

DEPARTMENT OF CITY CLERK

CITY HALL

SEPTEMBER 10, 2013

The Committee on Public Works meets this day at 5:30 o'clock P.M., in Committee Room "A", Department of City Clerk, Third Floor, City Hall.

PRESENT: Chairman Terrence M. Hassett, Councilman Michael J. Correia and Councilman Davian Sanchez – 3.

ABSENT: Vice-Chairman Wilbur W. Jennings, Jr. and Councilman John J. Igliazzi – 2.

Also present are Jillian Barker, Assistant City Solicitor, Law Department; Peter Marinucci; Natale D. Urso, Deputy City Engineer; Sheri A. Petronio, Assistant Clerk and Anna M. Stetson, City Clerk.

**PETITION OF PETER MARINUCCI, LILLIAN MARINUCCI AND ANTHONY MARINUCCI BY THEIR ATTORNEY, JOHN B. ENNIS, ESQUIRE, RELATIVE TO RESOLUTION NO. 282, APPROVED APRIL 21, 1987, INFORMING THE SAME IS HEREBY RESCINDED.**

CHAIRMAN HASSETT: Mr. Marinucci is no stranger to these halls. Peter just give us a brief reasoning in terms of how this is impairing your opportunity to develop the other parcels.

MR. MARINUCCI: There was a petition before the City Council to abandon this street. Perrin Street is a paper street that goes through my property.

CHAIRMAN HASSETT: What year did that happen?

MR. MARINUCCI: It happened in 1987 and for many years I did not know that this had taken place. I found out when somebody was interested in that land. They did research and then they told me the street was abandoned, therefore denying me the access to my land.

CHAIRMAN HASSETT: How many lots do you have there that don't have access?

MR. MARINUCCI: Right now there is thirty four of them that are all adjacent.

CHAIRMAN HASSETT: They are all buildable lots.

MR. MARINUCCI: Yes. There is a lot of ledge and a lot of site work that needs to be done. So, when I found out about it we petitioned the City Council to rescind the resolution abandoning the street and we had many meetings. We had City Council people that acknowledged this including the Law Department that what was done was done wrong. There was no purpose to abandon this street and land lock me. So, two months ago we had a meeting here and this committee opted to endorse my request and send it to the full Council. I understand the request was sent back to committee.

CHAIRMAN HASSETT: Does the Law Department have anything?

MS. BARKER: The last time this matter was before the committee I gave a legal opinion, but I will reiterate tonight, once a street is abandoned it's under the law a complete and final act. It cannot be undone. Mr. Marinucci's land is abutting the street, however, his land is not abutting the portion that was actually abandoned. Notice is to be provided in two ways; Properties that directly abut the abandoned portion of the street are entitled to personal notice, however, none of the land that the Marinucci's own actually touch the abandoned portion. So, they were not entitled to personal hand delivered notice. Notice was give through a newspaper and we have evidence that that was done at the time and in 1987 when it was first before the committee there was a property owner who was not a direct abutter who appeared and voiced some concerns. So, there were people who were not direct abutters, who did not get personal notice and were aware that this was happening. After a street is abandoned, the title to the street reverts to the direct abutters. So, the property owners on either side of the portion of the street that was

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abandoned now legal own that property. They've been paying taxes on it, it's their land. The only way that the city legally speaking would be able to take it back would be through eminent domain. To un-abandoned the road in this manner would be a taking and you would be legally taking land from two current property owners. It's the City Solicitor's opinion that the potential for a lawsuit between the two property owners against us is likely and the chances of their success is also great.

CHAIRMAN HASSETT: How about the unusual harm that occurs for Mr. Marinucci's land not to be developed?

MS. BARKER: We definitely sympathize with him and I understand.

CHAIRMAN HASSETT: What I'm saying is the law does too and I want to know what you think about him being the private developer of the land.

MS. BARKER: I think the proper format for him would be to go to the Superior Court. However, I think even if he does do that the ship has sailed sort of. In a manner of speaking, he had a certain number of days to object to the abandonment. That time has far gone. I mean he's free to go to the Superior Court and attempt to make a legal argument, but I don't think that would be successful.

CHAIRMAN HASSETT: Are you aware of any legal harm that there would be for those people who do own it now if they actually had to return to where it was before.

MS. BARKER: It would constitute an illegal taking. So, we would be infringing on their constitutional rights. We would be taking their land. Without doing it through eminent domain, we would be illegally taking their land.

CHAIRMAN HASSETT: I understand that, but I'm talking about progressive use.

MS. BARKER: They've both developed on the land. They're using it. They're paying taxes on it. It's not just vacant land that's sitting in between their properties. They're using it and they've been paying taxes on it since 1987.

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CHAIRMAN HASSETT: Now, would the law also approach a balance of the difficulty that Mr. Marinucci is going through because he has been deprived of development versus what they've been afforded to do and the progress that they've made in terms of utilizing the land.

MS. BARKER: I mean I'm sure a judge would feel, as I'm sure we all do sympathetic, but legally speaking it would be our argument because it would be a lawsuit against the city that while it is unfortunate the legal recourse just isn't there.

CHAIRMAN HASSETT: How about the tenants of eminent domain?

MS. BARKER: As far as what?

CHAIRMAN HASSETT: If the city were to move it through eminent domain and have that returned.

MS. BARKER: I haven't really looked into that portion of it. That would be the means of obtaining this land back, but we would have to show that it is for the public use not just for the benefit of one person. So, speaking off the top of my head, the benefit would be to the Marinucci's. It's not like we're using it as a park, it's not like we're using it for some public common good. We would be taking the land via eminent domain to benefit one person.

CHAIRMAN HASSETT: If Marinucci sort in terms of navigating this to actually make access for his street to enter into the lot areas to have certain access would that be beneficial to the argument to have this returned.

MS. BARKER: Over the abandoned portion, is that what you're saying?

CHAIRMAN HASSETT: Yes.

MS. BARKER: I mean I think the arguments are still the same. We would have to take the land. The argument would have to be made that it's going to benefit the community as a whole, not just a single individual. We've looked at the map and I know Mr. Marinucci has said to the committee that he met with Bill Bombard years prior and has tried to find other ways for him to access his land.

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There are other streets that abut portions of the land that he owns. I don't know if there is another way for him to get access, but I think looking into some of those avenues to see if we could build a road somewhere else or what would be a better alternative. I just don't know if that's a viable one.

CHAIRMAN HASSETT: Mr. Marinucci, are you aware of that discussion about other that could actually access the land.

MR. MARINUCCI: They discussed what she just noted. However, what wrong have I done? That's the question I ask. I bought this land and you're talking about these people that have been paying taxes. What about the taxes I've paid since 1987 when my land wasn't worth anything?

CHAIRMAN HASSETT: I get that part of it. What I'm saying is there is other access opportunities that she just mentioned.

MR. MARINUCCI: They're trying to be the developers for me, but this is not the way it goes. I had access. So, there has been another time that the City Council has rescinded the resolution to abandon the street and they reversed it. So, my lawyer John Ennis has done a tremendous amount of work to research it and if you need to you can read through the papers of what he has done. Now, to hide behind this that I needed to look in the newspaper when a simple letter to the people that abut six inches. I mean they block me off. It's like you trying to get out of your driveway and then you're being denied access. What good did this bring to the City of Providence other then they passed something that was illegal to begin with. That's debatable. John Ennis has come here and argued a number of times that this is illegal. The city has agreed that that was not done properly. Adrienne Southgate admitted here that this should have never taken place. We want to find an alternative.

CHAIRMAN HASSETT: Where that other property owner is actually abandoned, would that property owner be substantially harmed if there was access again?

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MS. BARKER: I can show you. This is just an image of the two properties.

CHAIRMAN HASSETT: I saw the picture.

MS. BARKER: So, I mean we would be going right through their yards.

They both have driveways here and they have a garage on it. They would have to remove all of that.

COUNCILMAN CORREIA: When I went up there and looked at the property, the garage was well beyond the curbstone that's there and as far as the other driveway where the other vehicle is, in my opinion it's an illegal driveway, because it states that the property owner can only have one driveway per household. When they created that into a second driveway there is another driveway on the opposite side of that property. So, one's an illegal driveway and the other garage is well beyond the curbing, which doesn't block the road at all.

CHAIRMAN HASSETT: So, the garage would be a loss to them.

COUNCILMAN CORREIA: No. The garage doesn't go into the street. The garage has been there for years.

CHAIRMAN HASSETT: The garage is to the left of that, right.

MR. MARINUCCI: To the garage, yes and I've worked on both houses prior to this and the garage was there and so was the house on the side. Nothing has changed.

COUNCILMAN CORREIA: Mr. Chairman, if I may, some of that documentation that is in there one of these property owners are objecting to the abandonment of the street as well.

MS. BARKER: Well, that is not entirely true. He appeared asking about it. He was unaware if his interest would be effected because he wasn't a petitioner. He didn't know if the abandonment of the road would land lock him from access from his garage and driveway, and he was informed by the committee that upon abandonment he would become property owner of that abandoned portion. So, he

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wasn't objecting. He was unsure if he wanted to object or not because he didn't understand the legal ramifications of the abandonment.

CHAIRMAN HASSETT: Or what rights he would assume.

MS. BARKER: Exactly.

COUNCILMAN IGLIOZZI: I'm going to suggest that we go into Executive Session and have a little more deeper discussion with the legal department about this because I think the legal department talked about two potential issues that I'm concerned about. One, if we take action our conversations here become part of the record against a lawsuit against us with the two people that you would be taking adverse action. I would just like to have a little more conversation with the legal department.

On motion of Councilman Correia, Seconded by Vice-Chairman Jennings, it is voted to enter into Executive Session.

CHAIRMAN HASSETT: All those in favor.

COMMITTEE: Aye.

CHAIRMAN HASSETT: All those opposed.

Motion Carries.

## **EXECUTIVE SESSION**

### **RECONVENTION**

On motion of Councilman Correia, Seconded by Vice-Chairman Jennings, it is voted to Reconvene into Open Session.

CHAIRMAN HASSETT: All those in favor.

COMMITTEE: Aye.

CHAIRMAN HASSETT: All those opposed.

Motion Carries.

COUNCILMAN IGLIOZZI: We need a motion to seal the records.

COUNCILMAN CORREIA: Motion to seal the records.

VICE-CHAIRMAN JENNINGS: Second.

On motion of Councilman Correia, Seconded by Vice-Chairman Jennings, it is voted to Seal the Minutes of Executive Session.

CHAIRMAN HASSETT: All those in favor.

COMMITTEE: Aye.

CHAIRMAN HASSETT: All those opposed. The "Ayes" have it.

Motion Carries.

CHAIRMAN HASSETT: Okay, the Committee on Public Works is back in open session. That matter has been discussed extensively and we believe that there are other alternatives that can resolve this without getting in depth. So, what we've done is we've continued it temporarily to another time so that those matters can be reviewed and we believe that it's in the best interest of the land and it would certainly satisfy your concerns and then we can move forward after that. Is it confusing, yes because I can't really discuss what we discussed in Executive Session. However, there are a number of ways to resolve problems and we believe that the course that we will be on will provide at least options to resolve this.

MR. BARKER: Was there a motion to continue on the record.

COUNCILMAN CORREIA: Motion to continue.

VICE-CHAIRMAN JENNINGS: Second.

On motion of Councilman Correia, seconded by Vice-Chairman Jennings, it is voted to Continue the foregoing petition.

CHAIRMAN HASSETT: All those in favor.

COMMITTEE: Aye.

CHAIRMAN HASSETT: All those opposed. The "Ayes" have it.

Motion Carries.

**PETITION FROM DANTE J. GIAMMARCO, 55 DORRANCE STREET, PROVIDENCE, RHODE ISLAND 02903, DATED APRIL 22, 2013, REQUESTING TO ABANDON A PORTION OF BEACH AVENUE.**

CHAIRMAN HASSETT: Do we have anybody here?

MS. STETSON: This matter has been requested by the petitioner to continue it.

COUNCILMAN CORREIA: Motion to continue.

VICE-CHAIRMAN JENNINGS: Second.

On motion of Councilman Correia, Seconded by Vice-Chairman Jennings, it is voted to continue the foregoing petition.

CHAIRMAN HASSETT: All those in favor.

COMMITTEE: Aye.

CHAIRMAN HASSETT: All those opposed. The "Ayes" have it.

Motion Carries.

**COMMUNICATION FROM NATALE D. URSO, DEPUTY ENGINEER, DEPARTMENT OF PUBLIC WORKS, SUBMITTING THE ROUTE 6 MAGNOLIA STREET BRIDGE REMOVAL CONSTRUCTION AND MAINTENANCE AGREEMENT.**

CHAIRMAN HASSETT: Is this a long agreement.

MR. URSO: It's somewhat typical of the other agreements between the city and the Rhode Island Department of Transportation for inspection projects within the city. It basically outlines the construction and the maintenance thereof on the project. Most of the project is under DOT land.

CHAIRMAN HASSETT: Any other comment on it.

MR. URSO: No. It's ongoing right now.

CHAIRMAN HASSETT: Motion to approve.

COUNCILMAN CORREIA: Motion to approve.

VICE-CHAIRMAN JENNINGS: Second.

On motion of Councilman Correia, Seconded by Vice-Chairman Jennings, it is voted to approve the foregoing communication.

CHAIRMAN HASSETT: All those in favor.

COMMITTEE: Aye.

CHAIRMAN HASSETT: All those opposed. The "Ayes" have it.

Motion Carries.

**RESOLUTION REQUESTING THE ACTING DIRECTOR OF PUBLIC WORKS AND THE COMMITTEE ON PUBLIC WORKS TO LOOK INTO THE MANTON AVENUE PROJECT, SPECIFICALLY THE INSTALLATION NEW SIGNS (STREET NAMES/STOP SIGNS/CROSSWALK SIGNS) AND REQUEST THE RESPONSIBLE PARTY TO REPAIR ALL MISSING AND BROKEN SIGNS.**

COUNCILMAN CORREIA: Mr. Chairman, if I may.

CHAIRMAN HASSETT: Councilman Correia.

COUNCILMAN CORREIA: This year the Manton Avenue project is in Ward 6. This has been an ongoing issue for some time. I've tried working at the time with Bernard Lebbly at the time he was the Traffic Engineer to tried to get this rectified and we went back and forth and it ended up getting on the Public Works docket back in December. The Department of Public Works and the Engineering Department was trying to work with the contractors to get them to come back to correct some of the problems. I walked the entire street with the current Traffic Engineer, Leo Perrotta. We inspected each an ever one of these signs and many of them were installed properly towards the specifications of the job. There were nuts and bolts missing out of signage, missing signs.

CHAIRMAN HASSETT: Did you get a response from Public Works?

COUNCILMAN CORREIA: At that time they were working with the contractor to come back and do the work. So, at their request I continued the

matter and here we are back still eight and a half months later and the work is still not done.

CHAIRMAN HASSETT: Do we have a response.

MR. URSO: Yes. We did come up with a list and actually the Councilman abbreviated the list. I sent that to the contractor, he agreed to do the abbreviated list and unfortunately his sign contractor kind of let him down. We did talk to him this week and he said he was going to order the stuff himself and install it. The post will come in within three weeks and it will be installed then. I understand the frustration. It's gone on far too long, but that was the response we got this week from the contractor.

COUNCILMAN IGLIOZZI: I just want to understand this was a private contractor that the city hired to put up these signs?

MR. URSO: It was part of a road project, yes.

COUNCILMAN IGLIOZZI: Was it the City of Providence's contractors?

MR. URSO: Yes. It was a contract by the city.

COUNCILMAN IGLIOZZI: Does the city have a performance bond?

MR. URSO: Yes.

COUNCILMAN IGLIOZZI: Okay. Just for future reference if this happens again you tell the city to notify the bond company of this contractor and they will move a lot quicker. That's all you have to do and then the bond company will come in, they will call the contractor and they will say listen if you don't fix the signs, we're going to pay it, but your bond rating is going down. So, for future reference that's how you deal with that. You don't need to wait this long.

CHAIRMAN HASSETT: That's why you have bonding.

COUNCILMAN IGLIOZZI: Just for future reference, you request the City of Providence to notify the bond company of this contractor immediately or the Council can send a resolution and believe me you will get action.

MR. URSO: We thought we had an agreement with a contractor and we didn't have to do that.

CHAIRMAN HASSETT: Okay, so it's going to be resolved within three weeks.

COUNCILMAN IGLIOZZI: Who is the contractor?

MR. URSO: Universal Construction. They had a sub-contractor that kind of let them down, but not all the deficiencies were in proper installation.

CHAIRMAN HASSETT: There are deficient, they are bonded and it will be resolved within three weeks, correct?

MR. URSO: That's right.

CHAIRMAN HASSETT: Motion to approve.

COUNCILMAN CORREIA: So moved.

VICE-CHAIRMAN JENNINGS: Second.

On motion of Councilman Correia, Seconded by Vice-Chairman Jennings, it is voted to approve the foregoing resolution.

CHAIRMAN HASSETT: All those in favor.

COMMITTEE: Aye.

CHAIRMAN HASSETT: All those opposed. The "Ayes" have it.

Motion Carries.

**RESOLUTION REQUESTING THE TRAFFIC ENGINEER TO CAUSE THAYER STREET TO BECOME A "ONE-WAY" IN A SOUTHERLY DIRECTION FROM WATERMAN STREET TO GEORGE STREET.**

CHAIRMAN HASSETT: Motion to continue.

COUNCILMAN IGLIOZZI: Did we get a petition from the folks on the street? The only thing I'm concerned about is that whenever you do one-way streets especially because this is Thayer Street, which is a business street, I'm just

suggesting that in the future I would ask that we would have to notify the business people on the street.

CHAIRMAN HASSETT: I saw the geography of this thing and it's going to change.

COUNCILMAN IGLIOZZI: My point is I wouldn't want the Council to have a backlash that we change a street on the East Side to a one-way. I have no problem continuing it.

COUNCILMAN CORREIA: Motion to continue.

VICE-CHAIRMAN JENNINGS: Second.

On motion of Councilman Correia, Seconded by Vice-Chairman Jennings, it is voted to continue the foregoing resolution.

CHAIRMAN HASSETT: All those in favor.

COMMITTEE: Aye.

CHAIRMAN HASSETT: All those opposed. The "Ayes" have it.

Motion Carries.

**RESOLUTION REQUESTING THE TRAFFIC ENGINEER TO CAUSE THE INSTALLATION OF A "15 MINUTE PARKING" SIGN IN FRONT OF THE ATWELLS AVENUE MINI MART LOCATED AT 196 ATWELLS AVENUE.**

**RESOLUTION REQUESTING THE TRAFFIC ENGINEER TO CAUSE THE INSTALLATION OF A "STOP" SIGN ON AMITY STREET AT PEMBERTON STREET.**

**RESOLUTION REQUESTING THE TRAFFIC ENGINEER TO CONVERT PARNELL STREET FROM A "ONE-WAY" STREET BACK TO A "TWO-WAY" STREET.**

**RESOLUTION REQUESTING THE TRAFFIC ENGINEER TO PROHIBIT PARKING ON THE EVEN SIDE OF ORTOLEVA DRIVE FROM MANTON AVENUE TO CHALKSTONE AVENUE.**

**RESOLUTION REQUESTING THE TRAFFIC ENGINEER TO REVIEW AND APPROVE THE POSSIBILITY OF A SPEED BUMP, OR AN ALTERNATE TRAFFIC CALMING SOLUTION ALONG STELLA STREET FROM BARBARA STREET TO HARTFORD AVENUE.**

CHAIRMAN HASSETT: Motion to dispense with the reading of items six through ten.

COUNCILMAN CORREIA: So moved.

VICE-CHAIRMAN JENNINGS: Second.

On motion of Councilman Correia, Seconded by Vice-Chairman Jennings, it is voted to dispense with the reading of the foregoing matters.

CHAIRMAN HASSETT: All those in favor.

COMMITTEE: Aye.

CHAIRMAN HASSETT: All those opposed. The "Ayes" have it.

Motion Carries.

CHAIRMAN HASSETT: We discussed these at the last meeting. Motion to approve.

COUNCILMAN CORREIA: So moved.

VICE-CHAIRMAN JENNINGS: Second.

On motion of Councilman Correia, Seconded by Vice-Chairman Jennings, it is voted to approve foregoing resolutions.

CHAIRMAN HASSETT: All those in favor.

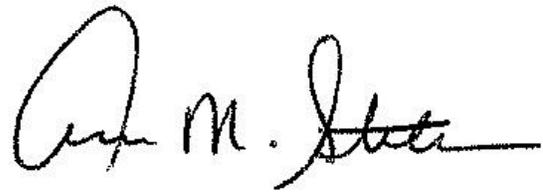
COMMITTEE: Aye.

CHAIRMAN HASSETT: All those opposed. The "Ayes" have it.

Motion Carries.

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**ADJOURNMENT:** On motion of Councilman Correia, Seconded by Vice-Chairman Jennings, it is voted to adjourn the meeting at 6:15 o'clock P.M.

A handwritten signature in black ink, appearing to read "A. M. Jett", written in a cursive style.

**City Clerk**

A handwritten signature in black ink, appearing to read "Sheri A. Petronio", written in a cursive style.

**Assistant Clerk**