

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

As Amended 10-14-14

At a meeting of the Town Council of the Town of Tiverton, County and State aforesaid, held at the **Tiverton High School- Auditorium**, 100 North Brayton Road, on the 12th day of August 2014 A.D. at 7:00 p.m.

President Roderick announced those wishing to speak at the Public Hearing do not have to sign up, only those who wish to speak at the Open Forum need to sign up to speak at that time.

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 – Late arrival	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 deMedeiros requested removal of item CA6, Town Administrator – Distribution of Report on Overtime Police, Fire and DPW and Councilors Gerlach and Lambert requested removal of item CA7, Town Administrator – Distribution of Dept Monthly Reports for July.

Councilor deMedeiros made a motion, seconded by Councilor Pelletier to approve Consent Agenda items 1,2,3,4 & 5. Motion passed unanimously.

The Consent Agenda was as follows:

CONSENT AGENDA

A-1-Approval of Minutes of Previous Meetings:

- a. Approval of Minutes Regular Council Meeting July 28, 2014
- b. Approval of Executive Session Meeting Minutes July 28, 2014
- c. Approval of Special Council Meeting July 21, 2014
- d. Approval of Executive Session Meeting Minutes July 14, 2014

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

- a. Art's Council
- b. Tiverton Prevention Coalition
- c. Conservation Commission (2)

A-3-Correspondence – Receive and File

A-4-Tax Assessor – Approval of Abatements

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

BUSINESS BROUGHT BEFORE THE COUNCIL

CA-6-Town Administrator – Distribution of Report on Overtime Police, Fire and DPW

Councilor deMedeiros requested a number be attached to the Fire Department overtime report. Would like to know the overtime hours, dollar amount, overtime for the Fire Marshall counted too, like to see the spending.

Councilor deMedeiros made a motion to accept CA6, Town Administrator – Distribution of Report on Overtime Police, Fire and DPW. Seconded by Councilor Pelletier passed unanimously.

CA-7-Town Administrator – Distribution of Department Monthly Reports for July

Councilor Gerlach will put on next agenda discussions for the out of commission Senior Center bus. Councilor Lambert referred to page 2 under the Tax Collector office those tax payers not able to get remittance for the tax bills sent out late, like a list of accounts. Questioned if those penalties were actually paid, what could the Council do as far as reimbursement of payments. At this time Town Solicitor Andrew Teitz requested the Council President repeat who made the motion and who seconded. Due to the tables on the stage the Clerk is not able to see all the Councilors. Councilor Arruda arrived at this time. Solicitor Teitz noted the Tax Collector has no authority to refund. Can have Vision refund per their contract or have the Council abate. Councilor Lambert requested the Town Administrator to work with the Tax Collector on both of these options.

Councilor Lambert made a motion, seconded by Councilor deMedeiros to accept item CA7, Town Administrator – Distribution of Department Monthly Reports for July. Motion passed unanimously.

OPEN PUBLIC FORUM FOR ANNOUCEMENTS, COMMENTS, QUESTIONS

Barbara Pelletier – Celebration of International Dog Day on August 26th at Tiverton Town Hall Sponsored by Placing Paws

Barbara Pelletier announced International Dog Day on August 26 at the Town Hall. Celebrates having a dog, may have a raffle, pictures also taken. If a dog doesn't like to be approached can wear a yellow bandana to alert people. Requesting permission to have at the Town Hall.

Councilor deMedeiros made a motion, seconded by Councilor Pelletier to proclaim 8/26/14 International Dog Day. Motion passed unanimously.

PUBLIC HEARINGS & PUBLIC PRESENTATIONS:

ADVERTISED PUBLIC HEARINGS

1. Proposed Ordinance Amendment to Chapter 8 – Shooting Ranges (Shooting Galleries)

a.Original Proposed Ordinance, b.Revised by Town Solicitor -Proposed Ordinance Redlined

c.Revised by Town Solicitor – Proposed Ordinance Clean Copy, d.Materials Provided by Randy Lebeau

e.Materials Provided by Tiverton Rod and Gun Club

Attorney Regan Letters Dated August 6 and July 21, 2014, TRGC Letter Dated July 28

Spreadsheets of Correspondence Received

President Roderick announced before beginning the Public Hearing, requested speakers come up in an orderly fashion, do not speak from the gallery. If that happens too many times, will close the hearing. Request limit speaking to 4 minutes, lot of people in attendance, want to give everyone a chance to speak. Identify yourself at the microphone. Solicitor Teitz , introductory remarks, explained Council had a couple of documents before them, the first draft of the proposed ordinance, the 2 changes as shown in the redlined proposed ordinance, new sections underlined, sections removed are struck out. Major changes were to remove Outside Shooting Ranges from the proposed ordinance at this time. Division 2 is Requirements for Indoor Shooting Ranges, Division 3, Requirements for Outdoor Shooting Ranges reserved, needs more work. Have met with the attorney for the Rod & Gun Club (RGC) offered to meet with Mr. Lebeau's attorney, did not get a response. The redlined copy only applies to Indoor Shooting Ranges at this time. Key changes for Indoor ranges –removed buffer distance, insurance requirement lessened from \$3million to \$2million, left out the requirement of the Town as an additional insurer, for background checks, if a non-profit have only for the officers. Councilor deMedeiros questioned, under Definitions, if Shooting Range Facility should be changed to Indoor Shooting Range Facility. Solicitor Teitz had no problem with adding that; was of the understanding the RGC would be able to meet all the standards currently proposed.

President Roderick opened the Public Hearing. Randy Lebeau, Sakonnet River Outfitters, 404 Main Road, did not think the Council should be here, had zoning meeting in March. Said Solicitor Teitz left out 11-47-3, licensing authority is the Chief of Police. Put a burden on his business. President Roderick noted this hearing was

about the proposed ordinance was not about Mr. Lebeau. There will be no personal attacks, no outbursts. Councilor Pelletier explained the hearing was to come to a resolution by talking about the issues, have fundamental differences of opinion. Councilor Lambert explained, need to approach an issue like this rationally, read the copy of the statute Mr. Lebeau provided. Wording was as defined or duly licensed authorized by the City or Town Charter. In the Town Charter Section 407-10 the Council issues licenses. Resident Joe Souza's opinion was Mr. Lebeau should have been issued a building permit. Attorney Peter Regan represented the RGC, a non-profit in operation since 1938, majority of the members are Town residents. The Club is located off Fish Road. Appreciated the opportunity to meet with the Solicitor, suggested improvements. This proposal has great improvements, particularly limited to Indoor ranges is more in line with State law. The RGC is very different from Mr. Lebeau's proposal. The RGC is on 70 acres, relatively isolated, a legal non-conforming use with significant limitations. Suggest lawfully pre-existing facilities be exempted provided they meet certain requirements. Not suggesting the RGC operate without rules, currently operate with safety guidelines, environmental rules, in addition to State and Federal firearms regulations, not part of the problem to the extent there is one. Have to look at the motivation of the ordinance does not apply to the RGC; ask Council give very serious consideration to the provisions the RGC proposed. Including the exemption provisions, Councilor deMedeiros indicated the current definition be changed to only indoor facilities. Councilor Pelletier noted the exemption section related to outdoor facilities, recalled the RGC also has an indoor facility. Attorney Regan proposed an exemption for lawfully pre-existing shooting ranges that meet minimum requirements as set forth in the proposal. Solicitor Teitz believed the Town has the authority to regulate outdoor shooting ranges, need more information. Still have some regulatory power under health and safety, directed by the Council to prepare an ordinance.

President Roderick thanked Attorney Regan for working with the Solicitor, explained, not trying to prohibit any business activities, with public safety need to understand the operations of the business. Rodney Santos, Exeter, requested the Council consider the changes, will affect other cities and towns. Exeter has a shooting range, follows State laws. John Means, President of the RGC requested careful consideration as it applies to the RGC. RI has 30 sportsmen's clubs that are not licensed, in 2003 Middletown voted down getting a license. Jim Terrio, owner & member of the RGC commented on the impact to the local economy, asked the Council to exempt the RGC from licensing. Mike Preanna, Burrillville, Sayles Hill Rod & Gun Club member, not the very high level of self-regulation, urged the Council to look to keep in mind when making a decision. David Raymond, Cumberland, supported the RGC, requested extreme consideration relative to the State and Federal impact. Mike O'Neill, Warren, NRA coalition for the State, \$238million brought into the State in 2013. Councilor Pelletier noted the Council could hear people talking from the back of the room. William Belart, CPO USN (Ret.), commented on how much the RGC meant, asked to exempt. Mary Ann Kendrick, Tiverton, concerned about how many people this would effect. President Roderick explained this particular ordinance was because of a business that was new to the Town. Not specifically for this particular business, not meant to be punitive, is to protect the Town and the developer. Councilor deMedeiros noted this was also to make the residents in the area feel safe, were very concerned. Mrs. Kendrick requested consideration be given for the character of the Town. Councilor Pelletier commented, have 2 distinct issues for the contemplated use, have to live within the bounds of documents and regulations that exist. First step, zoning, the Building Official decision states that neighborhood was a legal use. From that process the Council was put on notice regarding a RI law pertaining to indoor shooting ranges. Have a duty to ensure there is appropriate oversight. Resident Michael Dow spoke about the dedication of the RGC members, safety of the facility. Cathy Calabrese, neighborhood resident was upset, not notified about that business locating in the neighborhood. Not opposed to business but locating in a neighborhood. Attorney Frank Sococio, Assistant Solicitor for the Town of Johnston, President of the RI 2nd Amendment Coalition did not think the ordinance went far enough to exempt legal non-conforming, needed more work. Offered to work with the Solicitor on drafting legislation. Dennis Coffey, Secretary of the RGC noted the RGC has never had a shooting incident or injury with a firearm, safety is a priority. Offer many opportunities for seminars; host DEM for rules and regulation seminars, Newport County Police Department for training exercises. Have a grant from Fish & Wildlife to cover 13 acres for the preservation of the New England cottontail rabbit and the cultivation of flowering bees. If this approved, requested the RGC be fully exempt from participation. Craig Lebeau, son of Randy Lebeau, commented on the indoor facility, will be double walled. People will be required to bring firearms

in a locked container, will be a training facility, will have NRA and range safety instructors at all times. This ordinance, the first of its kind, is discriminatory against gun owners. Craig Lebeau cited RI Law 5-2-5, licenses of shooting ranges required, under definitions the licensing authority is the Chief of Police. Solicitor Teitz requested Mr. Lebeau to read the entire definition including license from town council and authorized by Town Charter. Councilor Lambert had read the Charter provision; the Town Council has the initial responsibility for licensing. President Roderick agreed; the Town Council was the licensing agent for the Town. Mr. Lebeau called it a gun issue, being discriminated. Councilor Arruda questioned if other licenses were signed by Chief Blakey. Mr. Lebeau cited selling firearms at retail. Solicitor Teitz explained under the law concealed weapons carry permit is one of the licenses the Police Chief signs, Police Chief deals with firearms. Do not give gun sales licenses to businesses in the normal course, retail sales license is one of the State requirements.

Resident Cynthia Nebergall looked at the statue, called this proposed ordinance an overly broad reading of the statue. This business meets existing zoning requirements, no one disputes that. Some are offended at the nature of the business. Need to be very careful. Carl Hoffman, RGC member, Trainer for RI Hunter Safety course along with other firearms safety training. Resident Maureen Morrow does not think this type of business belongs on Main Road. President Roderick again reminded those speaking at the back of the room the Council could hear them, asked them to step out into the hallway when conversing. Wendy Prazak, resident & RGC member, asked for an exemption to this ordinance for the RGC so it could safely continue for years to come. Lois Ann Kimball Pino, Little Compton & RGC member cited the broader issue of Constitutional law. Have a duty to all citizens, entitled to the best effort to make this safe for the Town and to enforce the Constitutional rights and impose as minimal restrictions on freedom. Craig Kaufman and son, residents and RGC members spoke to the learned responsibility, the sense of community as members. Jennifer Nardone, neighborhood resident noted the bus stops 7 times a day, requested the Council take into special consideration. David Line, RGC owner member cited the accountability, safety of the RGC. Howard Benesch, resident, supported the RGC, was opposed to a business on Main Road, plenty of other space in Town. Matt Carvalho, resident cited several laws including 11-47-2 regarding the licensing authority, was disputing the licensing authority with this ordinance. Evangeline Jandro, resident, abuts that property, requested not putting in that place, not an appropriate neighborhood place. Dawn Bouchard, resident, does not begrudge the business, just the location; requested consideration for the noise factor, pollution. Mike Jay, Westerly, member of several gun club, NRA instructor was concerned with the draft ordinance for private clubs, precedence may be set. No other gun club has ever had a license.

At this time President Roderick was going to allow the speaking portion to last another ten minutes. Have heard the same thing from a number of speakers; also have some basic business to attend to. Robert Marra, RGC Vice President noted the RGC has 952 members, 70% Tiverton residents; it is a jewel of an operation, does no harm, there for education as well. Aaron Reynolds, non – resident, Afghan war vet urged the Council to consider what is being done here. Paul Wells, resident & RGC Treasurer talked about the financial aspect. The RGC is a significant investment, largest property owner in the area, has deeded restrictions for a buffer zone. Tax bill liability for 2013 was \$18,606. Expensed divided by members, currently insured for \$1million costs \$11,808. A \$2million aggregate would double the cost. The RGC provides a safe productive environment. Council may but is not required to license. The RGC is a 501 c 7 non-profit, asks the Council to reject the ordinance or the very least exempt the RGC. Joy Mitchell, neighborhood resident abuts Main Road property, questioned what would happen to the potential value of the house if there is a shooting gallery in the neighborhood, concerned about safety, well-being on the surrounding streets. Ken Hoffman, RGC member noted hunter and archery safety courses are taught at the RGC. Urged the Council to reject the ordinance to exempt lawful gun clubs. John Lavery, resident, Combat Vet, US Army, has numerous safety instructor certifications, listened to the concerns. Commented on the proposed shooting range by Mr. Lebeau, will have a state of the art system, bullets stay indoors, double walled concrete structure. Debbie Ebbitt, resident, was on the Recreation Commission listened to the eloquent speakers, believed recreation to be a priority.

President Roderick thanked all those who spoke, noted the Council does listen, will now take a ten minute break. Councilor returned at approximately 9:33 pm. At this point in time President Roderick closed the Public Hearing.

Solicitor Teitz gave an overview, was not out to get anyone. The first Solicitor memorandum, on Council authority, for licensing of shooting ranges was dated 2/20/2014, before anyone approached about a license. The Building/Zoning official had a different opinion. Solicitor Teitz issued a supplemental memo dated 5/8/2014, noted laws in RI, shooting ranges should be licensed within the Town Charter, don't have a Board of Police Commissioners. Believe the Town Council is the proper licensing authority. The RGC is pre-existing for zoning but they would still be subject to this, are capable of complying with the ordinance as is. The \$200 application fee done by State law, as to the insurance at \$2million, could be changed, policy decision of the Council. Would support changing the 2 definition sections to only apply to Indoor Shooting ranges, Draft d5 as amended fully with the additional word Indoor before shooting ranges and facilities. President Roderick suggested the liability insurance be \$1million, \$2million aggregate. Councilor Pelletier citing page 4, Division 2, the hours of operation in letter (b), generally speaking have been set as part of a license, seems appropriate methodology. President Roderick agreed to codify in an ordinance seemed too restrictive. Councilor Pelletier suggested eliminating the hours of operation. Solicitors Teitz suggested deleting (b) altogether, change the title in (a) to start with Indoor Shooting Range Facilities. Councilor Pelletier cited page 7, Section 8-66, Background Check, conducting a criminal record check on an owner or lessee. Questioned if that should be separated by ownership of the land and by ownership of the facility. Solicitor Teitz modeled that section after the liquor licenses, looking more for the owner/operator of the facility. Should remove "of the property on which the "and remove "is to be located".

Councilor Pelletier, citing page 8, Section 8-4c, suspension of license, questioned if appropriate to insert the word "immediate" before public safety. Solicitor Teitz explained the rationale, the time line for the Council to act would be the next regularly scheduled meeting. This way the Police Chief has authority for immediate suspension, should add to both clauses. Solicitor Teitz just wanted to clarify, for the insurance; it was \$1million per occurrence, \$2million aggregate. President Roderick suggested doing motions for each section.

Councilor Pelletier made a motion to change Section 8-7, Liability Insurance to read "The licensee shall be required to carry a minimum of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate. Councilor Gerlach seconded, discussion followed. Councilor Chabot did not agree with the \$2 million in aggregate. Councilor Gerlach questioned if the \$2 million in aggregate needed to be defined, or specified. Councilor Lambert explained the aggregate would be for 2 or more people. Councilor Pelletier suggested keeping at \$1million, would be determined by the policy. Solicitor Teitz explained normally it would be both, per occurrence and aggregate. All policies have an aggregate, most have a limit if not specified. Councilor Arruda questioned Mr. Means, President of the RGC if he knew of any State or Federal law that required this. Mr. Means was not aware of any. On a roll call vote, the motion passed on a vote of 4-3, Councilors Gerlach, Lambert, Roderick and Pelletier in favor, Councilors Arruda, Chabot and deMedeiros opposed.

Councilor Pelletier motioned to Amend Section 8-21, Hours of Operation by removing the words "Lawful Preexisting" adding "if any" at the end and totaling eliminating New Indoor Shooting Range Facilities, section (b). Seconded by Councilor Gerlach, on a roll call vote the motion passed on a vote of 5-2, Councilors Gerlach, Lambert, Roderick, deMedeiros and Pelletier in favor, Councilors Arruda and Chabot opposed.

Section 8-66, Background Check. Councilor Pelletier read as a motion suggested edits to Background Check. "Upon receipt of an application by an unlicensed Shooting Range Facility, the Town's Police Department shall conduct a criminal records check on the owner and lessee, if any, of the Shooting Range Facility and on the individual designated to operate the Facility if different from the owner or lessee." Councilor Gerlach seconded for discussion. Councilor Pelletier explained this effectively eliminating a background check on a property owner in the event they are also not the operator of the facility. Councilor Gerlach questioned Chief Blakey on the process for a background check. Chief Blakey explained the applicant provides the information necessary on the form. In response to several questions from Councilor Chabot, Chief Blakey noted background checks were conducted for those applying for a retail license to sell firearms, for a concealed carry permit (extensive), for buying a gun. Councilor Pelletier noted there were two separate issues, retail sales regulated in another arena, now only talking about indoor shooting ranges. Only as to the people who own the facility, the people held responsible for the operation of the facility, trying to reduce the amount of background checks. Councilor

Pelletier added background checks are also done for private investigator, liquor establishments and tobacco sales licenses. Councilor Gerlach called it an appropriate safety net. Councilor Chabot requested the motion be read again. Solicitor Teitz read the motion, "Upon receipt of an application by an unlicensed Shooting Range Facility, the Town's Police Department shall conduct a criminal records check on the and lessee, if any, of the Shooting Range Facility and on the individual designated to operate the Facility if different from the owner or lessee". The rest of that section remains the same. Councilor Pelletier explained this change was eliminating the background check on the owner if it was not the same person as the operator. Solicitor Teitz believed the motion was fine as amended, do not mean to burden the landlord if not the operator. The roll call vote was Councilor Gerlach-aye, Councilor Arruda-nay, Councilor Chabot-nay, Councilor Lambert-aye, Councilor Roderick-aye, Councilor deMedeiros-aye and Councilor Pelletier-aye. Motion passed 5-2.

For Section 8-84, Councilor Pelletier motioned to insert in subsection c after "of and before public safety the word immediate. It would read "The Chief of Police may suspend any license for reasons of immediate public safety and the second sentence" The Town Council may, on its own, suspend any license for reasons of immediate public safety", etc. Councilor Gerlach seconded for discussion. On a roll call vote Councilors Arruda and Chabot voted nay, Councilors Gerlach, Lambert, Roderick, deMedeiros and Pelletier aye. Motion passed 5-2.

President Roderick questioned if any Councilor had anything else. Councilor deMedeiros reminded anywhere it says Outdoor need to cross out under Definitions, leave lawful preexisting exempt. Meaning preexisting would have to go for a license also. Councilor deMedeiros had some questions for Mr. Means. Solicitor Teitz explained, if that was the case the public hearing would have to be reopened and anyone else from the audience could also speak. Councilor deMedeiros noted if that was the case, then could not vote on this. Councilor Pelletier explained as amended this ordinance would require any applicant with an indoor range, to file an application, pay \$200, submit a site plan showing the building and boundaries, submit to a background check, require a public hearing with Council sitting as the Licensing Board and would be renewable every year.

Councilor Pelletier made a motion to change the definition of New Shooting Range Facility on page 2 to an Indoor Shooting Range Facility that was not lawfully preexisting as of [DATE OF PASSAGE TO BE INSERTED]. Change Shooting Gallery is the term used by the Rhode Island General Assembly and for the purposes of this Ordinance is the same as in Indoor Shooting Range or Indoor Shooting Range Facility. Change the definition of Indoor Shooting Range Facility means a public or private facility, including individual shooting ranges, safety fans or shortfall zones, structures, parking areas, and other associated improvements, designed for the purpose of providing an Indoor place for the discharge of various types of firearms or the practice of archery. Councilor Gerlach seconded for discussion. Councilor Chabot questioned the Solicitor, based upon the changes for the RGC, if the Solicitor understood shooting ranges, or knew of any ordinance revision specific to RI. Solicitor Teitz did not find any ordinance in RI, had reviewed other states, has a basic understanding of an indoor shooting range. Saw the statutory framework, lots of sportsmen's clubs, did not see any current regulations. Was personally involved several years ago in the South Kingstown proposed shooting range. Councilor Chabot understood the ordinance considered in other towns had a potential shooting incidence on private property for an outdoor gun range. Solicitor Teitz was aware, strictly limited to indoor shooting ranges to comply with what the Solicitor saw in the state law to be licensed. Councilor Chabot questioned why the Council was doing this, have not had an incident or shooting accident. President Roderick personally believed a new business in Town more to insuring what is on the property, the operations, and need assurances. If there is no license, could be substandard. Councilor deMedeiros agreed to some extent, however did not think it should be needed for preexisting, only a new business. Councilor Pelletier noted if the Town had an ordinance it would apply to everyone, believed the advice of the Solicitor that an ordinance is needed.

Councilor Chabot noted the basic premise, State law has regulated shooting galleries going back to 1930, do not believe a license is needed for a shooting range, overbroad interpretation of State law. If this was the case the numerous gun clubs throughout the State would have had to get a license, particularly Coventry which has a commercial shooting range. Have a noise ordinance in Town; preexisting gun clubs have an exemption. Do not believe this ordinance or licensing is needed. This will set a definite precedence for the rest of the State.

According to State law need a trigger lock and be in a case, don't see what the safety issue is. More a matter of fear and an education issue. Councilor Pelletier was noting the differences of opinions; Council considers all the options in the process of a resolution. Ought to be some amount of oversight, believe a license at the minimum is needed. Councilor Lambert noted it was important to recognize differences of viewpoints. Attorney Regan specified RIGL 11-47-54 "Every person who shall keep any pistol gallery, rifle gallery, or other building or other enclosure in any city or town of this state where firearms are used without a license from the duly constituted licensing authority of the city or town shall , etc." State enabling legislation provides for licensing of indoor shooting facilities. If the Council chooses should be only for indoor shooting range facilities.

Councilor Gerlach believed the Town had a legal right to proceed with this ordinance. Still have a licensing process to have an even keel for businesses, is the right thing to do. Councilor Arruda noted Councilor Chabot had already brought up several points, questioned if the Solicitor consulted another party in drafting this ordinance. Solicitor Teitz did not, had met with Attorney Regan, did extensive research online for other ordinances throughout the nation. Do not have consultants, only if an ordinance needs expertise. Not sure if other Police Chiefs issued licenses, can't ignore the consequences for Tiverton. President Roderick believed the ordinance was to protect all citizens. Councilor deMedeiros, after listening to Councilors Gerlach and Pelletier believed this ordinance to be much better than the first one proposed, do need a licensing procedure. Councilor Chabot noted the importance of the issue, has an impact, costs money to apply, pay for advertising and whatever else is required. Councilor Chabot questioned if this ordinance would apply to the Police range behind the DPW, an occupied dwelling and if it meets the setback requirements. Section 8-81, Abandonment & Discontinuance, as far as zoning, if a building is out of business for over a year it reverts back to the previous zoning classification. If left in a business would have difficulty selling.

Councilor Chabot cited Section 8-63, Fees, to reduce the application fee to \$50.00, made as a motion, seconded by Councilor Lambert. Some discussion followed, Councilor Pelletier sought clarification on what motion is being voted on. Solicitor Teitz explained there was a motion on the table to pass as amended, seconded by President Roderick, discussion ensued. Now a new motion to amend can be made at any time.

The vote taken on the motion to amend the application fee to \$50.00 passed unanimously. Councilor Pelletier moved the question, seconded by Councilor deMedeiros, there was no further debate. As reiterated by President Roderick the motion was to Adopt as Amended with the \$50.00 fee and all the other previously amended items. On a roll call vote, Councilor Gerlach-aye, Councilor Arruda-nay, believed the Police Chief would be better for this licensing), Councilor Chabot- nay, Councilor Lambert-aye, Councilor Roderick-aye, Councilor deMedeiros-aye and Councilor Pelletier-aye. Motion passed 5-2.

Amended Ordinance attached at end of minutes.

Councilor Pelletier requested a short break; President Roderick announced a ten minute break at 11:20 p.m. Council returned from break at approximately 11:30 p.m.

TOWN COUNCIL SITTING AS BOARD OF LICENSING

APPOINTMENTS & RESIGNATIONS:

Newport & Bristol County Convention & Visitors Bureau (Discover Newport)

Request for Re-appointment – Barbara Pelletier, 104 Bonniefield Drive

Councilor Lambert made a motion, seconded by Councilor Chabot to reappoint Barbara Pelletier, 104 Bonniefield Drive to the Newport & Bristol County Convention & Visitors Bureau (Discover Newport). President Roderick noted Mrs. Pelletier continues to serve diligently for Tiverton. Motion passed unanimously, a round of applause followed.

Personnel Board – Resignation – Jennifer S. Mello, 164 Christopher Lane

President Roderick requested the Town Clerk send Mrs. Mello a letter accepting the resignation with deep regret, thanks for service.

Councilor deMedeiros motioned, seconded by Councilor Pelletier to accept with deep regret and thanks for service the Resignation of Jennifer S. Mello from the Personnel Board. Motion passed unanimously.

UNFINISHED BUSINESS:

FINANCIAL BUSINESS:

NEW BUSINESS:

Councilor Roderick – Discussion and Possible Re-Consideration of Town Planner Appointment

President Roderick explained this was brought to his attention there may have been some irregularities in the process of the applications for Planner. The Personnel Board was very direct with the number of candidates and alternate, want to look at again. Suggest reopening the process, re-advertising again for a full time Planner. Councilor deMedeiros agreed, also made aware of some irregularities not intentional and should re-advertise.

Councilor Lambert made a motion, seconded by Councilor deMedeiros to re-advertise for the position of Town Planner. Discussion followed. President Roderick explained the Personnel Board sent 3 top candidates and an alternate. The alternate does not make the list until one of the top 3 drop out. The alternate was the candidate chosen. To be fair to all parties, send an apology to the candidates chosen, fair to have the process reopened. Councilor Lambert noted a representative from the EDC, Scott Humphrey and Planning Board member Stu Hardy attended the interviews, read both memos. Mr. Hardy ranked Ms. Michaud #1. *Trying to make sure if there were any lapses, the final process is seen as fair and transparent by the public; although at this point it may seem to some as unfair to Mrs. Michaud.* Suggest vacating the appointment at this point, go through the process again. Councilor Pelletier noted this gives the opportunity to develop procedures and protocols for the Personnel Board. The Charter does not specify in great detail. The roll call vote was as follows: Councilor Gerlach-aye, Councilor Arruda-aye, Councilor Chabot-nay, Councilor Lambert-aye, Councilor Roderick-aye, Councilor deMedeiros-aye, Councilor Pelletier-aye. Motion passed 6-1.

President Roderick requested the T/A to start the process again.

Town Administrator – Discussion Regarding Status of DPW Backhoe Loader

Administrator Wojcik complimented DPW Director Berlucchi on researching options, contacting vendors on the possibility of rent to purchase to apply 100% of the rental price toward a future purchase. The proposal is to rent for the rest of the year because of the equipment breaking down. Was originally going to ask to purchase as an emergency, need direction on how to proceed. Fixing the current machine is not an option. Recommend leasing to buy. T/A Wojcik explained the purchasing rules and procedures were pretty strict especially involving an emergency which has to be imminent. This is a good place to start, have to go out to bid. Solicitor Teitz explained it was in line for the Council as a lease option, if the money is not in next year's budget on June 30 can give the equipment back. Director Berlucchi was going to have to take the lease money out of the repair budget will save money and try to cover as much as possible of this unanticipated cost. President Roderick looked for a motion to advertise. Solicitor Teitz suggested having this come back at the next meeting with the specific language, was not on this agenda for permission to advertise.

BIDS AND REQUESTS FOR PROPOSALS:

DPW Director Berlucchi/Town Administrator – Request Award of Contract for Purchase of New Ford 450 Utility Truck Chassis to Tasca Ford, Cranston, RI for \$35,340

Director Berlucchi explained bid were opened on 7/17/14, just for the chassis, have a used utility engine to put this truck body on, recommend award to lowest bidder, Tasca Ford.

Councilor Gerlach made a motion, seconded by Councilor Pelletier to Award a Contract for Purchase of a New Ford 450 Utility Truck Chassis to Tasca Ford, Cranston, RI for \$35,340. Motion passed unanimously.

TOWN ADMINISTRATOR ITEMS AND ANNOUNCEMENTS:

T/A Wojcik did not have any announcements.

COUNCIL ANNOUNCEMENTS, COMMENTS AND QUESTIONS:

Councilor Gerlach was going to try to forge a discussion between Discover Newport and the EDC, will address offline. Councilor Pelletier requested an update on the search for a Building Inspector and a Maintenance Foreman. T/A Wojcik explained, had no conclusion yet, have not done a final interview. For Code Enforcement Officer, 7 resumes received; don't know how many interviews there will be.

TOWN SOLICITOR – ITEMS AND ANNOUNCEMENTS:

1. Solicitor Letters to City of Newport, RI Pilots Association and City of Fall River Regarding Seaplane Landings on Stafford and Nonquit Ponds

Solicitor Teitz provided copies of letters sent out regarding the Seaplane Ordinance.

2. GrowSmartRI Land Use Training Collaborative – Conducting Effective Land Use Reviews – September 15, 2014, FREE to Tiverton Councilors, and Board/Commission Members

Solicitor Teitz will be conducting the Grow Smart Seminar at the Town Hall on September 15, 2014. Free to Tiverton Councilors and Board/Commission members, via the Interlocal Trust, should reregister.

3. Sakonnet River Bridge Tolls

a. Defendants' Objection to Tiverton and Bristol's Motion to Intervene

b. Defendants' Memorandum in Support of Objection to Tiverton and Bristol's Motion to Intervene

Solicitor Teitz explained the General Assembly authorized the Turnpike & Bridge Authority to take down the tolls. Not permanent because of the federal decision on the impact study. The revenue stream in RI could disappear with the next budget, pushing for a final decision on the Motion to Intervene.

4. Charter Complaint Against Town Council Filed by James O'Dell – Scheduled for Municipal Court, August 26, 2014, 5:30 PM

Solicitor Teitz explained a Charter Complaint against the Town Council has been filed by James O'Dell. The Charter provides for Municipal Court Judge to hear, scheduled for August 26, 2014 at 5:30 p.m. Might go right through to Municipal Court. The Town Clerk provided a copy of the minutes from 5/14/2007 creating a Tiverton Planning Department. Solicitor Teitz questioned if the Council wanted to meet prior to discuss a defense. The Solicitor was available 8/18 or 8/21. Council consensus was 8/21 for Executive Session at the Town Hall at 7pm.

TOWN CLERK ITEMS AND ANNOUNCEMENTS:

CLOSED EXECUTIVE SESSION:

There was no Executive Session scheduled for this meeting.

ADJOURNMENT:

Councilor Pelletier made a motion, seconded by Councilor deMedeiros to adjourn, passed unanimously.

Council adjourned at approximately 12:05 a.m.

A True Copy.

ATTEST: _____ Nancy L. Mello, Town Clerk

ORDINANCE NO.2014-

AN ORDINANCE IN AMENDMENT TO CHAPTER 8

OF THE ORDINANCES OF THE TOWN OF TIVERTON

Shooting Ranges (Shooting Galleries).

WHEREAS, the Town of Tiverton has received a request from a developer who desires to build and operate an indoor shooting range within the Town of Tiverton; and

WHEREAS, the Town of Tiverton is authorized by R.I.G.L. § 5-2-5 and § 11-47-54 to license such shooting ranges or shooting galleries, and the operation without such license is a crime; and

WHEREAS, the Town of Tiverton desires to create a regulatory framework for the orderly and safe creation and operation of shooting galleries within the Town, and thus desires to create an ordinance to license and regulate shooting ranges.

NOW, THEREFORE, IT IS HEREBY ORDAINED by the Town Council of Tiverton, Rhode Island, that Chapter 8 of the Ordinances of the Town of Tiverton, currently listed as RESERVED, be amended to create the new sections as follows:

ARTICLE I. SHOOTING RANGES

DIVISION 1. GENERALLY

Sec. 8-1. Purpose.

This Ordinance is intended to regulate the establishment and operation of indoor shooting range facilities. Such recreational and training complexes, due to their potential noise impacts and safety concerns, merit careful review to minimize public safety risks and adverse effects on adjoining properties. This Ordinance does not otherwise apply to the general discharge of firearms or the use of bows and arrows in accordance with all other applicable laws or regulations. Indoor shooting ranges, whether licensed or unlicensed, are subject to this Ordinance and all other ordinances referenced; however, Section 38-105(4) shall not apply to the discharge of firearms inside or in relation to a licensed shooting range.

Sec. 8-2. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, as consistent with the definitions contained in Section 38-103 unless defined otherwise, except where the context clearly indicates a different meaning.

EPA Lead Management Guidelines means, at any given time, the latest edition of the United States Environmental Protection Agency's Best Management Practices for Lead at Shooting Ranges.

Firearm means a weapon, including but not limited to pistols, rifles, and shotguns, capable of firing a projectile using an explosive charge as a propellant.

Firing Line means a line parallel to a target from which firearms or arrows are discharged.

New Indoor Shooting Range Facility means an Indoor Shooting Range Facility that was not lawfully preexisting as of August 12, 2014.

Occupied Dwelling means any property on which is located a building or structure used wholly or partially for living or sleeping purposes and includes the words "intended, designed or arranged to be" occupied.

Safety Fan means an area on a Shooting Range Facility designed to contain all projectiles fired from a shooting range.

Shooting Gallery is the term used by the Rhode Island General Assembly and for the purposes of this Ordinance is the same as Indoor Shooting Range or Indoor Shooting Range Facility.

Indoor Shooting Range Facility means a public or private facility, including individual shooting ranges, safety fans or shotfall zones, structures, parking areas, and other associated improvements, designed for the purpose of providing an indoor place for the discharge of various types of firearms or the practice of archery.

Shooting Station means a fixed point from which firearms or arrows are discharged.

Shotfall Zone(s) means an area within which the shot or pellets contained in a shotgun shell typically fall.

Structure means a walled and roofed building that is principally above ground; a manufactured or mobile home; a storage tank for gases or liquids; or any other permanent, manmade facilities.

Target means any object or area which is used as the intended recipient of the projectiles fired from a firearm.

Town means the Town of Tiverton, Rhode Island, or the area within the territorial limits of the town, and such territory outside of the town over which the town has jurisdiction or control by virtue of ownership or any constitutional or Charter provision or any law.

Sec. 8-3. Applicability.

This Ordinance is applicable to all existing and future Indoor Shooting Range Facilities in the Town. See Division 4 for specific time limits for licensing of existing Indoor Shooting Range Facilities.

Sec. 8-4. Performance Standards.

The following performance standards shall apply to all Indoor Shooting Range Facilities:

(1) *Shot containment.* Indoor Shooting Range Facilities shall be designed to contain, and shall contain all of the bullets, shot, or arrows or any other debris on the range facility. Failure to contain all such bullets, shot, or arrows shall be prima facie evidence of a violation of this Ordinance.

(2) *Noise mitigation.* Indoor Shooting Range Facilities shall also be consistent with Section 38-136 as to all allowable noise levels and noise disturbances. See Section 8-23 for further requirements.

Sec. 8-5. Minimum Design Requirements.

Where not otherwise specified within this Ordinance or other applicable law, Indoor Shooting Range Facilities shall meet or exceed the design standards specified by the 2012 edition of the NRA Range Source Book.

Sec. 8-6. Maintenance.

Where not otherwise specified within this Ordinance, Indoor Shooting Range Facilities shall be operated and maintained in a manner that shall meet or exceed the standards specified in the 2012 edition of the NRA Range Source Book.

Sec. 8-7. Liability Insurance.

The licensee shall be required to carry liability insurance with a minimum of One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) aggregate coverage. The Town shall be notified of any policy changes or lapses in coverage.

Sec. 8-8. Penalties.

Any Person operating an unlicensed Indoor Shooting Range Facility or operating a licensed Indoor Shooting Range Facility who violates any of the provisions of this Ordinance shall be subject to a civil penalty of not less than Two Hundred Dollars (\$200) for the first offense, and Five Hundred Dollars (\$500) for each subsequent offense, plus court costs and costs of prosecution, including but not limited to attorney's fees. No penalty shall be assessed until the Person alleged to be in violation has been notified of the violation. Each day of a continued violation shall constitute a separate violation and any such penalty shall be recovered for the use of the Town.

Secs. 8-9—8-20. Reserved.

DIVISION 2. REQUIREMENTS FOR INDOOR SHOOTING RANGES

Sec. 8-21. Hours of Operation.

Indoor Shooting Range Facilities shall be permitted to operate as licensed by the Town Council. In setting hours of operation, the Town Council shall consider the character of the area and the historical use, if any, of the Indoor Shooting Range Facility.

Sec. 8-22. Developmental Requirements for Indoor Shooting Range Facilities.

Any Indoor Shooting Range Facility must comply with the following requirements, in addition to any other requirements of this Ordinance:

- (1) *Setbacks.* All Shooting Stations and Targets shall be located so as to comply with zoning setbacks without consideration of any dimensional variances.
- (3) *Access to Shooting Range.* Access to the Shooting Stations, Targets, and Firing Lines shall be secured and controlled, with ingress and egress permitted only during operating hours.
- (4) *Best Management Practices.* The Indoor Shooting Range Facility shall provide a plan outlining its best management practices relating to lead management. Said plan shall meet or exceed the standards set forth in the EPA Lead Management Guidelines.

Sec. 8-23. Noise Mitigation.

(a) *Lawful Preexisting Indoor Shooting Range Facilities.* Lawful preexisting Indoor Shooting Range Facilities shall only be liable for exceeding the noise limits set forth in Section 38-136 to the extent allowed by state law, as measured from any property line. See R.I.G.L. Section 11-47-62 and Tiverton Code of Ordinances Section 38-105(4).

(b) *New Indoor Shooting Range Facilities.* New Indoor Shooting Range Facilities shall be consistent with Section 38-136 as to all allowable noise levels and noise disturbances, as measured from any property line. Section 38-105(4) shall be inapplicable to New Indoor Shooting Range Facilities.

Secs. 8-24—8-40. Reserved.

DIVISION 3. REQUIREMENTS FOR OUTDOOR SHOOTING RANGES

Secs. 8-41—8-60. Reserved.

DIVISION 4. LICENSING PROCEDURES

Sec. 8-61. License Required.

Consistent with Rhode Island General Laws Section 5-2-5, every Indoor Shooting Range Facility (i.e. Shooting Gallery) shall require a license from the Town Council. No New Indoor Shooting Range Facility shall receive a Certificate of Occupancy nor open for business without first obtaining such license. Any lawfully preexisting Indoor Shooting Range Facility shall

apply for such license within ninety (90) days of adoption of this Ordinance (August 12, 2014), and shall not be allowed to continue operating if such license is not issued within sixty (60) days of such application.

Sec. 8-62. License Application.

An applicant for a license under this Chapter shall submit an application to the Town Council in a form adopted by the Town Clerk and provided by the Town Clerk.

Sec. 8-63. Fees.

There shall be an application fee of Fifty Dollars (\$50.00), as authorized by R.I.G.L. Section 5-2-6, and the applicant shall be responsible to reimburse the Town for reasonable costs of engineering and other professional services as needed to review the application, and for advertising of the public hearing as set forth herein.

Sec. 8-64. Required Information.

The applicant shall provide sufficient information to demonstrate compliance with all of the provisions of this Ordinance.

Sec. 8-65. Site Plan.

A site plan for the entire Shooting Range Facility which shows the following applicable information drawn to an appropriate scale, shall accompany the license application:

- (1) Property lines for any parcel upon which the Shooting Range Facility is to be located, north arrow, plan scale, date, and ownership information for the site;
- (2) Complete layout of each Shooting Range Facility, including, Shooting Stations and Firing Lines, Target areas, shot-fall zones or backstops, berms, and baffles, if any;
- (3) In addition, any New Indoor Shooting Range Facility submitting an initial application must also provide in its site plan: existing Structures and Occupied Dwellings within four hundred (400) feet; roads, streets, or other access areas; buffer areas; and parking areas for the Shooting Range Facility; and
- (4) Any other appropriate information related to the specific type of Shooting Range Facility, whether existing or proposed.

Sec. 8-66. Background Check.

Upon receipt of an application by an unlicensed Indoor Shooting Range Facility, the Town's Police Department shall conduct a criminal records check on the owner and lessee, if any, of the Indoor Shooting Range Facility and on the individual designated to operate the Indoor Shooting Range Facility, if different from the owner or lessee. In the case of an Indoor Shooting Range Facility owned or managed by a non-profit organization or association, the Town's Police Department shall conduct a criminal records check on the officers of that organization or association. Upon completion of the criminal records check, the Police Department shall forward its findings to the Town Council.

Sec. 8-67. Town Council Hearing.

The Town Council shall hold a public hearing to determine whether to issue a license. Upon receipt of an application by an unlicensed Indoor Shooting Range Facility, notice of such public hearing shall be advertised at least ten (10) days prior thereto, and mailed by regular mail to the owners of all property within four hundred (400) feet of the perimeter of the property on which the Indoor Shooting Range Facility is located, at least fourteen (14) days prior to the hearing. Renewal applications for a licensed Indoor Shooting Range Facility shall only require advertising and shall not require notice by regular mail.

Section 8-68. Term of License, Renewal, Transfer.

Such license will be valid from December 1 of each year until November 30 of the following year. Partial year licenses shall expire on November 30. Prior to the license's renewal, the Indoor Shooting Range Facility shall be re-inspected by the Town's Police Department. License renewals shall require a public hearing. A license issued pursuant to this Ordinance may

not be transferred to another operator and/or owner without the written approval and consent of the Town Council following a public hearing and notice as if it were a new license.

Secs. 8-69—8-80. Reserved.

DIVISION 5. COMPLIANCE AND ENFORCEMENT

Sec. 8-81. Abandonment and Discontinuance.

The non-use of an Indoor Shooting Range Facility for a period in excess of one (1) year shall create the presumption that said Indoor Shooting Range Facility is abandoned, and any current, valid licenses issued shall terminate. Any previously-licensed Indoor Shooting Range Facility that has not held a valid license within one (1) year shall require a license as a New Indoor Shooting Range Facility for the purposes of this Ordinance.

Sec. 8-82. Changes or Expansions.

If any Indoor Shooting Range Facility is intended to be substantially changed or expanded to include types of shooting ranges, operations, or activities not covered by an existing license, a new license for the entire facility shall be secured in accordance with all of the provisions of this Ordinance. Further, any license issued hereunder does not relieve the licensee of compliance with all other applicable Town ordinances.

Sec. 8-83. Enforcement.

The Town's Police Department shall be responsible for the enforcement of this Ordinance and is authorized to inspect any licensed or unlicensed Indoor Shooting Range Facility. The Town's Police Department shall inspect any Indoor Shooting Range Facility prior to the grant of a license, during the course of license in response to complaints, and from time to time. Any violation of this Ordinance or of any condition or requirement adopted pursuant to these provisions may be restrained, corrected, or abated, as the case may be, by injunction or by other appropriate proceedings as allowed by state law.

Sec. 8-84. Penalty for an Indoor Shooting Range Facility in Violation of this Ordinance.

- (a) Violators of any of the provisions of this Article shall, upon conviction, be punished according to the provisions of Section 8-8.
- (b) Suit may be instituted in the Superior Court in the name of the Town to restrain any violation of, or compel compliance with, this Ordinance.
- (c) The Chief of Police may suspend any license for reasons of immediate public safety, with the duration of such suspension being not longer than the time until the next regularly-scheduled Town Council Meeting. The Town Council may, on its own, suspend any license for reasons of immediate public safety, with the duration of such suspension being not longer than the time until the next regularly-scheduled Town Council Meeting at which an adequately-noticed show cause hearing can be held.
- (d) The Town Council shall have the authority, following adequate notice to the license holder and a show cause hearing, to suspend or revoke any license obtained under provisions of this Article for violations of any provisions of this Article.

Secs. 8-85--8-100. Reserved.

THIS ORDINANCE SHALL TAKE EFFECT UPON PASSAGE. (Passed 08-12-2014)