

**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 22nd day of September 2014 A.D. at 7:00 p.m.

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

Prior to the Roll Call, President Roderick called upon Councilor Gerlach to introduce tonight's special guests. Councilor Gerlach welcomed Webelos Den Cub Scout Pack 10 from Tiverton/Little Compton. Accompanied by Den leaders, were working toward Citizenship Activity Pins, a pack requirement.

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.

President Roderick read the items on the Consent Agenda, Councilor Gerlach requested removal of item CA7, John A. Pagliarini, Jr., Esq. - Enforcement of Public Improvement Guarantees for William Barton Reserve Pursuant to RIGL 45-23-46 – Referred to P/B Administrative Office Kate Michaud and Planning Board Assistant Solicitor Ruggiero. President Roderick requested removal of item CA5, Aquidneck Island Chapter, Daughters of the American Revolution – Requests Approval of Proclamation for American Indian Heritage Month in November.

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

The Consent Agenda was as follows:

CONSENT AGENDA:

A-1-Approval of Minutes of Previous Meetings:

- a. Approval of Regular Council Meeting Minutes September 8, 2014 - Councilor Arruda Abstains - Absent
- b. Approval of Executive Session Minutes September 8, 2014- Councilor Arruda Abstains - Absent

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

- a. Art Council
- b. Cemetery Commission (2)
- c. Zoning Board of Review Sitting as Planning Board of Appeals (2)
- d. Zoning Board of Review (2)
- e. Newport & Bristol County Convention & Visitors Bureau August Report

A-3-Correspondence – Receive and File:

- a. Evan Smith, Discover Newport Audit Report FY Ended March 31, 2014–Available in Clerk Office
- b. Cheryl Ann Cardarelli Co-Founder - WE R GROUP HUG Organization Requesting Support
- c. Sally Black Liaison of Tiverton Prevention Coalition Regarding Edith Borden, LICSW/Councilor

A-4-Treasurer Denise Saurette- Distribution of Budget & Revenue Reports August 2014

A-6-Attorney Leary Requesting Approval of Stop Sign at the Intersection of Cottrell and Fish Road – Referred to Police Chief and DPW Director

A-8-Chief Blakey - Proposed Traffic Ordinance Section 78– Through Traffic on Jiley Hill Road – Scheduling of Public Hearing on October 27th

A-9-Kate Michaud, Comprehensive Plan Advisory Committee (CPAC) Progress Report

BUSINESS BROUGHT BEFORE THE COUNCIL

CA7-John A. Pagliarini, Jr., Esq.- Enforcement of Public Improvement Guarantees for William Barton Reserve Pursuant to RIGL 45-23-46 – Referred to P/B Administrative Office Kate Michaud and Planning Board Assistant Solicitor Ruggiero

Councilor Gerlach drove through that area, observed the sinkhole, questioned what could be done in the interim if anything. DPW Director Steve Berlucchi notified the Planning Board directly, they contacted the developer. Director Berlucchi also contacted the developer who is walking away from the project. It is on private property, it is the developer's liability. Do not want to go on private property; the Town ordinance restricts DPW from doing work if a subdivision is under construction. President Roderick noted it was referred to the Planning Board will wait until the Council hears from them. John Pagliarini wished to speak on the item, believed he had the right. Solicitor Teitz explained an item is pulled off for discussion of the Council, up to the Council's discretion. The public does not have the right to speak on every item unless it's a public hearing. Councilor deMedeiros wished to hear from Mr. Pagliarini. As a motion Councilor Lambert seconded, passed on a vote of 6-1, Councilor Roderick opposed.

Mr. Pagliarini explained the sinkhole was approximately 6x6 feet wide undermining the roadway asphalt, needs attention, Town is on notice, though no acceptance of the road by the Town. Referred to A/O and Planning Board Assistant Solicitor, the surety is in deficit; need to find out if this is a systematic issue with developments. Notwithstanding under the jurisdiction of the Planning Board, drainage not attended to. Have cement trucks using the road, cannot wait, and want to have action at next Council meeting.

Councilor Gerlach so moved CA7, John A. Pagliarini, Jr., Esq. - Enforcement of Public Improvement Guarantees for William Barton Reserve Pursuant to RIGL 45-23-46 – Referred to P/B Administrative Office Kate Michaud and Planning Board Assistant Solicitor Ruggiero. Seconded by Councilor Pelletier passed unanimously.

CA-5-Aquidneck Island Chapter, Daughters of the American Revolution – Requests Approval of Proclamation for American Indian Heritage Month in November

President Roderick noted the request from the Daughters of the American Revolution for approval of a proclamation. President Roderick read the proclamation.

Councilor deMedeiros made a motion for Approval of Proclamation for American Indian Heritage Month in November. Seconded by Councilor Gerlach passed unanimously. President Roderick requested the Clerk change the middle initial from J to A.

Adopted Proclamation attached at end of minutes.

OPEN PUBLIC FORUM FOR ANNOUCEMENTS, COMMENTS, QUESTIONS:

President Roderick explained to Mr. Belli the Funds Transfer item will be taken up later in the agenda, would be allowed to speak on it at that point. Barbara Pelletier spoke about tourism, the need for a hotel; October is Farmer's Month, trying to get something together, looking for anyone to help with lights for the holidays.

Item moved up in the agenda.

Councilor Lambert made a motion to move up item C-1, Bethany Shaker-Riptides Sports Grille, 1 Bay Street – Continued From September 8th Meeting, take up for consideration at this point. Seconded by Councilor deMedeiros passed unanimously.

PUBLIC HEARINGS & PUBLIC PRESENTATIONS:

C-TOWN COUNCIL SITTING AS BOARD OF LICENSING

ADVERTISED PUBLIC HEARINGS

1. Bethany Shaker-Riptides Sports Grille, 1 Bay Street – Continued From September 8th Meeting Request Approval of BV Liquor License (Advertised Public Hearing)–Subject to Meeting All Legal Requirements, Objections by Residents in Bay Street Area

Materials Distributed to Council by Solicitor on September 8th on File with Clerk

b. Victualling License (Non-Advertised) - Subject to Meeting All Legal Requirements

c. Entertainment License (Non-Advertised) – Subject to Meeting All Legal Requirements

President Roderick explained this was a continuation of the Public Hearing from the September 8th meeting on the request from Bethany Shaker-Riptides Sports Grille, 1 Bay Street for approval of a BV Liquor License, Victualling License and Entertainment License. Cort Chappell, Attorney for Bethany Shaker, spoke on her behalf. Discussed the documents handed out at the last meeting, looking to have a continuance in order to get more information. Went to the Zoning Board, asked questions about the right to reopen. Was not an intention to abandon, equipment removed due to UCC filings. Made aware of Jeffrey Shaker and Ms. Shaker's past in Fall River, no intent to deceive, Mr. Shaker was providing the funding. They purchased, got permits to renovate, recognize it would raise concerns. Aware the neighbors do not want anything; have a letter regarding the zoning from the Building Official. Some confusion on what is going to operate there, no intention to open in the next 3-4 months. Need to bring up to fire code, settle with Department of Health on the septic system, nothing grandfathered in. It is not going to be a nightclub. Was not consulted on the liquor license, Ms. Shaker was told there was a limited amount of BV liquor licenses. Only here to tell you is a family type of restaurant would have restrictions.

The documents the Council has is a complicated package, looked at the Fall River (FR) revocation, located in the Flint section, a detective called it a troublesome area. Ms. Shaker's father and uncle owned it, the instances occurred in 95, 96, 97, 2000 and 2011. Ms. Shaker was born in 1982, not involved with that bar. Ms. Shaker worked for the Sheriff's Department as a prison guard, went out on disability, formally now off. Owns a victualling and entertainment license for that building as Bethany's Youth Event Center for youths 13-21 as an alternative place to play. Have letters from neighbors and FR Councilors. Each of the allegations says a confidential informant (CI). The CI said he went up to someone looking for drugs who said to wait until Bethany gets there. Ms. Shaker was charged with conspiracy, she proclaimed her innocence, went to a full trial, found not guilty. Have ordered a transcript of the decision, the CI found not to be reliable, was an inmate Ms. Shaker disciplined at work. Ms. Shaker was not there the night in question, not on the payroll, not a manager, never drew a check, found not guilty of the charge. Like to get the transcripts before the Council, in a couple of months will hear from the DOH, DEM and fire code. President Roderick will continue the public hearing; in deference will allow the public to speak today. Paul Terceira, Bay Street, has lived there 65 years, at some point that building was sold. The parking lot across the street was not sold with the property. Still dealing with sewerage issues. The Seabreeze was noisy, has no sidewalk, is a parking problem, request consideration for the people in the neighborhood. Francis Correia, Bay Street, was a bar manager when it was a family bar and restaurant had bought the house across the street. Biggest problem if a bar, have picked up beer bottles out of the lawn, the driveway has been blocked, main concern is the parking, people who smoke outside, foul language. Mary Lauro lives on the next street complained about more cars in the neighborhood, have children in that neighborhood. John Cambra, State Avenue, complained about broken beer bottles, doesn't recommend a restaurant being there at all. Police Chief Thomas Blakey had substantial concerns with the bar. Solicitor Teitz requested the FR Officer to speak to the Council. President Roderick reminded Attorney Chappell he would be able to speak after this. FR Police Officer William Falandys had been assigned to the Task Force explained several arrests were made for violent crimes, made multiple arrests, illegal firearms, explosives, narcotics. Was an illegal smoking room, other

witnesses alleged illegal narcotics were being smoked in that section. A video and audio recording was not allowed by point of law for the State. As a result of the investigation made several arrests. In 2011 Ms. Shaker was listed as the manager. Denise Therrien has been a friend of Ms. Shaker's for years, is a wonderful person. On Friday's from 7-11 have dances and a constable. Ms. Shaker is not who they are trying to make her out to be.

Chief Lloyd, Fire Department, supported Chief Blakey with his stance. Not in compliance with the State Fire Code, understand there to be an occupant on the second floor without a certificate of occupancy. Applicant has not come to the Department to review plans. Should not give out licenses until brought into code compliance for a safe building. President Rodrick called Sergeant Falandys back at this time. Solicitor Teitz requested the officer to give some type of layout, observations from that club. Officer Falandys explained as you entered the club across an easement it brought to a remote area on a lower level a wire cage set up, had ash trays. On the night of the search warrant with a large contingent of law enforcement an odor of marijuana in that smoking area, several bags of marijuana and cocaine on the patrons in there. Based upon his observations Officer Falandys had no doubt any employee must have been aware of illegal acts. At this point President Roderick explained the public hearing would not be closed; Ms. Shaker and her attorney would be able to speak after questions from the Council. Councilor Lambert questioned both Counselors on a remark made earlier about grandfather rights for the liquor license. Solicitor Teitz noted the liquor license was revoked by a previous Council for failure to comply with fire regulations. Even if allowed to expire there is no grandfathering on a liquor license. This is a new license; Council has a great deal of discretion. Once granted becomes a property issue, requires a show cause hearing. Thinks there is some legal non-conforming use for some size of restaurant, size to be determined.

As far as Attorney Chappell, no liquor license is grandfathered; zoning ordinance is for use on a property. The zoning ordinance lists several uses including a restaurant with a liquor license. The previous restaurant did have a liquor license. As to Officer Falandys, he can say in his opinion but a judge and a jury said as to this particular allegation was found not guilty. Sought a zoning certificate that specifically said a past use. Had to produce pictures showing the keg and tap system was still in place. Councilor Pelletier was concerned about parking, hours of operation; need more information, too many unknowns. Attorney Chappell had great issues with what was said by Officer Falandys could question him at great length. Will pay to have the Officer return. Councilor deMedeiros was concerned Ms. Shaker would do the renovations but Council would not grant. Councilor Pelletier noted that was the risk, a liquor license is not guaranteed. Have increased the number of licenses in the past. Town Clerk Mello noted there were still 2 liquor licenses available. Councilor Gerlach also had concerns, void of a lot of information. President Roderick was concerned no true information regarding the restaurant, what constituted a family restaurant or an entertainment license, have a lot of unanswered questions. President Roderick asked Ms. Shaker if she was the manager of the establishment in FR. Ms. Shaker said definitely not.

Councilor Lambert noted this was 3 separate license requests, questioned Ms. Shaker if she would open with no liquor license. Ms. Shaker affirmed she would, Attorney Chappell talked about that possibility, can be looked at individually. Still trying to get by the size of the restaurant, not asking to open tomorrow. Ms. Shaker was told there was a limited number of licenses, got that same information today. Not in the best interest to cross examine Officer Falandys today, will pay to have him return, just waiting for the Judge's transcript. Attorney Chappell wanted to come back with clearances from the Fire Department, DOH, planned to invite everyone within the 400 feet of more as required by the ordinance. Councilor Pelletier questioned what was next, could continue to a date certain, start over or withdraw the application. Solicitor Teitz noted soon end of this Council's term, asked if the applicant would incorporate by reference at a future date, can withdraw without prejudice. President Roderick asked if by a date certain in October Ms. Shaker would have everything. Attorney Chappell noted, would not have the DOH, DEM, Fire or building, do not have a problem with withdrawing. Concerned there may be a different standard for 15 or 16 licenses on applying a non-criminal record, discretion not unfiltered. Will stipulate can use everything from tonight; will be applying the same standard.

Councilor Gerlach made a motion to close the advertised Public Hearing with regards to the request from Bethany Shaker, Riptides Sports Grille, and 1 Bay Street. Councilor Pelletier seconded the motion. Solicitor Teitz suggested the motion be to grant the applicant's motion to withdraw without prejudice provided the record

from tonight is incorporated by reference when she returns. Attorney Chappell suggested adding to that on an available license standard. Town Clerk Mello explained have done that in the past, are 2 available. Suggested Attorney Chappell or Ms. Shaker only deal with the Town Clerk, have a new licensing clerk. Explained the Council has the discretion to increase the number of liquor licenses, right now have two, given on a first come first serve basis. Solicitor Teitz suggested the motion to withdraw without prejudice to allow pending reapplication not more than 6 months with everything of the record. Chief Blakey reminded the Council any applicant can have run a BYOB, need to discuss as an ordinance. President Roderick before announcing formally closing the public hearing for the third and final time requested public comments. Mr. Terceira requested whenever does come before the Council is concerned about the parking, asked the Chief or public works to go look at the area, keep high on the list. Mr. Correia did not hear anyone mention the parking lot across the street that went with the bar. The only parking there now is to the left side of the building, parking is a big problem. President Roderick again called for comments from the public 3 more times, hearing none closed the Public Hearing. President Roderick repeated the motion to grant the applicant's motion to withdraw without prejudice the record will be incorporated by reference at any new hearing for the status of the license up to 6 months. Motion passed unanimously.

A five minute break was taken at this time, 8:45 p.m.

B –PUBLIC HEARINGS & PUBLIC PRESENTATIONS

PUBLIC PRESENTATIONS

1. Steven W. Pristawa P.E., Chief Civil Engineer RIDOT – Proposed Roundabouts

a. William S. Canning Blvd and Stafford Road/Hurst Lane

Steven Pristawa, RIDOT, explained the slide show presentation on the two proposed roundabouts. The roundabout conceptual design at Hurst Lane was presented at a Council meeting in April. Following several comments, the engineers were asked to go back and take a look at moving the roundabout closer to Hurst Lane. This type of design is more expensive, will involve clearing trees, bringing the roadway up, permitting through DEM. Has to find its place in the system, RIDOT is comfortable with either alternative. Councilor Pelletier questioned the \$1.2 million estimated cost since takes 18 months from the start of the design to end. Mr. Pristawa explained it could cost more, \$800,000 for the first design, an additional \$400,000 added for the second design. President Roderick requested comments from Chief Blakey. The Chief went to East Greenwich, Route 2, which is busier, has a roundabout which works very well. President Roderick was concerned with making a left hand turn going up the hill to Hurst Lane. Chief Blakey preferred a better sight line over distance. Councilor Pelletier noted Plan C, the second one, mitigates those concerns. Mr. Pristawa explained the benefit of the roundabout is safety, traffic has to slow down. These are conceptual plans, can be changed; can adjust the right sight lines. Councilor Chabot agreed with Plan C, takes care of the business entrance at Hurst Lane. DPW Director Steve Berlucchi supported the second option, eliminates turning left, excellent design. Jeff Belli requested the Council to consider the construction business, the second plan looks like a better plan. Mr. Pristawa explained no design will alleviate all the issues, the design will accommodate trucks.

Councilor Pelletier made a motion, seconded by Councilor Gerlach to indicate to RIDOT the support for Concept Plan C for the Roundabout at William S. Canning Blvd and Stafford Road/Hurst Lane. Motion passed unanimously.

b. Stafford and Bulgarmarsh Road

Francisco Rivera, RIDOT spoke about the proposed roundabout for Stafford and Bulgarmarsh Road (Bliss Corners), studied traffic, crashes, projections for the future, determined a roundabout was the best alternative. Posted speed limit is one thing, operational speed is another. High number of crashes in this area attributed to speed, lack of lighting, wet weather. Most rear end crashes have to do with activities at the driveways. Propose a roundabout with pedestrian facilities, sidewalks, crosswalks, accessibility driveway improvements and landscaping. Happy to hear Chief Blakey was going to roundabouts to see how they were operating. Have a need to acquire some portions of property, some minor undertakings. One leg of traffic will cross at a time in one direction. Proposing to have a two way left turn lane. Roundabout here beneficial in terms of safety, a concept

now will allow it to move forward. Can work with the Town if a problem with access. Councilor Lambert suggested getting in touch with Kate Michaud and the Planning Board regarding that area. Mr. Rivera noted a safety performance audit was conducted in 2011, the roundabout was supported. Councilor Gerlach applauded any improvement noting taking a left turn into the Dunkin Donuts plaza would be eased. Councilor Pelletier noted it eliminates a way to circumvent the light. Councilor Gerlach questioned how far the sidewalks would go; the new library is in that area.

Mr. Rivera explained this was just a concept, have not determined how far the sidewalks will go. Chief Blakey had spoken to Ms. Michaud who was looking for any available grants in connection with the library. Councilor Arruda added going east to take a left hand turn into the plaza is an actual incline, does not show up on the plan. Councilor Chabot suggested changing the grade near that plaza so people could see, was concerned about the impact on the businesses could end up with more traffic on Stafford. Mr. Rivera noted for every step will contact the Town. Councilor Chabot suggested contacting the property owners. President Roderick agreed; have to look at the impact on businesses. President Roderick thanked them for the information.

D-APPOINTMENTS & RESIGNATIONS:

E-UNFINISHED BUSINESS:

F-FINANCIAL BUSINESS:

1. Town Administrator- Request for Transfer of Funds

\$6,004.17 from Acct#2150-7145 (Consulting Services)

\$3,982.55 from Acct#1070-7198 (Professional Technical Services)

\$2,642.49 from Acct# 2170-6696 (Tax Sale)

\$ 801.31 from Acct# 2121-7198 (Professional Technical Services) - Totaling \$13,430.52

To Acct#3338-6745 (Street Lighting) To Cover Shortfall for Street Lighting

Administrator Wojcik explained this transfer goes back to FY14, trying to clean up the books. The bill has already been paid, just showing how the funds were transferred. Streetlights do not cost the same every year. National Grid goes to the Public Utilities Commission every year. Actual maintenance cost is \$94/year. Have a three year agreement for electricity, current rate is 6cents, without an agreement its 13cents. Direct Energy will be coming to the Council for 9cents cost. T/A Wojcik discussed the preference to get away from consulting services. Should only be done on a project by project basis, make sure the service is warranted. David Perry, Budget Committee (BC) Chair commented on the transfers. The streetlight budget last year was \$155,000, was increased by \$5k. The \$3,982 was for the Comp Plan Update, don't know whether that is done or not. Next year will be coming out of the budget; also could reduce the Tax Sale budget. President Roderick explained to Mr. Perry, do not know yet what will be coming out of next year's budget, cannot say that. Mr. Perry suggested waiting until the fourth quarter, the BC looks at the budget in March, looks at the expenditures, it will not say transfer. T/A Wojcik was talking about last year's 13/14 budget, already spent the money, showing where it went. This is to clean up last year. Councilor Arruda noted that should have been communicated on the agenda, Mr. Perry agreed, wording on the agenda was wrong, apologized to the Council. Jeff Belli, resident, agreed, was under the assumption it was for this FY, should have been conveyed on the agenda. Suggested asking National Grid to turn the lights into more energy efficient lights. T/A Wojcik explained a municipal group was forming, Town should consider joining. Need a funding mechanism to buy the lights. Councilor Pelletier noted transfer under \$2,000 could be done by the Administrator, trying to get away from that.

Councilor Pelletier motioned to approve the Transfers as listed above. Seconded by Councilor Gerlach passed unanimously.

G-NEW BUSINESS:

1. Thomas Ramotowski, Chair Fogland Beach Oversight Committee- Proposed Changes to Section 54, Town Code – Schedule for Public Hearing on October 27th

Tom Ramotowski, Chair Fogland Beach Oversight Committee explained this was on an agenda for referral, bring back to attention for discussion. Looking to move forward, dogs running rampant. Suggest some changes on how to define the boundaries. This proposal refers to the where the playground was, not where it is now. It also assigns the boat ramp to the Harbor Commission. Looking for accuracy and consistency before having a hearing. Councilor Gerlach requested clarification on leashed animals which are not permitted between 5/1 and 10/1. President Roderick noted it should be specific, does not mention Conservation at all. Councilor Chabot was concerned about adding Conservation to Section 54-28 and how it affects the public right of way. There is a Harbor Plan that has right of way information. Councilor Pelletier suggested a closer look at the proposal, talking about coastal water access. Solicitor Teitz had the same questions, raised others as well. Usually can see where the proposed changes are. Should not go for advertising yet until the changes are known. President Roderick agreed, should know how it relates to the Harbor Commission, what their role is. Councilor Pelletier pointed to the list of General Rules, certain items prohibited except by special permit.

Solicitor Teitz explained the Recreation Commission was working on various policies, want a written permit as done with entertainment by the Clerk. Chair Ramotowski noted camping was not allowed, Councilor Pelletier added that was overnight camping. Councilor Gerlach suggested that part of the ordinance could be refreshed. President Roderick agreed, should speak with the Solicitor, Harbor Commission needs to look at it. Chair Ramotowski suggested sending a note to the other affected commissions to review. President Roderick suggested the T/A contact the commissions that are responsible. Between Chair Ramotowski, the Administrator and the Solicitor need to clarify, come back at some future time.

2. Kate Michaud, Planning Dept.- Request Council Public Hearing On October 27th Regarding Re-designation of Enterprise Zone-Referred to Planning Board to Determine Conformance with Tiverton Comprehensive Community Plan and Possible Vote to Remove Section 417.02 (South Tiverton)

Administrator Wojcik explained the process for the re-designation of the Enterprise Zone comes before the Council to set a public hearing. A two-step process, it is also referred to the Planning Board, trying to get taken care of simultaneously at the same time. One issue is a subset that is included, the Arts and Entertainment district for Four Corners. The Enterprise Zone is a different approach, trying to get those areas that need incentive a way to hire people in those areas. The personal judgment of the Administrator was Four Corners area does not need to be included, focus this program on central and north Tiverton. Councilor Gerlach supported the recommendation. President Roderick inquired if this was being done in conjunction with Portsmouth. T/A Wojcik affirmed the consultant will work with the Town. Solicitor Teitz suggested the first motion be for the removal of that sector.

Councilor Gerlach made a motion, seconded by Councilor Pelletier to remove from tract 417.02, South Tiverton, from the request to advertise the public hearing for the Enterprise Zone. Motion passed unanimously.

Councilor Pelletier made a motion, seconded by Councilor Gerlach to hold a Public Hearing on October 27th Regarding Re-designation of Enterprise Zone. Motion passed unanimously.

3. Leroy Kendricks, TWWD – Request for Health Insurance Rating for John Lincourt

Leroy Kendricks, Tiverton Wastewater District explained John Lincourt currently has health insurance under the Trust. The TWWD has only 1 full time employee, in order to maintain the health insurance needs to be rated. The only way would be to have the Trust add Mr. Lincourt so he is rated with the Town. He has been a Town employee for 10 years, did not want him to lose health benefits. Just requesting the Town allows that rating to happen. Town Clerk Mello cited one issue when she was the Interim T/A, another separate entity had requested, was told they could not do that. T/A Wojcik explained the Town will still get the bill, is a strange area, not sure if those at the Library are Town employees, treated in a similar fashion. The Town's experience rating is low. President Roderick requested the Solicitor to look at this for the next meeting. Mr. Kendricks noted Mr. Lincourt

has not been officially brought over to the TWWD so he is still covered. President Roderick noted the need for clarification, until that time Mr. Lincourt's benefits are status quo.

4. Town Administrator – Approval of Contract Addendum/Modification for Executive Administrative Assistant Contract – Mary Lou Sullivan - Salary Increase 2nd Year of 3Year Contract 7/23/13 to 7/22/16

T/A Wojcik explained this reflects an annual process, have a half years' experience working with Mrs. Sullivan to date, salary benefits and increases mirror those of the peer group. Salary increase is for 1.5% which the Administrator fully supports, was budgeted.

Councilor deMedeiros made a motion, seconded by Councilor Pelletier to approve the Contract Addendum /Modification for Executive Administrative Assistant Contract – Mary Lou Sullivan - Salary Increase Second Year of 3Year Contract July 23, 2013 to July 22, 2016. Motion passed unanimously.

5. Town Administrator – Approval of Contract Addendum/Modification for Police Chief Thomas Blakey Salary Increase to \$85,530 Effective Sept. 8, 2014 (3Year Contract Sept. 8, 2012 to September 7, 2015)

Administrator Wojcik explained the Council has an extensive set of evaluation documents in the Executive Session packet; the review legitimized a 2% increase which is in the budget and 1% retroactive when accreditation completes. Actually 3%. Waiting for successful completion of the accreditation process, probably take about 9 months. Structure of the Police Department is good, priorities set and goals achieved at a high level, brings the salary in line with other communities. Sends a strong message to other departments, encourages peer review. The 2% is in the budget, 1% from future needs. Chief Blakey explained have completed the rules and regulations, reviewing policies and procedures. Waiting for the accreditation committee to review, is a long process, will benefit the Town for litigation. President Roderick noted at this point the increase is not in this FY if the accreditation process takes more than 9 months. Could make retroactive, have in future needs.

Councilor Gerlach made a motion, seconded by Councilor Pelletier to Approve the Contract Addendum/Modification for Police Chief Thomas Blakey, 2% Salary Increase at this time, Effective September 8, 2014 (3Year Contract September 8, 2012 to September 7, 2015). Motion passed unanimously.

Town Administrator/DPW Director – Req. Permission to Advertise to Hire a Half-Time Mechanic's Helper

Administrator Wojcik explained this has come to the Council before, were some questions of benefits at that time, number of nuances in the Teamsters contract. Looked at it with the Treasurer, the Town reimburses the Teamsters union for the health care plan, all DPW workers are teamsters. Would be paying a rate based on the number of hours the individual works, incremental difference in that one hour is immaterial. Becomes a trigger for the Municipal Employee Retirement System for approximately \$1,000 per year. The individual will be required to have a CDL. Current mechanic had this position 8 years ago; the helper position was never filled. Had 2 people taking care of all the Towns equipment including the Fire Department, Senior Center, some of the school vehicles. Sometimes helps the Police Department when their mechanic is out. Looking at this as help for plowing, need succession planning especially in this field. Advantage to have a 20 hour benefitted position; try to attract someone who will stay. President Roderick questioned if there was enough money to cover benefits. Director Berlucchi explained that is done with the T/A, have enough money to make up the difference. T/A Wojcik noted will have enough to cover the rest of the year, will budget for next year.

Councilor Pelletier made a motion, seconded by Councilor Gerlach to approve the request to Advertise to Hire a Half-Time Mechanic's Helper at 20 hours per week. Motion passed on a vote of 6-0-1, Councilor Lambert abstained, not at Council table.

H-BIDS AND REQUESTS FOR PROPOSALS:

Town Administrator/DPW – Request Award of Bid for Lease/Purchase of a New Backhoe/Loader To Schmidt Equipment Inc., 80 Southbridge Rd, North Oxford, MA for \$3000 per Month From October 1, 2014 to June 30, 2015 and Purchase Offer of \$75,700

T/A Wojcik made clear received 2 responses, one bid did not meet the specific requirements for this piece of equipment, runs 10% hotter to get the same power and bucket is smaller. For this FY the cost of this heavy equipment, because of the emergency nature, was not in the capital budget. Coming out of the DPW repair account with minimum impact. Save \$5k on the lease, nothing is automatic, DPW Director's option to buy or not. Constructed this way to exercise or not exercise the option. Both would be available October 1. Would cost \$3,000 per month for the John Deere to rent, a 90% return to purchase. The Volvo would cost \$3,600 per month to rent. There is a \$10k trade in allowance for the John Deere, \$5K for the Volvo. Need a strong machine to deal with the boulders and ledge. The Volvo has a smaller size horsepower, bucket, arm extension, recommend awarding to Schmidt Equipment. Both good machines.

Councilor Gerlach made a motion, seconded by Councilor deMedeiros to Approve the Town Administrator and DPW's request to Award the Bid for Lease/Purchase of a New Backhoe/Loader To Schmidt Equipment Inc., 80 Southbridge Rd, North Oxford, MA for the Lease Price of \$3000 per Month From October 1, 2014 to June 30, 2015.

Town Administrator – Request Award of Bid for Town Farm Lower Soccer Field Restoration/Renovation to McGeough's Turf Mgmt, 3805 Main Road, Tiverton for \$11,820

Administrator Wojcik was very explicit in drawing up the bid specifications, received two bids, one was over the advertised budget of \$12,000. Temporary fencing will be set up for the restoration.

Councilor Pelletier made a motion, seconded by Councilor Gerlach to Award the Bid for Town Farm Lower Soccer Field Restoration/Renovation to McGeough's Turf Mgmt., 3805 Main Road, Tiverton for \$11,820. Motion passed on a vote of 5-0-1, Councilor deMedeiros abstained, not at Council table.

I-TOWN ADMINISTRATOR ITEMS AND ANNOUNCEMENTS:

1. Update on Fee Schedule Process a.Licensing b.Recreation

T/A Wojcik was making progress, first item is a summary of businesses. Councilor Pelletier questioned an item on the second to last page which shows Towne Motors as having an \$800 liquor license. Town Clerk Mello explained the office has a new licensing clerk, was trying to condense reports and was error. Councilor Gerlach called it a great chart was nice to see the detail. As to the beaches, recognize the increase in fees though traffic was down. Resolved some of the trash issues. They are reviewing policies, other recommendations for next year, coming up with a field usage policy. Fields run at a loss, raises a number of questions, choices have to be made. President Roderick questioned Keith Cory, Recreation Coordinator about the problem with lifeguards at the end of the season. Mr. Cory was in touch with the State Director of Beaches, the State had the same issue in July. Not the only one that had to close liability wise. Mr. Cory explained the money made at Fogland on recreation, wind surfing, more for adults, people from out of town willing to pay. Grinnell is more local, attribute decline to the increased beach fee. Only have 1 full time gate person, 1 lifeguard. Started closing the gate at night, put more trash cans out, trash was picked up twice a day. Pay \$9/hour, difficult to find someone. Only 1 person applied to clean the area.

Councilor Gerlach questioned if the fees were cut down could have more potential revenue. Need a multi prong approach at Grinnell. Drop the price to drive traffic, could use some improved infrastructure. Mr. Cory noted 95% of the season passes were sold at Fogland, after they come for 5 days coming for free. Some people did not have the \$100 for a season pass at Grinnell's. President Roderick noted at this point no action will be taken, was just for review. Some good points will put on a future agenda. Councilor Pelletier questioned field usage for non-exempts. Mr. Cory explained if the organizations given by way of scholarships, sponsorships, would not charge them over the \$100. Won't charge for organizations that give back to the community. President Roderick added is

a situation where most of those groups are an inherent part of town. Need to have some definitions for non-exempt, will take under consideration. President Rodrick thanked Mr. Cory, good job.

Administrator Wojcik thanked all the volunteers who participated in Pardon Gray Day, was a success.

COUNCIL ANNOUNCEMENTS, COMMENTS AND QUESTIONS:

Councilor Arruda forwarded an email to the T/A regarding fishing under the Sakonnet River Bridge, seems to be an issue with fish waste. T/A Wojcik explained, it is a State facility, some problem with fishing lines going across the boat ramp, will work with the State. Councilor Gerlach requested an update on the Spectra Energy gas line meeting. T/A Wojcik explained the briefing will take place this Wednesday evening at the Town Hall. They will explain the need for the project, what is proposed, staging area and access points for the construction process. Councilor Gerlach was concerned with not getting enough public notice. T/A noted all the abutters were mailed a notice. President Roderick asked the Council to set a meeting to discuss Grinnell's, an informal hearing. Should have a preliminary discussion on the focus, some ideas of what to do. Town Clerk Mello will see how the agenda for October 14 looks, most public hearing are scheduled for October 27. Solicitor Teitz reminded the Clerk, October 20 was being held for a joint Comp Plan meeting with the Planning Board.

K-TOWN SOLICITOR – ITEMS AND ANNOUNCEMENTS:

1. Update Town of Tiverton v. Tosi

a. Defendant's Motion to Stay Pendente Lite

b. Defendant's Petition for Extraordinary Writ of Certiorari

c. Town's Opposition to Petition for Extraordinary Relief

Solicitor Teitz explained have two very similar cases, started in Municipal Court, both represented by the same attorney. The Town prevailed in Municipal Court; an appeal was taken to Superior Court. The Superior Court appeal is considered to be de nolo, the Town opposed de nolo a new appeal for Supreme Court. The Town's position is this is the remedy, that's what the Superior trial is for. The Judge decided this should move forward, defendants filed a petition for Extraordinary Writ of Certiorari.

2. Update Town of Tiverton v. Pauline Berube, Trustee St. Joseph's Realty Trust

a. Defendant's Motion to Stay Pendente Lite

b. Defendant's Petition for Extraordinary Writ of Certiorari

c. Town's Opposition to Petition for Extraordinary Relief

This is basically the same as the previous item, the Town responded in a similar fashion, opposed to the petition for relief. Waiting to hear from the Supreme Court.

3. Litigation - Town of Portsmouth v Lewis et.al. (Sakonnet Bridge Tolls)- Scheduled Hearing

This is just for information regarding the Sakonnet River Bridge Tolls, received an email on setting down the many motions including the Motion to Intervene. Will be on 10/22 at 3pm.

Solicitor Teitz suggested deferring the Executive Session items due to the late hour, neither is urgent. President Roderick will request a motion when that item comes up.

L-TOWN CLERK ITEMS AND ANNOUNCEMENTS:

1. Annual Volunteer Appreciation Night

Town Clerk Mello provided a copy of the notice being sent to the Boards and Commissions. Volunteer Appreciation Night will be on 10/17 at the Senior Center.

November 4, 2014 General Election

Last Day to Register to Vote in the November General Election – Sunday, October 5, 2014

Town Clerk Mello explained was getting this information out as much as possible. The Town Hall will be open on Sunday, October 5, 2014 from 8:30 a.m. to 4:00 p.m. for the last day to register to vote in the November 4, 2014 General Election. Ad was placed in the Sakonnet Times and Fall River Herald News, is also on the website.

CLOSED EXECUTIVE SESSION:

1. Solicitor – Litigation - 42-46-5(a) (2) – Town of Tiverton v. James and Melissa Pelletier

2. Solicitor – Litigation -42-46-5(a) (2) – McLaughlin v. Town of Tiverton

Councilor Lambert motioned, seconded by Councilor Chabot to move the two items in Executive Session to the next regular scheduled meeting. Motion passed unanimously.

ADJOURNMENT:

Councilor deMedeiros made a motion, seconded by Councilor Arruda to adjourn. Meeting adjourned at approximately 11:20 p.m.

A True Copy.

ATTEST: _____
Nancy L. Mello, Town Clerk

**TOWN OF TIVERTON, RHODE ISLAND
TOWN COUNCIL
343 HIGHLAND ROAD**

PROCLAMATION

WHEREAS: the history and culture of our great nation have been significantly influenced by American Indians and indigenous peoples; and

WHEREAS: the contributions of American Indians have enhanced the freedom, prosperity, and greatness of America today; and

WHEREAS: their customs and traditions are respected and celebrated as part of a rich legacy throughout the United States;

THEREFORE BE IT RESOLVED: The Tiverton Town Council encourages all Tiverton residents to join The Tiverton Town Council in recognizing November as American Indian Heritage Month.

FOR THE TOWN COUNCIL, Edward A. Roderick, Town Council President

September 22, 2014