education. President Roderick suggested it should be required after a period of time, requested Councilor Chabot amend the motion. Councilor Chabot withdrew the motion, seconded by Councilor Arruda.

More discussion followed on the certification requirement. Councilor Lambert suggested the certification be required by the end of the probation period set by the contract, Councilor deMedeiros suggested it be within 6 months.

Councilor Gerlach made a motion, seconded by Councilor deMedeiros to amend Section 59-4(b) to An American Institute of Certified Planners Certification (AICP) be required within 6 months of date of hire. Motion passed on a vote of 5-2, Councilors Chabot and Pelletier opposed.

Councilor Chabot discussed Section 59-5 (c), suggested adding to provide documentation of all potential impacts to the private property rights of property owners. If making a change to the Zoning ordinance need to make clear. Solicitor Teitz mentioned notice requirements if a change to a specific area, all zoning impacts property rights. Councilor Chabot noted this was different from noticing; should have good documentation in writing of the potential impacts. Done as form of a motion, seconded by Councilor Arruda.

Councilor Chabot continued 59-5 (j) , Councilor Chabot on monitoring of funding was concerned about the Council not knowing ahead of time about a grant request then being asked to fund it. It was regarding the Challenge Grant, an item Christopher Spencer came to the Council for matching funds.

President Roderick went back to the motion for 59-5(c), the motion passed on a vote of 5-2, Councilors Lambert and deMedeiros opposed.

Councilor Chabot suggested adding wording to 59-5 (j) upon approval of the Town Council relative to grant applications.

Councilor Chabot made a motion, seconded by Councilor Lambert to add to Monitoring funding opportunities and with the approval of the Town Council prepare grant applications etc. Motion passed unanimously.

Councilor Gerlach motioned, seconded by Councilor Pelletier to replace in Section 59-3 the entire paragraph with "the Town Planner should also be the Administrative Officer". Motion passed unanimously.

Councilor Gerlach motioned, seconded by Councilor deMedeiros , in Section 59-6, Authority and Reporting, strike the 3rd sentence in its entirety and in the first sentence change it to "The Town Planner shall report to the Planning Board and the Town Administrator". Motion passed on a vote of 6-1, Councilor Chabot opposed.

Councilor Pelletier motioned to adopt the Ordinance as amended regarding the Planning Department. Councilor Gerlach seconded, discussion followed. Councilor Chabot believed the AICP was required, agreed with the BC, voted \$20K for a part time planner or consultant. Believe there is a need for a planner, but only a

part time one. Councilor Arruda did not think an ordinance was needed, do need someone professionally capable. Need to increase the commercial tax base. Councilor deMedeiros also did not think an ordinance was needed; Council had the authority to hire. President Roderick agreed, Council has the authority, don't think an ordinance is needed, do need a Planner. The changes and additions mentioned should be part of a job description. Councilor deMedeiros added, the people did vote for a Planner, the line item is there. Councilor Gerlach requested Councilor Lambert read an excerpt from the Charter 407, in the Powers and Duties, the Council can create, change and abolish Town offices. Town Clerk Mello read the motion again. Motion failed on a vote of 2-5, Councilors Lambert and Pelletier in favor, Councilors Gerlach, Arruda, Chabot, Roderick and deMedeiros opposed.

Councilor Arruda motioned to amend the job description. Solicitor Teitz noted that was not on this agenda. Councilor deMedeiros requested the T/A put on the next agenda. At this time Solicitor Teitz introduced a new member of his staff, Amy Goins. Has worked on Tiverton items already.

7. Public Hearing Continued From June 23rd on Proposed Changes to Fees and Fines Resolution – Request Continue to August 25th

Councilor Pelletier motioned, seconded by Councilor deMedeiros to continue to August 25th the Public Hearing on Proposed Changes to Fees and Fines Resolution. Motion passed unanimously.

D-APPOINTMENTS & RESIGNATIONS:

1. Resignation–Leonard G. Schmidt from Economic Development Commission Effective July 31, 2014

President Roderick requested accepting with regret, ask the Clerk to send with thanks for service to the Town.

Councilor Pelletier motioned seconded by Councilor deMedeiros to accept with regret and thanks for service to the Town the Resignation of Leonard G. Schmidt from Economic Development Commission Effective July 31, 2014. Motion passed unanimously.

Councilor Pelletier noted with this resignation now have 2 openings on the EDC.

2. Resignation–Susan T. Krumholz from Zoning Board Effective September 1, 2014

President Roderick requested accepting with regret; Clerk to send a letter with thanks for service to the Town.

Councilor Pelletier motioned seconded by Councilor Gerlach to accept with regret and thanks for service to the Town the Resignation of Susan T. Krumholz from Zoning Board Effective September 1, 2014. Motion passed unanimously.

3. Appointment of Harbormaster Term Expiring 12/31/14 - Tyler Loomis, 89 John Duggan Road Recommendation of Bruce Cox, Chair Harbor and Coastal Waters Management Commission

Councilor Pelletier motioned, seconded by Councilor deMedeiros to appoint Tyler Loomis, 89 John Duggan Road as Harbormaster Term Expiring 12/31/14. Councilor Arruda questioned if this should be advertised again. T/A Wojcik explained, was already advertised, Mr. Loomis has been Interim Harbormaster, just waited for him to be of age. Solicitor Teitz added State Law provides this to be an annual appointment. Motion passed unanimously.

E-UNFINISHED BUSINESS: Continued

2. Town Administrator – Motion to Reconsider Fees for RV Parking on Beaches

Councilor Pelletier explained at the June 23 Council meeting a vote was taken to increase RV parking fees for residents, was unintended, fee increase was only for non-residents. Need to reconsider to make clear the \$25 weekday; \$35 weekend fee was for RV non-residents only. A motion to reconsider was needed first.

Councilor Pelletier motioned, seconded by Councilor Gerlach to Reconsider the Vote taken on June 23, 2014 that charged Residents to park RV's on Beaches. Motion passed unanimously.

Councilor Pelletier motioned, seconded by Councilor Arruda to make the Parking Fee for Non-resident Camper/RV/Motor Homes to \$25/day on weekdays, \$35/day on weekends and holidays and no Charge for RV/Camper/Motor Homes for Residents. Resident Dick Hart suggested renting spaces out overnight. Councilor Pelletier suggested the Council consider that for next year. Motion passed unanimously.

3. Councilor Chabot – Discussion and Possible Action on Issues and Concerns With Zoning – Commercial Form Base Code Amendments as Approved June 30, 2014

Councilor Chabot explained the critical items were e3a and e3i. E3a contained the issue of public notice of the Zoning Code changes as was adopted on June 30. Solicitor Teitz explained a motion to reconsider by someone on the prevailing side would be needed. With Zoning have already provided notice, would have to spend another \$6k and re-advertise as a new item. Councilor deMedeiros pointed out someone on the prevailing side would have to make a motion to discuss and put on a future agenda. Solicitor Teitz agreed with Councilor deMedeiros. President Roderick called for a motion. No motion was made for this item.

FINANCIAL BUSINESS:

NEW BUSINESS:

1. Town Administrator – Approval of Memorandum of Agreement Between Town of Tiverton and Council 94, AFSCME Local 2670A

Administrator Wojcik explained the Memorandum was to bring it in line with the Town Hall staff. Section 3 clarifies if the Board of Canvassers Clerk is reduced or eliminated then it reverts to part time in the Clerk's office and part time in the Treasurer's office.

Councilor Gerlach motioned, seconded by Councilor Pelletier to approve the Memorandum of Agreement between Town of Tiverton and Council 94, AFSCME Local 2670A. Councilor Gerlach questioned if this would give the T/A authority to sign on behalf of the Town. T/A Wojcik explained this was a tentative agreement, needs Council approval. Councilor Chabot questioned if an impact statement was needed. Town Clerk Mello noted this was making a combined position a full position. The impact will come when the part time Treasurer's office position comes forward. Motion passed unanimously.

2. DPW Director Stephen Berlucci – Req Permission to Advertise to Hire a Half-Time Mechanic's Helper

T/A Wojcik explained DPW Director Berlucci requested to advertise for a half time Mechanic's Helper.

Councilor deMedeiros motioned, seconded by Councilor Pelletier to approve the request to Advertise to Hire a Half Time Mechanic's Helper. Discussion followed. Councilor Pelletier suggested changing the line under the Job Description for General Purpose to equipment within the Town. DPW also works on Fire Department equipment, was concerned about liability. Councilor deMedeiros amended the motion to Within the Town. Seconded by Councilor Pelletier, more discussion followed. Discussion pursued regarding half time and how many hours. President Roderick noted for 20 hours get benefits. Councilor deMedeiros suggested changing to 19 hours. Councilor deMedeiros amended, seconded by Councilor Pelletier to change the Half Time to 19 hours per week. Motion passed unanimously.

3. Solicitor – Resolution Creating Town Historian

Town Clerk Mello explained was to create a Town Historian. Wouldn't need to be an elector, would be an ex officio to historic committees, would recognize the person, tribute to that person, good position to have.

Councilor Pelletier made a motion, seconded by Councilor Gerlach to Adopt the Resolution Creating a Town Historian as drafted. Motion passed unanimously.

Adopted Resolution attached at end of minutes.

H- BIDS AND REQUESTS FOR PROPOSALS:

I-TOWN ADMINISTRATOR ITEMS AND ANNOUNCEMENTS:

T/A Wojcik explained the Planner position was one of the things the Town does not have, like a Personnel Director or a Budget Officer. The T/A is the Budget Officer. Will work with a current vendor for Human Resource (HR) services to get a professional firm to build an HR function, establish a work plan, an HR audit. The work has begun, very time consuming.

J-COUNCIL ANNOUNCEMENTS, COMMENTS AND QUESTIONS:

Councilor deMedeiros noted August 24 will be the 6 month anniversary for T/A Wojcik, under agreement to reevaluate. Suggested using the previous forms and forward to Clerk by next meeting. Councilor deMedeiros requested the T/A as of August 1 get the Council documentation on Overtime in Town and the justification. Request it be put on the Consent Agenda monthly. Councilor Arruda received numerous calls about the tax bills being late. Some received bills on July 11 postmarked on July 10, were told it was the responsibility of the taxpayer to know. T/A Wojcik was told they would be delivered to the post office by 7/1. Made accommodations here for staff and parking. People should not be charged a late fee, going to have a discussion with the vendor, was misled as to when they could get the bills out. Solicitor Teitz explained State law does not give anyone the authority to waive fees in the office or at administration level. Suggested putting on a future agenda to abate the charged fees, Council has that authority to refund. Good starting number to give to the vendor. Councilor Gerlach suggested that be for a future contract discussion, performance guarantees.

Councilor Chabot announced the Southcoast Artists Open Studio Tour is from 11am to 5pm on 7/19 and 7/20. Brochures here at the Town Hall or look on their website. The Arts Council is having a reception on Friday, 7/25 from 6-8 pm at the Town Hall. Photos displayed by Rick Barrette, David Robert and John Lincourt. The Free Native Artists Festival is at Four Corners on 7/26 & 7/27 from 10am to 5pm. Councilor Pelletier reminded this Friday at 10am and 6pm & Saturday 9am-2pm, the charrettes for the Stone Bridge reimagined will be at Fort Barton School. Councilor deMedeiros reminded that Tiverton Celebrates is July 25-27. July 25 is the bonfire and concert, July 26 the parade and events at Sandywoods and July 27.

K-TOWN SOLICITOR – ITEMS AND ANNOUNCEMENTS:

Item added to the Agenda

Solicitor Teitz requested adding to the agenda for information only Town of Tiverton vs James & Melissa Pelletier.

Councilor Pelletier motioned, seconded by Councilor deMedeiros to add to the Agenda for information purposes the Town of Tiverton vs James and Melissa Pelletier. Motion passed unanimously.

Solicitor Teitz explained this item is down for a sentencing hearing on Wednesday morning before Judge Thunberg. Received a fax late this afternoon from Attorney Michael Kelly who sent a letter to Judge Thunberg about a jury trial Judge Thunberg has going forward, may be pushed to another Judge for sentencing. Solicitor Teitz and Assistant Solicitor DiCenso agreed Judge Thunberg should hear this, most familiar with this case. May be postponed, will not know until later this week.

1. Eagleville Road Realty (Site Ready), et al. v. David Collins et al. NC14-0218

Solicitor Teitz explained this was the Answer for the members of the Zoning Board, sitting as the Zoning Board of Appeals. The Complaint was given to the Council several weeks ago.

2. Ernest J. Cordeiro, Jr. v. Title Investment Company, RIGP et al NC2014-0247

Solicitor Teitz provided copies of this several weeks ago, Town's answer regarding a tax sale. Notice requirements were met, see numbers 28 & 32. Was clear the Town notified Mr. Cordeiro prior to the tax sale.

3. Sakonnet Bridge Toll Litigation C.A. No. 13-267 L

a.Plaintiff’s Motion for Restitution and Disgorgement of Tolls and Award of Legal Fees

b.Plaintiff’s Memorandum in Support of Motion

Solicitor Teitz explained these were filings from the Town of Portsmouth requiring restitution for tolls paid and award legal fees and costs. The Town motioned to intervene, the Judge has not ruled on this motion.

L-TOWN CLERK ITEMS AND ANNOUNCEMENTS:

Town Clerk Mello announced all nomination papers will be certified by the Board of Canvassers tomorrow morning.

5. CLOSED EXECUTIVE SESSION:

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

2. Solicitor - Litigation – 42-46-5(a) (2) - Site Ready/LAL Construction, Inc. et al

3. Solicitor - Litigation – 42-46-5(a) (2) – Sakonnet Bridge Tolls

4. Solicitor - Potential Litigation – 42-46-5-(a) (2) – Pension Reform

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

Councilor Lambert made a motion, seconded by Councilor Gerlach to stay in Closed Executive Session pursuant to 42-46-5(a) (2) - Litigation -Site Ready/LAL Construction, Inc. et al. Motion passed unanimously.

Councilor Lambert made a motion, seconded by Councilor Gerlach to stay in Closed Executive Session pursuant to 42-46-5(a) (2) – Litigation -Sakonnet Bridge Tolls. Motion passed unanimously.

Councilor Lambert made a motion, seconded by Councilor Gerlach to stay in Closed Executive Session pursuant to 42-46-5-(a)(2) – Potential Litigation - Pension Reform. Motion passed unanimously.

The Council entered into Executive Session at approximately 11:45 p.m.

The Council returned to Open Session at approximately 12:40 a.m.

OPEN SESSION:

In Open Session President Roderick announced action was taken on item #3 – Sakonnet Bridge Tolls - in Closed Executive Session.

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

ADJOURNMENT:

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

Council adjourned at approximately 12:45a.m.

A True Copy.

ATTEST: _____
Nancy L. Mello, Town Clerk

TOWN OF TIVERTON

RESOLUTION

CREATING THE POSITION OF TIVERTON TOWN HISTORIAN

WHEREAS, the study of history is of great importance in furthering the education of children and adults, including but not limited to, the appreciation and understanding of civics, language, law, politics, economics, culture, and furthering development of reading and writing skills, as well as critical thinking and problem solving skills, and

WHEREAS, the preservation of the history of Tiverton is also of vital importance in promoting the economic health of the community through tourism, and

WHEREAS, the Town of Tiverton, as incorporated in 1694 as part of the Province of Massachusetts Bay and in 1747 as part of the Colony of Rhode Island and Providence Plantations, has inherited the English Common Law tradition, and

WHEREAS, the Town of Tiverton desires to recognize, from time to time, those civic-minded individuals who have generously donated their time and expertise to benefit the preservation and appreciation of the Town's history,

NOW THEREFORE, IT IS HEREBY RESOLVED, by the Town Council of Tiverton that:

1. There is hereby created the position of Town Historian, to be appointed from time to time by the Town Council. The Town Historian shall be someone who has demonstrated by his/her actions great service to the Town in preserving the history of Tiverton, as well as great knowledge of the history of Tiverton.
2. There shall only be one Town Historian at a time, and he/she shall serve at the pleasure of the Town Council. The Town Historian shall not receive any remuneration for his/her services.
3. The Town Historian shall, by virtue of his/her position, be automatically appointed as an ex officio non-voting member of the Historic Preservation Advisory Board and the Historical Cemeteries Commission. In the event that a local historic district with an Historic District Commission is created in the future, then the Town Historian may be appointed to it as a voting member if otherwise qualified, but if not a regular voting member, then he/she shall be automatically appointed as an ex officio non-voting liaison of the Town Council to such Historic District Commission.

Adopted by the Town Council on the 14th day of July, 2014.