

January 10, 2020

Sean Lyness, Special Assistant Attorney General
Rhode Island Office of Attorney General
150 South Main Street
Providence, Rhode Island 02903

Re: OPEN MEETINGS ACT COMPLAINT – TIVERTON TOWN COUNCIL

1. The Tiverton Town Council is a public body subject to the Open Meetings Act (Rhode Island General Law section 42-6-2(5); Tiverton Town Charter Section 1202).
2. The number of members of the Tiverton Town Council is seven. (Tiverton Town Charter Section 401).
3. The Tiverton Town Council posted an Agenda for a December 9, 2019 Regular Meeting. Agenda item 11 read: General Business . . . B. Town Administrator Reitsma – Request Approval to extend Employment Contract with Fire Chief Joseph Mollo upon successful Completion of Probationary Period and Approval of a Proposed Salary Increase as of January 1, 2020 from \$80,000 to \$83,851 as well as a Clothing Allowance of \$1,3000.00. (See Exhibit A attached hereto).
4. On December 9, 2019 the Tiverton Town Council held a Regular Meeting at which six council members were present, and Councilwoman Nancy Driggs was absent, and at which the above-referenced Agenda item 11.B was discussed.
5. The discussion concerning Chief Mollo's 6-month job performance was held in Executive Session, with Chief Mollo present. The Town Council then returned to Open Session to discuss the Town Administrator's recommendation, based on Chief Mollo's outstanding performance, for a salary increase and clothing allowance.
6. It is to be noted that upon the Town Council's return to Open Session, all members of the public who had been attending the meeting, and the video recorder, had left the Town Hall. Only Chief Mollo and a person who accompanied him remained

7. A lengthy discussion ensued. The article by Marcia Pobzezniak, which appeared in the Newport Daily News on December 27, 2019, accurately describes the essence of the discussion, and is attached hereto as Exhibit B.
8. As the Article (Ex.B) indicates, The vote was 4-2, with Councilors Edwards, Perry, Clarke, and Cook in favor of the recommendation for salary increase and clothing allowance, and Council President Hilton and Council Vice President DeMedeiros against.
9. After the vote and adjournment, but before Chief Mollo had left, the Town Clerk's recording contains about a minute of content, mostly councilors Edwards and Perry asking which solicitors were going to be interviewed.
10. After Chief Mollo and the person with him left the building, and only the town council remained, Council President Hilton stood up, and directing her gaze to her right, at Councilors Perry, Edwards and Clarke, yelled and hollered words to the effect, how could you vote yes, he signed a contract, sets a bad precedent, and there will be problems with ongoing union negotiations. Then Council Vice President DeMedeiros chimed in, also yelling words to the effect, that this is going to cause big problems, we're trying to negotiate contracts, and now they are going to want the same thing – this is creating a big problem. Then, DeMedeiros stood up and threatened to quit the negotiation team if something wasn't done about it.
11. It was my observation, that, like me, the three councilors Council President Hilton and Council Vice President DeMedeiros were addressing to their right, appeared shocked by the yelling and intimidation.
12. Then President Hilton left the table.
13. After Vice President DeMedeiros had stood, and then left the table, she walked by me as I was now standing and putting my coat on. I told her at that point I did not agree with her threats, or reasoning, because it was apples and oranges. Department heads are not union, and do get pay increases based on merit; union members do not. Any pay increases to union members occur as part of the bargaining process, apply to all equally, and have nothing to do with merit.
14. On December 10, 2019, the very next day, Councilor Perry submitted a request to be placed on the Agenda to reconsider the vote of the Fire Chief raise and clothing allowance. (Exhibit C attached hereto). This is the item 11.J which is on the Town Council agenda for Monday, January 13, 2020 at the Town Council Regular Meeting. (See Exhibit D attached hereto.)
15. Whether Mr. Perry submitted his request for reconsideration based on this after-meeting discussion, or had additional discussions with some unknown number of council members, his act illustrates that the statements of President Hilton and Vice President DeMedeiros constituted debate intended to affect the actions of other council members, which members of the public had, and have, a right to hear.

16. Resuming discussion after the meeting had been adjourned and interested parties had left constituted a separate meeting of which the public had not been notified, thus violating the Open Meetings Act.

Respectfully submitted,

Donna Cook

Donna Cook

**TIVERTON TOWN COUNCIL
NOTICE AND AGENDA OF MEETING**

**Tiverton Town Hall
343 Highland Road
Tiverton, Rhode Island 02878**

Regular Meeting: Monday, December 9, 2019 at 7:00 p.m.

Notice: In accordance with the Open Meetings Act, Section 42-46-6 of the Rhode Island General Laws, notice is hereby given that the Tiverton Town Council will hold a **Regular Meeting on Monday, December 9, 2019, 7:00pm** at the **Tiverton Town Hall** at 343 Highland Road.

Note 1: Individuals requesting interpreter services for the hearing impaired must contact the Town Clerk's Office at 343 Highland Road or call (401) 625-6704 at least forty-eight (48) hours in advance of the meeting date.

Note 2: All matters before the Town Council may be voted upon unless the agenda item specifies that it is "For Discussion Only."

Date Posted: December 5, 2019

- 1. **CALL TO ORDER**
- 2. **PLEDGE OF ALLEGIANCE TO THE FLAG**
- 3. **ROLL CALL**

Donna J. Cook - Denise M. deMedeiros - Nancy L. Driggs - Patricia M. Hilton - Joseph C. Perry
Stephen T. Clarke - John G. Edwards, V

4. **CONSENT AGENDA**

Note 3: All items listed within the Consent Agenda 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 for separate consideration later on the agenda.

- A. Approval of Town Council Minutes
 - 1. November 12, 2019 – Regular Meeting
- B. Acknowledge Receipt of Minutes from Boards/Commissions/Committees
 - 1. Harbor and Coastal Waters Management Commission - (1)
 - 2. Tiverton Open Space - (2)
- C. Acknowledge Receipt of Reports
 - 1. Town Administrator – Police and Fire Department Overtime Reports
 - 2. Town Administrator – Departments' Monthly Reports – November 2019
- D. Approval of Tax Assessor Abatements

5. OPEN PUBLIC FORUM

6. PRESENTATIONS

7. PUBLIC HEARINGS (ADVERTISED)

8. BOARD OF LICENSING

(Advertised Public Hearing)

A. Localz Inc., dba Localz Burger & Cocktail, 4 Stafford Road – Requests Approval for Class BV Liquor License

(Non-Advertised)

B. Localz Inc., dba Localz Burger & Cocktail, 4 Stafford Road – Requests Approval for Entertainment and Victualling Licenses

C. Cycology Studio Inc., 1150 Stafford Road – Requests approval for Holiday License

9. APPOINTMENTS AND RESIGNATIONS

A. Harbor Commission - (9) Member Board (2) Year Terms (1) Vacancy

1. Phyllis Ibbotson, 13 Highland Road - Requests NEW Appointment to Expire 7/15/2021

2. Andrew Sumberg, 123 Winnisimet Drive - Requests NEW Appointment to Expire 7/15/2021

10. BIDS AND REQUESTS FOR PROPOSALS

11. GENERAL BUSINESS

A. Town Administrator Reitsma – Request Approval to Renew Three Year Employment Contract with Senior Services Director Janet Holmes and to Increase Salary from \$57,222 to \$58,336

B. Town Administrator Reitsma – Request Approval to Extend Employment Contract with Fire Chief Joseph Mollo upon Successful Completion of Probationary Period and Approval of a Proposed Salary Increase as of January 1, 2020 from \$80,000 to \$83,851, as well as a Clothing Allowance of \$1,300.00

C. Town Administrator Reitsma – Request Approval to Amend the Three-Year Employment Contract with Tax Assessor David Robert to Increase his Salary, for the Second Year of this Contract, from \$75,090.36 to \$76,592.17

D. Town Administrator – Approval of Budget Transfer From 1020-6890 (Council Contingency) To 1140 – 7530 (Land Use Software Maint.) for \$9,760

12. OTHER ITEMS/ANNOUNCEMENTS/COMMENTS

A. Town Administrator

Temporary Absence

B. Town Clerk

Scheduling of December 23, 2019 Council Meeting

C. Town Solicitor

D. Town Councilors

13. CLOSED EXECUTIVE SESSION

- A. Town Administrator – 42-46-5 (a)(1) – Job Performance – Fire Chief Mollo – Notice Given
- B. Vice President deMedeiros – 42-46-5 (a)(2) - Collective Bargaining AFSCME and Teamsters

14. ADJOURNMENT

Note 4: Pursuant to RIGL §42-46-6(b): Notice – “Nothing contained herein shall prevent a public body, other than a school committee, from adding additional items to the agenda by majority vote of the members. Such additional items shall be for informational purposes only and may not be voted on except where necessary to address an unexpected occurrence that requires immediate action to protect the public or to refer the matter to an appropriate committee or to another body or official.”

Note 5: See also Town Council Governance Policy.

Raise approved for fire chief

CHIEF

By Marcia Pobzeznik

Daily News correspondent

TIVERTON - Not all Town Council members were on board with a proposal to amend Fire Chief Joseph Mollo's contract after his recently-completed six-month probationary period, but a majority went along with a recommendation by Town Administrator Jan Reitsma to increase Mollo's salary on Jan. 1 instead of having him wait for an increase that would have been at the end of a year.

It was Mollo's idea to broach the subject with Reitsma after doing a survey of the salaries of chiefs in towns similar to Tiverton and discovering, he said, that Tiverton's salary falls far short of others.

Mollo started his job here in Tiverton in June at a salary of \$80,000. His contract called for an evaluation at his one-year anniversary to determine a salary increase for the following year.

Instead, a council majority of John Edwards, Stephen Clarke, Joseph Perry and Donna Cook voted in favor of amending the contract to pay the chief \$83,851 beginning Jan. 1, 2020, in addition to a \$1,300 clothing allowance that was mistakenly left out of the contract he signed with the town on May 30, 2019.

The vote came after the council met in executive session and then returned to open session to continue the discussion.

President Patricia Hilton and Vice President Denise deMedeiros voted against. Nancy Driggs was absent from the meeting earlier this month.

Mollo, of Johnston, had retired in 2012 after

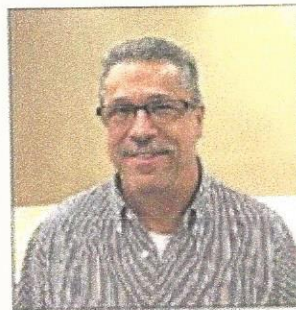
a 31-year career in firefighting, including 10 years as chief in Smithfield, but decided to go back to work because he was still young enough and able enough, he said when he was hired to replace Robert Lloyd who had been Tiverton's chief for 14 years.

He still has to be certified as an emergency medical technician, which was part of the employment agreement with the town. His failure to do that to date is one reason Hilton and deMedeiros didn't go along with increasing his salary at this time.

They also said it sets a precedent for a department head to do a salary survey and then approach the town in a middle of a contract to seek an increase.

"I think a contract means something," said Hilton of both sides adhering to the language. If there was an issue with the starting salary, she said it should have been raised before the contract was signed. "This is a little bit unusual once we sign," a contract.

Hilton said no one disputes See CHIEF, A5



Joseph Mollo. [MARCIA POBZEZNIK/ DAILY NEWS PHOTO]

Raise approved for fire chief

CHIEF

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that Mollo has done a good job since he took over the management of the department in June, and morale has reportedly increased as well, “but the EMT thing, that’s the negative for me. That hasn’t beendoneyet,” shetoldMollo of his needing to get certified.

The reason Mollo’s salary was on the low side was because he had been in retirement for a number of years “and that gave people pause,” said Reitsma. “I think he has proven himself,” Reitsma said of his recommendation to the council to amend the contract.

“If the administrator is coming to us, it’s with good reason,” said Edwards. “I would be happy to bump him up. We’re a municipality that does not like to pay people.”

Clarke said Mollo’s asking for the increase in salary “shows good initiative. I’m not opposed to it.”

Perry said Mollo has done a good job. “The fact of not having an EMT was a concern. The increase in pay, I don’t have a problem with it provided he gets his EMT.”

“As much as I appreciate the job you are doing, six months is not a super long time,” Hilton said. “The precedent this sets is very troubling.”

Mollo said he looked at salaries of fire chiefs in similar communities like Portsmouth, Middletown, East Greenwich and Smithfield and the lowest salary was \$96,000 and went up over \$100,000, and some of the chiefs haven’t been in their positions much longer than he has, he said.

“That’s only salaries and it doesn’t reflect the total package,” Hilton said of having to add in the cost of benefits, which for Mollo totals almost \$110,000.

“People look at just salary. It’s not really apples to apples,” she said.

The town budgeted \$87,702 for the salary for a fire chief for fiscal year 2020 that began in July. A study of department head salaries may be in order, Cook said.

“I’m not opposed to looking at fairness. I just don’t know what the fairness is right now,” Cook said.

DeMedeiros said her no vote had nothing to do with Mollo. “It sets a bad precedent,” she said, adding she’d be willing to consider a higher salary for the next fiscal year after a year on the job, and when the original contract called for a review and pay increase.

mpobzeznik@newportri.com

REQUEST TO BE PLACED ON THE AGENDA

RECEIVED
TOWN OF TIVERTON

TIVERTON TOWN COUNCIL

2019 DEC 10 P 8:56

1. Name of Department, Organization or Person: Joe Perry

2. Subject of Agenda Request: Reconsider Vote on Fire Chief raise

3. Explain The Nature of The Request:

I would like to reconsider the vote that was taken on giving the Fire Chief a increase in pay and clothing allowance

SIGNATURE: Joseph Perry DATE: 12/10/19

Please Note: Unless otherwise instructed, this request will be a public document. A copy of this request will be given to each Councilor prior to the meeting and, if applicable, to any appropriate department, board, commission, and/or officer.

Agenda items must be submitted to the Town Clerk's office before 3:00 p.m. on Tuesday prior to the meeting date.

EXHIBIT 1

**TIVERTON TOWN COUNCIL
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Date Posted: January 9, 2020

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE TO THE FLAG**
3. **ROLL CALL**

Donna J. Cook - Denise M. deMedeiros - Nancy L. Driggs - Patricia M. Hilton - Joseph C. Perry
Stephen T. Clarke - John G. Edwards, V

4. **CONSENT AGENDA**

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A. Approval of Town Council Minutes

1. November 25, 2019 – Regular Meeting
(Councilor deMedeiros abstains – absent)
2. December 9, 2019 – Regular Meeting
(Councilor Driggs abstains – absent)
3. December 9, 2019 – Executive Session
(Councilor Driggs abstains – absent)
4. December 3, 2019 – Special Meeting
5. December 4, 2019 – Special Meeting Executive Session
(Councilor Driggs and Councilor Cook abstain – absent)
6. December 10, 2019 – Special Meeting
(Councilor Driggs and Councilor Cook abstain – absent)
7. December 11, 2019 – Special Meeting Open Session
(Councilor Driggs and Councilor Cook abstain – absent)

10. BIDS AND REQUESTS FOR PROPOSALS

11. GENERAL BUSINESS

- A. Town Administrator Reitsma/Fire Chief Mollo – Request Approval to Advertise RFP for Third Party Billing Services for Emergency Medical Services Provided by the Tiverton Fire Department
- B. Town Administrator Reitsma – Request by Tiverton Superintendent Sanchioni for Approval to Waive Building Permit Fees for the Middle and High School Bathroom Renovations
- C. Town Administrator Reitsma – Approval of Budget Transfer from 1020-6890 (Council Contingency) To 1020-7259 (League of Cities & Towns) for \$4040
- D. Councilor Hilton – Appointment of Susan Gill as Planning Administrative Officer
- E. Councilor Hilton – Approval of Solicitor Services Agreement
- F. Town Administrator Reitsma - Vote to Approve or Reject Purchase of Surplus State Land (Plat 473/Parcels 2 & 3 – Intersection of Bulgarmarsh/Main Rd.) DPW Director Recommendation
- G. Town Administrator Reitsma – Receipt of FY21 Preliminary Municipal Budget
 - 1. Statement to Budget Committee Regarding FY21 Preliminary Budget
 - 2. Scheduling of Workshops Regarding FY21 Preliminary Budget
- H. Town Administrator Reitsma – Update Regarding Cut Trees on Town Property (Main Road - Plat 301- Lot 165)
- I. Councilor Hilton – Discussion and Possible Vote for Recycling Center and to Continue Municipal Trash Pickup
 - 1. Identify Location for Recycling Center (Industrial Park lot options shown on attached map)
 - 2. Discussion of Timeline for Construction of Recycling Center
- J. Councilor Perry
 - 1. Reconsideration of Town Council Vote as Previously Approved on December 9, 2019 of Fire Chief Mollo Contract Amendment
 - 2. Possible Discussion and Votes to Amend Fire Chief Mollo Contract

12. OTHER ITEMS/ANNOUNCEMENTS/COMMENTS

- A. Town Administrator
- B. Town Clerk
 - Update Relative to Hunting/Fishing Licenses
- C. Town Solicitor
- D. Town Councilors
 - Councilor Hilton – Administrators Two Year Performance Evaluation

13. CLOSED EXECUTIVE SESSION

- A. Town Administrator – 42-46-5 (a) (2) – Collective Bargaining – Teamsters and AFSCME
 - 1. Proposed Three Year Contract with AFSCME, July 1, 2019 – June 30, 2022
 - 2. Proposed Three Year Contract with Teamsters, July 1, 2019 – June 30, 2022

14. ADJOURNMENT

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