

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
COUNTY OF NEWPORT**

The Town Council of the Town of Tiverton, County and State aforesaid held a Special Meeting on Monday, the 30th day of March 2015 at 7:00 p.m. at the Tiverton Town Hall, 343 Highland Road.

**MEMBERS PRESENT:**

Council President deMedeiros , Vice-President Chabot, Councilor Lambert, Councilor Peter Mello, Councilor Pelletier, Councilor Perry and Councilor Sousa.

Town Administrator Matthew Wojcik was present and Town Solicitors Anthony DeSisto and Stephanie Federico were also present. Town Clerk Nancy Mello was absent.

**1. Call To Order:**

President deMedeiros opened the Special Meeting with the Pledge of Allegiance to the Flag then called the meeting to order at 7:00 p.m. Roll call conducted by Office Clerk, Leona Cook.

**2. Building/Zoning Official Position**

President deMedeiros explained, discussion was no longer needed on this item, the problem has been resolved. The Personnel Board will be doing interviews for this position.

**3. Cynthia Avenue – Discussion and Possible Vote on Determination of Ownership & Town Services**

**a. Street Committee Recommendation**

President deMedeiros explained, the Street Committee cannot make a recommendation on Cynthia Avenue because of the number of committee members that live there. DPW Director Steve Berlucchi gave some background, this item has been continuing for a number of years. Cynthia Avenue is not being maintained by the owners as in the past, could not drive a plow down that road. A lot of research has been done regarding acceptance. For maintenance purposes found a Planning Board meeting of 8/13/75 that addressed Mrs. St. Laurent wanted it to be kept private. This was before the current regulations regarding acceptance of roads the Planning Board operates under now. The Town Council has to accept for maintenance purposes, is part of the ordinances. Not here to stop services but a decision has to be made. This is the first of many roads like this, Councilor Lambert requested a survey of how much it would cost. Director Berlucchi responded to bring unaccepted roads just to grade and pave not including drainage or surveys would be around \$1.5 million. The DPW budget is strained cannot take care of unaccepted streets when there is not enough money to take care of the accepted streets.

Patrick Dougherty, a RI attorney has done a lot of research, respectively disagreed from a legal perspective. Found a wealth of records including DPW records, asserts the Avenue is a Town accepted road. There is a number of plat references recorded in Land Evidence records for property sold. This road has been actively maintained until several years ago. The Town Council has granted permission for electric poles to be put there. Attorney Dougherty had a binder full of records including Planning Board minutes, Town Council minutes, plats and recorded deeds to back up his assertion. Mr. Sanford does not own the Avenue. In 1961 a Town ordinance prohibited streets and driveways from being shown on plats. According to Town ordinance the Town should provide no services on any unaccepted street or road. Disagreed strongly that Cynthia Avenue is anything other than a public Town road by use. Director Berlucchi noted the DPW did not pave this road, have no record. Attorney Dougherty believed it was paved in 68/69.

Solicitor DeSisto did some research, were different subdivisions in 1958, 1979. One in plan book 10, page 8 needs further review. Some deeds reference frontage on the Avenue, others have language subject to easement of record. Would ask Attorney Dougherty to share his documents, would appreciate if any of the property owners could share their title policy. There are two separate issues: whether or not at some point Cynthia Avenue was officially accepted by the Town and whether the actions of the Town support that this was a public road. Do not have enough information at this point, needs extra research. President deMedeiros explained, Solicitor DeSisto has only been with the Town for one and a half weeks, needs to do more research. President deMedeiros suggested continuing this for 2 weeks to April 27, will take comments from others after Council. Councilor Sousa questioned Director Berlucchi about streetlights, Director Berlucchi explained, he does sign off on streetlights. Shane Gendreau, resident of Cynthia Avenue noted trash pickup, snow plowing and pot holes have been filled in over the years, expressed concern to Director Berlucchi on several occasions, was told that road was private. Mr. Gendreau handed out copies of several documents to back up his argument that Cynthia Road was not a private road. President deMedeiros noted after Mr. Gendreau appeared before the Council in 2013 the Town did repair and plow that street. Nicole Robinson bought a house on the Avenue in 2004, did not have any documentation this was a private road. Councilor Sousa suggested adopting some kind of policy for getting something done for private roads.

Councilor Pelletier noted a distinction in meeting Town standards. Councilor Lambert sympathized, was concerned because there are at least 164 unaccepted streets, many in this position. Would like to see the Council address in full, plan to put on a future agenda. President deMedeiros noted some private road residents want those roads to be kept private. Attorney Dougherty agreed with most of the comments except Cynthia Avenue had one important distinction, asserted this road was already accepted by virtue of its actions. Believes by Town actions based on dominion and control, the acceptance of plats, repeated maintenance over the years, assert this road has been accepted by public use. Councilor Peter Mello noted \$65k has been taken out of paving this year. T/A Wojcik explained that was for snow plowing. Councilor Pelletier opined, part of the problem was paving should be in a capital account. Councilor Perry agreed, maybe also have a separate account just for potholes. Councilor Chabot agreed, would like to see some resolution for existing streets, like to have the ordinance reviewed for future developers. Administrator Wojcik requested the Council create capital accounts for paving set aside, need to build it up to at least a couple of million dollars. Incumbent to find grants for public infrastructure build out. Councilor Lambert has spoken to Director Berlucchi about the Pay As You Throw (PAYT) program, what will happen after the landfill closes. Need a funding mechanism in place, perhaps one way to fund road paving is with PAYT.

### **Executive Session**

#### **Personnel – 42-46-5(a) (1) – Job Performance - Code - Enforcement Official – Notice Given**

President deMedeiros explained earlier there would be no need for this Executive Session.

### **3. ADJOURNMENT:**

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

The Special Meeting adjourned at 8:15 p.m.

**A True Copy.**

**ATTEST:** \_\_\_\_\_ Nancy L. Mello, Town Clerk