

APPROVED

BOARD OF SELECTMEN / SEWER COMMISSIONERS MEETING

Wednesday September 26, 2018 – 6:00 PM – Richmond Town Hall, 1529 State Road

PRESENT: Mr. Neal Pilson, Chair; Mr. Alan Hanson, Selectman; Mr. Roger Manzolini, Selectman; Mr. Mark Pruhenski, Town Administrator

ABSENT:

GUEST: Mr. Paul Greene, Building Inspector, Mr. Tom Grizey, Wiring Inspector

Mr. Pilson called the meeting to order at 6:00 PM.

Approval of Minutes: August 20, 2018 (Exec. Session), August 22, 2018, September 10, 2018, September 12, 2018 (Exec. Session) and September 12, 2018 (Regular Session) and August 1, 2018

Mr. Alan Hanson advised the Board of a change in the August 22nd minutes that misidentified a speaker as Mr. John Hanson – the correct identification should have been Mr. Al Hanson. The word “John” was removed from the minutes and Mr. Manzolini moved that the minutes of August 22nd be approved as corrected. Mr. Pilson seconded that motion, which was carried by unanimous vote.

Mr. Manzolini moved that the minutes of August 20, 2018 (Exec. Session) be approved. Mr. Pilson seconded the motion, which was adopted by unanimous approval.

Mr. Manzolini moved that the minutes of both September 10, 2018 and September 12, 2018 (Exec. Session and Regular Session) be approved. Mr. Pilson seconded the motion and it was approved by unanimous vote.

Mr. Pilson suggested deferring approval of the August 1, 2018 minutes to the end of the meeting so that he would have time to look them over.

Contract for Services/Treasurer-Collector. Coppola and Coppola, Collection of Unpaid Real Estate Taxes, Foreclosures and Related Matters: Mr. Pruhenski presented a contract for the Board’s approval with Coppola and Coppola for all legal matters relating to the collection of unpaid taxes, foreclosures, tax-taking liens, etc. Mr. Paul Lisi, Town Treasurer/Tax Collector has requested the Board’s approval of this contract, which is budgeted in his FY2019 budget.

A discussion revealed that Mr. Lisi has requested that the Town hire this service to be more aggressive with collection of unpaid taxes, etc., which has not happened in the past. Mr. Manzolini moved that the contract recommended by Mr. Lisi be approved. Mr. Pilson seconded the motion and it was carried by unanimous consent. Mr. Pilson signed the contract.

Public Hearing pursuant to M.G.L. Chapter 138, Section 19H, to consider the application by Berkshire Winery LLC d/b/a Balderdash Cellars, for a new Annual Farmer Series Pouring Permit at 81 State Road: Mr. Pruhenski distributed copies of the application from Balderdash Cellars. Mr. Pilson moved that the Board open a public hearing on the application of Balderdash Cellars for an Annual Permit. Mr.

Manzolini seconded the motion and it was carried by unanimous roll-call vote as follows: Mr. Pilson, Aye; Mr. Manzolini, Aye; Mr. Hanson, Aye.

The public hearing, which had been advertised in *The Berkshire Eagle* on September 6th was for approval of the application, which must first be obtained by Balderdash Cellars from the Richmond Board of Selectmen. The application then goes to the State, who will conduct their investigation. In the past, Balderdash Cellars had requested one-day permits from the Board of Selectmen as they were needed. This annual permit will eliminate the need for those one-day permits.

Mr. Hanson asked whether the name on the application of Berkshire Winery, LLC and the name Balderdash Cellars, represents a change of name. Ms. Donna Hanson, co-owner with Mr. Hanson of Balderdash Cellars responded to Mr. Hanson that the business required a corporate identity before they created Balderdash Cellars, which is Berkshire Winery, LLC. That corporate entity does business as Balderdash Cellars and this is a very common occurrence in corporations.

Mr. Pilson asked for clarification as to precisely what the license would permit and was advised that it was just a wine and malt pouring license. Ms. Hanson was invited to add any comments she would like to have on the record before the hearing was opened to the public for comment.

Ms. Hanson first thanked the Town for the support they have given Balderdash Cellars and then said she felt that the winery has been beneficial to the Town in that it has attracted people from out of the county and even out of the country. She assured the Board that they chose Berkshire County for its rural beauty and intend to keep the property rural. She noted that they want to have a very good relationship with the town of Richmond, where they hope one day to build a home for themselves. She hoped that Richmond is happy about the existence of Balderdash Cellars.

Mr. Pilson asked for any public comment on the application from the floor. A member of the audience asked for clarification of what the license entails. Mr. Pilson advised that person that the license deals with pouring rights exclusively and has nothing to do with hours of operations or the use of music or anything of that kind.

Mr. Manzolini asked for confirmation that no one present from the public has any objection to the Board's approval of the application. No one raised any objection and three out of the five people present said they were in favor of the Board's approval of the application.

Mr. Manzolini moved to close the public hearing portion of the meeting, which was seconded by Mr. Pilson. The motion was approved by unanimous roll-call vote as follows: Mr. Pilson, Aye; Mr. Manzolini, Aye; Mr. Hanson, Aye.

The Public Hearing was closed.

The Board then deliberated as to whether there was any reason they should not approve the application. Mr. Manzolini noted his opinion that welcoming Balderdash Cellars to Richmond is a positive action in the Town's interest and gave his support to the approval of the license application. Mr. Hanson concurred that the existence of this business in Richmond is a positive thing for the town

and added his support for approval of the application. Mr. Manzolini wanted to clarify for the record that the license being sought in no way creates permission to create a bar – it is strictly a pouring license for malt and wine.

Mr. Pilson moved that the application of Balderdash Cellars for an Annual Farmer Series Pouring Permit at 81 State Road be approved. Mr. Manzolini seconded the motion, which passed by unanimous roll-call vote as follows: Mr. Pilson, Aye; Mr. Manzolini, Aye; Mr. Hanson, Aye.

In closing, Ms. Hanson advised the Board that Balderdash Cellars would always be willing to help the Town in any way it could. She was advised that the Town is always seeking locations for its Annual Pie Festival and Town Picnic. Some additional thoughts were offered for consideration.

Proposed Farm-Winery Events Bylaw – Discussion only: Mr. Pilson said that the Planning Board has a new by-law under advisement. They met on Monday night, a meeting which Mr. Pilson attended. He reported on some of the public comment that occurred, including the fact that, in response to requests from one of the abutters of Hilltop Orchards, the Planning Board has made some substantive changes in the bylaw, including the requirement to obtain a Special Permit rather than an Event Permit to hold an event on a property.

Mr. Pruhenski noted that the Planning Board has been working on this new bylaw for some time and has done exhaustive investigating, including consulting with other towns and having at least two public hearings. The copy currently before the Board is the final version that was voted on Monday night and was submitted to the Selectmen yesterday.

Mr. Hanson questioned how the decision to use 15 acres to identify the property was reached as he was concerned that someone might have an issue with that in the future. Mr. Pilson noted that in his attendance at several of the meetings concerning this bylaw, he did not hear any comment or objection from the Planning Board members or the public in attendance about that number. Mr. Pilson suggested that the Selectmen ask the Planning Board how they arrived at that number so that it can be explained when the by-law goes before the Town for a vote.

Mr. Pilson felt that the significant change in the proposed by-law is that it authorizes the Board of Selectmen to deliberate on the application and issue the Special Permit with whatever conditions the Board deems appropriate, send notice to the abutters and provide the abutters and the Town opportunity to comment on the application. This makes the process far more extensive than a simple Event Permit would be and was done in response to a request from the attorney for one of the abutters of Hilltop Orchards. He recalled hearing considerable discussion on the time-limit on amplified sound and the 100 foot perimeter. Mr. Pilson noted that requiring a Special Permit would give the Board of Selectmen the authority to increase the 100-foot distance from the abutter's home or property line and to determine that the 11:00 PM cut-off time for amplified music should be changed to something earlier.

Mr. Pilson explained that it is State policy and has become important to the viability of farms that they be allowed to hold events on their property that creates revenue, while remaining sensitive to the

comfort of the abutters of the property. It is a balancing act between maintaining the viability of farms and open spaces so that they do not need to be sold off to developers, contrary to the interests of neighbors. That is what the Planning Board was hoping to address in this new by-law. The new by-law will have to be approved by a two-thirds vote at a Town Meeting. Any changes to be proposed must be proposed at the Town Meeting.

There was a discussion of the application of the new by-law regarding Balderdash Cellars holding an event and Mr. Joseph Rich's property, which abuts Balderdash Cellars on the north. Given the restriction of the minimum of 100 feet from the abutter's property line, any function at Balderdash Cellars would have to be on the north side of the existing barn or within the barn itself. Ms. Hanson agreed that there would never be a reason to hold a function on the south side of that barn, between the barn and Mr. Rich's property.

Mr. Pilson reiterated that the authority of the Board of Selectmen is simply to comment on the by-law, but it has no authority to make changes to it. Nor is it proper to attempt to tailor the by-law to any specific property or business, a by-law is a general statute. He reminded everyone that the 100-foot specified is a minimum and in issuing a Special Permit, the Selectmen retain the authority to increase that minimum amount as they deem appropriate.

Mr. Manzolini noted that in the case of the Inn at Richmond, they hold events in a barn that is right on the property line of its abutter, which would be in violation of the 100-foot minimum distance. Ms. Malinowsky, of Canaan Road, said that her property abuts the Inn at Richmond and she was aware in the past that there was an issue with the Inn holding weddings, but she believes that they just go ahead and have them without a permit. She did add that the owners of the Inn at Richmond have been respectful of their abutters about the noise.

Mr. Pilson then opened the meeting to further comments from the floor.

Mr. Robert Malinowski spoke to the question of the definition of a farm as having 15 acres. He said there is more to being recognized as being a farm than the number of acres, there is demonstration that a product is being produced for sale. Mr. Pilson offered that there is a definition of a farm in the Right to Farm Bylaw, Chapter 13 Section 2 of the Richmond Town Bylaws. Mr. Hanson added that the property owner must apply for recognition as a farm.

Mr. Aubrey Goldspector noted that there is a State law that allows a lot of any size on which a product is grown, whether it is sold or used by the owner, to be considered a farm. Massachusetts has the strongest agricultural rights in the country. That law supersedes Richmond's Town Law definition.

A resident of 482 Canaan Road brought to the Selectmen's attention that the original intent of the new by-law was to provide the Selectmen with the authority to issue tightly controlled durational Special Permits. Mr. Manzolini responded that Richmond currently has a Special Event Permit requirement, the purpose of which was to manage large numbers of people and give the neighbors the opportunity to comment on it before it took place and he questioned how the Town has allowed special events to take place without permits. Mr. Pruhenski commented that Section 9 of the Town's current General

Bylaws allows the Selectmen to issue permits for special events. His interpretation of that provision is that the Event Permits are intended for one-time, short-term events such as the recent Josh Billing Runaground. That old bylaw is very clear that the Special Evet Permit is required only if the event is going to impact town roads and town sidewalks and will require town services such as Fire, Police, Ambulance, etc. Given that provision, Mr. Pruhenski felt that if someone with a large property wanted to hold a wedding on that property and was capable of parking all the cars attending that event on his private property and required no town services, he would not need any permit from the town.

There was a discussion between an abutter of the Hilltop Apple Orchard, Mr. Paul Greene and the Selectmen of events that had taken place in the past on the property of Hilltop Apple Orchard that caused their neighbors considerable distress due to the loud noise. They went to Mr. Paul Greene as the Zoning Inspector to complain. Mr. Greene said that he researched the issue carefully and at the end of his research into the existing laws, bylaws and regulations involved, he advised the Town Manager at the time that the Town did not have the ability to rein in large outdoor events with no restrictions or licensing. That was several years ago, and the result is the new by-law under discussion that attempts to put restrictions on such events by requiring a Special Event Permit as described above for each event. This bylaw will be presented to the Town at the October 30th Special Town Meeting where a two-thirds vote will be required to approve it. If it doesn't get approved, the Town is back to having no recourse to restrict outdoor events on privately held business properties. It was Mr. Pilson's strong recommendation that the neighbors who have been inconvenienced by these outdoor events in the past support the new bylaw at the Town Meeting.

Mr. Malinowski asked if it is the belief of the Board that adoption of the new bylaw will restrain events being held by entities who have done so in the past. Mr. Pilson said, yes, I believe the new bylaw will give the Board that authority. If there is a legal challenge to that authority, it will be dealt with. There was a discussion of the specific impact passage of the new bylaw will have on the pre-existing, non-conforming businesses in town and how the abutters of a business requesting such a permit would be notified. Mr. Pruhenski explained the procedure that exists for the issuance of a Special Event Permit.

Mr. John Hanson raised the issue of the Planning Board's proposal to form a committee to write a noise ordinance. Mr. Pilson noted that there exists in the Town's bylaws a bylaw concerning noise that was used in the issue with View Drive. It is not a very well-written bylaw and it could be improved. Mr. Pilson suggested that a request be made to other towns for copies of their noise ordinances. Mr. Manzolini asked if there was anyone who was made responsible by the Planning Board to form a committee to develop a noise ordinance. As there was no one with that mandate, the Board of Selectmen will discuss the issue with counsel and the Town Administrator and put it on the agenda for the next meeting.

Mail/Sign Warrants: Warrants were signed

Sewer Matters: There were no matters to bring before the Board.

Town Administrator Updates: Mr. Pruhenski reported that he had met with Mr. Bruce Augusti, the MEMA representative for this district and applied for the Annual EMPG grant. It was completed and

approved by FEMA for \$204,060 for emergency lighting cones, etc. for the Fire Department and the Emergency Management Director. Mr. Pruhenski will forward a copy of the grant application to the Fire Chief so that he can proceed with the purchase.

The DPW position. There were twelve applicants, out of which four interviews were conducted. The position was offered to Mr. Brian Hoskeer, who accepted and will begin work on October 9th. Mr. Hoskeer was previously employed by the Town of Sheffield.

School project updates: The solar project is still on track for completion in October and it will go live in November.

Window Tinting Project at the School: Project was completed last Tuesday. One hundred and ninety windows were outfitted with safety and security film. That includes all windows on the perimeter of the school at a height at which anyone could possibly see in from grade and prevents the windows from shattering on impact.

Playground Project at the School: Mr. Pruhenski brought contractors to the school for a site visit on Monday. Bids for that project are not due until October 15th. Mr. Pruhenski will update the Board as to bids received at their October 24th meeting.

The MMA Website Contest: Mr. Pruhenski had forwarded the Board's request to enter this contest to Ms. Laura Brennan of Berkshire Regional Planning Commission, the town's Marketing Director. They collaborated on preparing the application for submission by the deadline of October 26th and it will be done on time to submit in the under 5,000 population category. Mr. Pruhenski also reminded the Board that he has submitted the Town's Annual Report to a similar contest in the under 5,000 population category.

The Tree Plan: The north end of Town was completed last winter and Mr. Adam Weinberg, the Town Tree Warden, has provided a complete list of trees in the southern end of town that need to be removed. In response to a question about liability from Mr. Alan Hanson, Mr. Pruhenski was able to assure him that Mr. Weinberg is using monies not previously spent in his budget to prioritize the most dangerous situations for removal. Trees with orange paint on them are those that have been identified as needing to be removed. Mr. Pruhenski will work on getting the Request for Quotes drafted and hopes to have it completed by the Fall so that work can begin.

Mr. and Mrs. Paul Rochealieu arrived late to the meeting, hoping to be part of the discussion of the Bylaw. Mr. Pilson brought them up to date on the basic outcome of the discussion that had been held earlier. Mr. Manzolini asked whether they had made a complaint in the past to any town official concerning the noise problem they were experiencing with the Apple Orchard. Mr. Rochealieu explained their position as neighbors of the Orchard and the problems they encountered in their dealings with the owner. They did acknowledge that they did not approach any town official with a complaint, but felt they were represented by a neighbor who did take the problem to the town. Once again, Mr. Pilson said that the bylaw just drafted is intended to address the problems that have occurred, and it remains now for the town to approve it.

Personnel Performance Evaluations: Meetings were scheduled with staff and six of the ten have been completed and at the second October Board of Selectmen meeting a copy of all the completed forms will be distributed to the Board for their review. Mr. Manzolini thanked Mr. Pruhenski for being the first Town Administrator to actually conduct Performance Evaluations for staff at the Board's request.

The new Highway employee's hourly rate will be significantly lower than Mr. Bob Navin's rate was as Mr. Navin was a 15-year veteran employee. The difference between Mr. Hoskeer's salary and Mr. Navin's salary will be used to increase Mr. Tyler Kern's and Mr. Mike Lamke's salaries slightly, which will make all the salaries more equitable.

In response to a question about the need for a vote on the new bylaw, Mr. Pilson was assured that no action needed to be taken at that time. The information provided at this meeting was intended to be informational. There had been two other issues to be discussed: The Boys Club Zoning Map Change and the Marijuana issue, which were not covered at this meeting.

All three issues have been reviewed by Town Counsel. A slight alteration was made to the Farm Events Bylaw at the Public Hearing, which should not cause any problem. Town Counsel will receive the draft warrant as soon as Mr. Pruhenski has completed it. She will then have another opportunity to look it over as will the Selectmen when they vote on accepting the warrant.

Mr. Pilson and Mr. Manzolini agreed that of the three issues, it is the marijuana proposed bylaw that should receive their closest attention. Mr. Pruhenski said he would like to speak with Mr. John Hanson about the focus of the discussion at the Town Meeting for the bylaw. He felt it had been a mistake at the last meeting to allow the discussion to focus on one specific property. Zoning bylaws are not meant to be specific to a particular property. There should be no mention of specific addresses or names of specific businesses.

Selectmen's Matters: Mr. Manzolini brought up the Town Barn issue for an update. Mr. Pruhenski reported that he had met yesterday with Mr. Peter Beckwith, the Highway Superintendent, who is in the process of reaching out to Morten Buildings, who provided the original quote to have it revised. In addition to the change to board and batten siding, there were revisions to some of the doors to make sure they work with the Highway Department's equipment. Once that new quote is received, the Town will have a better idea of the new cost. In the meantime, there are three steps to this project: the salvageable portion of the existing barn must be put out to bid, the demolition of the remainder of the existing building must be put out to bid and the structure of the new building must be put out to bid.

Unanticipated Items: Possible flooding at the cemetery. After several heavy rains a month or two ago, there was some flooding at the cemetery; not in the area where graves currently exist, but in an area that will be developed in the future. Mr. Pruhenski met with Mr. Steve Parsons, the Cemetery Superintendent, who was concerned about the flooding. Mr. Pruhenski suggested that he and Mr. Shep Evans, the Conservation Commission Agent, meet and do a site visit at the cemetery, which they did. Mr. Beckwith also looked at the site to try to devise some problem solving. The Conservation Commission gave Mr. Beckwith approval to remove some debris and move around some gravel and install a silt fence and hay bales.

Next Meeting Dates: October 10, 2018, October 24, 2018 (Budget Advisory Cte. Meeting October 1, 2018 – 3:00 PM): Mr. Pilson reminded the Board that the scheduled court date for the dangerous dog case is at 2:00 PM on October 24th. There was a discussion as to whether it would be wise to also schedule a regular Board of Selectmen meeting for 6:00 PM on the same day.

Mr. Pruhenski advised the Board that the October 1st meeting will be their next opportunity to look at the financial items on the Special Town Meeting Warrant. He advised that October 10th is a regularly scheduled meeting and will be when they will sign the final version of the warrant.

October 24th is the second Selectmen's meeting of October. He suggested the Selectmen discuss whether they want to change that date considering the court hearing earlier that same day. It was decided to leave the October 24th meeting date for the moment until more is known about whether they will be going to court. Further discussion about that date can happen at the October 10th meeting.

There being no further business before the Board Mr. Manzolini moved that the meeting be adjourned. Mr. Pilson seconded the motion, which was carried by unanimous consent. The meeting was adjourned at 8:01 PM

Signed:

A handwritten signature in black ink, appearing to read 'NP', is written over a horizontal line. The signature is stylized and cursive.

Mr. Neal Pilson, Chair