

LAW OFFICE OF KEVIN P. GAVIN
31 Harrington Avenue
Portsmouth, Rhode Island 02871
Telephone 401-848-4555
Facsimile 401-682-2122

August 24, 2007

Ms. Luly Massaro, Clerk
Rhode Island Public Utilities Commission
89 Jefferson Boulevard
Warwick, RI 02888

RECEIVED
2007 AUG 30 PM 3:59
PUBLIC UTILITIES COMMISSION

**Re: The Narragansett Electric Company d/b/a National Grid
v. Town of Portsmouth, et al. (Docket No. 3858)**

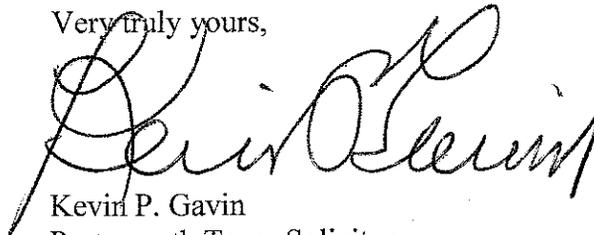
Dear Ms. Massaro:

Enclosed for filing in the above-referenced appeal, please find original and nine (9) copies of the following:

1. Defendants' Motion to Dismiss;
2. Memorandum in Support of Defendants' Motion to Dismiss; and
3. Affidavit of Portsmouth Town Clerk.

Thank you for your assistance.

Very truly yours,



Kevin P. Gavin
Portsmouth Town Solicitor

Enclosures

cc: Peter V. Lacouture, Esquire

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

THE NARRAGANSETT ELECTRIC :
COMPANY d/b/a NATIONAL GRID, :
Plaintiff, :

v. :

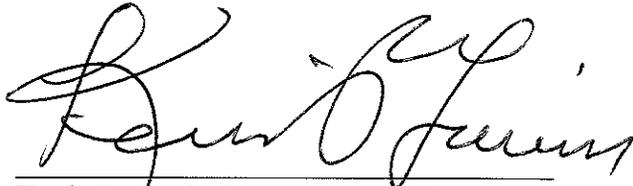
Docket No.: 3858

THE TOWN OF PORTSMOUTH; :
ROBERT G. DRISCOLL, in his official :
capacity as Town Administrator; :
DAVID KEHEW, in his capacity as :
Director of Public Works; and :
DENNIS M. CANARIO, JAMES A. :
SEVENEY, KAREN GLEASON, :
LEONARD B. KATZMAN, HUBERT :
LITTLE, PETER J. MCINTYRE, and :
WILLIAM E. WEST, in their official :
capacity as members of the Town Council, :
Defendants. :

DEFENDANTS' MOTION TO DISMISS

Defendants, the Town of Portsmouth, et al. hereby move to dismiss plaintiff's
Petition for Review Under § 39-1-30. In support hereof, defendants refer to their
accompanying Memorandum and Affidavit of Portsmouth Town Clerk.

Defendants
TOWN OF PORTSMOUTH, et al.
By their Attorney,



Kevin P. Gavin (R.I. Bar No. 2969)
Portsmouth Town Solicitor
Law Office of Kevin P. Gavin
31 Harrington Avenue
Portsmouth, RI 02871
401-848-4555
401-682-2122 Facsimile

CERTIFICATION OF SERVICE

I hereby certify that on the 24th day of August, 2007, a copy of the within Motion to Dismiss was mailed to the following:

Peter V. Lacouture, Esquire
One Citizens Plaza, Suite 500
Providence, RI 02903



A handwritten signature in cursive script, appearing to read "Peter V. Lacouture", is written above a horizontal line.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

THE NARRAGANSETT ELECTRIC :
COMPANY d/b/a NATIONAL GRID, :
Plaintiff, :
v. : Docket No.: 3858
THE TOWN OF PORTSMOUTH; :
ROBERT G. DRISCOLL, in his official :
capacity as Town Administrator; :
DAVID KEHEW, in his capacity as :
Director of Public Works; and :
DENNIS M. CANARIO, JAMES A. :
SEVENEY, KAREN GLEASON, :
LEONARD B. KATZMAN, HUBERT :
LITTLE, PETER J. MCINTYRE, and :
WILLIAM E. WEST, in their official :
capacity as members of the Town Council, :
Defendants. :

**MEMORANDUM IN SUPPORT OF
DEFENDANTS' MOTION TO DISMISS**

The Narragansett Electric Company d/b/a National Grid (“National Grid”) filed the above-captioned Petition for Review Under § 39-1-30, seeking to have the Commission nullify, or in the alternative, modify “An Ordinance of the Town of Portsmouth, Rhode Island, Regulating Street Excavations and Curb Cuts” (the “Ordinance”), which was enacted by the Portsmouth Town Council on February 20, 1996. The Ordinance is attached as Exhibit A to the Affidavit of Portsmouth Town Clerk, filed with defendants’ motion.¹

Section 6 of the Ordinance provides in pertinent part: “Permit required for street excavations. No person shall ... break ground or make any excavation in any of the

¹ Two subsequent amendments to the Ordinance, not directly pertinent to National Grid’s petition for review, are attached as Exhibits B and C to the Affidavit.

sidewalks, streets or public places in the town for the purpose of making a drain or sewer or placing gas pipes or water pipes or for any other purpose, without first obtaining a permit therefore from the director of public works.... For such permit, the person obtaining the same shall pay the director a fee as set forth herein....” Section 8 provides: “Fees for excavations. The fees for all street and sidewalk excavations shall be sixty (\$60.00) dollars for the first fifteen (15) linear feet or part thereof of any excavation, and eight (\$8.00) dollars for each additional five linear feet or part thereof. The length of the excavation shall include the total length of mains and laterals.”

As indicated in the petition, National Grid applied for an excavation permit to install 3,000 feet of gas main piping on Wapping Road in Portsmouth. David Kehew, the Director of Public Works, determined that a fee of \$4,836.00 was required pursuant to the fee structure set forth in the Ordinance. Accordingly, on June 18, 2007, the Town issued an invoice to National Grid in that amount. National Grid’s Manager of Gas Operations, Fred Amaral, complained about the fee to Mr. Kehew and later to Robert Driscoll, Portsmouth Town Administrator, who confirmed in a letter dated August 1, 2007 that National Grid was required to pay the Town’s June 18 invoice.² On August 10, 2007, National Grid filed its petition for review of the 1996 Ordinance.

² The fee required by the Ordinance is not unreasonable or unduly burdensome. In this case, National Grid seeks to excavate into the Town’s pavement on Wapping Road in order to install 3,000 feet of gas main piping. The project will likely proceed for approximately two weeks or more. The Director of Public Works and/or the Deputy Director will be required to be on-site throughout the entire project to ensure that the road is reconstructed and restored properly. The fee charged by the Ordinance is more than reasonable to compensate the Town for its administrative and field work alone. Furthermore, it is recognized that even in the best of cases, road cuts and excavations of this nature degrade the pavement and reduce the useful life of the road, for which the Town is also entitled to compensation.

Rhode Island General Laws § 39-1-30 provides that “[e]very ordinance enacted, or regulation promulgated by any town or city affecting the mode or manner of operation or the placing or maintenance of the plant and equipment of any company under the supervision of the commission, shall be subject to the right of appeal by any aggrieved party to the commission within ten (10) days from the enactment or promulgation. The commission, after a hearing, upon notice to all parties in interest, shall determine the matter giving consideration to its effect upon the public health, safety, welfare, comfort, and convenience.” *See In re: Petition for Review Pursuant to § 39-1-30 of Ordinance Adopted by the City of Providence*, 745 A.2d 769, 774-775 (R.I. 2000). In order to invoke the Commission’s jurisdiction to review a city or town ordinance, the aggrieved party must file an appeal “within ten (10) days from the enactment or promulgation.” The language of the statute is clear and unambiguous. Therefore, the statute must be interpreted literally and the words must be given their plain and ordinary meaning.

Marques v. Pawtucket Mutual Insurance Co., 915 R.I. 745, 747 (R.I. 2007); *State v. Santos*, 870 A.2d 1029, 1032 (R.I. 2005); *Jeff Anthony Properties v. The Zoning Board of Review of the Town of North Providence*, 853 A.2d 1226, 1230 (R.I. 2004).

In re: Petition for Review Pursuant to § 39-1-30 of Ordinance Adopted by the City of Providence, 745 A.2d 769, 774-775 (R.I. 2000), was an appeal by this petitioner and other utilities of an ordinance and related regulations of the City of Providence that established certain fees for road excavation permits. The Rhode Island Supreme Court stated:

[A]t least as early as 1822, towns had both the authority and responsibility to maintain roadways. The Legislature's unambiguous statement in "An act for the Mending of Highways and Bridges" declared that:

"[A]ll highways, townways, causeways and bridges, lying and being within the bounds of any town, shall be kept in repair and amended from time to time, so that the same may be safe and convenient for travellers with their horses, teams, carts and carriages, at all seasons of the year, at the proper charge and expense of such town, under the care and direction of the surveyor or surveyors of the highways." P.L. 1822, § 1, p. 290 (currently codified as G.L.1956 § 24-5-1).

The statute has remained unchanged in all material aspects, save for the substitution, by 1896, of "the town council of the town" for the surveyors, who had been appointed by the town councils. P.L. 1844, An Act for the Mending of Highways and Bridges, § 1; General Statutes of R.I. 1872, ch. 60, § 1; Public Statutes of R.I. 1882, ch. 65, § 1; G.L. 1896, ch. 72, § 1.

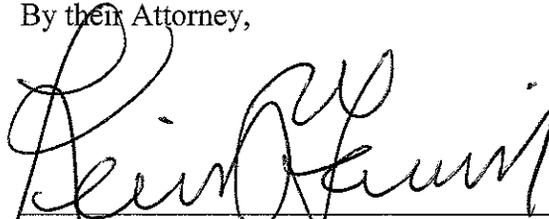
This legislative enactment not only obliges cities and towns to maintain municipal roadways, but it also gives municipalities the authority to regulate the manner in which those roadways are maintained. One hundred and seventy years later, the legislature mandated that "[a]ny person, firm, or corporation *including utilities* and contractors who alter a roadway that is subject to the provisions of this chapter shall restore that portion of the roadway which was altered to the same or better condition that existed prior to alteration." Section 24-5-1.1. (Emphasis added.) This provision places a direct obligation on utilities to repair and restore street excavations. Because § 24-5-1.1 provides no standards for that repair or restoration, it is clear that the Legislature intended that the obligatory restoration by private excavators be regulated "under the care and direction of the town council" through ordinances and rules that municipalities were authorized to promulgate by § 24-5-1.

In addition to the duty of municipalities to maintain roadways, by 1844 a concomitant liability was imposed on cities and towns for any damages resulting from improper maintenance of municipal roadways. P.L. 1844, An Act for the Mending of Highways and Bridges, § 13. This provision has also remained virtually unchanged to the present day. Section 24-5-13; G.L.1956 § 45-15-8. Consequently, if a utility or other private excavator fails to properly restore a roadway, and a driver or pedestrian suffers subsequent damage, the municipality may be held statutorily liable for damages. *See Seamons v. Fitts*, 20 R.I. 443, 444-45, 40 A. 3, 3--4 (1898) (holding that a town was liable for negligent road reconstruction by a private water company). In our opinion, the Legislature would not have imposed this liability on municipalities if it had not intended that communities be given sufficient authority to regulate the manner in which streets are repaired and reconstructed and thereby take steps to prevent and reduce injuries for which cities and towns could be held liable.

In re: Petition for Review, 745 A.2d at 774 (footnote omitted).

There is no question that the Portsmouth Town Council had the authority to enact the Ordinance in question. The Ordinance was enacted on February 20, 1996, after prior public notice and a public hearing. Now, more than 11 years later, National Grid seeks to appeal the enactment of the Ordinance. The petition for review is time-barred, and the Commission lacks jurisdiction to hear the appeal. The petition must therefore be dismissed.³

Defendants
TOWN OF PORTSMOUTH, et al.
By their Attorney,



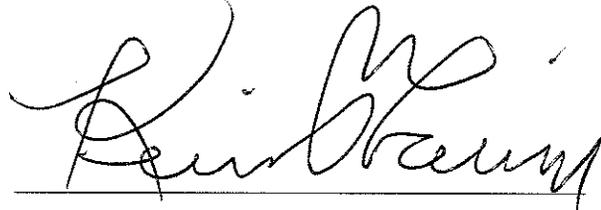
Kevin P. Gavin (R.I. Bar No. 2969)
Portsmouth Town Solicitor
Law Office of Kevin P. Gavin
31 Harrington Avenue
Portsmouth, RI 02871
401-848-4555
401-682-2122 Facsimile

³ The Director of Public Works simply followed the 1996 Ordinance in assessing the required fee. National Grid's petition seeks to have the Commission "review and nullify, or in the alternative, modify, the Ordinance". National Grid cannot circumvent the statutory time limit for appealing the enactment of the Ordinance by attempting to characterize its petition as an appeal of a decision of a town "inspector" under the "zoning review" provisions of § 39-1-30. This petition does not arise out of a zoning matter or a decision of any town inspector. Even if it did, the invoice charging National Grid the disputed fee was issued on June 18, 2007. National Grid filed its petition 53 days later.

CERTIFICATION OF SERVICE

I hereby certify that on the 24th day of August, 2007, a copy of the within Memorandum was mailed to the following:

Peter V. Lacouture, Esquire
One Citizens Plaza, Suite 500
Providence, RI 02903



A handwritten signature in black ink, appearing to read "Peter V. Lacouture", is written over a horizontal line.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

THE NARRAGANSETT ELECTRIC :
COMPANY d/b/a NATIONAL GRID, :
Plaintiff, :

v. :

Docket No.: 3858

THE TOWN OF PORTSMOUTH; :
ROBERT G. DRISCOLL, in his official :
capacity as Town Administrator; :
DAVID KEHEW, in his capacity as :
Director of Public Works; and :
DENNIS M. CANARIO, JAMES A. :
SEVENEY, KAREN GLEASON, :
LEONARD B. KATZMAN, HUBERT :
LITTLE, PETER J. MCINTYRE, and :
WILLIAM E. WEST, in their official :
capacity as members of the Town Council, :
Defendants. :

AFFIDAVIT OF PORTSMOUTH TOWN CLERK

I, Kathleen Viera-Beaudoin, being duly sworn, hereby depose and state as follows:

1. I am the Town Clerk of the Town of Portsmouth, having by law the custody of all the records, books, documents and papers of or appertaining to the Town, including all Town ordinances.

2. Attached hereto as Exhibit A is a true and accurate copy of Ordinance Number 96-2-20 A, "An Ordinance of the Town of Portsmouth, Rhode Island, Regulating Street Excavation and Curb Cuts", duly enacted by the Portsmouth Town Council after a public hearing on February 20, 1996, and copies of the Notice of Public Hearing advertised in the *Newport Daily News* on January 12, February 5 and February 20, 1996.

3. Attached hereto as Exhibit B is a true and accurate copy of Ordinance No. 96-11-12, An Ordinance in Amendment of Ordinance Number 96-2-20A entitled An Ordinance of the Town of Portsmouth, Rhode Island, Regulating Street Excavations and Curb Cuts”, duly enacted by the Portsmouth Town Council after a public hearing on November 12, 1996, and copies of the Notice of Public Hearing advertised in the *Newport Daily News* on November 4, 1996.

4. Attached hereto as Exhibit C is a true and accurate copy of Ordinance No. 97-2-25 A, An Ordinance in amendment of Ordinance Number 96-2-20A entitled an Ordinance of the Town of Portsmouth, Rhode Island, Regulating Street Excavations and Curb Cuts”, duly enacted by the Portsmouth Town Council after a public hearing on February 25, 1997, and copies of the Notice of Public Hearing advertised in the *Newport Daily News* on February 18, 1997.


Kathleen Viera-Beaudoin, Town Clerk

STATE OF RHODE ISLAND
COUNTY OF NEWPORT

Subscribed and sworn to before me this 23rd day of August, 2007.



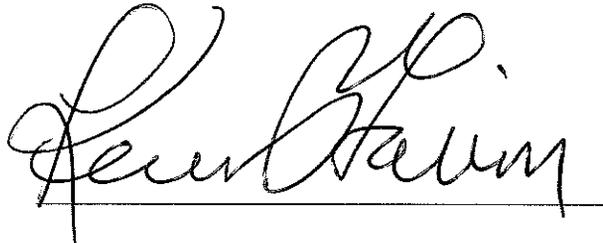
Notary Public

My Commission Expires: 6/30/10

CERTIFICATION OF SERVICE

I hereby certify that on the ^{24th} day of August, 2007, a copy of the within Affidavit was mailed to the following:

Peter V. Lacouture, Esquire
One Citizens Plaza, Suite 500
Providence, RI 02903



A handwritten signature in cursive script, appearing to read "Peter V. Lacouture", is written over a horizontal line.

EXHIBIT A

Town of Portsmouth

2200 East Main Road / Portsmouth, Rhode Island 02871

Carol Zinno
Town Clerk

(401) 683-2101

96-2-20A

AN ORDINANCE OF THE TOWN OF PORTSMOUTH, RHODE ISLAND, REGULATING STREET EXCAVATIONS AND CURB CUTS.

BE IT ORDAINED AS FOLLOWS:

Section 1: Approval needed for curb cuts. Any person owning or leasing land abutting any public street or sidewalk in the Town of Portsmouth, who desires to have an entrance, curb cut or driveway installed in such public street or sidewalk, shall make application therefor to the director of public works. The applicant shall file a plat or plan, in the manner and form prescribed by the director, showing the proposed location and dimensions of such entrance, curb cut or driveway.

Section 2: Action by director of public works. The director shall, within fifteen (15) days of the receipt of the application, investigate the necessity of such entrance, curb cut or driveway, and in so doing, shall take into consideration the public welfare, traffic hazards, danger to pedestrians and the public generally, and any and all matters pertaining thereto, and shall act upon and approve or disapprove the application.

Section 3: Notice upon disapproval. If the director disapproves the application, he shall notify the applicant of his action. The applicant shall have the right to appeal from the action of the director within ten days thereafter to the town council. After hearing said appeal, the council shall affirm, modify or reverse the action of the director.

96-2-20A

Section 4: Action after approval. If the director approves the application, or, if the council, upon appeal, approves the application, the director shall notify the applicant of such approval, and the applicant shall hire a suitable contractor to do the work required, which work shall be done only under the supervision of the director or his designee, and the applicant shall pay all costs of such work.

Section 5: Fee for curb cuts. The fee for having an entrance, curb cut or driveway installed shall be forty (\$40.00) dollars, which sum shall be paid at the time the application is made.

Section 6: Permit required for street excavations. No person shall connect any land or premises with any main drain or common sewer, or open any drain or sewer belonging to the town, or break ground or make any excavation in any of the sidewalks, streets or public places in the town for the purpose of making a drain or sewer or laying or placing gas pipes or water pipes or for any other purpose, without first obtaining a permit therefor from the director of public works, who shall first ascertain the feasibility of such excavations in relation to utilities with services in the affected areas. Such person applying for a permit shall provide such information as the director may require. For such permit, the person obtaining the same shall pay the director a fee as set forth herein, and such person shall provide for proper traffic control and properly light and barricade such excavation to the satisfaction of the director.

96-2-20A

Section 7. Fee established. All fees payable for street and sidewalk excavations shall be payable at the time application for a permit is made. However, in case of an emergency occurring between the hours of 3:00 p.m. and 7:00 a.m. necessitating an excavation for the purpose of making repairs to a gas main, water main, cable or electric conduit or for any other purpose, the person required to make such excavation shall not be first required to obtain a permit. Such person shall, however, before making such excavation, advise the police department and the fire department of the location where the excavation is to be made and the nature of the emergency. Such person shall apply for the required permit during the next business day.

Section 8. Fees for excavations. The fees for all street and sidewalk excavations shall be sixty (\$60.00) dollars for the first fifteen (15) linear feet or part thereof of any excavation, and eight (\$8.00) dollars for each additional five linear feet or part thereof. The length of the excavation shall include the total length of mains and laterals.

Section 9. Notice of construction. The public works director shall give ninety (90) days advance notice to all public utilities when a street or sidewalk is to be constructed, reconstructed, resurfaced or sealed. This notice will afford the utility companies an opportunity to complete any necessary work in such road or sidewalk prior to the paving work. For two (2) years thereafter any excavation associated with new mains

96-2-20A

and/or conduits, including the maintenance of existing ones, will require pavement restoration from curb to curb for the entire length of the excavation.

For two years following the construction, reconstruction, resurfacing or sealing of a street, any excavator of a lateral trench shall restore the surface by removing and replacing in kind the existing pavement completely for a distance of ten feet on either side of the center line of the trench from curb to curb.

Section 10. Restoration of surface. Every person who applies for a permit to make an excavation in a sidewalk or street shall state the exact location of the proposed excavation and the dimensions thereof and shall also agree to restore the sidewalk or pavement as required by the director of public works.

Every person making application shall further agree that if, in the opinion of the director, the work or restoration is not in strict accordance with his requirements, the town may restore the same and charge to the person the cost thereof.

Thorough clean-up shall be accomplished at the end of each working day.

Section 11. Bond required. Every person making application for excavations shall be required to file in the office of the director of public works a performance bond in the sum of five thousand (\$5,000.00) dollars conditioned upon the applicant's doing the work for which he has applied in a first class and

96-2-20A

workmanlike manner and restoring the sidewalk, curb or pavement as prescribed by the director, and with the understanding that, if in the opinion of the director, the work or restoration is not in strict accordance with his requirements, the town may do the work or restore the sidewalk, curb or pavement and charge to such person the cost thereof.

Section 12. Liability insurance required. Before commencing excavation work covered by this ordinance, the person seeking a permit shall establish that he has in full force and effect a policy of comprehensive general liability insurance with a minimum coverage of five hundred thousand (\$500,000.00) dollars combined single limit or a policy or policies of three hundred thousand (\$300,000.00) dollars bodily injury limit/six hundred thousand (\$600,000.00) dollars bodily injury limit/one hundred thousand (\$100,000.00) dollars property damage limit to include broad form property damage and explosion/collapse/underground coverage and completed operations coverage. For sidewalk and street obstructions the applicant must provide proof of a comprehensive general liability policy with a minimum coverage of three hundred thousand (\$300,000.00) dollars. All policies must list the town as an insured and indemnify the town for any liability it may incur as a result of issuing a permit under this ordinance.

Section 13. Responsibilities of excavators. Any person making any curb cut or excavation in a public way under this ordinance

96-2-20A

shall furnish all labor, materials, tools and equipment necessary for protection of the excavation, traffic control, backfilling the excavation, placing a compacted gravel foundation, temporary pavement, and permanent pavement and shall perform all other work necessary to restore the condition of the way. Except in case of emergency, such person shall notify the director of public works at least twenty four (24) hours prior to doing any work under this ordinance. All material used shall be subject to the approval of the public works director.

All excavations shall be protected with public safeguards and adequate warning devices such as detour lights, barricades, lights, watchmen and danger and warning signs, to be provided and maintained by the permit holder. No open excavation shall be left unattended.

All material removed from the excavation shall be immediately removed from the site of the work and shall not be left on any public right of way. That portion of excavated material which is to be used for backfilling the excavation may be stored on the site only with the permission of, and in a manner approved by, the director of public works.

No construction materials or equipment shall be stored on any town property or public right of way without the written approval of the director of public works.

Placement of backfill, gravel foundation, temporary pavement and permanent pavement shall be in accordance with town standards

96-2-20A

as determined by town regulations, or, in their absence, by the director of public works. Concrete used on roadways and concrete sidewalks shall be in accordance with the same standards.

Permanent pavement shall be deferred for a time period designated by the director of public works at the time of the placement of the temporary pavement. This time will depend on soil characteristics, the depth of the excavation and the nature of the excavation. When this time has expired, the department of public works shall notify in writing the permit holder to remove temporary pavement and replace it with permanent pavement, which shall be done within a period of ten (10) days.

Section 14. This ordinance shall take effect upon passage, and all other ordinances or parts of ordinances inconsistent herewith are hereby repealed.

Section 15: Penalty for violation. Any person who fails or refuses to comply with the requirements of this ordinance shall be punished by a fine of not more than one hundred (\$100.00) dollars to be recovered to the use of the town, and each day any violation of this ordinance continues shall constitute a separate offense.

APPROVED
BY
TOWN COUNCIL ACTION
ON February 20, 1996
C. ZINNO
TOWN CLERK

Town of Portsmouth

2200 East Main Road / Portsmouth, Rhode Island 02871

Carol Zinno
Town Clerk

(401) 683-2101

January 23, 1996

TO: Newport Daily News
FROM: Carol Zinno, Town Clerk
RE: Below encaptioned ad

Please run the below encaptioned ad in your legal columns on January 29, February 5 and 12, 1996. If there are any questions please call 683-2101. Thank you once again for your assistance.

**TOWN OF PORTSMOUTH, RI
NOTICE OF PUBLIC HEARING
PROPOSED AMENDMENT TO THE
ZONING ORDINANCE**

A Public Hearing will be held on February 20, 1996 at 7:00 p.m. in the Town Council Chambers, Town Hall, 2200 East Main Road, Portsmouth, RI on the following proposed amendment to the Zoning Ordinance entitled:

"AN ORDINANCE OF THE TOWN OF PORTSMOUTH, RHODE ISLAND REGULATING STREET EXCAVATIONS AND CURB CUTS"

For those persons wishing to view the entire proposed ordinance, it is available in the Town Clerk's Office, 9:00-4:00 p.m., Monday through Friday.

Those persons wishing to be heard should plan to attend and voice their concerns.

Handicapped accessible. TDD/Voice/Hearing Impaired: 683-2101 three business days prior to the Hearing.

Carol Zinno, Town Clerk

NDN 1/29/96

NDN 2/5/96

NDN 2/12/96

TOWN OF PORTSMOUTH, RI
NOTICE OF PUBLIC HEARING
PROPOSED AMENDMENT TO
THE ZONING ORDINANCE

A Public Hearing will be held on February 20, 1996 at 7:00 p.m. in the Town Council Chambers, Town Hall, 2200 East Main Road, Portsmouth, RI on the following proposed amendment to the Zoning Ordinance entitled:

"AN ORDINANCE OF THE TOWN OF PORTSMOUTH, R.I. REGULATING STREET EXCAVATIONS AND CURB CUTS"

For those persons wishing to view the entire proposed ordinance, it is available in the Town Clerk's Office, 9:00-4:00 p.m., Monday through Friday.

Those persons wishing to be heard should plan to attend and voice their concerns.

Handicapped accessible. TDD/Voice/Hearing Impaired: 683-2101 three business days prior to the Hearing.

Carol Zinno, Town Clerk

TOWN OF PORTSMOUTH, RI
NOTICE OF PUBLIC HEARING
PROPOSED AMENDMENT TO
THE ZONING ORDINANCE

A Public Hearing will be held on February 20, 1996 at 7:00 p.m. in the Town Council Chambers, Town Hall, 2200 East Main Road, Portsmouth, RI on the following proposed amendment to the Zoning Ordinance entitled:

"AN ORDINANCE OF THE TOWN OF PORTSMOUTH, R.I. REGULATING STREET EXCAVATIONS AND CURB CUTS"

For those persons wishing to view the entire proposed ordinance, it is available in the Town Clerk's Office, 9:00-4:00 p.m., Monday through Friday.

Those persons wishing to be heard should plan to attend and voice their concerns.

Handicapped accessible. TDD/Voice/Hearing Impaired: 683-2101 three business days prior to the Hearing.

Carol Zinno, Town Clerk

TOWN OF PORTSMOUTH, RI
NOTICE OF PUBLIC HEARING
PROPOSED AMENDMENT TO
THE ZONING ORDINANCE

A Public Hearing will be held on February 20, 1996 at 7:00 p.m. in the Town Council Chambers, Town Hall, 2200 East Main Road, Portsmouth, RI on the following proposed amendment to the Zoning Ordinance entitled:

"AN ORDINANCE OF THE TOWN OF PORTSMOUTH, R.I. REGULATING STREET EXCAVATIONS AND CURB CUTS"

For those persons wishing to view the entire proposed ordinance, it is available in the Town Clerk's Office, 9:00-4:00 p.m., Monday through Friday.

Those persons wishing to be heard should plan to attend and voice their concerns.

Handicapped accessible. TDD/Voice/Hearing Impaired: 683-2101 three business days prior to the Hearing.

Carol Zinno, Town Clerk

EXHIBIT B



Town of Portsmouth

2200 East Main Road / Post Office Box 155 / Portsmouth, Rhode Island 02871-0155

Carol Zinno
Town Clerk

(401) 683-2101

96-11-12

An Ordinance in Amendment of Ordinance Number 96-2-20A entitled An Ordinance of The Town of Portsmouth, Rhode Island, Regulating Street Excavations and Curb Cuts:

BE IT ORDAINED by the Town Council of the Town of Portsmouth, Rhode Island, that the Ordinance Regulating Street Excavations and Curb Cuts be, and hereby is, amended as follows:

I. Section 6: Permit required for street excavations, is hereby amended by adding the following:

However, in the case of any road which has been surfaced or resurfaced, no approval shall be given by the director of public works for any excavation, except in case of necessity, for a period of ten (10) years after the completion of said surfacing or resurfacing. A proposed excavation shall not be deemed to be necessary unless it is not possible to perform necessary work without making such excavations.

This amendment shall take effect upon passage.

APPROVED
BY
TOWN COUNCIL ACTION
ON November 12, 1996
C. ZINNO
TOWN CLERK

OB 2



Town of Portsmouth

2200 East Main Road / Post Office Box 155 / Portsmouth, Rhode Island 02871-0155

Carol Zinno
Town Clerk

(401) 683-2101

DATE: *October 30, 1996*
TO: Newport Daily News
FROM: Carol Zinno, Town Clerk
RE: Below encaptioned ad

Post-it® Fax Note 7671		Date <i>10/30/96</i>	# of pages <i>1</i>
To <i>Legal Ad. Dept.</i>	From <i>C. ZINNO, Town Clerk</i>		
Co. Dept. <i>Newport Daily News</i>	Co. <i>Town of Portsmouth</i>		
Phone # <i>849-3300</i>	Phone # <i>683-2101</i>		
Fax # <i>849-3306</i>	Fax # <i>683-6804</i>		

Please run the below encaptioned ad in your legal columns on November 4. If you have any questions please call 683-2101 and once again thank you for your assistance.

TOWN OF PORTSMOUTH, RI NOTICE OF PUBLIC HEARING

A Public Hearing will be held on November 12, 1996, at 7:00 p.m., in the Town Council Chambers, Town Hall, 2200 East Main Road, Portsmouth, RI

An Ordinance in Amendment of Ordinance Number 96-2-20A entitled An Ordinance of The Town of Portsmouth, Rhode Island, Regulating Street Excavations and Curb Cuts:

BE IT ORDAINED by the Town Council of the Town of Portsmouth, Rhode Island, that the Ordinance Regulating Street Excavations and Curb Cuts be, and hereby is, amended as follows:

I. Section 6: Permit required for street excavations, is hereby amended by adding the following:

However, in the case of any road which has been surfaced or resurfaced, no approval shall be given by the director of public works for any excavation, except in case of necessity, for a period of ten (10) years after the completion of said surfacing or resurfacing. A proposed excavation shall not be deemed to be necessary unless it is not possible to perform necessary work without making such excavations.

This amendment shall take effect upon passage.

Those persons wishing to voice their concerns should plan to be present.

TDD/VOICE/HEARING IMPAIRED: Call 683-2101, three business days prior to the Public Hearing.

Carol Zinno, Town Clerk

96-11-12

NDN 11/4/96

**TOWN OF
PORTSMOUTH, RI
NOTICE OF
PUBLIC HEARING**

A Public Hearing will be held on Nov. 12, 1996 at 7 P.M. in the Town Council Chambers, Town Hall, 2200 East Main Road, Portsmouth, R.I.

An Ordinance in Amendment of Ordinance Number 96-2-20A entitled An Ordinance of The Town of Portsmouth, R.I., Regulating Street Excavations and Curb Cuts:

BE IT ORDAINED by the Town Council of the Town of Portsmouth, R.I., that the Ordinance Regulating Street Excavations and Curb Cuts be, and hereby is, amended as follows:

I. Section 6: Permit required for street excavations is hereby amended by adding the following:

However, in the case of any road which has been surfaced or resurfaced, no approval shall be given by the

director of public works for any excavation, except in case of necessity, for a period of ten (10) years after the completion of said surfacing or resurfacing. A proposed excavation shall not be deemed to be necessary unless it is not possible to perform necessary work without making such excavations.

This amendment shall take effect upon passage.

Those persons wishing to voice their concerns should plan to be present.

TDD/VOICE/HEARING IMPAIRED: Call 683-2101, three business days prior to the Public Hearing.

Carol Zinno, Town Clerk

EXHIBIT C



Town of Portsmouth

2200 East Main Road / Post Office Box 155 / Portsmouth, Rhode Island 02871-0155

Carol Zinno
Town Clerk

(401) 683-2101

97-2-25 A

An Ordinance in amendment of Ordinance Number 96-2-20A entitled an Ordinance of the Town of Portsmouth, Rhode Island, Regulating Street Excavations and Curb Cuts:

BE IT ORDAINED by the Town of Portsmouth, Rhode Island, that the Ordinance Regulating Street Excavations and Curb Cuts be, and hereby is, amended as follows:

1. Section 6: Permit required for street excavations, is hereby amended by adding thereto the following:

In no case shall the Director approve any excavation to take place during a period commencing on December 1 of any year and extending through and until April 1 of the following year, except in cases of emergency, necessitating a repair of a gas line, water main, cable or electrical conduit, or other such purpose.

This amendment shall take effect upon passage.

APPROVED
BY
TOWN COUNCIL ACTION
ON February 26, 1997
C. ZINNO
TOWN CLERK



Town of Portsmouth

2200 East Main Road / Post Office Box 155 / Portsmouth, Rhode Island 02871-0155

Carol Zinno
Town Clerk

(401) 683-2101

DATE: February 13, 1997
TO: Newport Daily News
FROM: Carol Zinno, Town Clerk
RE: Below encaptioned ad

Please run the below encaptioned ad in your legal columns on
February 18, 1997.
If you have any questions please call 683-2101. Thanks again.

TOWN OF PORTSMOUTH NOTICE OF PUBLIC HEARING

A Public Hearing will be held on February 25, 1997 at 7:00 p.m.
in the Town Council Chambers, Town Hall, 2200 East Main Road,
Portsmouth, RI on the following proposed ordinance amendment:

An Ordinance in amendment of Ordinance Number 96-2-20A entitled an
Ordinance of the Town of Portsmouth, Rhode Island, Regulating Street
Excavations and Curb Cuts:

BE IT ORDAINED by the Town of Portsmouth, Rhode Island, that the
Ordinance Regulating Street Excavations and Curb Cuts be, and hereby is,
amended as follows:

1. Section 6: Permit required for street excavations, is hereby amended by
adding thereto the following:

In no case shall the Director approve any excavation to take place during a
period commencing on December 1 of any year and extending through and
until April 1 of the following year, except in cases of emergency, necessitating
a repair of a gas line, water main, cable or electrical conduit, or other such
purpose.

NDN 2/18/97

**TOWN OF PORTSMOUTH
NOTICE OF
PUBLIC HEARING**

A Public Hearing will be held on Feb. 25, 1997 at 7:00 p.m. in the Town Council Chambers, Town Hall, 2200 East Main Road, Ports-

mouth, RI on the following proposed amendment:

An Ordinance in amendment of Ordinance Number 96-2-20A entitled an Ordinance of the Town of Portsmouth, R.I., Regulating Street Excavations and Curb Cuts:

BE IT ORDAINED by the Town of Portsmouth, R.I., that the Ordinance Regulating Street Excavations and Curb Cuts be, and hereby is, amended as follows:

1. Section 6: Permit required for street excavations, is hereby amended by adding thereto the following:

In no case shall the Director approve any excavation to take place during a period commencing on December 1 of any year and extending through and until April 1 of the following year, except in cases of emergency, necessitating a repair of a gas line, water main, cable or electrical conduit, or other such purpose.

This amendment shall take effect upon passage.

Those persons wishing to be heard should plan to attend and voice their concerns.

Handicapped accessible:
TDD/Voice/Hearing Impaired:
683-2101 three days prior to the Hearing.

Carol Zinno, Town Clerk