



Town Administrator's Office

343 Highland Road, Tiverton, Rhode Island 02878 (401) 625-6710

Memorandum

Date: April 8, 2016
To: LUPI Committee
From: Matt Wojcik
RE: March 16, 2016 Meeting Minutes

The March meeting of the Land Use Procedure Improvement (LUPI) ad hoc committee was called to order at 6:36 PM on Wednesday, March 16, 2016 in the Tiverton Town Hall Town Council chamber. A quorum consisting of the Town Administrator (the chair), Code Enforcement Official Neil Hall, Planner Marc Rousseau, Town Solicitor Anthony DeSisto, and Councilman Brett Pelletier were noted as present.

Motion was made by Councilman Pelletier and seconded by Marc Rousseau to postpone the Minutes and go straight to Items 5, 6 and 7 on Agenda because Attorney DeSisto can only stay 15 minutes. (There is still a quorum after Solicitor leaves.) All in favor.

Agenda Item 7 **"Discussion: Update on status of proposed amendments to Municipal Court rules regarding zoning enforcement"**

Tony already told Council he will be delivering quarterly litigation report. Tosi case was a win but not when it came to time, fees that were paid, as well as the verdict being \$500 for Town. Court also declined to give Town affirmative ability to correct the zoning violation. The reason is the way the case winded its way through the system (started with Municipal Court).

Some work has been done to make it so Zoning Enforcement actions will be Civil instead of Criminal.

Previous practice, when a matter would go to Municipal Court, RI State District Court “criminal forms” were used. Mistakes were made, particularly in “Tiger” case. Tony doesn’t do that. In his other Communities they do a Complaint form tailored to the particular case. Even still, statewide, starting in Municipal Court and going through, the results are not there.

Tony is recommending to Council to have authority to go directly to Superior Court in these types of cases and rather than styling it as a criminal case, he proposes these cases be treated and filed as Declaratory Judgements which allows the Town to have Injunctive Relief. That means the case is “frontloaded”. You are going in for an injunction asking for the zoning Violation to be corrected. You will know right away if you win or lose. You won’t have bills upon bills and long term cases over years. Initially the cost will be a bit more but long term the cost will be a lot less. From an enforcement standpoint, it will be better for Town to proceed in this fashion. Perhaps people who are contemplating using their property in a manner that would violate zoning ordinances would think twice about it.

Tony believes it is the best way to go and least expensive way for the Town. Probably a better way to manage these types of issues.

Tony wanted to speak to LUPA regarding this issue because he knew discussion was going to center around changing Municipal Court procedures and practices. Attorney Skwirz thought he should mention those types of zoning violations that are readily visible and larger zoning violations should go directly to Superior Court. Smaller violations (like fences that don’t conform) that are easily correctable should continue to go to Municipal Court.

This will all be part of his litigation report due end of month.

Tony confirmed we need Council’s authorization to take a certain course of action but we do not need any rules or ordinances changes to do this.

Less important to win a fine rather than win compliance. We are more interested in winning compliance and not drag this out over long periods of time.

When Tony speaks to Council, he will discuss which types of cases he believes is appropriate for Superior Court.

Agenda Item 5 “**Discussion: Building and Zoning enforcement implications of marijuana grow facilities**” and
Agenda Item 6 “**Discussion: Procedural issues arising from zoning code**”

Tony stated the sooner you get the amendment to Zoning Ordinance for marijuana, it will fold in. I'd like to see some form of that marijuana ordinance amendment in zoning. It is turning into a major enforcement issue and without that structure in the ordinance there is no way to adequately enforce the situation. It comes down to a public safety thing. It is a concern. The sooner you get the ordinance in, the easier it will be to regulate these issues.

Agenda Item 2 "Approval of Minutes from LUPI Meeting held December 17, 2015"

Moved an Amendment to the Minutes from Dec 17 2015 meeting to read on Page 3, paragraph 5:

Discussed the lot in Bulgarmarsh Road development that a house is on and is not recorded as required by Section 23-52 of the Tiverton Subdivision Regulations.

Motion was made to approve the minutes as amended and seconded by Brett Pelletier. All were in favor.

Agenda Item 3 "Establishment of meeting dates for remaining of 2016 – Action will be taken"

LUPI meetings will be scheduled for the second Wednesday of every month at 6:30 pm at Town Hall. Dates as listed below:

- April 13, 2016
- May 11, 2016
- June 8, 2016
- July 13, 2016
- August 10, 2016
- September 14, 2016
- October 12, 2016
- November 9, 2016
- December 14, 2016

Motion was made by Councilman Pelletier and seconded by Marc Rousseau to schedule all 2016 LUPI Meeting dates as listed above. All in favor.

Agenda Item 4 “**Discussion: North Tiverton Fire District Water Infrastructure**”

Carried this agenda item over because Chairman of Planning Board requested to do so. Discussed testing of hydrants in North Tiverton at peak demand time.

How do we get to the point with N Tiverton where we can do live testing? Computer modeling will not work for this.

ISO report good place to start.

We acknowledge we have a water infrastructure issue that is substantial which bleeds into an inability to prevent fighting fires. This should be more of a conversation as it relates to subdivisions.

N Tiverton always says we have plenty of water.

What authority does Town have to determine where they expand? We do not have enough water for additional subdivisions for fire suppression.

How do we get the word out to the public without alarming them?
How do we incorporate into subdivision regulations?

Matt’s “To do”:

Share ISO data on water and Water Resource Board Report.

Agenda Item 6 “**Discussion: Procedural issues arising from zoning code**”

Neil spoke about the Route Sheet. This has been implemented in other towns. This is a way for Town to keep a handle on it with this checklist. Look it over and discuss next month.

We need to get a handle on new construction in the Town. It should help the contractor as well.

Everyone has to go to Fire Department first.

Then discussed check list for Single Family homes. Long overdue. Helps speed up the process.

Discussed check list for Commercial Development.

Discussed Confidential Complaint Form. If resident doesn't know the violation ordinances, etc., Building Official can help with that. It is a way for the complainant to state the facts and it will hold up in court to have the original facts listed in writing.

This Complaint Form prevents Building Official wasting time on civil matters and begin dealing with findings of fact.

Advised to add email address to form.

(See attached forms referred to above.)

Neil looking into a way to post permits that have been approved on website....or somehow communicate to their phone.

These forms will help contractors, developers and internal workings of the Building Office.

Next M. Wojcik brought up procedural issues that arise when the Planning Board has signed off on a site plan (commercial) and the site plan is later violated. Neil then has to go out and enforce it. We are ironing out how that works. We issue a notice of violation to owner but refer matter back to Planning Board. They have to remediate or seek relief for what they have already filed.

Is there any form of relief?

The Planning Board is only advisory and it goes back to Building Official. **We need to be advised by Solicitor on this.** We haven't done too many Article 20's.

'Parking' is one of the biggest offenders.

Where is distinction between altering something in site plan and someone just putting in a parking lot without approval?

Sometimes they change things after the occupancy was given.

We can catch these issues with the route sheet. The Occupancy is just a formal walk-through after everything has been signed off on.

One thing we did learn is that indoor (sports) commercial regulations needs more parking than anything. Parking is a major issue in these commercial settings.

Neil also wants to work on check lists for sheds and pools.

Suggestions for the next agenda:

Handout for sheds and pools.
NOVs?

At 8:33 PM Councilman Pelletier moved to adjournment, seconded by the Marc Rousseau, unanimous.