

**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 11th day of April 2016 A.D. at 7:00 p.m.

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

Roll Call:	Denise M. deMedeiros - President	Jay J. Lambert	Peter A. Mello
	Joan B. Chabot – Vice President	Brett N. Pelletier	David Perry
	Joseph R. Sousa		

Town Administrator, Matthew Wojcik and Town Solicitor Anthony DeSisto were also present.

Approval of Consent Agenda:

All items listed with “(CA) “are to be considered routine by the Town Council and will ordinarily 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 and the Town Council President permits, in which event the item will be removed from Consent Agenda (CA) consideration and considered in its normal sequence on the agenda.

Council President deMedeiros read the items on the Consent Agenda. Councilor Lambert requested removal of items A1a, Executive Session minutes from March 28, 2016. Councilor Lambert also requested removal of items CA3b, Rosemary Probasco, **Friends** of Tiverton Libraries Letter Regarding New Tiverton Library and CA8, Town Planner Marc R. Rousseau – Administrative Officer Report of Activities for March 2016. President deMedeiros requested removal of items CA5, Town Council Proclamation for Tiverton Litter Clean Up Week – Saturday, April 30th Through Saturday, May 7th and CA7, Approval of Resolution in Support of Budget Article 15 Relating to Municipalities and Governor’s FY 2017 Budget - Regarding Statistical Revaluations. Solicitor DeSisto requested removal of item CA11, Joseph Bossom, Cornell Road – Noise From Windmill – Referred to Town Solicitor.

Councilor Pelletier motioned to Approve the rest of the Consent Agenda except for those items removed. The motion, seconded by Councilor Perry passed unanimously.

The Consent Agenda was as follows:

CONSENT AGENDA

A-1-Approval of Minutes of Previous Meetings:

- b. Approval of Council Special Meeting Minutes of February 29, 2016
- c. Approval of Regular Council Meeting Minutes of February 22, 2016
- d. Approval of Special Council Meeting Minutes of March 5, 2016

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

- a. Harbor and Coastal Waters Management Commission
- b. Tree Commission
- c. Board of Canvassers (2)

A-3-Correspondence – Receive and File

- a. CRMC Public Notice Application From Westport I Trust, 1660 Main Road to Construct and Maintain a Residential Boating Facility
- c. Burrillville Town Council Resolution In Support of Legislation Restoring Funding for the State Aid to Libraries to the Full 25 Percent

A-4-Approval of Tax Assessor’s Abatements

A-6-Tiverton Garden Club – Permission to Hang Two Banners on Town Property for Tiverton Clean-Up Week from Saturday, April 23rd to Saturday, May 7th on Fence at Bulgarmarsh Road Playground and at Town Farm Garden on Main Road

A-9-Town Administrator - Police and Fire Overtime Report for March 2016

A-10-Town Administrator – Departments Monthly Reports for March 2016

BUSINESS BROUGHT BEFORE THE COUNCIL

A-1-Approval of Minutes of Previous Meetings:

a. Approval of Executive Session Minutes Council Meeting March 28, 2016

Councilor Lambert explained this was for clarification can be taken under Executive Session.

CA-3-Correspondence – Receive and File

b.Rosemary Probasco, Friends of Tiverton Libraries Letter Regarding New Tiverton Library

Councilor Lambert opined it was important for all to understand the tremendous response to the new library and the use of the library. Read from a portion of the letter on the number of visits that have more than doubled. Boards and Commissions are using the meeting rooms; noted it was important to emphasize on the behalf of the Library they are serving the community.

CA-8-Town Planner Marc R. Rousseau – Administrative Officer Report of Activities for March 2016

Councilor Lambert in a question for the Town Planner, Marc Rousseau, wanted to understand what it meant on page 2 under Major Subdivisions, a Certificate of Completeness for Tiverton Heights was issued on a Comprehensive Permit application for 305 units on a 135.88 acre site on Souza and Fish Road. Mr. Rousseau explained there will be a public hearing in 120 days on this application; the Planning Board will render a decision unless it is extended, and 25% is for low to moderate income under federal statute.

Councilor Perry motioned to approve items CA3b and CA8. The motion, seconded by Councilor Sousa passed unanimously.

CA-5-Town Council Proclamation for Tiverton Litter Clean Up Week – Saturday, April 30th Through Saturday, May 7th

President deMedeiros read the Proclamation for Tiverton Litter Clean Up Week.

Councilor Perry motioned to Approve the Proclamation for Tiverton Litter Clean Up Week – Saturday, April 30th Through Saturday, May 7th. The motion, seconded by Councilor Pelletier passed unanimously.

A-7-Approval of Resolution in Support of Budget Article 15 Relating to Municipalities and Governor’s FY 2017 Budget - Regarding Statistical Revaluations

President deMedeiros read the Resolution regarding statistical revaluations. Councilor Pelletier questioned if the revaluation was extended for the fair value then wouldn’t there be additional appeals, capturing more of the real estate cycle. Solicitor DeSisto explained under current RI Law it is done every year on the Fair Market Value (FMV) of the property. The statutory language is the value of your property assessed on December 31 of the year last passed; on the current cycle stays that way for the 3 years until there is either a statistical update or a full revaluation. Some taxpayers say they shouldn’t be frozen on that date. Tax Assessor David Robert was asked if he supported this resolution. Mr. Robert explained the RI Assessors Association was not in favor as they prefer to mimic the market; a study done in 1996 indicated frequent revaluations were more beneficial. Understands the monetary savings but the Assessors Association has always believed the 3 year cycle to be better so it truly reflects market value or closer to it. In a flat market the results won’t matter too much. The resolution was requested by Councilor Sousa. Councilor Pelletier suggested the \$25k savings could easily be used up in a bad cycle year.

Councilor Sousa motioned to forward this Resolve to the General Assembly. Seconded for discussion by Councilor Perry the motion failed on a vote of 1-6, Councilor Sousa in favor, Councilors Perry, P. Mello, Lambert, deMedeiros, Chabot and Pelletier opposed.

A-11-Joseph Bossom, Cornell Road – Noise From Windmill – Referred to Town Solicitor

Solicitor DeSisto noted Mr. Bossom was in the audience, have briefly discussed this with him, there is noise from the windmill that is near his property. Solicitor DeSisto will research and contact Mr. Bossom directly to see if there is anything the Council can do because of the structure of the turbines; will see if the Council can do anything from a regulatory standpoint. Mr. Bossom hoped it could be changed to a 3 bladed prop which is has less noise.

Councilor Pelletier motioned, seconded by Councilor Chabot passed on a vote of 6-1, Councilor Sousa opposed.

Item moved up in the agenda.

Councilor Chabot motioned to move up item H-1- Open Public Forum for Announcements, Comments and Questions to this point in the meeting. The motion, seconded by Councilor Sousa passed unanimously.

H-1-OPEN PUBLIC FORUM FOR ANNOUCEMENTS, COMMENTS, QUESTIONS

President deMedeiros noted the Council cannot comment or make decisions as this subject is not on the agenda. Solicitor DeSisto suggested those members of the public speak first. Nick Prizio, Plantation Drive purchased a home in July 2015 according to the purchase and sale agreement it was based on a working water and sewer line. It was inspected and authorized in 2011, approved as is. Four homes were connected, so this usage did not cause the system to break. Since this occurred later Mr. Prizio opined it was between the Town and the developer; questioned why those residents should have to pay for a newly redesigned system. The residents received a notice about an April 6 meeting of the Tiverton Wastewater District (TWWD) in which they were going to assess each of those residents \$10,600 for the 14 homes currently in that development. Mr. Prizio understood the road was private, the developers did not meet the requirement, wanted to know why the cost could not be taken out of the bond. A records request was submitted to the Town Clerk for documentation on who authorized the connection; it worked in Fall River but failed on Plantation Drive. All those residents bought houses on the existing development, based on a working sewer line; should be on the Town to pay. Brian Falconer, Plantation Drive bought a home in September 2015, received a letter from the TWWD on 3/30/16 telling those residents the sewer system experienced a significant failure; informed the residents they would be responsible for paying over \$10 or liens will be placed on the property. Mr. Falconer opined the residents should not be responsible; understands the sewer ties into the town; believed the Town and engineer should be responsible, requested to be on the agenda for some resolution. Eric Ferraz, Plantation Drive, was in the process of building a house, also received a letter, and did not know how he could be assessed that amount on a system he has yet to use; was seeking answers.

Solicitor DeSisto was aware of the situation, has contacted the attorney for the developer; have several proposals to remedy; agreed the homeowners should not have liability. The Town is working to make sure this is funded properly; the person primarily responsible was the one who installed and profited from this. The homeowners have warranty deeds; the Town will cooperate and do as much as possible to remedy. Mr. Prizio noted the TWWD will assess the homeowners in 3-4 week. Solicitor DeSisto noted there were issues of comparative negligence, understood the timeline and was working as quickly as possible on this issue. It was not the Town's idea the TWWD decided; Councilor Pelletier explained the TWWD is not an arm of the Town; they do not have to ask the Council for permission.

B-PUBLIC HEARINGS & PUBLIC PRESENTATIONS:

1. Demolition of Unsafe Buildings – Status Update – Continued From March 28th Dennis & Donna Silvia, 1588 Bulgarmarsh Road – Plat 215, Lot113

Solicitor DeSisto explained this item has been continued for several agendas, the paperwork is all set; the demolition permit should be pulled this week. President deMedeiros opened the Public Hearing, called for comment from the public three times, hearing none closed the public comment portion, called for Council comments. Councilor Sousa questioned if the demolition included all the structures on the property; Solicitor DeSisto confirmed with the Building Official that it did.

2. Town Solicitor – Approval of Proposed Amendment Article 11 (Definitions) and Article V sections 3, 4, & 10 (Use Table) - Medical Marijuana Ordinance – Continued From March 28th

a. Planning Board Recommendation

President deMedeiros explained this public hearing was continued in order to give Councilors more time to get additional information. Councilor Sousa questioned if restrictions could be put on co-operative grows to govern for electrical inspections; was concerned about fires. Solicitor DeSisto explained State Law covers all requirements for all co-operative grows; a statement has to be affixed to the building stating that it complies with all state and local codes including electrical. Councilor Chabot read Chapter 21-28, the only thing that references zoning is the cooperative cultivation; leaves basically all other types open and not subject to zoning. Solicitor DeSisto opined the marijuana cultivation center and compassion center, although not stated explicitly in the act these two are subject to zoning as the cooperative grows are too. Councilor Chabot did research, 23 other states allow medical marijuana, some are set so the facility is not within 1,000 feet of a school; opined the Council could incorporate that; confirmed that personal residential cultivation was permitted and not restricted by zoning. Solicitor DeSisto concurred it was permitted by right. Councilor Perry brought this up several months ago should be restricted to R30, 40, 60 and 80; was in favor of the Planning Board recommendation under item B2a.

President deMedeiros opened the hearing to public comment. Police Chief Thomas Blakey would like to see some verbiage be more defined such as a distance from a boundary line. Solicitor DeSisto noted if this passes then that could be worked on later. President deMedeiros pointed out for personal use some residents live near schools and need medical marijuana. Chief Blakey clarified; this was to be more specific for the cooperative grows, not for the medical marijuana. Councilor Chabot added for recreation areas as well. President deMedeiros affirmed this proposed ordinance does not include residential cooperatives or cultivation centers. Councilor Lambert was comfortable with the definition for personal residential cultivation. Joe Bishop, Cornell Road did not agree with the Solicitor; there isn't any zoning in State law except for residential. Questioned how this could be enforced if there is no zoning requirement at State level. Mr. Bishop has stopped growing, tried to get a residential cooperative because of the financial burden. Joanne Lebanon, Patient Advocacy Coalition, agreed with some of the points presented by the ACLU letter; this ordinance is not in conformance with State Law. There are 3,500 caregivers in the State, can have up to 5 patients each. This will be denying medicine to the people who need it the most. The price at the compassion center costs more, because of confidentiality of the program hard to know the number. Right now if you are a patient and growing you don't have to report to the State. President deMedeiros who works as a nurse did ask around and noted there are patients who don't have a caregiver but can get some through a pharmacy. Ms. Lebanon believed that was marinol, synthetic THC, have been working with oncology departments however pharmacies cannot sell, only compassion centers. Councilor Perry sympathized, gets medication from pharmacy, would be better controlled by a drugstore. Neil Hall, Building Official, went to two locations in Town that would have required extensive electrical permits as well as air and heating insulation. These people have since left Town, live in other states. President deMedeiros called for additional comment, hearing none closed the public hearing.

Councilor Pelletier opined there was compelling evidence that the phrase explicitly excluding caregivers was unreasonable. Councilor Lambert agreed, suggested deleting that last sentence from Personal residential marijuana cultivation. At this point President deMedeiros called for a motion.

Councilor Pelletier moved the Council Adopt the Ordinance with modifications to Personal residential marijuana cultivation definition that eliminates in its entirety the last sentence. Questioned if the use table needed to be changed, Solicitor DeSisto noted it was included in the definition. Councilor Chabot noted in that definition by adding the word patient it eliminates the word cardholder. Solicitor DeSisto suggested amending to add “by a single registered patient or caregiver cardholder”. Councilor Lambert seconded the motion, discussion continued. Councilor Sousa expressed concern for Police and Fire; had reservations, understood this does some good but concerned about hazards. Councilor P. Mello questioned how many plants were involved for just a personal license. Solicitor DeSisto explained they could have 12 mature plants and 12 seedlings. Ms. Lebanon noted a caregiver with 2 patients could have 24 mature and 12 seedlings; can’t have more than 12 seedlings for anywhere from 2-5 patients as a caregiver. The limit on dried usable is relatively low at 12.5 ounces, most patients do not have the personal room to grow. President deMedeiros was concerned that because of HIPA laws don’t know how many patients and caregivers; have no regulatory oversight of this at all. Solicitor DeSisto explained the only Town oversight at this point would be the Town ordinance and that would regulate the type and where it goes; can only go into a home if information develops about a criminal enterprise or unless someone complains. Councilor Chabot questioned the residential and non-residential co-op, where it says in compliance with any state or municipal housing codes. Solicitor DeSisto explained that use was subject to state building and housing codes, the points that were brought up by Councilor Sousa. The motion passed on a vote of 4-3, Councilors Sousa, Lambert, Chabot and Pelletier in favor, Councilors Perry, P. Mello and deMedeiros opposed.

Adopted Ordinance attached at end of minutes.

C-TOWN COUNCIL SITTING AS BOARD OF LICENSING:
NON ADVERTISED LICENSE

1.Parallax Investigations, LLC, Charles R. Mulcahy, 65 Beech Ave, Tiverton – Request Renewal of Private Detective License to April 2017 – Chief Blakey Recommendation

Chief Blakey noted there were no disqualifiers that would prevent the Council from renewing this license.

Councilor Pelletier motioned to Approve the Renewal for Parallax Investigations, LLC, Charles Mulcahy, 65 Beech Avenue of Private Detective License to April 2017 subject to meeting all legal requirements. The motion, seconded by Councilor Perry passed unanimously.

2. Joseph Mello, d/b/a Farmer Joe’s, 1401 Crandall Road – Request for Holiday License – Subject to Meeting All Legal Requirements

President deMedeiros had received calls complaining about this farm stand on Crandall Road. Chief Blakey did examine the area; there is a neighborhood dispute about parking. Cannot prevent anyone from parking on private property but can limit parking on a State highway.

Councilor Pelletier motioned to Approve a Holiday License for Joseph Mello, d/b/a Farmer Joe’s, 1401 Crandall Road Subject to Meeting All Legal Requirements. The motion, seconded by Councilor Chabot passed unanimously.

President deMedeiros recused, left the Council table, member of the Singing Out Against Hunger committee.

Advertised Public Hearings

3. Jane Bitto, Evelyn’s Restaurant, 2335 Main Road

a.Public Hearing for Sound Variance For Outdoor Music Event

“Singing Out Against Hunger “To Take Place on Friday, July 15th, Friday, August 19th and Friday, September 9th from 4:00pm to 9pm – (Rain Dates Saturday, July 16th, August 20th and September 10th)

b.Approval of Special Event Entertainment License

Vice President Chabot opened the public hearing, called for public comment. Jane Bitto, Evelyn's Restaurant explained this request is different from years past. This event has been going on for 14 years; the committee discussed and suggested some changes. Ms. Bitto has always been concerned for the neighbors since summer is always busy there won't be too much different. The number of hours for the musicians has been reduced to 15 hours total from 25 and the hours down to 4 to 9pm from noon to 9pm. The goal is to generate money to give to East Bay Community program which comes back to Tiverton. Last year raised \$10k. Chief Blakey, as in years past, requested a police officer for each night of the event; Ms. Bitto did affirm. Michele Angel, Woodland Circle resident and committee member noted this has also been held at Sandywoods, the beach in Little Compton and other small businesses. The committee has found those did not generate the amount of foot track like these two events. VP Chabot called for more comments, hearing none closed this portion of the public hearing.

Councilor Lambert motioned to Approve the Sound Variance For Outdoor Music Event "Singing Out Against Hunger "To Take Place on Friday, July 15th, Friday, August 19th and Friday, September 9th from 4:00pm to 9pm – (Rain Dates Saturday, July 16th, August 20th and September 10th). The motion, seconded by Councilor Pelletier passed on a vote of 6-0-1, President deMedeiros abstained, had recused.

Councilor Lambert motioned to Approve the request for a Special Event Entertainment License for the event previously described. The motion, seconded by Councilor Pelletier passed on a vote of 6-0-1, President deMedeiros abstained, had recused.

4. Lisa Machado, Coastal Roasters, 1791 Main Road

a.Public Hearing for Sound Variance For Outdoor Music Event "Singing Out Against Hunger " To Take Place On Saturday, August 20th from 9:30am to 3:30pm

b.Approval for Special Event Entertainment License

VP Chabot opened the public hearing for the sound variance request. Lisa Machado, Coastal Roasters, explained this is the same event as in years past except it will just be on a Saturday, found there was not as much participation on Sunday. The hours have been extended to 3:30 pm; in the past it ended at 12:30pm. VP Chabot called for comment from the Council and three times for anyone from the public; hearing none closed this part of the public hearing.

Councilor Lambert motioned to Approve the Sound Variance Sound Variance For Outdoor Music Event "Singing Out Against Hunger "To Take Place On Saturday, August 20th from 9:30am to 3:30pm for Lisa Machado d/b/a Coastal Roasters, 1791 Main Road subject to meeting all legal requirements. The motion, seconded by Councilor Pelletier passed on a vote of 6-0-1, President deMedeiros abstained, had recused.

Councilor Lambert motioned to Approve the Special Event Entertainment License for the event previously described. The motion, seconded by Councilor Pelletier passed on a vote of 6-0-1, President deMedeiros abstained, had recused.

President deMedeiros returned to the Council table.

5. Cultural Survival Bazaar, Jess Cherofsky, Four Corner's Art Center, 3852 Main Road

a.Public Hearing for Sound Variance for Live Music on Property Grounds on Saturday, July 30th from 10:00a.m. to 6:00p.m. and Sunday, July 31st from 10:00a.m to 6:00p.m.

b.Approval of Special Entertainment License

Jess Cherofsky, Cultural Survival Bazaar explained this was an Indigenous arts festival held for the past 15 years at the Four Corners Art Center. It is a two day event that runs from 10:00 a.m. to 5:00 p.m., not 6pm as originally filed on the application. There is one person who uses a wood flute and there will be three bands with low volume with a max of three members, the purpose of the festival is for the vendors to sell their products. President deMedeiros opened the public hearing for comments. Chief Blakey was concerned with parking, has spoken to the

applicant, max 200 people at a time. The Chief also discussed the parking issue with the Administrator; requesting the Council have one police officer for traffic for each day and to tag any vehicles that block the intersection. President deMedeiros called for comment from the public three times, hearing none closed the public comment portion. President deMedeiros called for comments from the Council, Councilor Lambert questioned what the cost was for the detail officer. Chief Blakey noted it would be \$45/hour.

Councilor Lambert motioned to approve the request for a Sound Variance Live Music on Property Grounds identified on Saturday, July 30th from 10:00a.m. to 5:00p.m. and Sunday, July 31st from 10:00a.m to 5:00p.m.subject to meeting all legal requirements including the presence of a Police Officer. The motion was seconded by Councilor Pelletier, some discussion followed. Councilor Sousa objected to requiring a police officer, had attended in the past, and did not see a problem. Chief Blakey explained it was not just traffic and parking but there is also a lot of pedestrian traffic. Councilor Sousa did not want to charge them; Chief Blakey explained when it's for the public good, the Police do not charge them. The motion passed unanimously.

Councilor Lambert motioned to Approve the Special Event Entertainment License for the event previously described. The motion, seconded by Councilor Chabot passed unanimously.

6.General Auto Recycling, Inc., 384 King Road – Show Cause Hearing Concerning Licensing Requirements Including But Not Limited to Zoning Violations, Submission of Soil Erosion Plan, RIPDES Permit and Creation of a Physical Boundary Between Lots

Solicitor DeSisto noted the applicant's attorney was present, requested those appearing for the applicant identify themselves. Attorney James Nagelberg, (Hinckley, Allen and Snyder), Mike Russell, (LDEC, Inc.), Ed Abizness (for Scott Rabidou, Natural Resource Services, Inc.) and business owner Chris Petropoulos were identified. Attorney Nagelberg handed some exhibits and an affidavit to the Town Clerk; will identify them as the presentation moves along. Attorney Nagelberg intended to raise several issues to preserve the client's rights for the record and why they believe it is improper to suspend/revoke the license this evening .Attorney Nagelberg gave a brief overview of the timeline that led to this point. Mr. Petropoulos was given two Notices of Violation (NOV), one 11/17/14 for lot 113-602 and 115-602. At the Town Council meeting 11/24/14 the owner appeared, requested a 120 day extension. The owner met with the Building Official on 4/6/15 to inspect the property, noticed all vehicles on lot 115 were removed. At the 4/13/15 Town Council meeting the license was issued for a 90 day contingency including submission of a soil erosion plan, etc. On 7/13/15 the license was extended to November 2015 to continue the effort and to supply weekly updates. The chart provided shows project milestones. On 3/14/15 this item appeared on the Consent Agenda, no issues were identified. Met with various Town officials to explain the progress, asked about concerns. Requested to supply a 1994 aerial photo which was done within the week.

Mr. Russell met with the Administrator Wojcik, Solicitor DeSisto and Building Official Neil Hall regarding the project schedule, decided to use a Gant Chart which looks at the long range process. This is an ideal schedule list to keep accomplishing; some have no control over. Anticipate a Consent Agreement with DEM in early May; the owner is moving materials out of the subject area lot 113; lot 115 is already secure. Waiting for the Wetlands Restoration Plan, not changing the character of the property. The Stormwater plan is largely intertwined with the Wetlands plan. A key date is 1994 which relates to the zoning ordinance at that time. Attorney Nagelberg noted there was never a NOV for lot 112; Councilor Pelletier noted the license is not for lot 112. Councilor P. Mello questioned a septic holding tank location; Mr. Russell explained DEM was assessing and it is not near the wetlands. Mr. Petropoulos explained DEM inspected the tank multiple times; many people around the State did this. DEM plotted it with GPS, did not know exactly when it stopped being used. Attorney Nagelberg suggested marking the 2/24/16 Gant Chart as Exhibit #1, the 3/825/16 Gant Chart as Exhibit #2 and the map as Exhibit #3. Solicitor DeSisto suggested marking them as Licensee Exhibits 1, 2 and 3.Councilor Lambert questioned when this would be coming to an end; looking at the affidavit of Mr. Rabideau it could be October. Mr. Abizness explained Mr. Rabideau was working with Bruce Ahern, DEM, prepared a restoration plan which is currently under review. Once DEM accepts the Consent Agreement the restoration planting should start in early spring. The owner has been

removing the cars and scrap metal from lot 113. Councilor P. Mello was concerned about enforcement by DEM; questioned if the Town could be more involved. Solicitor DeSisto explained the Town can only do so much, the enforcing tool is the license; DEM has its own jurisdiction. Councilor Pelletier noted four problems; soil erosion, wetlands expansion, expansion of legal non-conforming use and a license expansion problem. Mr. Russell explained the soil erosion plan for lot 115 has gotten the Planning Board endorsement, temporary in nature; a significant disturbance in the lot had to be stabilized. Councilor Pelletier noted two discrete issues for restoration alterations. Mr. Russell explained approximately 200 square feet of the 30 acre site is in the restoration area. The bulk of the 10 acres will stay as open space; the DPW Director and Neal Hall requested a line of demarcation. That area has been secured and soil erosion control measures have been taken. The Stormwater plan has been integrated into the soil erosion plan; largely deals with treatment.

Attorney Nagelberg requested the Affidavit of Scott Rabideau be marked at Licensee Exhibit #4; reminded this is a Show Cause hearing, his client can lose his license tonight. Creating a record for relief, would like to make five legal arguments as to why the Council can't pull this license tonight and on ground for appeal it would be meritorious. Solicitor DeSisto requested hearing from the Town's consulting engineer, Deidre Paiva, Steere Engineering. Ms. Paiva wanted to clarify several things, first there are wetlands restoration; according to the 1994 map it is clear this is more than just wetlands. DEM is only concerned about wetlands; the expansion of the pre-existing non-conforming business is a town issue. Lot 112 had 6,000 square feet perimeter wetlands altered. Lot 113, the large lot near the pond had 97,000 square feet (2.2 acres) for perimeter wetlands altered and 38,000 square feet of swamp altered. Lot 115, the residential lot, had 26,000 square feet of perimeter wetlands and 10,000 square feet of swamp altered. DEM will restore the wetlands restored 1.5 square feet to every 1 square foot ratio; they are working on an agreement with DEM and how to restore them. They will have to do a soil erosion plan and while working on that have a Stormwater management plan. Everything has to be removed off lot 115, takes time to remove the stacked cars. Attorney Nagelberg noted that has already started. Mr. Russell explained the timeline is affected as to when the alteration took place, what regulations were in effect at that time. President deMedeiros noted the Council has been listening to this since 10/12/14 when the first violation appeared; have had no movement whatsoever. Solicitor DeSisto opined it was important for the record to hear from Mr. Hall particularly on the zoning violations. Mr. Hall explained the NOV was for expansion of a non-conforming business, showed on the map where lot 112 had been expanded to wetlands. Solicitor DeSisto asked Mr. Hall if the May 6, 2015 map was an accurate description of the lot; Mr. Hall affirmed it was. Solicitor DeSisto requested that be marked as an Exhibit, Building Official #1. President deMedeiros noted the NOV came in October 17, 2014; questioned Mr. Hall as to when the lot was cleared and when there was some compliance. Mr. Hall has been here over a year, estimated 7 months ago for lot 115. Mr. Hall had visited a couple of times, did not see a clear indication of the boundary line; it is now just marked correctly. There are a number of engines and stacked vehicles that could be removed now. Mr. Petropoulos explained that piles of engines were completely removed. Solicitor DeSisto noted there was a stenographer taking notes; suggested using the 2015 map for reference. Mr. Petropoulos explained he received numerous calls in March 2015, at that time 95% of the vehicles were off the property; did not know the exact line. The engineer came out and plotted the line; it was off by 10 feet. Tried to contact the building official before Mr. Hall, Chris Synnott who never came out. Tried to contact someone numerous times, have been very proactive; went before the Planning Board in January, the town engineer never showed up. It was continued to March; trying to fix these problems. Mr. Petropoulos employs 25 people.

Attorney Nagelberg summarized there were 2 NOV's. The timeline has not changed from the Gant Chart, in November expected to be able to do the spring plantings at the end of May, and discussed continuing this for another 6 months. Attorney Nagelberg outlined 5 reasons why this license should not be denied; 1) they have been doing everything the Town has asked, have to wait for the DEM restoration plan, 2) the expansion of the non-conforming section has nothing to do with the junkyard license; this is the licensing board not the zoning board, pointed to the Town ordinance Article 18, Section 5-6. There are 3 options for a zoning official at that point, can order a halt according to 5b, the Town can file suit in Court according to 5c or the Town can issue a fine for past violations that is 6a. Those are the remedies for a zoning violation, opined Attorney Nagelberg. Nowhere in the

NOV does it say the property owner might have the license pulled. The Town does not have jurisdiction on an environmental issue. There is no NOV from RIDEM to date for these lots. The Town has to show good cause to pull this license. The soil erosion plan has nothing to do with the license, cited 65-12b. The Planning Board approved a soil erosion plan for lot 115 on March 22. There is a constitutional issue with the enabling statute, cited a Supreme Court case, Metals Recycling vs Maccarone from 1987. The Court found the current law, 5-21-1 for junkyard licenses did not articulate legislation properly, and it was never amended. Attorney Nagelberg cited procedural flaws with the March 14, 2016 Town Council meeting agenda. Under item 6a of the Consent Agenda there was a progress report listed as correspondence. There was no indication of a discussion for a Show Cause hearing. The issue is with RIDEM; don't know how the Licensing Board can do this like telling a property owner to put up a fence. Engineers have methods for demarcation. In conclusion, the license is set to expire May 30, will give a status update at that point. At that time should have a progress report from RIDEM. If the Council decides to revoke the license then Attorney Nagelberg will file to seek relief in court.

Solicitor DeSisto noted Attorney Nagelberg had several excellent points; noted this has been going on for quite some time. Four issues were stated in the NOV; there was no NOV from DEM for the license as explained in Exhibit 4, paragraph 10, suggested because of negotiations an accumulative NOV will be issued in connection with some type of Consent Agreement. Secondly, the Town's supervising authority is part of licensing, was familiar with the Metals Recycling case. Those violations were different than this particular case; the Council is the licensing board and licenses need to comply with all regulations which is why all licenses are subject to meeting all legal requirements. The question is whether the licensee is complying; the notice was for lot 113, the only licensed lot. In discussing the other lots, appeared to the Solicitor there was an expansion of the business. Councilor Sousa suggested changing the zoning ordinance to allow for expansion of non-conforming; this was part of the problem, should be working with these people. Councilor Pelletier opined, may have a license violation, does have a violation of the zoning ordinance, all agreed wetlands have been altered whether noticed or not. Questioned if the Council had authority under the licensing to get them to come into compliance. Solicitor DeSisto affirmed, that was correct. Councilor Pelletier noted the goal was to get them to come into compliance, working with the applicant, still have a ways to go. Making progress, is slow, goal is to have compliance with licensing, zoning, DEM, groundwater, wastewater. President deMedeiros opened the hearing to public comment. Trish Hilton, Conservation Commission, asked the Council to consider the septic tank location identified and for the Council to verify that DEM permit for that tank and the permitted use as a commercial storage use for septic waste. Ms. Hilton also asked the Council to consider if the tank is not being used and is sound and not leaking septage material on the property. President deMedeiros called for public comment three more times, hearing none closed the public comment portion.

Councilor Lambert agreed with Councilor Pelletier, progress has been painful, ultimate goal should not be to close the business. Councilor Lambert had concerns about 25 people that work there, recognized there may be more litigation. Nothing more will be done out there if the business is closed. At this point Councilor Lambert was not prepared to take away the license. Councilor P. Mello pointed out this business is in a watershed district; are reasons why these types of businesses are not allowed to expand. President deMedeiros suggested this should be coming back to the Council every two months to see if any progress is happening and to get some feedback. Suggested Mr. Hall visit on a regular basis; the license will be coming back to the Council May 30. President deMedeiros suggested they have an update from the owner's engineer and know about the tank. Councilor Perry noted this has been going on for over a year, no progress until pressured. President deMedeiros agreed with Councilor Perry to get to this point has been unacceptable. Solicitor DeSisto suggested continuing the Show Cause hearing to the next regular meeting after May 30.

Councilor Pelletier motioned to Continue the Show Cause Hearing to May 23 and request the Conservation Commission follow up and report back at that meeting. Councilor Lambert seconded the motion, some discussion followed. Councilor Chabot questioned if the septic system fell under Town purview. Solicitor DeSisto explained the question arose during the hearing, should be answered; asked if there was any objection. Attorney Nagelberg did not object to the Town verifying. Solicitor DeSisto suggested the motion be just for the Show Cause hearing.

Councilor Pelletier restated the motion which was to Continue the Show Cause Hearing to May 23. The motion, seconded by Councilor Lambert passed on a vote of 4-3, Councilors Sousa, Perry and Councilor P. Mello opposed.

Councilor Pelletier motioned to request the Town Administrator to assess and provide feedback relative to the septic system and not related to the Show Cause Hearing for the same meeting. The motion, seconded by Councilor Lambert passed on a vote of 6-1, Councilor Sousa opposed.

At this time, 10:30 pm a five minute recess was taken.

D-APPOINTMENTS & RESIGNATIONS:

Resignations

1. Deborah Gee – Arts Council

Councilor Chabot motioned to Accept with Regret and thanks for service to the Town, the Resignation of Deborah Gee from the Arts Council. The motion, seconded by Councilor Lambert passed unanimously.

Appointments

2. Cemetery Commission – Three Year Term to 4/15/2019

John S. Christo, 48 Canonicus Street – Seeking Re-Appointment

Councilor Chabot motioned to Reappoint John S. Christo, 48 Canonicus Street to the Cemetery Commission for a Three Year Term expiring 4/15/2019. The motion, seconded by Councilor Pelletier passed unanimously.

3. Open Space Commission – Three Year Term to 4/15/2019

a. Garry Plunkett, 266 Indian Point Road – Seeking Re-Appointment

b. James L. Spears, 494 West DeMello Drive – Seeking Re-Appointment

Both Mr. Spears and Mr. Plunkett left the meeting earlier.

Councilor Chabot motioned, to Reappoint Garry Plunkett, 266 Indian Point Road and James L. Spears, 494 West DeMello Drive to the Open Space Commission each to a Three Year Term to 4/15/2019. The motion, seconded by Councilor Lambert passed unanimously.

4. Board of Canvassers – Alternate Board Member (6) Year Term - Appointed by Council President

a. Susan Scanlon, b. Thomas Clegg, c. Sally Black, d. Mike Burk, e. Deborah Pallasch

President deMedeiros liked to Appoint Susan Scanlon to the Board of Canvassers as an Alternate Board Member for a six year term. The motion, seconded by Councilor Lambert passed unanimously.

5. Arts Council – Three Year Term to 4/15/2019 – Additional Vacancy

Barbara Pelletier, 104 Bonniefield Drive – Seeking Re-Appointment

Mrs. Pelletier explained if she was not reappointed there will only be two people left on this committee.

Councilor Chabot motioned to Reappoint Barbara Pelletier, 104 Bonniefield Drive, to the Arts Council for a Three Year Term to 4/15/2019. The motion, seconded by Councilor P. Mello passed unanimously.

6. Conservation Commission – Additional Vacancy – Three Year Term to 4/15/2019

Constance Fleckenstein, 55 Cottage Avenue – Seeking Re-Appointment

Mrs. Fleckenstein was not in attendance.

Councilor Chabot motioned to Reappoint Constance Fleckenstein, 55 Cottage Avenue to the Conservation Commission for a Three Year Term to 4/15/2019. The motion, seconded by Councilor P. Mello passed unanimously.

E-UNFINISHED BUSINESS:

There were no items for Unfinished Business.

F-FINANCIAL BUSINESS:

1. Chief Blakey – Request Transfer \$3525 From Acct#3330-5498 (In Service Training) to Acct#3330-6928 (Education)

Chief Blakey explained this was for a contract item to pay for tuition for one of the police officers.

Councilor Chabot motioned to Approve the request to Transfer From Acct#3330-5498 (In Service Training) to Acct#3330-6928 (Education). The motion, seconded by Councilor Pelletier passed unanimously.

2. Distribution of FY 2016/2017 Proposed Budget

Town Clerk Mello explained this was the Budget Committee's final recommendation; responding to Councilor Chabot any Council resolutions would have to be submitted by Thursday, April 14.

G-NEW BUSINESS:

1. Councilor Sousa-Discussion and Possible Vote Relating to Grinnell's Beach Plan Based on New Information Regarding Septic System

Councilor Sousa had received a phone call from the former maintenance foreman who said there was an operating septic system at the gas station. It was a 1,000 gallon holding tank, opined the Grinnell's Beach plan should be altered. Councilor Sousa motioned to Reconsider the Vote and wants to put back on the next agenda so the Town engineer can confer. Administrator Wojcik explained one of the first things he did was to get a list of the Town's septic disposal and identify the systems. The T/A went to the site file and found there was one for Seaside Gas permitted in 1971 that had 2 seepage pits, not recommended or allowed. The second one permitted was a 2,500 gallon tank, had not been pumped in a very long time. The tank is in a different spot than the plan has shown. The leeching field is next to the building. Had a contractor go there today, ran a camera in every pipe, an open pit. After they fixed it today it can operate; need to have a conversation with DEM regarding the use. The system is 45 years old; will be discussing with Engineer, Bill Smith to review the system, looking for the most cost effective and environmental solution. Councilor Sousa opined that system worked fine. Did not want to spend money on bathrooms. President deMedeiros noted the Town was trying to get grants had voted on a concept plan which may change. Did not vote for port johns, voted for a concept. Councilor Lambert agreed, Council voted on a concept, may change over the course of the year. Councilor Sousa was concerned with the word demo. Ms. Hilton clarified; the Committee presented a concept and showed various options for wastewater management. At that time there was no indication it was a cesspool. The options were something to consider going forward, the Committee recommended having a Class 3 licensed engineer explore possibilities; could be funded through grant money. Administrator Wojcik will put this on the next agenda.

H-BIDS AND REQUESTS FOR PROPOSALS:

There were no items for this topic.

H-1-OPEN PUBLIC FORUM FOR ANNOUCEMENTS, COMMENTS, QUESTIONS:

This was addressed earlier in the agenda.

I-TOWN ADMINISTRATOR ANNOUNCEMENTS:

Administrator Wojcik announced the Town Hall was transitioning from Outlook to Google Mail and related products; next transition is for shared calendars and then a type of drop box. The server has been changed; contact

Dave Robert if still having an email issue. The Land Use Procedural Improvements Committee will be meeting Wednesday at 6:30, making progress regarding land and uses. Will be discussing the nexus between zoning, the right to farm act, wineries and regulated products.

J-COUNCIL ANNOUNCEMENTS:

President deMedeiros reminded the Casino Sub Committee will be meeting this Thursday at the Town Hall at 7pm. Councilor Lambert commented on recent business openings in nearby Massachusetts, need to be more competitive. Suggested having a meeting with the Planning Board and the Town Administrator. Councilor P. Mello was surprised the Comp Plan was not on this agenda, raised concerns; why there is a need to hire another Planner to review.

K-TOWN SOLICITOR – ITEMS AND ANNOUNCEMENTS:

There were no items for this topic.

L-TOWN CLERK ITEMS AND ANNOUNCEMENTS

There were no items for this topic.

CLOSED EXECUTIVE SESSION:

1. Personnel – 42-46-5(a) (1) – Town Administrator Performance Evaluation – Notice Given

2. Personnel – 42-46-5(a) (1) – Fire Chief Robert Lloyd Performance Evaluation – Notice Given

Councilor Lambert motioned to enter into Closed Executive Session pursuant to 42-46-5(a) (1) re: Town Administrator Performance Evaluation – Notice Given. The motion, seconded by Councilor Chabot passed unanimously on a roll call vote.

Councilor Lambert motioned to enter into Closed Executive Session pursuant to 42-46-5(a) (1) re: Fire Chief Robert Lloyd Performance Evaluation – Notice Given. The motion, seconded by Councilor Chabot passed unanimously on a roll call vote.

Discussion of Executive Session minutes of March 28th

Councilor Lambert had correction to statement in minutes; will discuss with Town Clerk and amended minutes will be on next meeting for acceptance.

The Council entered into Executive Session at approximately 11:15 p.m.

The Council returned to Open Session at approximately 12:15a.m.

OPEN SESSION:

Councilor deMedeiros announced no formal action was taken in Executive Session.

Councilor Pelletier motioned to seal the minutes of Closed Executive Session. Seconded by Councilor Lambert, motion passed unanimously.

ADJOURNMENT:

Councilor Pelletier motioned to adjourn, seconded by Councilor Mello. The motion passed unanimously.

The meeting adjourned at 12:20 a.m.

A True Copy.

ATTEST: _____
Nancy L. Mello, Town Clerk

**TOWN OF TIVERTON, RHODE ISLAND
TOWN COUNCIL
343 HIGHLAND ROAD
P R O C L A M A T I O N**

The Town Council, at its regularly scheduled meeting on Monday, April 11, 2016, by motion made and unanimously passed did proclaim, at the request of the Tiverton Garden Club and the Tiverton Litter Committee, “TIVERTON LITTER CLEANUP WEEK”

“LET’S LOSE THE LITTER”

SATURDAY, APRIL 30TH THROUGH SATURDAY, MAY 7TH, 2016

Kickoff Day for Cleanup Week commences on Saturday, April 30th, 2016 from 9:00 a.m. to 2:00 p.m. at Grinnell’s Beach, Main Road.

DPW approved bags are available for volunteers at Kick-Off. Please bring your own gloves.

Sponsored by the Tiverton Garden Club and Tiverton Litter Committee who gratefully acknowledges the support of the DPW, Tiverton Town Officials and staff, area businesses, and the dedicated volunteers who make this community-wide effort possible. BY ORDER OF THE TIVERTON TOWN COUNCIL:

**Denise deMedeiros
Town Council President
April 11, 2016**

ORDINANCE NO. 2016

AN ORDINANCE IN AMENDMENT TO THE ZONING CODE OF THE TOWN OF TIVERTON

IT IS HEREBY ORDAINED by the Town Council of Tiverton, Rhode Island, that the Zoning Code of the Town of Tiverton be amended as follows:

ZONING

* * *

Art. II, Definitions.

Compassion center means, as defined in R.I. Gen. Laws § 21-28.6-3, a not-for-profit corporation, subject to the provisions of chapter 6 of title 7, and registered under § 21-28.6-12, that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies or dispenses marijuana, and/or related supplies and educational materials, to patient cardholders and/or their registered caregiver cardholder, who have designated it as one of their primary caregivers.

Marijuana store means any retail establishment at which the sale or use of marijuana, medical or otherwise, takes place. This shall not include a compassion center regulated and licensed by the State of Rhode Island, as defined herein.

Non-residential cooperative cultivation means a use of land located in a non-residential zone, or of a building, or a portion thereof, located in a non-residential zone, for the cultivation of marijuana by two or more cardholders, as defined in R.I. Gen. Laws § 21-28.6-3.

Residential cooperative cultivation means a use of land located in a residential zone, or of a building, or a portion thereof, located in a residential zone, for the cultivation of marijuana by two or more cardholders, as defined in R.I. Gen. Laws § 21-28.6-3.

Personal residential marijuana cultivation means marijuana cultivation by a single registered patient or caregiver cardholder, as defined in R.I. Gen. Laws Chapter 21-28.6, within his or her residential dwelling for medical use only. This use shall only be permitted as an accessory use to a lawfully permitted residential use. In a mixed-use building that contains residential and nonresidential uses, this use shall be contained within the residential dwelling unit only.

Marijuana cultivation center means any entity that, under state law, may acquire, possess, cultivate, manufacture, deliver, transfer, transport, or supply marijuana to a registered compassion center, or other entity authorized to dispense marijuana.

* * *

Art. V, District Use Regulations

The permitted use table shall be amended as follows:

Zoning Districts	R-30	R-40	R-60	R-80	VC	GC	HC	W	I	OS
Section 3- Farming or Raising of Animals										
Non-residential cooperative cultivation	N	N	N	N	N	N	N	N	N	N
Residential cooperative cultivation	N	N	N	N	N	N	N	N	N	N
Personal residential marijuana cultivation	P	P	P	P	P	P	P	P	P	N
Marijuana cultivation center	N	N	N	N	N	N	N	N	N	N
Section 10- Retail Business										
Compassion Center	N	N	N	N	N	N	N	N	N	N
Marijuana store	N	N	N	N	N	N	N	N	N	N