

Remember who put town of Portsmouth at risk of huge liability

ELECTION 2016: PORTSMOUTH

At the recent Portsmouth budget hearing, questions were asked about the lawsuit filed by Rhode Island Nurseries against the town. This lawsuit appears to be heating up, as Rhode Island Nurseries has recently filed an amended complaint with the Newport Superior Court. This complaint (a public document available to anyone) lays out a disturbing set of facts.

For those who don't remember, in 2010 the Planning Board granted Rhode Island Nurseries master plan approval for a 14-lot residential subdivision on its farmland to the north of Glen Ridge Farm, the alpaca farm owned by Kevin Tarsagian and Ann Fiore. Glen Ridge Farm was actually part of an existing residential subdivision recorded by the prior landowner. It included an unbuilt "paper" road known as "Heidi Drive Extension," which connected to Rhode Island Nurseries' land. This was an existing public road, owned by the town.

As part of its approval, the Planning Board required that the paper road be built as a gravel "gated" road for emergency access to Rhode Island Nurseries' new subdivision. Tarsagian and Fiore objected to this. When they lost their appeal from the Planning Board, they asked their "friends" on the Town Council to "abandon" the public road — which, of course, would circumvent the Planning Board's decision and prevent Rhode Island Nurseries from using the Heidi Drive Extension.

The town solicitor advised the Town Council: (1) that it had authority to abandon the Heidi Drive paper road only if it determined that the road had "ceased to be useful to the public"; and (2) that if the council did abandon the road, it was required by statute to award Rhode Island Nurseries whatever damages it would suffer because of the abandonment.

Rhode Island Nurseries presented evidence to the council that it would suffer more than \$1 million in damages if the public road were to be abandoned. The council went ahead and voted to abandon the public road (which transferred title of the land to Mr. Tarsagian), and it awarded Rhode Island Nurseries zero dollars in damages.

So now, a jury will decide the amount of damages to be awarded to Rhode Island Nurseries. On top of this, the complaint seeks punitive damages and attorneys' fees because of the council's "egregious" wrongful conduct and violation of due process, plus interest which is running at 12 percent a year (about 60 percent so far). The town is facing huge potential liability. And the town's liability insurance doesn't cover any of this, so the Portsmouth taxpayers will ultimately have to pay the bill.

With election season approaching, everyone should remember the Town Council members who were responsible for this boondoggle: Liz Pedro, Judi Staven, Joe Robicheau, Paul Kesson and Karen Gleason.

Leonard Katzman,

chairman, Portsmouth Democratic Town Committee