

**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 October 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.

**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.

**CONSENT AGENDA**

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

- a. Approval of Regular Council Meeting Minutes of August 22, 2016
- b. Approval of Regular Council Meeting Minutes of September 12, 2016
- c. Approval of Regular Council Meeting Minutes of September 26, 2016
- d. Approval of Executive Session Minutes September 12, 2016
- e. Approval of Executive Session Minutes September 26, 2016

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

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

- a. Discover Newport F/Y Ending 3/31/16 Annual Audit Report – Available in Town Clerk’s Office
- b. Nancy Howard Regarding RIDEM Farmland Acquisition Rules
- c. VHB to Councilor Pelletier Re: Rehabilitation of Old Stone Bridge Abutment Estimate Update

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

**A-5-Marc Plante, 69 Silver Beech Road – Noise Level at Rod and Gun Club – Referred to Police Chief**

**A-6-Treasurer Denise Saurette – Budget and Revenue Reports for August 2016**

**A-7-Town Administrator – Police and Fire Department Overtime Reports September 2016**

**A-8-Town Administrator – Distribution of Department Monthly Reports for September 2016**

**A-9 - OPEN PUBLIC FORUM FOR ANNOUNCEMENTS, COMMENTS, QUESTIONS**

Archer Harmon, Jiley Hill Road commented on the traffic situation on Jiley Hill Road in the morning and late afternoon in conjunction with school hours. People keep cutting through Jiley Hill to get to Fish Road, most over the speed limit. There are posted speed limit signs but people keep ignoring them. Mr. Harmon has discussed this with Chief Blakey who believes a light at the end of Fish Road would help. Mr. Harmon noted something needs to be done; President deMedeiros will refer this to the Police Chief and put it on the next agenda. Councilor Sousa believed it was probably not feasible to have it for residents only. President deMedeiros noted that will be discussed in two weeks. Jim O’Dell, Warren Avenue brought to the Council attention the Building Department is greatly overworked, has been advocating for more help with the Budget Committee, suggested a part time Clerk or building official.

## **BUSINESS BROUGHT BEFORE THE COUNCIL**

### **B – PUBLIC HEARINGS:** **Advertised Public Hearings**

#### **1. Public Hearing (Public Comment Portion Closed) Regarding Approval of Proposed Amendments to Fees and Fines Resolution for Building Inspection Fees – Continued from September 26th**

Mr. Neil Hall, Building/Zoning Official recently talked to Jack Leyden, State Building Official, after a lengthy discussion found that the State recently passed a law giving Mr. Leyden until July 2017 to come up with a State wide fee schedule based on all cities and towns. Mr. Leyden then has to send each one a specific fee schedule so they can have a public hearing and present it to the Town Council. It will be individually tailored; five cities participated in the pilot program. The majority of the State uses a dollar value based fee. Solicitor DeSisto expressed some concern, different for each community. The Solicitor was not sure this would happen before July 2017; it was not inappropriate to go forward with the fee schedule. The State wants to have some type of uniform building permit fee. The T/A explained the basis for the calculating the fee structure in Tiverton was in line with the rest of the State; don't have reason to change; these fees are not out of whack. Tiverton's building fees were lower, electrical and mechanical permit fees higher so the cost to build was very similar. The T/A could not find a rational basis to recommend a change in the fee structure. Councilor Sousa believed the legislature took action because some towns were charging exorbitant amounts can only charge as much as needed, not to make a profit. Solicitor DeSisto affirmed. Mr. Hall was concerned because Tiverton is predominantly residential; Mr. Leyden said that would be factored in. Tiverton's commercial revenue is not as much as other towns. The Administrator's recommendation was to table this for now.

Councilor Perry made a motion to maintain the existing fee structure. The Administrator noted the majority of all the other fees have been adopted; this motion would be to adopt the entire schedule. Councilor Perry then made a motion to adopt the entire fee schedule. Councilor Chabot recalled the motion was to change the fee from 4% to 3% but the Council did not vote on it; it was proposed. The Council had already voted on the other fees. Councilor Chabot recalled in February the fee went from 4 to 3%, had voted on it but is not in this document.

Councilor Chabot made a motion to change the fee from 4% to 3% as it was proposed in February. Solicitor DeSisto recommended the motion to be to maintain the existing fee structure. Councilor Sousa seconded on Councilor Perry's motion. Councilor Chabot questioned what they were voting on; the 3% that was proposed in February or what was in the packet. Administrator Wojcik noted the fee and fine schedule was amended but the final document has not been approved. The Administrator tried to explain the Council had already voted on the 3%, was just not in the document. Councilor Chabot believed all the changes the Council had previously approved had taken effect. Councilor Chabot requested the motion be more specific to reflect the correct percentage. The minutes from the February 29 meeting were presented by the Clerk, Solicitor DeSisto read from them in which Councilor Perry motioned to bring forward to the public hearing reducing the fee down to 3.5%. To answer the question as to what the Council is voting on its voting on the reduced amount of 3.5%.

Councilor Perry stated the motion was to approve all Fees and Fines as amended with the current rate approved by this Council including the 3.5%. Councilor Sousa seconded that motion, more discussion followed. Councilor Pelletier questioned this was for all fees and fines; Town Clerk clarified, as amended. Solicitor DeSisto explained the Council had already voted on the rest of it, this was just for Building permit fees with the amendment in February. Councilor Pelletier clarified the Council was only voting to approve the building permits with the 3.5% for Commercial, Industrial and mixed use permit fees, in total Building, Electrical, Mechanical and Plumbing permits. The motion passed unanimously.

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

There were no items for this topic on the agenda.

**D-APPOINTMENTS & RESIGNATIONS:**

**Appointments**

**1. Juvenile Hearing Board – Three Year Term to 10/15/2019**

**a.Re-Appointment Request – Eugene Raposa, 413 Hooper Street**

**b.Re-Appointment Request – Constance Fleckenstein, 55 Cottage Avenue**

Mr. Raposa has been a member of the Juvenile Hearing Board since 2009, enjoys working on this board to help the youths in town. Mrs. Fleckenstein called earlier, was unable to attend this meeting.

Councilor Perry made a motion to Reappoint Eugene Raposa to the Juvenile Hearing Board for a Three Year Term to 10/15/2019. The motion was seconded by Councilor Sousa, passed unanimously.

Councilor Perry made a motion to Reappoint Constance Fleckenstein to a Three Year Term to 10/15/2019 to the Juvenile Hearing Board. The motion was seconded by Councilor Sousa, passed unanimously.

**2. Library Board of Trustees – Three Year Terms to 10/15/2019 – 3 Vacancies**

**a.New Request - Geri Holewiak, 28 Holly Circle**

**b.Re-Appointment Request – Barbara Donnelly, 64 Kenyon Road**

**c.Re-Appointment Request - Gregory Jones, 161 Highland Road**

Mrs. Holewiak is a member of the Friends of the Libraries committee and would like to be part of the future. Mrs. Donnelly was not in attendance. Mr. Jones noted Mrs. Donnelly recently stepped down as Chair and Mr. Jones was elected the Chair to replace her. The Library is facing many challenges particularly the budget; Mr. Jones has several initiatives in mind. . Town Clerk Nancy Mello had just received another request to be appointed to this board. President deMedeiros noted that person will be interviewed at the next Council meeting. Solicitor DeSisto affirmed the Council could waive their policy at that time of not appointing until the next meeting.

**3. Housing Authority – Five Year Term to 10/15/2021 – One Vacancy**

**a.New Request – Laura Rom, 27 Cornell Road**

Mrs. Rom had lived in Portsmouth many years ago and served on the Portsmouth School Committee, came here 12 years ago, looking to give back to the community.

**Resignations**

**4. Juvenile Hearing Board – Judith I. Crawford, 1333 Main Road**

Councilor Perry made a motion to Accept with regret and thanks for service to the Town, the Resignation of Judith L. Crawford from the Juvenile Hearing Board. The motion, seconded by Councilor Sousa passed on a vote 6-0-1, Councilor Pelletier abstained, not at Council table.

**5. Library Board of Trustees - Colin L. Robinson, 58 Leonard Drive**

Councilor Perry made a motion to Accept with regret the Resignation of Colin L. Robinson from the Library Board of Trustees. The motion, seconded by Councilor Sousa passed on a vote 6-0-1, Councilor Pelletier abstained, not at Council table.

**E-UNFINISHED BUSINESS:**

**1. Chief Robert Lloyd – Update on Drought Conditions**

Chief Lloyd discussed the drought conditions at the last Council meeting, even with the recent rains there are still dry wells. The Chief was trying to get a handle on the range of wells in Town and has been working with Trish Hilton. The Chief has 100 kits for water testing; residents can go to [wells@tiverton.ri.gov](mailto:wells@tiverton.ri.gov) for more information. The no burn notice is still in effect.

## **2. Town Administrator – Appraisal for Essex Library**

Administrator Wojcik explained the appraisal was completed by Peter M. Scott and Associates; there will be considerations to list this for a real estate transaction or as a sealed bid auction. The T/A was looking for direction to move forward. Councilor Pelletier did not want any of his statements to be construed as a real estate appraisal. Typically there are two types of methodology, single form residential which is highly dependent on recent sales in the market; the other is for any other asset that is more complicated. The report concluded the highest and best use was a single family residence; Councilor Pelletier opined it was not the best use and this building was not a single family residence. Councilor Pelletier questioned what it would cost to get this building to be a single family residence; usually something is measured in context of something else. Councilor Pelletier noted the renovation estimate was between \$130-160,000 but wanted to see what it was based on such as published statutes, estimates, construction lists, etc. Councilor Pelletier estimated the cost to replace the slate roof to be between \$60-70k and wanted to see a more detailed analysis. Councilor Sousa opined this estimate was a little high, believed this was worth \$190k at the most, noted the FTR said fair market value which is what you can get for it. Councilor Lambert recalled the estimates when the Town wanted to sell three schools, some said close to \$1 million, other people said the Town may have to pay to get rid of those properties.

The T/A explained when the Community Center on Judson Street was sold it was a sealed bid. Councilor Pelletier opined the Town could have a broker with no listing price or call to offer. The highest and best use analysis is very important; also need to look at this as a municipal asset. Take the time to do a cost benefit analysis, the Town Hall is running out of storage and office space; need to know the cost for comparable space. There may be more benefit to supporting the asset if not going to get the \$300k for that building. Councilor Pelletier suggested talking to the Historical Society and any other non-profit that may be interested as that was the will of the benefactor. The T/A has been showing the building actively; has taken other potential buyers through the building. Councilor Lambert had argued against the resolution as the FTR required FMV but the result of the vote was to get FMV to sell. Councilor Pelletier opined the Council will decide FMV, it is not some firm number; you have a willing buyer and a willing seller. Councilor P. Mello who works in mortgage banking noted some lenders send questions back to the appraiser. Councilor Pelletier was saying this is a unique property; the estimated \$50-60/square foot renovation cost without any real support is imprecise. The T/A will take Councilor Mello's suggestions to the appraiser, will ask about the methodology and will continue to pursue the conversation with the non-profit and go forward. The T/A planned to come back to the Council with this either October 24 or the first meeting in November. The motivation is to narrow down the range of values for the type of building for a willing seller based on potential values. Councilor Pelletier suggested having an analysis for septic sizing and capacity. Councilor Sousa repeated none of this was in the appraisal given to the Council, purpose was to sell the building. Councilor Sousa did not mind if the Historical Society got the building, was more concerned about getting it on the tax rolls. Councilor Chabot suggested putting up a sign for sale, may generate interest.

## **F-FINANCIAL BUSINESS:**

There were no items for this topic on the agenda.

## **G-NEW BUSINESS:**

### **1. Town Administrator – Ratification of Amendment to Contract for Police Chief Thomas Blakey For 2% Salary Increase to \$88,986 Effective September 8<sup>th</sup>**

Administrator Wojcik praised Chief Blakey who has done an outstanding job controlling his budgets. The Chief has a set of goals relative to capital budgets and organizational areas.

Councilor Perry made a motion to Ratify the Amendment to Contract for Police Chief Thomas Blakey for 2% Salary Increase to \$88,986 Effective September 8<sup>th</sup>. The motion was seconded by Councilor Sousa who thanked the Chief for doing a great job, is jewel for the Town. The Chief's budgets are spot on and run the department well. The motion passed unanimously.

## **2. Ratification of Teamsters Contract (3) Year 7/1/16 to 6/30/19 Including Impact Statement**

Administrator Wojcik introduced Nick Williams, Teamsters agent and Kim Litchfield, DPW employee. The T/A explained the negotiations started some time ago worked on the non-economic changes first and cleaned up some of the language. Longevity has been changed to quarterly payments. Health care cost are rising, the Teamsters health plan is unique in that it comes from Teamsters International as a unified product. The discussion with the Teamsters included the full loaded cost of the other unions in comparison to the Teamsters and how to implement the insurance co-share while giving enough of a salary increase to cope with the hardship. The salary requested is a 5/2/2 % increase while the insurance premiums go from 2.5 to 15% backed out of the take home pay to help the Town. The Teamsters will see a take home pay reduction of several hundred dollars; over the life of the contract, the cost, net of overtime will be approximately \$82k. The net increase for the first year is \$12k for the 10.5 full time equivalent employees. The Teamsters unanimously approved this contract. Mr. Williams said the union realized this is the public sector and made accommodations to the Town as much as possible. The T/A explained this insurance is based on a 40 hour work week and 1,800 hours per year. Councilor Perry noted the increases over the three years of the contract were \$12k, \$29k and \$48k with pay increases of 5/2/2% respectively.

Councilor Perry made a motion to Ratify the Teamsters Contract for the three years, 7/1/16 to 6/30/19. The motion, seconded by Councilor Sousa passed on a vote of 6-0-1, Councilor Lambert abstained, not at Council table.

## **3. Councilor Mello – Update on DPW Site for Transfer Station**

Councilor P. Mello recalled some time ago the discussion regarding costing \$35k to do some engineering studies relative to the Transfer Station. The T/A explained he has not spent that money, was not in favor of using Town Farm; opined this should be on Town property but at 20 Industrial Way at the Industrial Park. There are distinct steps that need to be taken, have to remove all the spent and broken culverts, move the Fire Department training equipment and have another sell off of junk equipment. That area also needs another egress for Police Department vehicles; have had some discussions with Steere engineering about the Route 24 intersection and the cars going to the sports complex. There also needs to be some discussion about DEM wetlands. Councilor Sousa recalled that area is used for road grindings suggested the Landfill would be a better site. The T/A noted once the Landfill closes that is a recreational facility, cannot locate that on the hill. The Administrator was looking for a more suitable location; a more permanent solution. Councilor Sousa suggested putting this at the Landfill as the Council was looking to get three more years out of it; has not heard anything else about an extension. The T/A noted this was only on the agenda for an update. Solicitor DeSisto suggested setting this down on the next agenda for a vote. The T/A suggested the motion would be to direct him to take certain actions.

## **4. Councilor Mello – Update on Energy Usage Figures from School Department**

Councilor P. Mello requested an update on energy usage figures from the School Department. The Administrator explained the contact EDP was sent to the wrong person, has since been sent to the right people. The School Dept has that information, it's under their control and EDP should have it in the next day. The person to contact for that is the business manager, seen by the Council as part of the budget process. The T/A did not believe it was up to him to parse out the information from the School Dept. Councilor P. Mello thanked the Administrator for finally getting this done.

## **5. Councilor Mello – Update on Hiring Senior Center Director**

Councilor P. Mello requested an update or the plan to hire a Senior Center Director. The T/A explained Janice Gomes first offered her resignation for September but after some discussion the Director agreed to stay until the end of December in order to help the Town. The T/A is in the process of finalizing the job description with input from Ms. Gomes and will also be getting feedback from the Personnel Board on the job description and the advertising. Councilor Perry suggested having the person work with Ms. Gomes for 2-3 weeks for a transition period. Councilor Pelletier suggested finding out what Ms. Gomes schedule will be, could hire her as a contractor after the fact. The T/A noted they have discussed the option of the 45 day rule. The T/A expects to come back with this in November.

## **6. Councilor Mello – Update Regarding Street Paving List**

### **a. Town Administrator Update on Proposed Paving List FY 2017**

Councilor P. Mello recalled at the last meeting a discussion about Cynthia Avenue and paving, recalled an agreement was reached after making this a public road. Councilor P. Mello also questioned Sunset View Road. Councilor Lambert who live on Sunset View noted it was a public road accepted years ago but only a small portion. Councilor P. Mello wanted to make a motion to add Cynthia Avenue to the list as a public road for paving. President deMedeiros recalled the Council did say it was a public road. Solicitor DeSisto opined at that time to apply the regulations that were in effect at that time to accept this road. At the time it was not an accepted requirement that roads be paved. The Town Council had the ability to order things done to this road as well as Bolduc's and did not have to adhere to current regulations. The T/A believed at the time Cynthia Avenue should be paved and accepted by the Town; that it should be paved next year. The roads on this list were put there for a number of reasons; some of these roads require significant reconstruction. Councilor P. Mello directed questions to the Solicitor regarding Old Bulgarmarsh Road. The T/A explained this was a small portion of road that runs from Budd Way to Old Bulgarmarsh and is a Town road. The Solicitor noted according to the accepted street list it runs east to 2388 Main Road but there is no reference to any town acceptance.

Councilor Lambert wanted to make clear he lives on the unaccepted portion of Sunset View Drive, explained last winter the paved portion lifted up and ended up on the neighbors front lawn. Councilor Lambert hired, at his expense, an engineer to find out the problem; discussed with the T/A that this road and Marilyn may need more than a topcoat. President deMedeiros requested the Council consider adding Cynthia Avenue to the list. The T/A explained the paving budget is \$410k, suggested keeping \$20-40k for a contingency. If something is going to be added to the list then something may have to come out. The vendor, PJ Keating has projects for the next three weeks; just have to tell them which roads to pave. Quintal Drive should be done on a Saturday because of the school. The Solicitor affirmed that Bolduc's Lane should be on the list as the Council had agreed to do it. The T/A recommended finishing the remaining 1/3 section on King Road from Crandall Road to the last paved section; could cut this if the Council wants to make Cynthia Avenue a priority. The T/A suggested taking out North Brayton and saving this for the spring. Councilor Sousa opined Cynthia Avenue needed total reconstruction; need to put more money in the paving budget. The T/A explained how the paving budget was funded. Jim O'Dell, at the request of Councilor P. Mello discussed Cynthia Avenue. Mr. O'Dell had gotten three quotes last year for less than \$50k including one for \$46k from Cardi. President deMedeiros reminded this was not a public hearing. Audrey Gloddy, Street Committee member estimated Cynthia Avenue would cost \$50k based on past research. Ms. Gloddy has lived on Cynthia Avenue all her life, has only been paved once in 40 years and never had drains. The T/A noted if Primrose/Bramble/Park Place were taken off the list then that would save \$50k. The T/A had taken William Barton off the list, should pave at some point as the contractor has gone out of business. President deMedeiros suggested the Administrator come back with a better list, another set of numbers and what should be the priority and will put on the next agenda. President deMedeiros noted the Council cannot vote tonight, was only on the agenda for an update; will put on the 10/24 agenda so the T/A can come back with a prioritized list and the money. Councilor Chabot requested an estimate from Keating on how much it would cost for Cynthia Avenue.

## **7. Town Council – Evaluation of Town Solicitor**

President deMedeiros explained the evaluation was in the Council's Executive Session packets; Solicitor DeSisto received an average of 3.27. Solicitor DeSisto thanked the Council members, who participated, appreciated both the positive comments and those for areas of improvement. There were some good suggestions, though it was a good idea and suggested sending this form to the boards and commissions for their feedback. They could have different comments and perspectives. Councilor Perry suggested getting comments from the Zoning Board as Assistant Solicitor Peter Skwirz attends those meetings. Solicitor DeSisto considered this evaluation to be a public document.

#### **8. Cameron Ramsey, 11 Watuppa Ave – Environmental Study by Twin Rivers**

Mr. Ramsey noted on September 10 and November 9 the community was promised an environmental study that would be published before the November 8 election. President deMedeiros introduced W. Mark Russo, Attorney for Twin River who explained Mr. Ramsey was correct. The four seasons study has been done, should have the report by the end of the week. A copy will be sent to the Town Clerk; President deMedeiros opined it should be shared with the whole community. The Casino sub-committee had decided to stop meeting until the vote has been decided. Attorney Russo should have the report by the end of this week; President deMedeiros explained it will be made public when the Clerk gets it.

#### **9. Councilors deMedeiros and Perry – Discussion and Possible Approval to Proceed with Code Rewrite**

President deMedeiros noted this was really an item from the Solicitor who had provided a memo with the steps to go forward. Typically communities contract out for this type of service; should go forward with the Code update itself, although Zoning is part of the Code it should be done separately. The Solicitor recommended adopting the Comprehensive Plan (Comp Plan) first, cited the case of West vs McDonald. The Solicitor estimated the cost between \$18-25k to contract out; should be done by RFP. Municode provides the service; they host the code for all the communities in RI and some other states. Municode would do all the leg work to make sure the Code conforms to State law, look for obsolete code and check the language. In the State there are half-dozen firms that do this kind of work; concern is this is not one size fits all. The Solicitor suggested including the boards and commissions as well as the Town staff who may know of ordinances that need to be changed. Councilor Chabot suggested contacting the Building Officials office, the Planning Board and Assistant Solicitor Skwirz. Councilor Sousa noted this was not a budgeted item, have an approximate \$300k unfunded liability for trash this year, paving still needs to be done; should put this in as a budgeted item for next year and fund it. Councilor Chabot called that a good place to start will have an idea of what it will cost and budget from there. Councilor Pelletier agreed this would start the process now to have things in place before it is budgeted. Councilor Pelletier suggested having a link to Municode on the website; much easier to search, will talk to the Clerk.

Councilor Perry made a motion, seconded by Councilor P. Mello to Approve Solicitor DeSisto to create an RFP for estimates. President deMedeiros questioned the motion. Councilor Perry amended the motion to instruct the Solicitor to Draft and RFP and bring back to the Council for the next October meeting. The amended motion was seconded by Councilor P. Mello and passed unanimously.

#### **10. Councilor Lambert – Motion to Modify Request for Special Counsel – McInnis**

Councilor Lambert explained the motion at this point would be to modify the request to appoint Special Counsel for the James McInnis lawsuit, in limbo at this point; did not see a practical reason to have Special Counsel appointed if there is no appeal to Superior Court.

Councilor Lambert stated motion to modify the motion that was previously passed in the McInnis case until such time as there is an appeal to the Superior Court, if there is an appeal. The motion was seconded by Councilor Perry for discussion. Councilor P. Mello was comfortable with current lawyer, opined the Solicitor's law firm was capable of handling if there is an appeal. President deMedeiros believed another vote would have to be taken if there was an appeal. Solicitor DeSisto affirmed that was correct but would not be on the zoning appeal but other matters. Councilor Pelletier was concerned most of this took place in Executive Session; President deMedeiros noted that

vote was in the open session. Councilor Pelletier noted that did not include the specifics of the vote. Councilor Lambert's point was you cannot appeal to Superior Court until you have a special order; Councilor Lambert understood they did not have one at this point. Councilor Lambert opined all these points were moot and suggested waiting until McInnis files an appeal in Superior Court. President deMedeiros recalled the vote in public did have specifics and to look into a solicitor for a second opinion. Councilor Pelletier did not recall that being the case, did not have an update on whether there was a resolution to the vote, the Solicitor may have done what he was instructed to do; did not know where this stands as the Solicitor was given specific instructions in Executive Session. Solicitor DeSisto suggested language for the motion; given the current previous posture of the case to withdraw the previous motion as to Special Counsel.

Councilor Lambert made a motion to withdraw the previous motion as to Special Counsel. Councilor Sousa seconded the motion which passed unanimously.

**11. Councilor Lambert – Demand Opportunity to Address Town Council Relative to Inaccuracies in the M. Wojcik Deposition, the Testimony of M. Wojcik and the Legal Representation by A. DeSisto**

President deMedeiros, for the record, incorporated this in the agenda, had asked the Solicitor whether to put this on; the Solicitor affirmed it was okay. The President did have concerns as to whether this would affect future litigation. Councilor Lambert read from a statement and provided the Town Clerk with 4 exhibits to the statement. The first was the agenda request to make this statement, the second was a transcript of the deposition from December 14, 2016 of Councilor Lambert, the third exhibit is the transcript of the deposition of Matthew Wojcik from September 28, 2016 and the fourth exhibit is an email dated May 5, 2008 from Chris Spencer to James Goncalo. Councilor Lambert received several calls asking him if he lied in his deposition; Councilor Lambert wanted an opportunity to address this issue. Matthew Wojcik was deposed on 9/28/16 and Anthony DeSisto entered his appearance for the Town of Tiverton. Mr. Wojcik said he was appearing for the Town of Tiverton as keeper of records. Attorney DeSisto instructed Mr. Wojcik to answer questions and Mr. Wojcik asked Attorney DeSisto for instructions. The attorney for McInnis was Steven Izzy; Councilor Lambert's deposition was taken 9/14/16. Councilor Lambert specifically asked DeSisto if he was appearing as his attorney, Attorney DeSisto affirmed. Councilor Lambert cited numerous pages of the deposition in which he received instruction from Attorney DeSisto. Councilor Lambert wanted to make clear what he told Attorney DeSisto and Mr. Wojcik before his disposition on 9/14/16. James Goncalo had told Mr. Lambert the former Town Solicitor Andrew Teitz had for the previous Council given an opinion as to the development of the area between Souza Road and Route 24. Mr. Lambert was not on the Council at the time, had never suggested that Attorney Teitz or Mr. Goncalo had submitted a legal memorandum to the Council. Mr. Goncalo was clear that it was set forth in the minutes of closed executive session. Mr. Goncalo told Mr. Lambert he had made copy of those minutes and had placed a copy of those minutes in his quote, unquote personal folder. Mr. Goncalo asked Mr. Lambert if he wanted to see a copy, Mr. Lambert said no, he was concerned that it was privileged under Executive Session and under attorney client privilege. Mr. Lambert has never asked for a copy of those minutes or asked someone to reveal the contents of those minutes and has never seen those minutes. During a conversation with Mr. Wojcik told Mr. Lambert he had found those minutes in a folder after Mr. Goncalo had left his employer. That is what Councilor Lambert told Mr. Wojcik and what he told Attorney DeSisto. This is essentially what Councilor Lambert was ready to testify to if asked the appropriate questions.

Councilor Lambert read the five questions that were asked at the deposition of Mr. Wojcik. Mr. Wojcik testified there was no file, if so he was not privy to it, never saw such a memorandum, in all such files seen never saw a memorandum. According to those questions from Attorney DeSisto it is now a memorandum, not minutes and this memorandum is prepared by Attorney Teitz or Mr. Goncalo. Councilor Lambert continued to discuss the testimony of Mr. Wojcik, opined Attorney DeSisto's appearance at Councilor Lambert's deposition was a gross misrepresentation of the testimony. Councilor Lambert never claimed Mr. Goncalo gave him a legal interpretation, never claimed to have discussed the personal folder with Mr. Wojcik or that there was a "legal analysis"; will not find any of that in Councilor Lambert's deposition. Councilor Lambert noted Attorney DeSisto used the word

memo or memorandum five times and if there is any issue regarding a reference to a memo Councilor Lambert cited pages 23-24 of his deposition. Councilor Lambert continued to reference the word minutes and cited various pages. Councilor Lambert, in his deposition, never said he saw a legal memo authored by Attorney Teitz; Councilor Lambert opined Attorney DeSisto should have instructed Mr. Wojcik not to answer the question. Councilor Lambert continued to cite Mr. Wojcik's answers to Attorney Izzy's questions and responded it was about Executive Session minutes in that folder. Councilor Lambert continued to cite examples from the deposition of Mr. Wojcik. Councilor Lambert made abundantly clear he never had first-hand information of what happened in 2008, made it clear in his deposition did not know anything about the McInnis case until it was in Executive Session. Councilor Lambert cited Mr. Wojcik's deposition regarding email streams from Chris Spencer and James Goncalo. Councilor Lambert's opinion of the issue in this case was the statutory interpretation of the legal issue as to whether or not Chris Spencer as Administrative Officer to accept or decline the McInnis application. Councilor Lambert wanted to read an email from Chris Spencer to Jim Goncalo dated 5/5/08.

Solicitor DeSisto was concerned about the comments Councilor Lambert made about the Solicitor's legal representation. Solicitor DeSisto stood by every single question he asked and did explain at the testimony he was representing the Town of Tiverton. As Solicitor, Attorney DeSisto found this to be completely inappropriate; it's part of the record of the Zoning Board that may go to Superior Court. Councilor Lambert noted it was produced as part of the deposition of Mr. Wojcik; everybody has copies. Solicitor DeSisto noted his objection, was not upon his advice and recommended stopping as Councilor Lambert has made his point. President deMedeiros called for a Council decision on whether to move forward with this as the Solicitor has recommended not continuing with this matter.

Councilor P. Mello made a motion to no longer continue this per advice of the Solicitor. President deMedeiros seconded the motion, some discussion followed. The Council President explained she does have the authority to maintain order but the Solicitor has advised not to go forward as it might affect the case. Solicitor DeSisto explained it was going beyond a member rising on a point of personal privilege and saying there were things said about me that I don't like. The Solicitor understood that but now we're starting to talk about the case, which is in limbo but there is still a case pending. Councilor Lambert was planning to read from his deposition; President deMedeiros stopped Councilor Lambert because there was a motion on the floor. President deMedeiros called for a vote of those in favor of not continuing this. Councilors P. Mello, deMedeiros and Pelletier voted in favor of not continuing, Councilors Sousa, Perry and Lambert voted against. Councilor Chabot explained her position; Councilor Lambert has spent 30 minutes stating his case and is voting to discontinue discussion. The vote was 4-3 to discontinue discussion. Councilor Lambert wanted to make clear he never completed his statement. Councilor Perry requested a copy of everything Councilor Lambert said; Councilor Lambert made clear the letter was part of the record and was part of Mr. Wojcik's deposition. Councilor Lambert was angry because he had been called a liar.

## **12. Town Administrator – Recycling of Small Appliances and Textiles**

Administrator Wojcik explained there is a contract involved with this will be meeting with the vendor this Friday; requested this be continued to the next session. President deMedeiros noted this was item number seven for the next agenda.

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

### **1.Department of Public Works – Permission to Send Out the Notice to Contractors to Provide Plowing Services and to Advertise for Snow Plow Contractors**

The Administrator has done this in the past but with this notice insisting snow plow contractors add the Town as an additional insured under the certificate of liability under their policy. Councilor Sousa did not recall last year hiring people to drive the Town's equipment. The T/A recalled last year there were two men who had CDL's who were

hired at the contractor's rate. Councilor Sousa opined this would help with overtime; Administrator Wojcik noted the max hours they can drive is 7.5, and have to take a 30 minute break.

Councilor Sousa so moved Permission to send out the Notice to Contractors to provide Plowing Services and to Advertise for Snow Plow Contractors. The motion was seconded by Councilor Perry and passed unanimously.

**I-TOWN ADMINISTRATOR ANNOUNCEMENTS:**

There were no Town Administrator announcements.

**J-COUNCIL ANNOUNCEMENTS:**

Councilor Perry was wearing a pink t-shirt in recognition of October being breast cancer awareness month; other groups in Town are also wearing pink. Councilor Perry will not be at the next Council meeting either but was hoping to recognize two teachers with a proclamation; Maria Cleary, Tiverton Middle School, 2016 RI Teacher of the Year and for 2015, Samantha Cavanaugh, Middle School Special Education Teacher. Councilor Perry recognized High School Senior, Brian Phillips for doing a great job organizing a 5k road race this past Saturday that raised over \$2k to date for Boston Children's Hospital.

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

There were no Town Solicitor items or announcements.

**L-TOWN CLERK ITEMS AND ANNOUNCEMENTS**

There were no Town Clerk items or announcements.

**CLOSED EXECUTIVE SESSION:**

1. Town Council-42-46-5(a) (1) Personnel-Performance Evaluation Town Administrator-Notice Given
2. Town Administrator 42-46-5(a) (2) Collective Bargaining-Distribution and Discussion of Tentative Agreement with AFSCME
3. Special Counsel Robinson-42-46-5(a) (2) Litigation – Case No. 01-15-0003-1203 – Patrick White
4. Personnel-42-46-5(a) (1) - Distribution of Planning Board Evaluation of A/O Marc Rousseau

Council President deMedeiros made a motion to go into Closed Executive Session under -42-46-5(a) (1) Personnel-Performance Evaluation Town Administrator-Notice Given. The motion, seconded by Councilor Chabot passed unanimously on a roll call vote.

Council President deMedeiros made a motion to go in Closed Executive Session under 42-46-5(a) (2) Collective Bargaining-Distribution and Discussion of Tentative Agreement with AFSCME. The motion, seconded by Councilor Chabot passed unanimously on a roll call vote.

Council President deMedeiros made a motion to go in Closed Executive Session under 42-46-5(a)(2) Litigation – Case No. 01-15-0003-1203 – Patrick White. The motion, seconded by Councilor Chabot passed unanimously on a roll call vote.

Council President deMedeiros made a motion to go in Closed Executive Session under 42-46-5(a) (1) - Distribution of Planning Board Evaluation of A/O Marc Rousseau. The motion, seconded by Councilor Chabot passed unanimously on a roll call vote.

The Council entered into Executive Session at approximately 10:28 p.m.

Council returned to Open Session at approximately 12:05 a.m.

**OPEN SESSION:**

Councilor deMedeiros announced no action taken in Closed Session regarding Items 1, 2 or 4.

Councilor Pelletier motioned in regard to Item #3, seconded by Councilor Chabot to direct Special Counsel Robinson to act in accordance with the direction given in Executive Session. Motion passed unanimously.

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

**ADJOURNMENT:**

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

The meeting adjourned at approximately 12:10 a.m.

**A True Copy.**

**ATTEST:**

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Nancy L. Mello, Town Clerk