

**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 27th day of June 2016 A.D. at 7:00 p.m.

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

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

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

**CLOSED EXECUTIVE SESSION**

- 1. Town Administrator – 42-46-5(a)(2) – Litigation – Arbitration Update**
- 2. Brian Janes, Open Space – 42-46-5(a)(5) – Acquisition of Real Property**

Councilor Lambert made a motion to enter into Closed Executive Session pursuant to Rhode Island General Law 42-46-5(a) (2) re: Litigation – Arbitration Update. The motion, seconded by Councilor Chabot passed unanimously on a roll call vote.

Councilor Lambert made a motion to stay in Closed Executive Session pursuant to Rhode Island General Law 42-46-5(a) (5) re: Acquisition of Real Property. The motion, seconded by Councilor Chabot passed unanimously on a roll call vote.

The Council entered into Closed Executive Session at approximately 7:03 p.m.

The Council returned to Open Session at approximately 7:45 p.m.

**OPEN SESSION:**

In Open Session Council President deMedeiros called for two motions.

Councilor Sousa, relative to item number 1, per the Council President request, made a motion to go forward with Attorney Vicki Bejma’s recommendation. The motion, seconded by Councilor Perry passed unanimously.

Councilor Perry, relative to item number 2, at the request of the Council President, made a motion to Authorize the Town Administrator to sign the sales for the Purchase and Sales Agreement for Open Space. The motion, seconded by Councilor Sousa passed unanimously.

**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.

President deMedeiros read the items on the Consent Agenda. Councilor Pelletier requested removal of item CA5, Activities report for May 2016 and Councilor Perry requested removal of item CA9, Progress of Main Road Entrance Sign.

Councilor Perry made a motion to Approve the rest of the Consent Agenda. The motion, seconded by Councilor Sousa passed unanimously.

The Consent Agenda was as follows:

**CONSENT AGENDA:**

**A-1-Approval of Minutes of Previous Meetings:**

Approval of Regular Council Meeting Minutes of May 23, 2016

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

- a. Harbor & Coastal Waters Management Commission (2)
- b. Personnel Board (2)

**A-3-Correspondence – Receive and File:**

- a. Richmond Town Council – Resolution in Opposition to Tolling Gantries

**A-4-Approval of Tax Assessor’s Abatements**

**A-6-Town Clerk – Scheduling of Public Hearings for Amendments to Town Code on July 25th**

**a. Appendix C – Sewers and Sewage Disposal – (Removal of Wastewater Commission)**

**b. Chapter 30, Courts, Article II, Municipal Court**

**A-7-Town Clerk – Distribution of Form to Assist Qualified Electors in Filing of Charter Complaints**

**A-8-Town Administrator – Memorandum Regarding Health Insurance Consultant**

**A-10-Treasurer Denise Saurette – Adopted Budget Survey FY 2017 Filed With Division of Municipal Finance**

**BUSINESS BROUGHT BEFORE THE COUNCIL**

**CA-5-Marc Rousseau, Administrative Officer – Activities Report for May 2016**

Councilor Pelletier noted on page 2 an indication of an incomplete application for the Longplex project. Administrator Wojcik noted the Town Planner was on vacation and the issue had been resolved. Deidre Paiva, Consulting Engineer, explained they had been waiting for building plans. The Administrator added National Grid questioned the strength of the pavement. Councilor Pelletier referred to the miscellaneous item #8 about a cash bond for First Bristol. Administrator Wojcik noted they took over the project that is now the Lifespan Building on Main Road.

Councilor Pelletier made a motion, seconded by Councilor Chabot to Receive and File CA5, passed unanimously.

**CA-9-Councilor Perry – Request Town Administrator Report on Progress of Main Road Entrance to Tiverton Sign Including Funds Available**

Councilor Perry recalled about a year and a half ago there was an accident on Main Road that knocked down the sign, requested an update. Linda Larsen explained a proposal was submitted, involved students from the High School. The proposed sign was rejected by then DPW Director Steve Berlucchi for a rock and engraved stone. Administrator Wojcik noted the Town has received \$5,310 from the insurance settlement, will provide another update.

Councilor Perry made a motion, seconded by Councilor Chabot to Accept CA9. The motion passed unanimously.

**B-PUBLIC HEARINGS:**

**Advertised Public Hearings**

**1.Public Hearing Noise Ordinance St. Theresa Church, 265 Stafford Road – Public Hearing for Sound Variance (Live Bands) For Event to Take Place On Friday August 5th From 5pm to 10 pm, Saturday August 6th From Noon to 10pm and Sunday August 7th From Noon to 5pm – Subject To Meeting All Legal Requirements**

Jean Cameron appeared for St. Theresa Church, having the same event as last year. President deMedeiros opened the Public Hearing for comments from the public. Police Chief Thomas Blakey noted they would be serving alcohol, requested a police officer just like last year; Mrs. Cameron agreed with the Chief. President deMedeiros called for additional comments from the audience, hearing none closed the Public Hearing.

Councilor Pelletier motioned to Grant a Noise Ordinance Variance for St. Theresa Church, 265 Stafford Road for the Feast Friday August 5th From 5pm to 10 pm, Saturday August 6th From Noon to 10pm and Sunday August 7th From Noon to 5pm subject to meeting all legal requirements. The motion, seconded by Councilor Perry passed unanimously.

**Item moved up in the agenda.**

Councilor Pelletier motioned to bring item C1 forward, seconded by Councilor Perry passed unanimously.

**C -TOWN COUNCIL SITTING AS BOARD OF LICENSING**

**NON ADVERTISED LICENSE**

**1. St. Theresa Church, 265 Stafford Road – Dates Stated in Sound Variance Public Hearing B-1**

**a.Request Special Event/Outdoor Entertainment License – Subject To Meeting All Legal Requirements**

**b.Request F License (Beer and Wine) – Subject To Meeting All Legal Requirements**

President deMedeiros noted this was the same as last year; there was no discussion.

Councilor Pelletier motioned to Grant Approval for a Special Event/Outdoor Entertainment License and a Class F Liquor License to St. Theresa Church, 265 Stafford Road, subject to meeting all legal requirements. The motion, seconded by Councilor Chabot passed unanimously.

**2. Town Administrator – Public Hearing Continued from June 13<sup>th</sup> - Approval of Proposed Amendments to Fees and Fines Resolution Including Planning Board Consultant Review Retainers**

Administrator Wojcik referred to the updated research and recommendation memo provided in the packet. The spreadsheet chart had recommended changes in red; the first public hearing on fees and fines was at the end of February. The Harbor Commission recommended mooring fee changes based on the size of the boat; was discussed at that time, recommend adopting those changes. Councilor Sousa had talked about State Law in regards to litter; further research shows the State statute does not preempt local ordinances. Both can be levied, local fines in Chapter 38, Section 224 of the Code. The T/A recommended increasing the fines for electronic waste for a first offense for \$100 and a second offense for \$250. This would require an ordinance amendment change. The Flea Market fee, across the State has a most common charge of \$100; Tiverton has one Flea Market and charges \$350. Junkyards proposed increase is to \$500. According to RIGL 5-21-1 this fee is limited to \$100; suggest changing to be in compliance with State law. On Victualling Licenses recommend flipping from \$50 to 25 and the late fee from \$25 to 50. T/ A Wojcik recommended eliminating the fee for a Holiday License. The T/A recommended an increase of \$5 from \$25 to 30 for white goods and a \$10 increase from \$15 to 25 for stuffed sofas, couches and chairs. Chief Blakey does not recommend a change for the Animal boarding fee currently at \$15 per day. At the February 29 meeting Councilor Sousa requested an across the board increase of \$5 for parking violations. Chief Blakey recommended fines for illegal parking in fire lanes during an emergency snow parking ban be cited \$75. Chief Blakey also recommended handicap parking violation fine be increased from \$75 to 100. Administrator Wojcik recommended doubling the fee for returned checks to \$50. The Planning Board has a revised fee schedule for separate consideration.

Councilor Chabot questioned the recommended Fire Department Mileage increase from \$11 to 15. Fire Chief Robert Lloyd explained it was all about reimbursement for when the rescue goes out; do not charge Town residents. A long time ago it was accepted by Council authority to accept whatever their insurance company gives. Councilor Pelletier, citing page 8 of the spreadsheet, questioned the factual basis for various building fees. In some cases the cost of the project may be eclipsed by the various fees; suggest there could be a sliding scale. Solicitor DeSisto explained Tiverton

was in line with other communities, most of the cost is to process the application and for advertising. Legislation recently passed in the General Assembly to allow for cities and towns to have certain minor dimensional zoning variances handled administratively by the Zoning Board; talking about a dimensional variance being handled by the Building Official. Councilor Sousa noted the Flea Market fee was still listed as \$500; T/A Wojcik recommended \$100, the most common value from other cities and towns.

President deMedeiros opened the hearing to the public. John Cordeiro, Recreation Commission Chair explained at the last Rec meeting there was a unanimous vote to request the Council increase non-resident summer program fees from \$125 to \$200; residents pay \$100. Waivers for residents were also discussed, can refer that back to the Rec commission for further review. Councilor Pelletier noted that is a new category and would have to be added to the spreadsheet; Chairman Cordeiro agreed and added there is no sibling discount for a non-resident. . Councilor Perry suggested going to \$150 instead of \$200; Chairman Cordeiro was looking to make the program self-sustaining citing the recent budget cuts; noted people have applied but nothing has been formally turned over to the Town. President deMedeiros noted at \$28 per week it was still a reasonable program. Sally Black agreed with the Administrator about the Flea Market fee; thanked the Council for helping this family, agreed the fee was very high. President deMedeiros called for anymore comments from the public, hearing none closed the public hearing. . Councilor Sousa agreed with Mrs. Black, the owner was in the process of putting on a new roof, should lower the license fee.

Councilor Sousa made a motion, with the Amendments the Council spoke of as noted by the Council President to decrease the Flea Market Fee to \$100 and \$200 for non-residents for the Summer Recreation Program. Councilor Perry seconded the motion, some discussion followed. President deMedeiros noted this does not include the Planning Board and was just proposing this document that was just discussed. Councilor Pelletier noted the document referenced the attached memo for the Planning Board fees. Councilor Sousa amended the motion to exclude the Planning Board and Mooring Fees. The motion, seconded by Councilor Perry passed unanimously.

Councilor Pelletier motioned to Approve the 2017 Mooring Fee schedule prepared by the Harbor Commission. The motion, seconded by Councilor Perry passed unanimously.

Discussion followed on the Planning Board and Outside Consultant Fees. Solicitor DeSisto explained this was a two pronged approach; this standardizes charges need for professional development review and captures the fees for the work that is done up front. Stu Hardy, Planning Board Chair explained a few changes were made; formalized the process to the applicant and the developer knows up front the costs. This document makes clear and spells out the fees and puts the fees in the subdivision regulations. The Planning Board relies heavily on Steere Engineering, the consulting engineer; need to get reimbursement for the additional work. State law allows the Board to recoup for costs for advertising, site visits, etc. This is to protect the Town and the taxpayers, to get reimbursed and for accurate costs reimbursed to us. A subcommittee of the Board was formed to look at other towns, consulted with the Treasurer about what was coming in and reviewed actual costs with Deidre Paiva from Steere Engineering.

Councilor Pelletier made a motion to Approve the Planning Board and Planning Department Fees subject to the attached memo. The motion, seconded by Councilor Chabot passed unanimously. Councilor Chabot recalled in February, changes were put forth to the fees schedule for the Building Inspector's office regarding reducing the percentage charged from 4% to 3%. Administrator Wojcik took detailed notes, remembered discussing that for values over a certain amount, the Council has the discretion to change that fee. It is a fixed percent, will have an update for the next Council meeting. Solicitor DeSisto recommended a motion to continue the public hearing only for the Building Inspector fees.

Councilor Chabot made a motion, seconded by Councilor Sousa to Continue the Public Hearing to the next Town Council meeting only to review the Building Inspector Fees at that point in time. The motion passed unanimously.

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

**2.Dawn Brooks-Rapp, Acacia Café, 2490 Main Road, Unit 3 – Request Victualing and Holiday Licenses – Subject to Meeting All Legal Requirements**

Ms. Brooks-Rapp was expanding the business to a café located next to Helger’s Ice Cream. Councilor Pelletier noted the applicant is now owed \$50 since the Council eliminated Holiday Licenses. Fire Chief Robert Lloyd requested a caveat to the license; have not completed the inspection, request adding that to the license. Councilor Pelletier noted there was no menu with the backup; the applicant will be serving vegetarian burgers, French fries and more specialty sandwiches.

Councilor Pelletier made a motion, seconded by Councilor Chabot to Approve a Victualling License for Dawn Brooks-Rapp, 2490 Main Road, Unit 3, Acacia Café, subject to meeting all legal requirements, an attached menu and the aforementioned Fire Marshall approval. The motion passed unanimously.

**3. Dawn Brooks-Rapp, Acacia Cafe Food Truck, 2490 Main Road – Request Peddler/ Hawkers License for Food Truck at Recreation Beach Program and Special Events – Subject to Meeting All Legal Requirements**

Ms. Brooks-Rapp explained the truck still had to be inspected by the Fire Marshall. Councilor Pelletier recalled for the two beaches, it was carved out of the ordinance, cannot sell within so many feet of the beach; questioned the Solicitor if this was a separate application process. Solicitor DeSisto noted the applicant needs this license in addition to the permission to use the beach. Councilor Pelletier recalled a contract being signed last year for one of the vendors; T/A Wojcik recalled the vendor last year signed a hold harmless contract with the Town. Solicitor DeSisto clarified, in the Council packet was a recommendation from the Recreation Commission to request those currently registered vendors, Acacia, Palagis and Osprey be able to provide service at both beaches and for Palagis at Bulgarmarsh Park. It was approved by Recreation on June 14. Recreation Chair Cordeiro noted Palagis was approved for the beaches and Bulgarmarsh Recreation area, not at Town Farm; will put Acacia on the next Recreation Commission agenda as they would like this vendor to go to Fogland, opined it was a better fit. Councilor Pelletier questioned the Solicitor if the Council needs to amend the ordinance for Bulgarmarsh rec area; Solicitor DeSisto explained an additional motion will be needed to allow for the vendors to go to both beaches as requested by the Recreation department.

Councilor Pelletier made a motion to Approve a Hawkers/Peddler License for Acacia Café Food Truck subject to meeting all legal requirements, the aforementioned contract the Town Solicitor will arrange and the Fire Marshall inspection. The motion, seconded by Councilor Chabot passed unanimously.

**4. Alejandro Arteaga - Palagis 2000 Inc., 55 Bacon Street, Pawtucket – Requests Renewal of Peddler/Hawkers License Including Beach Areas and Bulgarmarsh Park - Subject To Meeting All Legal Requirements**

Mr. Arteaga did not provide this service last year had done this for several years but was not aware of the ordinance. Chief Lloyd noted the Fire Marshall will be going to Pawtucket on Wednesday to inspect several trucks used by the vendor.

Councilor Pelletier made a motion to Approve a Hawkers/Peddler License for Alejandro Arteaga, Palagis 2000 Inc., subject to meeting all legal requirements including the Fire Marshall inspection and an executed contract for the beach area. The motion, seconded by Councilor Chabot passed unanimously.

Councilor Perry made a motion, seconded by Councilor Sousa to Allow Alejandro Arteaga to use the Peddler/Hawkers license at Bulgarmarsh Park. The motion passed on a vote of 5-2, Councilors Chabot and Pelletier opposed.

**5.Osprey Sea Kayak Adventures, Inc. d/b/a Osprey Sea and Surf Adventures, 489 Old County Road, Westport, MA – Requesting Authorization for Rental of Recreation Equipment at Fogland Beach – Subject to Meeting All Legal Requirements**

Recreation Chair Cordeiro explained this is part of the summer recreation program, is a wash for the Town. Last year they signed a contract for weekend rentals at Fogland Beach; would like to have them do it again. Trying to get people to go to Fogland to increase attendance there and to increase revenues.

Councilor Pelletier made a motion, seconded by Councilor Chabot to Approve a License for Rental of Recreation Equipment for Osprey Sea Kayak Adventures, Inc. d/b/a Osprey Sea and Surf Adventures, 489 Old County Road, Westport subject to meeting all legal requirements including a contract with the Town. The motion passed unanimously.

#### **D-APPOINTMENTS & RESIGNATIONS:**

##### Resignations

Bradley Green, 1 Mill Street – Historical Preservation Advisory Board

Councilor Pelletier made a motion, seconded by Councilor Chabot to Accept with regret and thanks for service to the Town. The motion passed unanimously.

#### **E-UNFINISHED BUSINESS:**

##### **1. Councilor Pelletier - Distribution for Discussion and Possible Action – Continued From June 13<sup>th</sup> Meeting**

###### **a. Town Council Long Range Goals**

Councilor Pelletier discussed long range goals for the Council including good governance, easy access for people to find information and for people to participate. The Google suite was recently installed at the Town Hall and can be used to get information to people throughout the Town. You can create as many calendars as you want, can attach entire backup for an agenda or minutes to previous meetings. A simple and effective way to get more people aware of what is going on in Town. Councilor Perry agreed, uses a Google calendar, would save paper; recalled computers were requested for the Council. The other two policy goals to discuss are long-term goals and strategies to accomplish; may involve acquisition or disposition of property and equipment. Councilor Perry recalled the Council setting goals when first elected. Councilor Perry suggested having a workshop to discuss further; Councilor Chabot recalled talking about the computers but if it's not in the budget will not be able to get them. President deMedeiros will talk to the Town Clerk about the next agenda Councilor Perry recalled the money being there; Councilor Chabot recalled that money was being used for Municipal Court software. Councilor Pelletier had discussed with the Clerk the use of Windows based 9" tablets; that is a small screen suggest instead using Google Chrome notebooks that are 16" and roughly cost \$250 each. The documents that are scanned for the meetings are not searchable but if the Google suite is used it would be easier to search. Councilor Pelletier will talk to the Town Clerk about the calendar.

###### **b. Town Council Governance Policy**

Councilor Pelletier discussed setting the agenda and the time frame in which it's received. The agenda has not been received in the time prescribed by the Governance Policy. Seven of the last ten packets have been received less than two hours before the close of business on Friday. If the Council wants to engage people need more access than seeing the backup on a Monday. The Town Clerk is highly empowered by the Governance Policy to hold items not quite ready or where there is insufficient time to refer to other departments. Agenda items are due by 3:00 pm on the Tuesday before the meeting; only time sensitive items should be placed on the agenda after that time. Getting the agenda on Thursday will increase public participation and give the Council more time to digest the information. The Town Clerk was not in attendance at this meeting. Council President deMedeiros has been working with the Clerk and the Solicitor at the Wednesday agenda meetings. President deMedeiros explained the Clerk was sympathetic regarding the requests that an item needs to be on the agenda and the Council needs to be more supportive. President deMedeiros noted the Clerk is trying to be cooperative; Councilor Pelletier suggested a simple policy statement from the Council in support of the Clerk, have to get away from squeezing everything in. President deMedeiros and Councilor Perry agreed; Councilor Perry opined nothing should come before the Council unless they have to vote on it; should be finalized before it comes to the Council. Councilor Pelletier earlier in the year had discussed a creating a check list that sets forth the parameters for a license; will get back to working on that. Councilor Perry suggested presentation be done at a workshop; usually limited to 15 minutes at a Council meeting because of the agenda.

Solicitor DeSisto recused from item number E2 left the Council table.

## **2. Town Administrator – Appointment of Special Legal Counsel Related to Zoning Enforcement Relating to Four Corners Property, LLC – Continued From June 13<sup>th</sup> Meeting**

Administrator Wojcik explained because of the various rules of legal practice the Town Solicitor cannot represent the Town in this matter so the Town will need Special Counsel to go forward. The Town has been served notice of a lawsuit from the owner of the Four Corners entities. The Town is involved in a multifaceted negotiation with this owner to get them to come into compliance with zoning. The defendants are the Town of Tiverton, Town Administrator and Building/Zoning Official in their official capacities, not individually. The Administrator interviewed all five of these attorneys on the phone who were recommended by various sources. The five were Jay William Harsch, former Town Solicitor, Chris Davidio and Brian Wagner, both environmental attorneys, Christine Engustian who has an extensive background in environmental law and S. Paul Ryan, a land use attorney who was involved in writing the Town's zoning code. All five are highly qualified. Personally favored Attorney Harsch. Councilor Pelletier questioned the rate as it was not listed in his document. The T/A did ask everyone for a rate, recalled the last time Attorney Harsch worked for the Town he had a municipal rate of approximately \$185 per hour. Councilor Pelletier listed the rates for the other attorneys; did not know Attorney Ryan was involved in the Code and he had a rate of \$135 per hour.

Councilor Pelletier made a motion to Appoint Attorney S. Paul Ryan as Special Legal Counsel Related to Zoning Enforcement Relating to Four Corners Property, LLC. The motion was seconded by Councilor Chabot. Councilor Sousa opined this was totally unavoidable, should be working with the property owner, will not vote in favor. The motion passed on a vote of 6-1, Councilor Sousa opposed.

Councilor P. Mello questioned if this could go to the Trust; Councilor Pelletier questioned the time line. Administrator Wojcik will discuss that with Attorney Ryan; one of the attorneys from the labor counsel entered an appearance at the TRO in court this morning and requested a postponement.

Solicitor DeSisto returned to the Council table.

## **3. Susan Anderson – Proposal of Stone Wall Ordinance**

Solicitor DeSisto did research, has prepared a draft that is different from the one proposed. Ms. Anderson used several other ordinances from around the State, would like some direction from the Council. This is more complicated, more utilitarian and has more legal property rights. Solicitor DeSisto explained in broad terms Chapter 228 of the Lincoln Town Code which is for historic stone walls is a voluntary program. There is a tax exemption of \$5k for property assessment on an annual basis. It involves a restricted covenant for the presentation of stone walls. This proposed ordinance is a mandatory program. The stone wall has to abut a State or local road or be a boundary marker. Councilor Pelletier noted the intent was to preserve and protect the stone walls in Town and provide user friendly, legal course of action for maintenance, demolition or some other alteration. Ms. Anderson suggested taking out 20<sup>th</sup> century and replacing with 19<sup>th</sup> century. Councilor Lambert requested seeing the Solicitor's draft, had several concerns including the definition in paragraph 2 which seemed like it belonged under purpose and seemed much broader. Councilor Lambert also had issues with the subsections relating to alteration and removal; suggested sitting down with the Solicitor to redraft. Solicitor DeSisto noted the purpose here has to be expanded; two categories of stone walls- boundary marker flanking a road and not a boundary marker that does not flank a state road.

Councilor Pelletier recalled having the same discussion about this two months ago, wanted to know what direction the Solicitor needed. Solicitor DeSisto prepared a draft with underlying comments based on additional research. Councilor Lambert suggested drafting both proposals, send them to Ms. Anderson. Councilor Sousa suggested the ordinance be proactive and not by dictating but by incentivizing. Solicitor DeSisto will draft two ordinances; Ms. Anderson requested they be drafted before her board meets on the second Wednesday of the month so the board can review. President deMedeiros suggested putting this on the last agenda in July, the 25<sup>th</sup>.

Councilor Pelletier made a motion to request and authorize the Town Solicitor to prepare two drafts of the ordinance referred to as the Stone Wall Ordinance based on the conversation of Council before the second Wednesday in July and for the last Council meeting in July. The motion was seconded by Councilor Chabot; The motion passed unanimously.

At this time President deMedeiros requested a motion to bring New Business forward to this point.

Councilor Pelletier made a motion, seconded by Councilor Chabot to bring G, New Business to this point in the agenda. The motion passed unanimously.

**G-NEW BUSINESS:**

**1. Town Administrator – Ratification of Amendment to Contract for Tax Collector Toni Lyn McGowan For 2% Salary Increase to \$31,775**

Councilor Sousa recused, related the Tax Collector, left the Council table.

Administrator Wojcik noted the Council had received the evaluation and recommended goals, thanked Ms. McGowan for a good job. The T/A recommended a 2% salary increase from \$31,152 to \$31,775; was in the budget. The total cost of the contract amendment was \$706 for the year.

Councilor Perry made a motion, seconded by Councilor P. Mello to Ratify the Contract for Toni Lyn McGowan for 2% salary increase to \$31,775. The motion passed on a vote of 6-0-1, Councilor Sousa abstained, not at Council table.

Councilor Sousa returned to the Council table.

**2. Town Administrator – Ratification of Amendment to Contract for Senior Director Janice Gomes For 2% Salary Increase to \$52,308**

Administrator Wojcik had familiarity with managing a Senior Center from a previous position, noted Ms. Gomes provides a service, information, encouragement, addresses issues and manages the building. The T/A recommended a 2% increase, in the budget for next year. The salary would go to \$52,308 which is a \$1,443 increase over the current year.

Councilor Perry made a motion, seconded by Councilor P. Mello for Ratification of Contract for Senior Center Director Janice Gomes for 2% salary increase to \$52,308. The motion passed unanimously.

President deMedeiros requested a motion to move up item G6.

Councilor Perry made a motion, seconded by Councilor Pelletier to move up item G6. The motion passed unanimously.

**G-NEW BUSINESS:**

**6. Brian and Patricia Weeks, 22 Olympia Ave, Plat 117, Lot 138**

**a. Authorization for Town's Signature on Easement from RI DOT to Allow Sewer Connection From Subject Property to Existing Sewer Main Located Along Railroad Tracks in RIDOT Property**

**b. Request Approval of Sewer Easement Crossing Victoria Avenue (Paper Street)**

Bill Smith, Civil Engineering explained the Weeks own property on Olympia Avenue, a paper street. The sewer interceptor runs along the rail road tracks; the Weeks would like to tie in. Two years ago went to Wastewater to get that approval; the letter is in the backup, found it was owned by DOT. The Weeks went to DOT for an easement, which was drafted by DOT and requires the Town to sign off on the easement. The sewer line crosses the paper street,

Victoria Avenue and needs an easement from the Town for that sewer line where it crosses Victoria Avenue. Solicitor DeSisto explained they were asking for two items, a construction easement and a permanent easement. Councilor Sousa questioned if it was a forced main; Mr. Smith explained it was a gravity sewer. Solicitor DeSisto did not see any problem with this item.

Councilor Lambert motioned to Authorize the Town signature, specifically Mr. Wojcik on an Easement from RIDOT to allow sewer connections from the subject property to existing sewer main located along rail road tracks in RIDOT property as more fully identified in G6. Councilor Perry seconded the motion, discussion followed. Solicitor DeSisto noted the easement was with the State or RI, the motion is not for the Town to be a guarantor, would not recommend that; it is for the Town to be a grantor. Solicitor DeSisto was fine with granting the easement; Solicitor DeSisto explained the grant of easement with RIDOT the grantor and lists the Town as guarantor, they asked for an additional easement from the Town, did not see why the Town has to be guarantor. Ms. Smith was under the impression that because the Town owned the sewer line was the reason DOT was asking for the Town to sign off on that easement. There is a separate easement for crossing Victoria Avenue; trying to get an easement from the Town for that segment of the sewer line. Administrator Wojcik clarified the Town will own the sewer line for some time as there is a TIF bond on it so they have to be a guarantor so the State will make sure it's maintained. Solicitor DeSisto noted the language about the guarantor in subsection N where the Town will defend and indemnify any claims or actions relative to the easement. Mr. Smith noted one of the requirements for the Weeks is to maintain appropriate insurance; the packet included a copy of the insurance certificate. Solicitor DeSisto just wanted the Council to know with this easement they essentially guarantee performance; the line could fail or have some problem with the connection. Administrator Wojcik opined RIDOT will not go along if the Town does not okay the easement. The Town has to maintain the interceptor, don't know any way around it. Councilor Chabot noted ultimately it will be transferred to the Tiverton Wastewater District (TWWD). Councilor Pelletier affirmed with the Solicitor if the line is under a paper road then the liability sits with the Town. Councilor Sousa questioned the linear feet; Mr. Smith explained it was 31 feet from the easterly edge of Victoria Avenue and was a 6 inch line. Solicitor DeSisto reiterated the Town is being asked to sign on the State easement as a guarantor needs to be done in a separate motion. Councilor Pelletier noted this motion was essentially for G-6b. The motion passed unanimously.

Councilor Lambert, as iterated by the Town Solicitor, stated in the form of a motion, to Authorize the Town Administrator to sign onto the RIDOT Easement as Guarantor for the Easement entered into between the State, RIDOT and the applicant. The motion, seconded by Councilor Chabot passed unanimously.

### **G-3-Proposed Tiverton Town Charter Amendments**

#### **a. Councilor Perry – Section 301 – FTR (d) Petitions #3 – Qualification of Petitions – Amend Amount of Signatures Needed for Alternate Petition**

#### **b. Councilor Perry – Section 301 – FTR – Elector Budget Proposals – Limiting Dollar Amount of Changes to Budget Committee's Recommendation**

Councilor Perry believed this was overdue, need a public hearing; cited page 5 of the Charter, Qualification of Petitions which read as follows: The Town Clerk shall cause petition signatures to be verified by the Board of Canvassers, such verification to be completed no later than 21 days before the Financial Town Referendum. All Elector Budget Proposals and Elector Resolutions shall be included on the ballot for the Financial Town Referendum and presented at the Financial Town Hearing provided that they are accompanied by 50 qualified elector signatures. Councilor Perry suggested eliminating the words in the last sentence after they and add each such petition shall contain signatures of not less than 10% of the duly qualified electors of the Town. The ballot used at the referendum shall be prepared by the registrar in such manner as to include each of the separate petitions, for increase and or decrease in the appropriate budget not to exceed more than a \$200,000 dollar increase or decrease. If the Budget Committee budget passes the appropriation does not increase or decrease by more than \$200k. Four other towns have Financial Town Referendums (FTR), Portsmouth and Bristol have this wording in theirs. The petitioner would have 21 days to collect signatures just like they do now. President deMedeiros noted a public hearing would have to be held. Solicitor DeSisto noted the ballot questions have to be at the Secretary of State by August 10 so this needs to be done by the last meeting

in July. President deMedeiros will set something up with the Town Clerk, could have the public hearing at a regular meeting.

### **G-3c Town Solicitor – Section 1010 - Removal of Wastewater Management Commission**

Solicitor DeSisto considered this to be a housekeeping change for the reference for the TWWD, this is to remove the reference in the Charter for the Wastewater Management Commission, consider it necessary. There will be ordinance changes suggested to effectuate that. The Charter change would have to be discussed at the public hearing, not the ordinance.

### **G-3d Town Administrator – Section 1007 Personnel Board –Amendment for Advertising Requirements**

Administrator Wojcik noted the discussion in the past on the effectiveness of advertising in two newspapers as required in the Charter. Found a large number of applicants did not receive their information from the newspaper but got it online. The T/A will suggest language that supports the strong connection with the Personnel Board and their process so it goes out to widely sources for information and not just newspapers. Councilor Pelletier suggested adding the top 3 applicants for Town Administrator is referred to the Town Council, not the Administrator and suggested updating the equal employment opportunity language to all protected classes in RI. Solicitor DeSisto explained there was no limit to the number of Charter changes; recommended a motion for a public hearing.

Councilor Perry motioned to Advertise for a public hearing. The motion was seconded by Councilor P. Mello; Councilor Pelletier noted if anyone has anything else for proposed Charter amendments to get it to the Clerk. Councilor Chabot noted the public hearing on the ordinance amendment changes for Wastewater was scheduled for 7/25. The motion passed unanimously.

### **G-4-Town Administrator – Request for Council Guidance and Direction Regarding Trash Proposals**

Administrator Wojcik requested direction from the Council on the options for trash collection if the contract is going to be closed out; need to know where to focus. President deMedeiros preferred option B, special fund financed by user fee. Councilor Sousa noted Middletown does not have a landfill, the bag fee will increase and low income elderly will have to pay the \$145 along with everyone else. Councilor Sousa explained the Recycling Committee discussed using the Pay As You Throw (PAYT) for this year to pay for the rest of the contract and increasing the bag fees by 50 cents. It would be a one-time loan from PAYT account and would be paid back so it wouldn't interrupt the closure program. There are 230 homes under the free bag program that cannot afford the fee. President deMedeiros confirmed with the Solicitor the money from the bags is in a restricted account and cannot use that money to make up the \$500k cut from the budget. Councilor Sousa explained it would be diverting that money for a little while; disagreed with Council President on how it could be used.

Councilor Lambert noted former Town Treasurer Cecil Leonard recalled there were three separate resolutions to make clear that account was restricted. Councilor Lambert also pointed out the Town has a contract with DEM regarding the landfill closure, goes back to 1995 and requires the Town to adequately fund the landfill closure. Councilor Sousa suggested more research on this topic. Councilor Sousa also suggested a two bag system, a red bag for \$5 and a blue bag for those who bring it to the landfill. Steven Rys, Recycling/Landfill Chair noted the Committee discussed taking money from the bag program to pay for trash pickup this fiscal year. Councilor Lambert was concerned, at that meeting suggested getting an opinion from the Solicitor; was of the opinion it could not be done. Councilor Lambert would like to see the T/A provides a conclusion of just the obligations, the money going into the landfill account and the financial aspect to reduce the cost. Wanted to find out what will be the additional charge for picking up recyclables.

Administrator Wojcik explained option B mirrored Middletown; they struggled for the first couple of years with the fee and the bins. They have an annual and a six month sticker, initially cost \$650-700k for the bins. Councilor Perry questioned where the trash would go. The T/A confirmed with the Solicitor, by law all municipal solid waste has to the town landfill or the one in Johnston. The Administrator noted more research is needed on the existence of the PAYT program as is it configured now. If that was different then you could use an enterprise fund and use those proceeds to pay for trash. The contract is still in force, have about 4 weeks before we have to come up with a solution. Councilor

Pelletier requested the Treasurer explain how it would work. Treasures Saurette explained right now the Town has \$145 to fund trash collection, need to figure out how to fund the rest of it. The Treasurer spoke to the Assistant Finance Director in Middletown where they send out applications with the tax bills. The stickers are heavy duty color coded and the town requires certain receptacles similar to the latest one the DPW has been selling. The first year of their program they ran about \$18k short and used some money from the general fund. Typically expenses of an enterprise fund are taken from that fund; the fund is designed to be self-sustaining so all of the expenses of that fund come out of that revenue. It's not a tax, it's a fee. Special revenue funds are set up all the time like for grant money.

Councilor Pelletier was concerned about creating an account without establishing authority. Solicitor DeSisto was not prepared to give an opinion tonight; will give a written opinion if the Council wants to pursue. Councilor Chabot recapped the options. Option A involves the PAYT bag program and may not work legally, Option B which is the Middletown example financed by a user fee needs to be looked at and will give the T/A direction, Option C did not carry much weight with the Council, Option D which was to discontinue all service did not sound like a workable option and Option E to continue the service may need to be used if the Council decides on an alternate program. In Councilor Chabot's opinion Options B & E need to be explored further. President deMedeiros noted Option E can be done as a temporary measure confirmed with the Solicitor the Council can transfer funds. President deMedeiros called for a motion.

Councilor Chabot made a motion to instruct the Town Administrator to research further Option B, the Middletown example, financed by user fee and continue exploring Option E, continuing service and look for available funds to transfer on a temporary basis. The motion, seconded by Councilor Perry passed on a vote of 6-1, Councilor Sousa opposed.

#### **G-5-Town Administrator – Sale of Land in Industrial Park – Purchase Option to Blue Sphere Corporation**

Councilor P. Mello suggested waiting until the Council hears back from Emera. The T/A noted this would not preempt Emera from coming back to the Council. Administrator Wojcik explained some time ago Bluesphere entered into a letter of intent with the Town in order to move forward with National Grid and ISO. National Grid is close to an agreement with Bluesphere; however it will now be a 1 megawatt plant and not 5 mw as initially proposed. Bluesphere is offering to pay \$24k per acre in an option to purchase 8 acres of land at the Park. They will run all utilities to the facility including sewer from Progress Way, it will run right by the Long complex for a better connection. At this point this is recommended by the Town Planner and the Administrator to go forward. Bluesphere digester converts waste to energy; is a renewable energy source. Councilor Sousa noted 25% of the sale from the Park goes into infrastructure, suggested the road near the police department could be improved. The Administrator agreed, had discussions with Deidre Paiva, Steere Engineering, and did not believe that small road could handle the traffic. The T/A noted the allocation of the proceeds from the sale must be made by the Town Council; recommended getting the deal penned first. The revenue stream would include proceeds from the sale of the real estate, property tax, tangible tax and maybe a payment in lieu of taxes. Councilor Pelletier did not see any language for an option agreement. The Administrator was just seeking authorization to go forward and will come back with an option agreement for the next meeting. Councilor Chabot noted with the State proposal the Town would only get \$5k but if this agreement moves forward before June 30 deadline the Town would get more. Administrator Wojcik was looking for a motion to direct him to negotiate with Bluesphere.

Councilor Perry made a motion to Direct the Town Administrator to negotiate with Bluesphere Corporation to get a purchase and sale agreement option. The motion was seconded by Councilor Sousa who requested the discussion include the intersection as part of the purchase and sale. The motion passed on a vote of 6-1, Councilor Pelletier opposed.

#### **G-7-Town Solicitor – Resolution Creating Stone Bridge Abutment Ad Hoc Committee**

Councilor Pelletier reached out to Dave Saurette and David Vannier to see if they would be interested, questioned the Solicitor if the names of the members of this committee and members of the public could be specifically named. Solicitor DeSisto affirmed they could, Councilor Pelletier explained this project may take more than one year to

complete. Councilor Pelletier suggested his name, Peter Mello, David Vannier and David Saurette. Councilor Pelletier clarified with the Solicitor the peer review clause, may not be necessary as the committee does not know yet what it will be reviewing. Solicitor DeSisto noted that clause was because of the Council wishes, opined it was predatory; if the peer review is not something the committee wants to enter into then you would come back before the Council. Councilor Pelletier was just looking for some flexibility; the T/A added they were looking for the structural calculations. Councilor Sousa suggested the Town engineer be available for the committee; Administrator Wojcik noted the Engineer has been reviewing figures.

Councilor Perry made a motion to Approve the Resolution Establishing Stone Bridge Abutment Ad Hoc Subcommittee with the amendments mentioned. The motion seconded by Councilor Pelletier passed unanimously.

**Adopted Resolution attached at end of minutes.**

## **F-FINANCIAL BUSINESS:**

### **1. Chief Lloyd TFD**

**a.Request Transfer from Acct #3310-5107 (Holidays) to Acct #3310-6931 (Operational Technologies) \$3,400**

**b.Request Transfer from Acct #3310-5108 (Longevity) to Acct #3310-6969 (Medical Supplies) \$3,500**

Chief Lloyd explained due to personnel changes funds were available to pay some computer expenses.

Councilor Perry motioned to Approve the Transfer from Acct #3310-5107 (Holidays) to Acct #3310-6931 (Operational Technologies) \$3,400. The motion, seconded by Councilor Chabot passed unanimously.

Councilor Perry motioned to Approve the Transfer from Acct #3310-5108 (Longevity) to Acct #3310-6969 (Medical Supplies) \$3,500. The motion, seconded by Councilor Chabot passed unanimously.

### **2. Chief Blakey, TPD**

**a.Request Transfer of \$12,322 from Acct#3330-5107 (Holiday) to Acct#3330-5104 (Overtime)**

**b.Request Transfer of \$5,000 from Acct#3330-5150 (Sick Buy Back) to Acct#3330-5104 (Overtime)**

**c.Request Transfer of \$3,495 from Acct#3330-5102 (AFSCME Salary) to Acct#3330-6928 (Education)**

Councilor Perry motioned to Approve the Transfer \$12,322 from Acct#3330-5107 (Holiday) to Acct#3330-5104 (Overtime). The motion, seconded by Councilor Chabot passed unanimously.

Councilor Perry motioned to Approve the Transfer of \$5,000 from Acct#3330-5150 (Sick Buy Back) to Acct#3330-5104 (Overtime). The motion, seconded by Councilor Chabot passed unanimously.

Councilor Perry motioned to Approve the Transfer of \$3,495 from Acct#3330-5102 (AFSCME Salary) to Acct#3330-6928 (Education). The motion, seconded by Councilor Chabot passed unanimously.

### **3. Town Administrator – Request Approval of Transfers in DPW Accounts**

**a. \$2,000 from Acct#5540-5101 (Payroll) to Acct#5540-6648 (Repairs & Tires)**

**b. \$3,000 from Acct#5540-6451 (Snow Removal) to Acct#5540-6648 (Repairs & Tires)**

**c. \$5,000 from Acct#5540-5101 (Payroll) to Acct#5540-7423 (Supplies & Misc.)**

Councilor Perry motioned to Approve the Transfers in DPW Accounts of \$2,000 from Acct#5540-5101 (Payroll) to Acct#5540-6648 (Repairs & Tires). The motion, seconded by Councilor Chabot passed unanimously.

Councilor Perry motioned to Approve the Transfers in DPW Accounts of \$3,000 from Acct#5540-6451 (Snow Removal) to Acct#5540-6648 (Repairs & Tires). The motion, seconded by Councilor Chabot passed unanimously.

Councilor Perry motioned to Approve the Transfers in DPW Accounts of \$5,000 from Acct#5540-5101 (Payroll) to Acct#5540-7423 (Supplies & Misc.). The motion, seconded by Councilor Chabot passed unanimously.

#### **4. Town Administrator – Request Approval of Transfer in DPW Accounts**

##### **\$7,782 from Acct#5530-7611 (Gas & Diesel) to Acct#5530-7139 (Engineering Testing Permits)**

Councilor Perry motioned to Approve the Transfers in DPW Accounts of \$7,782 from Acct#5530-7611 (Gas & Diesel) to Acct#5530-7139 (Engineering Testing Permits). The motion, seconded by Councilor Chabot passed unanimously.

#### **5. Chief Blakey, TPD**

##### **a.Request Transfer of \$15,000 from Acct#3330-5102 (AFSCME Salary) to Acct#3330-5104 (Overtime)**

##### **b.Request Transfer of \$5,100 from Acct#3330-5150 (Sick Leave Buy Back) to Acct #330-6667 (Operations)**

Councilor Perry made a motion, seconded by Councilor Chabot to Approve the Transfer of 15,000 from Acct#3330-5102 (AFSCME Salary) to Acct#3330-5104 (Overtime). Councilor Perry questioned what was going on. Chief Blakey explained there were 3 major events in the last three days, two related but at different locations. The other one required someone on the scene for 24 hours. The motion passed unanimously.

Councilor Perry made a motion, seconded by Councilor Chabot to Approve the Transfer of \$5,100 from Acct#3330-5150 (Sick Leave Buy Back) to Acct #330-6667 (Operations). The motion passed unanimously.

#### **H-BIDS AND REQUESTS FOR PROPOSALS:**

##### **1. Town Administrator – Request Permission to Waive Bid Process and Purchase Demo Rescue Vehicle**

##### **Currently Available for Immediate Delivery from Greenwood Fire Apparatus in North Attleboro, MA for \$273,321.10 in New Fiscal Year**

Chief Lloyd explained there was a current budget request for \$285,000 for a rescue vehicle. There is a demo available at \$12,000 less, Councilor Sousa wanted to know about the warranty and if it can be extended. Chief Lloyd will look into this and get back to the Councilor. This vehicle is not equipped, an old rescue will be taken out of service and the equipment will be transferred to it.

Councilor Perry made a motion to Authorize the Town Administrator permission to Waive bid process and purchase demo rescue vehicle currently available for immediate delivery from Greenwood Fire Apparatus in North Attleboro, MA for \$273,321.10 in new fiscal year. The motion, seconded by Councilor Chabot passed unanimously.

#### **H-1-OPEN PUBLIC FORUM FOR ANNOUCEMENTS, COMMENTS, QUESTIONS;**

No one signed up to speak at the Open Forum.

#### **I-TOWN ADMINISTRATOR ANNOUNCEMENTS:**

##### **Update Regarding Recycling Station – Continued From 6/13<sup>th</sup> Meeting**

Administrator Wojcik supplied a memo regarding the Recycling Station; continuing to pursue options and providing a site at the DPW to have a role in the recycling transfer station.

#### **J-COUNCIL ANNOUNCEMENTS:**

Councilor Lambert mentioned at several meeting the budget problem is a lack of revenue. Cited an article in the newspaper about FedEx locating a facility in Seekonk which will get \$1.7 million in tax revenue.

Councilor Perry congratulated the Tiverton Public Library which recently received a Smart Growth Award.

#### **K-TOWN SOLICITOR – ITEMS AND ANNOUNCEMENTS:**

##### **Notice of Claim – Denied and Referred to Interlocal Trust**

##### **Referred to School Department – Continued From 6/13<sup>th</sup> Meeting**

Solicitor DeSisto explained this Notice of Claim does not list the name because it's a minor and does not involve the government of the Town of Tiverton. Solicitor DeSisto asked the Council to deny the claim and refer it to the Interlocal Trust and authorize him to contact the attorney for the claimant here just to point out this should have been sent to the School Department which has primary responsibility.

Councilor Perry made a motion to Deny the Claim, refer it to the Trust and Authorize the Solicitor to contact the claimant. The motion, seconded by Councilor Sousa passed unanimously.

**L-TOWN CLERK ITEMS AND ANNOUNCEMENTS:**

There were no Town Clerk items.

The minutes were compiled by Leona Cook, Clerk and reviewed by the Town Clerk.

**ADJOURNMENT:**

Councilor Chabot motioned to adjourn, seconded by Councilor Sousa passed unanimously.

Council adjourned at approximately 11:50 p.m.

A True Copy.

ATTEST: \_\_\_\_\_

Nancy L. Mello, Town Clerk

TOWN OF TIVERTON, RHODE ISLAND  
TOWN COUNCIL RESOLUTION

**RESOLUTION: ESTABLISHING STONE BRIDGE ABUTMENT  
AD HOC SUBCOMMITTEE**

**BE IT RESOLVED BY THE TOWN COUNCIL OF TIVERTON AS FOLLOWS:**

**WHEREAS:** The repair of the Stone Bridge in the Town of Tiverton is a project that requires close oversight by responsible Town elected and appointed officials;

**WHEREAS:** A subcommittee of the Town Council is necessary to provide oversight of the project, ensure that the project progresses in an appropriate and timely manner, and demand accountability with regard to the entities that the Town has contracted with to finance and complete this project;

**WHEREAS:** The Town Council wishes to utilize peer review as an aspect of this project, and a subcommittee will most efficiently be able to determine the scope and extent of peer review;

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF TIVERTON, RHODE ISLAND AS FOLLOWS:**

**SECTION 1:** The Tiverton Town Council hereby establishes the Tiverton Stone Bridge Abutment Subcommittee, whose members shall be Brett Pelletier, Peter A. Mello, David Vannier, David Saurette and the Town Administrator or his designee.

**SECTION 2:** THAT THIS RESOLUTION SHALL BECOME EFFECTIVE IMMEDIATELY UPON ITS PASSAGE BY THE TIVERTON TOWN COUNCIL.

ADOPTED BY THE TIVERTON TOWN COUNCIL JUNE 27, 2016

\_\_\_\_\_  
Denise deMedeiros  
TOWN COUNCIL PRESIDENT