

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

The Town Council of the Town of Tiverton, County and State aforesaid held a Special Meeting on Monday, the 20th day of July 2015 at 7:00 p.m. at the Tiverton High School – Auditorium, 100 North Brayton Road.

MEMBERS PRESENT:

Council President deMedeiros , Vice-President Chabot, Councilor Lambert, Councilor Peter Mello, Councilor Pelletier, Councilor Perry and Councilor Sousa.

Town Administrator Matthew Wojcik was present and Town Solicitor Stephanie Federico was also present.

1. Call To Order:

President deMedeiros opened the Special Meeting with the Pledge of Allegiance to the Flag then called the meeting to order at approximately 7:08 p.m. Town Clerk Nancy Mello conducted the Roll Call.

PUBLIC HEARINGS CONTINUED FROM JULY 7, 2015

2. Public Hearing for Town of Tiverton Comprehensive Community Plan Proposed Amendments with Planning Board Recommendations - Requested by Carpionato Group, LLC Seeking to Amend Section 3.3 and Figure 5-4/Future Land Use Plan to include Plat 110-Lot102; Plat 301-Lot 220; Plat 301 Lot 221

President deMedeiros reminded the audience that the 14 people who signed up at the last meeting would be allowed to speak at the beginning of the meeting then the Town Planner will give a presentation on the changes and give recommendations then continue the public hearing for discussion. President deMedeiros called three names at once. Beth Clark, Reed Street, was opposed to any changes in the Comprehensive Community Plan (Comp Plan), urged Council to respect pleas from the community to vote no. President deMedeiros noted she was using her phone as a timer, made clear was not texting on the phone. Russ Smith, Meadow View Lane, was much opposed preferred Town focus on vacant store fronts on Main Road. Martin Van Hof, Bulgarmarsh Road opined totally inappropriate for developers to write the Comp Plan, this development is inappropriate for Tiverton. Matthew Krzych opined message made clear by the citizens, should vote no, if not will be doing a disservice to the residents. Andrew Tavares, Budd Way, did not want to change the quaint rural community, asked the Council not to change the Comp Plan or zoning. Ann Devine, Gadsby Lane, requested the Council follow the mandates of the residents and vote no, affects all residents including those in the South end. Jim Devine, Gadsby Lane, agreed, doing a disservice to the people who live here, should not vote for it. Chee Laureanno rebutted some of the accusations that have appeared in newspapers regarding the director of Carpionato. Cited various pages from the Comp Plan relating to new commercial and retail development. Ms. Laureanno was for the development, urged the Council not to listen to the vocal majority. Another resident who signed up to speak but was not called was given the opportunity to speak. Gayle Lawrence, Long Pasture Way, questioned the need for a big box store Tiverton, questioned why the Comp Plan should be changed to meet the developer's needs, urged the Council to vote against the changes. President deMedeiros requested anyone else who signed up to speak to come forward.

At this point Town Planner Marc Rousseau commented on the Planning Board's positive recommendations. Those recommendations were consistent with the existing Comp Plan; need to diversify the tax base with non-residential development. Residential use has greater impact 82%, commercial 9%, industrial 1%. Mr. Rousseau offered an amendment to section 3.3 for Tiverton's economic development, to protect the Town regarding the size, scope and scale to make sure it fits in the community properly. The proposed amendment included mixed use development shall include a

mix of uses including retail, restaurant, hotel, research and development, commercial and professional offices. The overall density of uses shall be appropriate for the site and comply with established site design regulations including any existing and future mixed use development design standards and guidelines approved by the Tiverton Planning Board. If a mixed use development is developed in phases, each phase shall maintain the proper mix of uses. Measures should be taken to mitigate negative impacts. Councilor Lambert questioned if residential should be included in the mix of uses. Mr. Rousseau agreed that use should be included. Councilor Sousa questioned what lots in that area were in litigation. An outburst came from a member of the audience, was repeatedly warned he would be removed. Councilor Sousa was willing to work with the developer, would work in the best interests of the Town. President deMedeiros requested people not to yell from the audience. The Council will make a decision on what is being heard, there is no reason to yell. Councilor Pelletier noted the specific language proposed by the Town Planner, questioned if any consideration was given to the parcels south of Route 24 on the west side of Fish Road. Rosemary Eva, not speaking for the Planning Board, recalled that language was not before the board, no consideration was given to that side of the highway.

President deMedeiros explained the public hearing would continue for anyone new, those who did not speak last time, those who signed up on tonight's list, for comments on the Planner's suggestions or on the Comp Plan amendments. Bruce Hathaway clarified for Councilor Sousa those 44 acres are zoned Highway Commercial (HC). Ron Cline, Sousa Road, across the street from the proposed restaurant had an issue with the zoning. Was HC when he bought his house, across the street it was changed to residential. Questioned if he could hook up to the sewer system that runs under Sousa Road. President deMedeiros will pass his inquiry to the Wastewater District. Jan Wenzel, Middle Avenue called the Tiverton Glen a bad idea, has too many unknowns. Marc Pfeiffer, South Court, noted the abundance of square footage available in the area for retail. Patti Sousa-Cooper, Beech Avenue, called the project too big. Barbara Pelletier, Bonniefield Drive, opined time was running out to revitalize, should proceed carefully, and could be a great opportunity handled in a careful manner. Lynn Perrault, Neck Road, agreed about moving forward, found this a strange argument to change the Comp Plan. Brian Dolan, Cypress Avenue, spoke against any changes, should consider the wildlife in the area. Kristen Connick, Salisbury Street, requested keeping the Comp Plan the way it is. Paul Amaral, Watermark Drive, read a statement, requested the Council make decisions in a calm and rational manner. Urged the Council to vote no, not the answer to economic concerns. Constance Fleckenstein, Cottage Avenue, noted all but two people were for the development. Jennifer Escher, Reed Street, commended the Council for the job they are doing, thanked them for that service, called the development outdated, not a revenue solution, cannot have outside people rewrite the Comp Plan. Ted Tsiongas, Main Road reminded the Council of their duty. Jay Hadfield, Stone Church Road, called Tiverton the last great rural place in RI. Lou Viola, Old Main Road, reminded the Council residents will think of them when they sit in traffic if the Council votes to support this. Susan Anderson, on behalf of the RI Historical and Preservation Commission read a prepared statement on the overwhelmingly adverse effects, too much historic fabric would be sacrificed. Ms. Anderson emailed amendments to the Council President regarding the open space and historic district in this area. Nancy Driggs, Peaceful Way, questioned if the Council authorized the Solicitor to talk with Attorney Moses for the Carpionato Group. President deMedeiros would look into it, could not answer that question. Councilor Lambert noted that would be totally improper for an attorney to confer with the client of another attorney.

President deMedeiros called for a 15 minute break at 8:35 p.m.

Council returned from break at approximately 8:55 pm, President deMedeiros continued to call the names of those who signed up to speak. Jodi Donnelly, Robert Gray Avenue thanked the Council for

their dedication, had not seen any signs in support of the mall, urged the Council to reject the changes to the Comp Plan. President deMedeiros reminded the audience to direct all comments to the Council. Roger Gauthier, Rear Highland Road, questioned why the proposed amendments were being done this way, why weren't they being forwarded to the Comp Plan Committee? Solicitor Federico explained according to RIGL 45-22.2-8, subsection b, any additions to the Comp Plan will be conducted in accordance with the following provisions: in addition to any provisions that may be required by law prior to adoption or amendments the Town Council shall conduct a minimum of one public hearing. President deMedeiros noted the Planning Board brought this forward to the Council. Solicitor Federico added according to RI General Law there is supposed to be a systematic review of the Comp Plan every 5 years and the law allows any Town Council to make amendments up to 4 times per year. Mr. Gauthier questioned why this was being done separately. President deMedeiros explained an application was received from the developer, the Planning Board recommended changes, and then was sent to the Council. If a majority of the Council voted to, these amendments could be forwarded to the Comp Plan Committee. Linda Jenkins, Rim Rock Court, requested the Council listen to the constituents to uphold the Town Charter and the existing Comp Plan.

Ashley Hahn, Exeter Planner, commented in deference to Town Planner Rousseau's comments, all elements need to be considered when making changes to the Comp Plan. Did not know how the Council could consider the 6 or 7 proposed amendments tonight without seeing the complete package. Council has no obligation under State law to consider an amendment submitted by a developer, could have them remanded to the Comp committee. Read into the record a letter commenting on a letter from Joe Pierik, Carpionato Group, will be left with a document inconsistent with zoning which will conflict with every other part of the Comp Plan. Ken McGonagle, representing Don't Mall Tiverton, opined the Council has every legal right to reject the proposed changes. Barbara Martin, Neck Road, noted a number of local businesses signed the petition against the Comp Plan changes. President deMedeiros requested those petitions be submitted for the record. Linda Walsh, Highland Road, thanked those on the Planning Board who voted against the changes. William Libby, Blish & Cavanaugh, representing Joe McInnis, owner of one of the parcels in that area made two observations: the proposed changes seek to follow a direction set in the Comp Plan, the Planning Board implements on a project specific basis. Requested on behalf of Mr. McInnis to not defeat or foreclose the application to create a balance. Dave Castro, mainly objected to the plan based on the size, scope and impact on Main Road, water retention, remediation and auto fluid run off. Cecil Leonard, Neck Road, commented about water, how will it be supplied, questioned the Town governance structure. Mr. Leonard had proposed changes to number 10, has been no discussion on these changes. Renee Jones suggested saying no; allow the Planning Board and the CPAC committee to complete these proposals under the review of the Comp Plan. Brendan McNally, Highland Road, was against the proposed changes, the Town itself was not pushing these changes. Paul Troia, Summerfield Lane, majority of neighbors against the plan, requested Council reject the changes for one developer. Kelly Coates, Carpionato Group, spoke about various developments in the State. Have withdrawn the ordinance changes the attorney submitted, happy to comply with the Planning Board recommendations. First met with the Council in April 2013, received permission to go forward with this project. RIDOT has granted conceptual approval to a new frontage road access for an egress from the project from Route 24, Fish Road west to the off ramp, appreciate Council consideration. Susan Benesch, Brackett Avenue, cited the definition of a glen, was not a field of asphalt, liked the quiet nature of the Town, urged the Council to reject the changes. Howard Benesch, Brackett Avenue, agreed, was opposed to this development, talking about the essence of Tiverton; should vote to preserve the rural quality of this Town. Ron Marsh, Four Rod Way, commended the Council for trying to get something new. Carpionato trying to get something bigger, hope the Council votes no tonight. Dale Morrow, Indian Point Road, part time resident, requested the

Council to not change the Comp Plan. Albert Cormier, Souza Road, was an abutter; the hills have an historic sign for WPA 1939. Developers did not speak to Mr. Cormier, the Douglas property is industrial, lot 301 is in the historic zone, have beautiful vistas, opined the proposed amendment was ridiculous. Louise Durfee, Highland Road, opined to say this development fits the Comp Plan is nonsense, three days before the July 7th meeting have a proposal to override the Planning Board in its entirety should refer this to the CPAC committee to be vetted to go before the majority of the people. President deMedeiros responded to a question from an unnamed speaker, what is before the Council are the recommended changes from the Planning Board. Mr. Coates presented the Council President with a letter prior to the start of the meeting, withdrawing the proposed amendments by Carpionato. Councilor Pelletier reminded the audience that the Council was addressing the proposed changes to the Comp Plan, have not begun to address the proposed zoning changes. President deMedeiros closed the Public Hearing, taking a short break, Council returned at 10:10 pm.

Council President deMedeiros called for comments from the Council at this time.

Councilor P. Mello made a motion to vote against the changes to the Comprehensive Plan. Seconded by Councilor Pelletier for discussion. Councilor Sousa attended many meetings, listened to the public, was scared by the size and scope of the plan, calls for 90 apartments. At this time was not willing to change the Comp Plan to allow mixed use development in this area. Councilor Lambert noted it was important to keep in mind this is not a vote for a developer's application by Carpionato it was for considering a large mixed use development for the McInnis and Britto property. Believed Councilor Sousa was right about the history in March 2008 it was changed from Highway Commercial to R40. Around 6 weeks later the Planner at that time sent a letter saying the application was incomplete upon advice of counsel. The issue tonight, does the Town need commercial development and tax relief in this community. Councilor Lambert cited numerous surveys comparing RI rankings for the economy, jobs, unemployment, motor vehicles, state tax and tax revenue. Solicitor Federico requested the public allow the Council members to speak. Councilor Lambert continued citing various statistics including the 0.25 RI population increase compared to larger increases in other states. Several outbursts occurred from the audience, President deMedeiros called for order. Councilor Lambert continued commenting noting the Council has no legal right to dictate what can be put in those spaces, regulated zoning, is a matter of when. On the north side of Sousa Road a new development is proposed for 192 single family homes, nothing can be done legally to prevent this development. Not going to be able to get away with changing zoning to avert a developer's plan. Relative to the Osbourne Historic District, it is private property, the only way to get a building off the register is to modify or demolish. Councilor Lambert had two requests; some speakers indicated the fix was in, this claim was also put in as part of the record in this case, asked them to give names and facts to the appropriate law enforcement officials, requested from the Council President if the Town Solicitor can provide the Town Council with confidential client analysis on the chance the property would revert to Highway Commercial in any future judicial or administrative proceeding. The second request was for the attorney to have an analysis of the risk for litigation for any interested party and if the cost of the award would be covered by insurance. Councilor Chabot, for full disclosure, did go on the site visit, open to the public, did attend Planning Board meetings. Listened to the speakers here and on the 7th, concerns include the Historic Osbourne Bennett District, traffic, gridlock, water supply, blasting noise, devaluation, national chains versus local businesses, State road maintenance and the existing businesses that are legal non-conforming. Many signed petitions, reflect the citizens of the Town, do represent the citizens subject to the Charter, Comp Plan and ordinances. The CPAC committee continues to move forward, concern is this is being separated from those efforts. Reviewed the fiscal impact study, found gaps, does not address collateral damage to existing business or as far as cost for

Police, Fire and School. Does not address the phased in approach, gives a bottom line number assuming all phases are developed. The Comp Plan mentions a mixed use Town Center, is very specific, this is a large scale development. Have to agree about having CPAC review, found mention of mixed use development in other areas, should be updated. Appreciated the efforts of the Town Planner from Exeter on identifying some of the issues. Element number 10 submitted by Cecil Leonard should really go to the CPAC committee. Have listened to everyone's concerns, thanked all who came out on these two hot nights and for all the emails and phone calls. President deMedeiros questioned if Councilor P. Mello wished to amend his motion to remand all the proposed changes to the CPAC committee. Councilor P. Mello preferred a straight up and down vote. Councilor Pelletier thanked all for enduring the heat and humidity, appreciated all the input. Everything that was received was forwarded to the Clerk, had 102 emails, 1 letter, there were 4 in favor, the remainder were against. Councilor Pelletier pointed to the proposed zoning amendment as it relates to the Comp Plan, RIGL 45-24-30, zoning regulations shall be developed and maintained in accordance with the Comp Plan and may be amended according to Chapter 22. Questioned if the proposed amendments are generally consistent with the Comp Plan, conclusion was the Planning Board finding was consistent as amended, contingent upon the Council finding in the affirmative the changes in the Comp Plan to accommodate it. Have an ad hoc committee called the Land Use Procedural Improvements Committee which has the Town Administrator, Solicitor, Planner, members of the Planning Board and Councilor Pelletier. Spent a lot of time talking about procedure and protocol. Councilor Pelletier concluded over the decades it has been made difficult for homeowners to do certain things. Councilor Pelletier opined taking the proposed Comp Plan changes without looking hard at what it is we are really doing does not make a lot of sense. Would be happy to forward all the proposed changes to CPAC for consideration and have them deliberate on these issues. Councilor Sousa questioned the direction the Town would be going in with all these properties, need to continue to discuss with the developers. Questioned the Solicitor if the Town does not negotiate. President deMedeiros explained there was a motion on the floor, could discuss that after the vote on the motion. Councilor Perry thanked everyone for coming out and expressing their personal opinion. Went on a drive to find rural Tiverton via three routes, opined it could be found south of Route 24. Noted the Planning Board was listening to this item for over two years, attended many of those meetings as well. Have their recommendation. President deMedeiros thanked everyone for coming, encouraged all to go to a Planning or Zoning Board meeting, perhaps join some of the committees. President deMedeiros called for the Clerk to repeat the motion. Town Clerk Mello noted the motion from Council P. Mello was to vote against any changes to the Comp Plan, seconded by Councilor Pelletier for discussion. Councilor Pelletier wanted to clarify what the motion was to vote against the development, would have to vote yes to vote against it. Councilor Pelletier suggested the motion should be to reject the changes proposed to the Comprehensive Community Plan by the Planning Board subject to the attached language. Councilor P. Mello agreed to modify the motion to Reject the changes proposed to the Comprehensive Community Plan by the Planning Board subject to the attached language, seconded by Councilor Pelletier.

The Roll Call vote was as follows: Councilor Sousa – yes, Councilor Perry – nay, Councilor P. Mello – yes, Councilor Lambert – nay, Councilor deMedeiros – yes, Councilor Chabot – yes, Councilor Pelletier – yes. Motion passed on a vote of 5-2.

President deMedeiros called for a motion to send the proposed changes to the CPAC committee.

Councilor Pelletier made a motion to send all the received correspondence and proposed amendments for changes to the Comprehensive Community Plan to the Comprehensive Plan Advisory Committee for review and consideration. Motion was seconded by Councilor Chabot, discussion

followed. President deMedeiros was referring to all the proposals that were submitted last week including the Planner's proposed amendment and recommended language. Councilor Pelletier affirmed, Councilor Lambert questioned if these would be coming back to the Council again. Solicitor Federico explained through the Planning Board the Council would eventually receive recommendations on entire multiple amendments and recommendations incorporated within would be part of that entire package. On a roll call vote the motion failed 3-4, Councilors deMedeiros, Chabot and Pelletier voting in favor, Councilors Sousa, Perry, P. Mello and Lambert opposed.

Councilor Sousa raised a question for the Solicitor as to where the Council goes from here. Would like to see the Council meet with the developer to continue to discuss a project that will fit the size and scope of the Town. There used to be a commercial highway district approved by the Comp Plan, could have pre-approved zones off Route 24. Solicitor Federico responded, at this point in time the applicant has no obligation to engage in conversation with the Council. Would be happy to provide the Council with a memo as to any options moving forward. Councilor Sousa wanted the Council to still discuss this with the developer. Councilor Pelletier opined any discussions should start with the Town Planner. President deMedeiros made clear the Council cannot talk to the developer, the Council as individuals cannot talk to developers and try to make a plan. Solicitor Federico will research this matter. Councilor Sousa was proposing a developer could come to a public meeting with a proposal to discuss. Councilor Lambert wanted to make sure this request was part of the record, would like to have an analysis, an evaluation, an opinion from legal counsel as to whether we have any exposure for a legal case to the Town. One change relates to the zoning, would like to know the Town 's exposure and if it goes back to Highway Commercial will the Town have a damage claim that might include attorney's fees, damages, punitive damages and as part of that answer would like to know if the Town would be indemnified for any of those losses. President deMedeiros will have Solicitor Federico research for a future agenda, may not be in the next two weeks.

3. Public Hearing for Proposed Amendment to Zoning Map and Text Amendments with Planning Board Recommendations -Relative to Tiverton Crossings a/k/a Tiverton Glen as Submitted by Carpionato Group, LLC – Plat 110-Lot102 (0 Souza Road); Plat 301-Lot 220(0 Main Road); Plat 301 Lot 221(1148 Main Road) – Seeking to Change Zoning Designation from R-40 to Mixed Use Development District

a.Additional Requested Amendments by Applicant Carpionato Group, LLC to be Presented

This item was not addressed.

3. ADJOURNMENT:

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

The Special Meeting adjourned at 11:20 p.m.

A True Copy.

ATTEST: _____ Nancy L. Mello, Town Clerk