

THE CITY OF PROVIDENCE
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

RESOLUTION OF THE CITY COUNCIL

No. 34

Approved

January 13, 1984

RESOLVED, DECREED AND ORDERED:

That the following named street shown as cross-hatched area on the accompanying plan entitled, "Providence, RI Department of Public Works - Engineering Office, Street Line Section Plan No. 064249, dated July 5, 1983",

VIZ:

Harkness Court, its entire length between Weybosset Street and Pine Street, shown as cross-hatched area on accompanying plan and designated by the letters (A-B-C-D-A) having ceased to be useful to the public and is proposed to be abandoned as a Public Highway, subject to Water Supply Board securing a permanent easement which would measure 87 feet from the corner of Weybosset Street along Harkness Court and the width of Harkness Court, the area to be accessible to the Water Supply Board at all times for maintenance and no permanent construction to take place on this easement; and the damage to the abutters is appraised at nothing and so awarded, and it is further

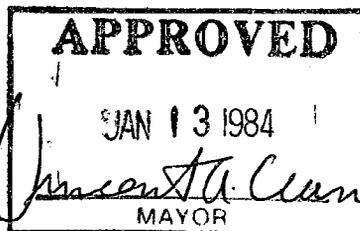
ORDERED, That the Director of Public Works be and he is hereby directed to cause a sign to be placed on the above-named highway abandoned as aforesaid, having thereon the words, "Not a Public Highway", and it is further

ORDERED, That after the entry of this order or decree the City Clerk shall cause a notice thereof to be published in a newspaper published in the County of Providence at least once a week for three successive weeks and a further and personal notice shall be served by the City Sergeant upon every owner of land abutting the above-named highway which has been abandoned, who is known to reside within the State.

IN CITY COUNCIL

JAN 5, 1984
READ AND PASSED

[Signature]
Clerk



THE COMMITTEE ON

PUBLIC WORKS

**Approves Passage of
The Within Resolution**

Rose M. Menchaca
Chairman

Clerk
December 14, 1983

RECEIVED

DEC 14 1983

U.S. HOUSE OF REPRESENTATIVES

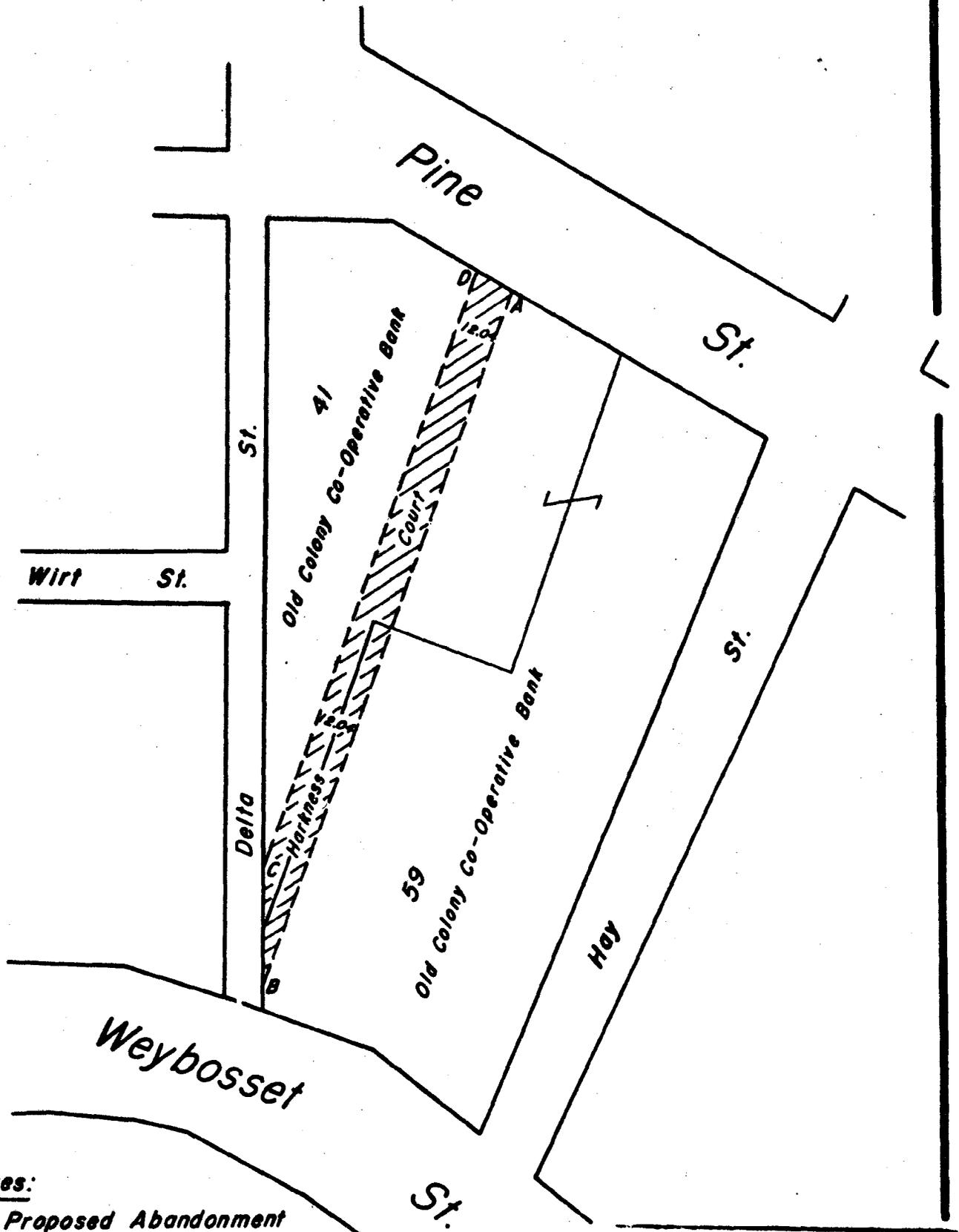
PROVIDENCE R. I.

P. W. DEPT. - ENGINEERING OFFICE

STREET LINE SECTION

Plan No. 064249

Date July 5, 1983



Notes:

Proposed Abandonment Indicated By Cross-Hatched Area.

Petition To The City Council To Abandon Whatever Interest The Public May Have In a Private Gangway, Harkness Ct. (So-Called), Situated Between Delta St. And Pine St.

Lot Numbers From Assessor's Plat 20

CITY OF PROVIDENCE R. I.
 Public Works Dept. Engineering Office
 Shows Proposed Abandonment -
 Delta St. to Pine St.
 Drawn by Petruska Checked by J.A.M.
 Scale 1" = 500' Date July 5, 1983
 Corrected by [Signature] Associate Eng.
 Approved by [Signature] CHIEF ENGINEER

CITY OF PROVIDENCE
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PETITION TO THE CITY COUNCIL

TO THE HONORABLE CITY COUNCIL OF THE CITY OF PROVIDENCE:

The undersigned respectfully petitions your honorable body
to abandon Harkness ^{COURT} Street, its entire length
between Weybosset Street and Pine Street.

The undersigned is the owner of all of the property
on both sides of Harkness ^{COURT} Street. The Street has not been
used for a number of years. Its narrowness and its close
proximity to Delta Street have made this street unnecessary.
The abandonment of Harkness ^{COURT} Street should have no effect on
the City of Providence traffic patterns.

OLD COLONY CO-OPERATIVE BANK

By Mark A. Pfeiffer
Mark A. Pfeiffer, General Counsel
and Senior Vice President

By Paul Wilson
Paul Wilson, Senior Vice President

FILED TO CITY CLERK ON
FIRST READING
JUN 1 1983
IN CITY COUNCIL
RECOMMENDATION
CITY CLERK

Check # 41649 - \$75.00

DEPARTMENT OF CITY CLERK
RECEIVED
JUN 1 1983
Rose M. Mendonca
CITY CLERK OF PROVIDENCE, RI

FILED

JUN 10 11 34 AM '83
DEPT. OF CITY CLERK
PROVIDENCE, R.I.

CITY CLERK OF PROVIDENCE, RI
DEPARTMENT
CLERK

IN CITY COUNCIL
JUN 16 1983
FIRST READING
REFERRED TO COMMITTEE ON PUBLIC WORKS

Rose M. Mendonca CLERK

THE COMMITTEE ON *Aug. 24 1983*
PUBLIC WORKS

Recommends *Be Continued*
Michael R. Clement
Clerk

From the Clerk's Desk

City of Providence



Rhode Island

Department of City Clerk

MEMORANDUM

DATE: June 20, 1983

TO: Joseph DiSanto, Director of Public Works

SUBJECT: Michigan Avenue (Portion) Hay Street (Enter) Harkness Street (Enter)

CONSIDERED BY: Committee on Public Works

DISPOSITION: Attached are copies of the subject petitions for your study and report back in writing to the said committee, along with a list of abutting property owners and tracing of the area, as soon as practical.

Michael R. Clement
First Deputy City Clerk

City of Providence



Rhode Island

Department of City Clerk

MEMORANDUM

DATE: June 20, 1983

TO: ***

SUBJECT: Michigan Avenue (Portion) Hay Street (Eniter) Harkness Street (Eniter)

CONSIDERED BY: Committee on Public Works

DISPOSITION: Attached are copies of the subject petitions for your study and report back in writing to the said committee, as soon as practical.

*** Stanley Berstein, Director of Planning and Urban Development. - *ok*

Frank Tibaldi, Traffic Engineer - *ok*

Wiley Archer, Chief Engineer-WSB. - *assessment - ok - 9-6-83*

Sanford H. Gorodetsky, Commissioner of Public Safety.

Michael R. Christ
First Deputy City Clerk

City of Providence



Rhode Island

Department of City Clerk

MEMORANDUM

DATE: June 28, 1983

TO: Charles A. Pisaturo, City Solicitor

SUBJECT: HARKNESS STREET OR COURT

CONSIDERED BY: Committee on Public Works

DISPOSITION:

Attached is a copy of the subject petition, for your study.

It has been brought to the attention of the Committee, by the City engineer, that the above subject matter is a private gangway and whether or not this needs a Public Hearing or approval of the City Council, since the petitioner's own the property pm both sides of the proposed abandonment.

The area in question is crossed hatched in red.

Michael R. Clement
FIRST DEPUTY City Clerk

TILLINGHAST, COLLINS & GRAHAM

COUNSELORS AT LAW

2000 HOSPITAL TRUST TOWER

PROVIDENCE, RHODE ISLAND 02903

(401) 456-1200

June 28, 1983

City Clerk
City Hall
Providence, RI

Attn: Mr. Michael R. Clement
First Deputy Clerk

Dear Madam:

On June 10, 1983, we filed on behalf of our client, Old Colony Co-operative Bank, a petition for the abandonment of a street between Weybosset and Pine Street which we referred to as Harkness Street. We have since learned that the name of that Street is Harkness Court.

I understand that the petition has been referred to the Committee on Public Works. I respectfully request that the petition be amended to correct the name of the street to be abandoned to "Harkness Court".

If you require anything additional from us in order to make the amendment to the petition, please call me. We shall supply whatever corrective documentation you require.

Very truly yours,



Stanley A. Bleecker

SAB/kao

FILED

JUN 29 10 26 AM '83

DEPT. OF CITY CLERK
PROVIDENCE, R. I.

RICHARD A. CARROLL
Chairman
JOSEPH G. FORMICOLA
Vice Chairman
MARY A. NOCERA
Member
ARMANDO PARILLO
Member
EVELYN V. FARGNOLI
Councilwoman
ANDREW J. ANNALDO
Councilman
JEROME I. BARON
Ex-Officio

WATER SUPPLY BOARD



CITY OF PROVIDENCE

WILEY J. ARCHER, P.E.
Chief Engineer/General Manager
WILLIAM J. MCGAIR
Legal Advisor
JAMES A. LOMBARDI
Secretary

June 28, 1983

Councilman James Petrosinelli
Committee on Public Works
City Clerk's Office
City Hall
Providence, Rhode Island

Dear Councilman Petrosinelli:

On June 21, 1983 this department received from the City Clerk a memorandum and a copy of a Petition to abandon Harkness Court, its entire length between Weybosset and Pine Street.

We have reviewed this request and find that we have two 4-inch services which serve the bank building at #54 Weybosset Street.

We cannot abandon this portion and must secure a permanent easement as shown on the attached drawing. The easement required would measure 87 feet from the corner of Weybosset Street along Harkness Court and the width of Harkness Court. This area would have to be accessible to the Water Supply Board at all times for maintenance. No permanent construction could take place on this easement.

If you require any additional information, please advise.

Very truly yours,

A handwritten signature in black ink, appearing to read "Wiley J. Archer".

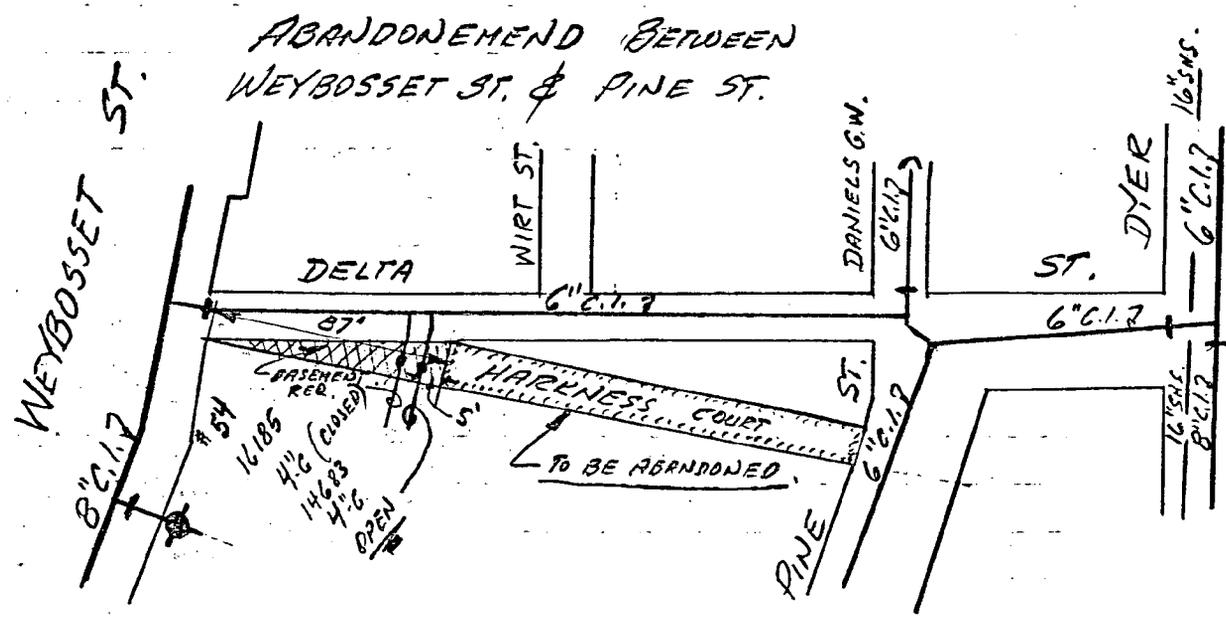
Wiley J. Archer, P.E.
Chief Engineer/General Manager

ms

enc.

cc: Mr. Edward Bondarevskis
Sr. Principal Engineer, WSB

HARKNESS CT. (P)
 JUNE 22, 1983



A EASEMENT SHALL BE REQUIRED AS SHOWN ON DRAWING. FROM EAST LINE OF WEYBOSSET ST. 87 FEET EAST OR 5' (FEET) BEHIND SERVICE GATE VALVE IN SIDEWALK. THIS SERVICE IS SERVING BANK BUILDING NO. 54 WEYBOSSET STREET.

W.S.B. SHALL HAVE ACCESS TO SERVICE GATES ALL THE TIME.

ED. BONDAREWSKIS
 SR. PRINCIPAL ENGINEER.

FRANK A. TIBALDI
TRAFFIC ENGINEER



VINCENT A. CIANCI, JR.
MAYOR

DEPARTMENT OF TRAFFIC ENGINEERING

July 5, 1983

Committee on Public Works
City Hall
Providence, Rhode Island 02903

Gentlemen:

The Traffic Engineering Department has received the following proposed abandonments and offer no objection to those listed below:

- 1) A portion of Michigan Avenue
- 2) To abandon Hay Street between Pine Street and Weybosset Street
- ✓ 3) To abandon Harkness Street between Pine Street and Weybosset Street

Very truly yours,

Frank A. Tibaldi
Traffic Engineer

FAT/it



The City Plan Commission

40 FOUNTAIN STREET

PROVIDENCE, RHODE ISLAND 02903

July 23, 1983

Committee on Public Works
c/o City Clerk
City Hall
Providence, Rhode Island 02903

Attention: Michael Clement

Subject: Referral No. 2101 - Proposed Abandonment of Harkness Court

Gentlemen:

The City Plan Commission, at its July 6, 1983 regular monthly meeting, reviewed and evaluated the subject referral which contained a request by the Old Colony Co-Operative Bank for the abandonment of Harkness Court from Weybosset Street to Pine Street.

The Commission's comments and recommendations are as follows: -

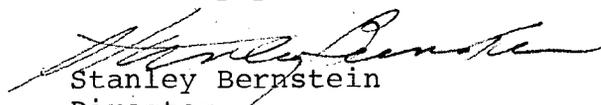
A field inspection revealed that Harkness Court is a 12 ft. wide asphalted driveway which services a parking lot that is owned by the petitioner.

Harkness Court is a paper street and has no important value as a public street. Its close proximity to Delta Street has made the subject street unnecessary. The subject abandonment should have no effect on the traffic pattern of the surrounding area.

Therefore, the Commission

Voted: - To recommend to the Committee on Public Works that no objection is offered to the granting of this petition.

Sincerely yours,


Stanley Bernstein
Director

SB/cd

cc: Councilwoman Carolyn F. Brassil

FILED

JUL 27 10 28 AM '83

DEPT. OF CITY CLERK
PROVIDENCE, R.I.

THE CITY OF PROVIDENCE

CITY SERGEANT'S OFFICE

THIS IS TO CERTIFY, That I have caused the notice, of which a true copy is hereto annexed, to be served upon the following named persons, by handing to each of said persons, or by leaving at their last and usual place of abode in this State a true copy of said notice, to wit: ABANDONMENT OF HARKNESS COURT, IN ITS ENTIRE LENGTH BETWEEN WEYBOSSET STREET AND PINE STREET.

<u>PLAT</u>	<u>LOT</u>	<u>NAME</u>	<u>ADDRESS</u>
20	41	Old Colony Cooperative Bank	58 Weybosset St. Providence, R.I. 02903
	59	"	" " "

COUNCILWOMAN CAROLYN F. BRASSIL

CITY SERGEANT
GIACOMO MARTONE

THE CITY OF PROVIDENCE

CITY SERGEANT'S OFFICE

THIS IS TO CERTIFY, That I have caused the notice, of which a true copy is hereto annexed, to be served upon the following named persons, by handing to each of said persons, or by leaving at their last and usual place of abode in this State a true copy of said notice, to wit: ABANDONMENT OF HARKNESS COURT, IN ITS ENTIRE LENGTH BETWEEN WEYBOSSET STREET AND PINE STREET.

<u>PLAT</u>	<u>LOT</u>	<u>NAME</u>	<u>ADDRESS</u>
20	41	Old Colony Cooperative Bank	58 Weybosset St. Providence, R.I. 02903
	59	"	" " "

COUNCILWOMAN CAROLYN F. BRASSIL

CITY SERGEANT
GIACOMO MARTONE

Giacomo Martone
8/11/83

CHARLES A. PISATURO, ESQ.
CITY SOLICITOR



VINCENT A. CIANCI, JR.
MAYOR

DEPARTMENT OF LAW

August 12, 1983.

Councilman James Petrosinelli, Chairman,
Committee on Public Works,
c/o City Clerk's Office,
City Hall,
Providence, R.I. 02903.

Dear Councilman:

RE: HARKNESS STREET (OR COURT)--
(ABANDONMENT OF)

In response to a recent request from your Committee for an opinion on the above subject, the following is submitted.

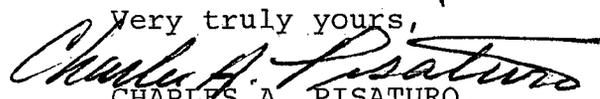
Section 24-6-1 of the Rhode Island General Laws generally specifies the procedure for abandonment; and Section 24-6-2 sets forth the procedure for public notice (copy of each section attached).

I understand from the petition in this matter from the abutting owners that Harkness Street has not been used for a number of years and that it is quite narrow.

In spite of this, it is my opinion and counsel that it would be preferable that the regular procedure for abandonment, including a public hearing and notice, be followed in this case. This is especially so because the street extends between two major thoroughfares--Weybosset Street and Pine Street, and hence, the public has acquired a public easement of passage, the de facto abandonment of which is not certain or verified at this time. Further, the regular abandonment procedure is also advisable for purposes of establishing good title in the abutting owners, after abandonment by the City.

If you have any further questions on this matter, please let me know.

Very truly yours,


CHARLES A. PISATURO,
CITY SOLICITOR

CAP:RAF

cc: Old Colony Co-Operative Bank
Att. Mark A. Pfeiffer, General
Counsel and Senior Vice President

Encs. 2

History of Section.

G.L. 1896, ch. 74, § 10; G.L. 1909, ch. 87, § 10; G.L. 1923, ch. 99, § 10; G.L. 1938, ch. 83, § 4; G.L. 1956, § 24-5-32.

24-5-33. Injury to guideposts. — Every person who shall injure, mar or deface any guidepost or its substitute, agreed upon as aforesaid, or board which shall be set up as is herein provided, shall be fined not exceeding twenty dollars (\$20.00) nor less than five dollars (\$5.00) to the use of the town.

History of Section.

G.L. 1896, ch. 74, § 12; G.L. 1909, ch. 87, § 12; G.L. 1923, ch. 99, § 12; G.L. 1938, ch. 83, § 6; G.L. 1956, § 24-5-33.

Cross-References. Injuries to road signs, penalty, § 11-22-2.

24-5-34. Jamestown and New Shoreham exempt. — The provisions of §§ 24-5-28 to 24-5-33, inclusive, shall not apply to the towns of Jamestown and New Shoreham.

History of Section.

G.L. 1896, ch. 74, § 13; G.L. 1909, ch. 87, § 13; G.L. 1923, ch. 99, § 13; G.L. 1938, ch. 83, § 7; G.L. 1956, § 24-5-34.

CHAPTER 6

ABANDONMENT BY TOWNS

SECTION.

24-6-1. Order of abandonment — Reversion of title — Notice.

24-6-2. Notice to abutting landowners of proposed abandonment.

SECTION.

24-6-3. Damages payable to abutting landowners.

24-6-4. Jury trial on damages.

24-6-1. Order of abandonment — Reversion of title — Notice. — Whenever, by the judgment of the town council of any town, a highway or driftway in said town, or any part of either, has ceased to be useful to the public the town council of said town is authorized so to declare it by an order or decree which shall be final and conclusive; and thereupon the title of the land upon which such highway or driftway or part thereof existed shall revert to its owner, and the town shall be no longer liable to repair the same; provided, however, that the said town council shall cause a sign to be placed at each end of such highway or driftway, having thereon the words "Not a public highway", and after the entry of the said order or decree shall also cause a notice thereof to be published in a newspaper of general circulation, printed in English at least once each week for three (3)

successive weeks in such newspaper circulated within said city or town and a further and personal notice shall be served upon every owner of land abutting upon that part of the highway or driftway which has been abandoned who is known to reside within this state but nothing herein contained shall in any manner affect any private right-of-way over the land so adjudged to be useless as a highway or driftway, if such right had been acquired before the taking of such land for a highway or driftway.

History of Section.

G.L. 1896, ch. 71, § 30; P.L. 1903, ch. 1106, § 2; G.L. 1909, ch. 82, § 30; G.L. 1923, ch. 95, § 30; G.L. 1938, ch. 72, § 30; G.L. 1956, § 24-6-1; P.L. 1967, ch. 214, § 1; P.L. 1975, ch. 74, § 1.

Comparative Legislation. Abandonment of highways:

Conn. Gen. Stat. § 12a-43.
Mass. Ann. Laws ch. 2, § 30.

NOTES TO DECISIONS

ANALYSIS

1. Usefulness to public.
2. Rights of abutting owner.
3. Due process.
4. —Hearing.
5. —Personal notice.

1. Usefulness to Public.

The determination of the question of whether a highway "has ceased to be useful to the public" is the exercise of purely legislative discretion which the supreme court will not review by writ of certiorari. *Godena v. Gobeille*, 88 R.I. 121, 143 A.2d 290 (1958).

2. Rights of Abutting Owner.

Fee is presumed, in the absence of evidence to the contrary, to belong to owner of abutting land on the abandonment of portion of highway. *Davis v. Girard*, 74 R.I. 125, 59 A.2d 366 (1948).

3. Due Process.

Permanent closing of highway to all through traffic without taking procedure prescribed by this chapter amounted to a taking of abutting

owner's property without due process of law. *Wolfe v. Providence*, 77 R.I. 192, 74 A.2d 843 (1950).

The notice provisions contained in this and the following section are sufficient under due process. *D'Agostino v. Doorley*, — R.I. —, 375 A.2d 948 (1977).

4. —Hearing.

The ruling that the taking of private property by eminent domain does not trigger the due process clause prior to the taking and that therefore no hearing is required prior to taking also applies to abandonment; plaintiffs are limited by the statutory scheme in their right to a pre-abandonment hearing. *D'Agostino v. Doorley*, — R.I. —, 375 A.2d 948 (1977).

5. —Personal Notice.

This section clearly requires personal notice of an abandonment only if a highway abutter owns land abutting upon that part of the highway which it is proposed to abandon. *D'Agostino v. Doorley*, — R.I. —, 375 A.2d 948 (1977).

DECISIONS UNDER PRIOR LAW

1. Usefulness to Public.

Under previous version of this section council's decree was not conclusive that

highway had ceased to be useful to public. *State v. Cumberland*, 7 R.I. 75 (1861).

Collateral References. Alteration or discontinuance of parts not included. 158 relocation of street or highway as A.L.R. 543.

Boundaries, effect of va
before conveyance on
description with reference
to center or side of high
32.

Mandamus to compel imp
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abandonment. 46 A.L.R. 26
Necessity for adheri
procedure prescribed
discontinuance of street
A.L.R. 760.

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24-6-2. Notice
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History of Section.

P.L. 1903, ch. 1106, §
§ 32; G.L. 1923, ch. 95, §

ANALY

1. Due process.
2. —Hearing.
3. —Personal notice.

1. Due Process.

The notice provisions
the preceding section are
process. *D'Agostino v. D*
A.2d 948 (1977).

2. —Hearing.

The ruling that the
property by eminent do
the due process clause p

24-6-3. Dama
of land abutting

said city or town every owner of driftway which has title but nothing more than right-of-way or driftway, if such land for a

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3a-43.
82, § 30.

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R.I. 192, 74 A.2d 848

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Doorley, — R.I. —, 375

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— R.I. —, 375 A.2d 948

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on that part of the
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— R.I. —, 375 A.2d 948

be useful to public.
R.I. 75 (1861).

s not included. 158

Boundaries, effect of vacation of highway before conveyance on question whether description with reference to highway carries title to center or side of highway. 49 A.L.R.2d 982.

Mandamus to compel improvement or repair of street or highway as affected by its abandonment. 46 A.L.R. 266.

Necessity for adhering to statutory procedure prescribed for vacation or discontinuance of street or highway. 175 A.L.R. 760.

Private easement in way vacated, abandoned, or closed by public. 150 A.L.R. 644.

Reversion of title upon vacation of public street or highway. 18 A.L.R. 1008; 70 A.L.R. 564.

State highway, vacation of street or road constituting part of. 144 A.L.R. 311.

Subdivision maps or plats, effect of regulations as to, upon vacation of streets and highways. 11 A.L.R.2d 587.

Toll road, title to, on abandonment by company. 30 A.L.R. 211.

What justifies discontinuance of highway. 68 A.L.R. 794.

24-6-2. Notice to abutting landowners of proposed abandonment. — Every town council, before proceeding to abandon any highway or driftway or any part thereof, shall give notice to the owners of the lands abutting upon any part of such highway or driftway within the town to appear, if they see fit, and be heard for or against such abandonment, and as to the damage, if any, which they will sustain thereby. Such notice shall be given by advertisement once a week for three (3) successive weeks next prior to the meeting of the town council at which such abandonment is to be first considered, in some newspaper of general circulation within said city or town printed in English and a further and personal notice shall be served upon every person known to reside within this state who is an owner of land, abutting upon that part of such highway or driftway which it is proposed to abandon.

History of Section.

P.L. 1903, ch. 1106, § 4; G.L. 1909, ch. 82, § 32; G.L. 1923, ch. 95, § 32; G.L. 1938, ch. 72,

§ 32; C.L. 1956, § 24-6-2; P.L. 1967, ch. 214, § 2; P.L. 1975, ch. 74, § 1.

NOTES TO DECISIONS

ANALYSIS

1. Due process.
2. —Hearing.
3. —Personal notice.

1. Due Process.

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2. —Hearing.

The ruling that the taking of private property by eminent domain does not trigger the due process clause prior to the taking and

that therefore no hearing is required prior to taking also applies to abandonment; plaintiffs are limited by the statutory scheme in their right to a pre-abandonment hearing. D'Agostino v. Doorley, — R.I. —, 375 A.2d 948 (1977).

3. —Personal Notice.

This section clearly requires personal notice of an abandonment only if a highway abutter owns land abutting upon that part of the highway which it is proposed to abandon. D'Agostino v. Doorley, — R.I. —, 375 A.2d 948 (1977).

24-6-3. Damages payable to abutting landowners. — The owners of land abutting upon a highway or driftway in any town shall be



58 Weybosset Street, Providence, Rhode Island 02901
Telephone (401) 831-7900

September 6, 1983

Wiley J. Archer, P.E.
Chief Engineer
Providence Water Supply
Board
552 Academy Avenue
Providence, Rhode Island 02908

Re: Abandonment of Harkness Court, Providence

Dear Mr. Archer:

Please be advised in connection with Old Colony Co-operative Bank's petition to abandon Harkness Court, that the Bank will grant to the Water Supply Board a permanent easement running approximately 87 feet from the corner of Weybosset Street along Harkness Court the width of Harkness Court, as shown on the attached drawing. The easement will provide for access at all times for any necessary repair work and will further provide that Old Colony will not install any permanent-type building or facility on the easement that could obstruct your access.

In the event that you have any questions concerning this letter, would you please contact our attorney Stanley A. Bleecker, Tillinghast, Collins & Graham, (401) 456-1200.

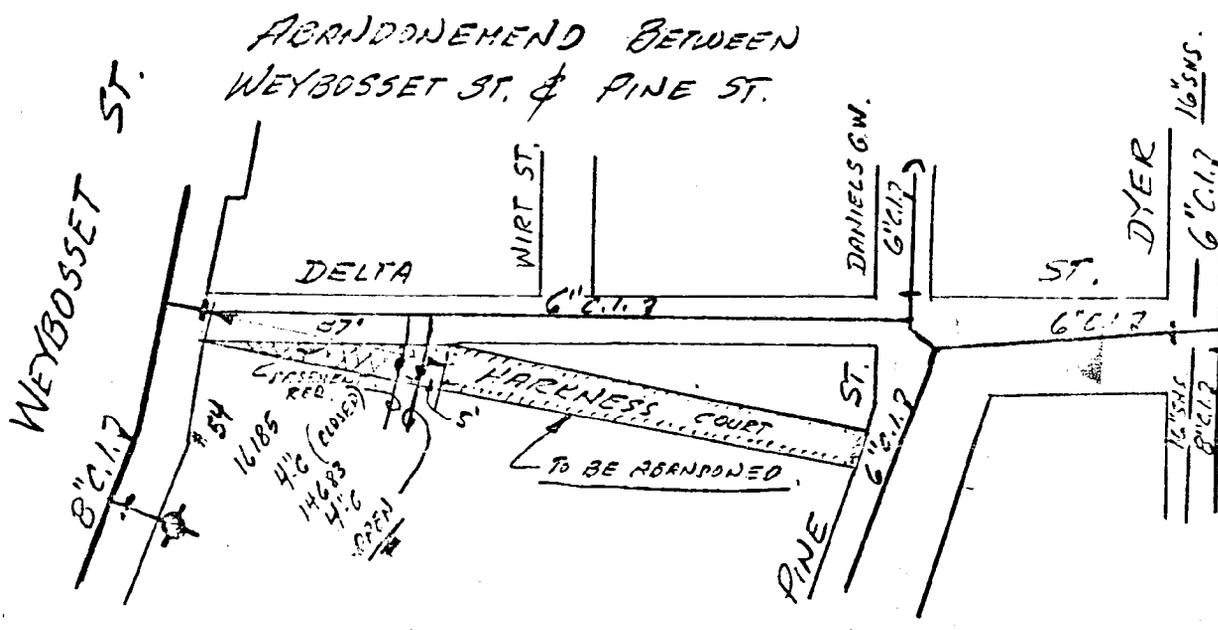
Very truly yours,

Mark A. Pfeiffer
General Counsel
Senior Vice President

SAB:wpc

cc: Committee on Public Works
City Clerk's Office
Providence City Hall
Providence, Rhode Island 02903

HARKNESS CT. (P)
 JUNE 22, 1983



A PERMIT SHALL BE REQUIRED AS SHOWN ON DRAWING. FROM EAST LINE OF WEYBOSSET ST. 87-FOOT OR 5' (FEET) BEHIND SERVICE GATE DRIVE IN SIDEWALK. THIS SERVICE IS SERVING FRAME BUILDING NO. 54 WEYBOSSET STREET.

U.S.B. SHALL MAINTAIN ACCESS TO SERVICE GATES ALL THE TIME.

ED. BONDREUSKIS
 SR. PRINCIPAL ENGINEER