

# Richmond Conservation Commission Minutes

Meeting of Tuesday, November 20th, 2018 at 7:00 PM  
Richmond Town Hall, 1529 State Road

**[Notice: This meeting will be recorded by the Richmond Con Com (1)]**

## 1. Call to Order and Introductions

1A. The chairperson, Ron Veillette, called the meeting to order at 7:04PM

1B (1). Commission Members present: Freya Segal Co-Chair, Ron Veillette Co-Chair, Adam Weinberg (arrived late), Robert Dahlen, Shepley Evans (Agent), John Scorpa (associate), Dan Scorpa(associate)

1B (2). Commission members absent: Patrick Seckler, Nick Martinelli

1B (3). Applicants and Others present: Matt Puntin, of SK Design Group; Melissa Coady of Tighe & Bond; John Keenum of Richmond Land Trust; John Mason of Richmond Land Trust; Mackenzie Greer of BNRC; Ken Kelly of Richmond Pond Association.

## 2. Review & Approval of the minutes of the meeting(s) of: August 14, September 11 and October 10, 2018 as previously circulated.

2A. Approval of August 14<sup>th</sup> minutes involved rescinding minutes that were approved at last meeting and approving corrected minutes. The motion to rescinded was made by Mr. Veillette and seconded by Bob Dahlen approved unanimously and then the motion was made to accept the revised minutes was made by Bob Dahlen and seconded by Shep Evans and was approved unanimously.

2B. Approval of minutes of the Sept 11<sup>th</sup> meeting, motion was made by Shep Evans to approve and seconded by John Scorpa then it was approved unanimously.

3B. Approval of October 10<sup>th</sup> meeting minutes, motion was made and approved unanimously.

4B. Shep Evans explained that the Town Clerk was now the official town record keeper and any Freedom of Information Act requests are received and responded to thru her.

## 3. Notices of Intent

3A. **Notice of Intent (DEP File # 271-0202)** filed under the Mass Wetlands Protection Act by SK Design Group, Inc on behalf of Richard Levy, property at 20 Swamp Road Richmond, Map102 Lots 53 &54. The proposed work consists of installation of three docks, a boardwalk, restoration of existing beach, gravel driveway repairs, installation of a path to the lake and culvert removal. All work is to be performed adjacent to Richmond Pond and Tracy Brook. Shep Evans said that a letter was received from the MA. division of fish and wildlife which states that this work will not have any adverse effect on endangered species. Matt Puntin of SK Design spoke for the Levys. The property is 20 plus acres, the site of a former summer camp. There are several projects planned.

3A1. **The first project:** is the replacement of a falling down boardwalk to the small off shore island containing an old lifeguard stand with a new boardwalk, which will be a seasonal. These new structures consist of wood dock frames with metal posts. The docks are built at the supplier's shop and then they are installed. The boardwalk/docks will be put in during the spring and removed in the fall

3A2. **Project #2:** To create a retaining wall consisting of a wooden timber for the support of a portion of the beach front above the bank, remove existing sand/gravel & vegetation and put down sand.

3A3. **Project #3:** An old gravel driveway that has partially washed out needs to be fixed with new gravel and grading. Every 50 feet water bars will be installed. No culverts are being planned.

**3A4. Project #4:** 3 more docks will be built; dock #1 is 42 feet long, dock number #2 is 48 feet long and dock #3 (caretakers dock) about 40 ft.

**3A5. Project 5:** A new/partially restored path, pervious surface, will be put in for easier walking to and from the lake from the house. There will be no excavation for the new path. A gentler grade. General maintenance of the area will be undertaken.

**3A6.** An old boiler culvert in the Tracy Brook needs to be removed to allow the stream to return to its original state. The plan is to span it with a foot bridge. The Commission requested construction details about the bridge.

Mr. Puntin indicated that information about the docks, bridges and the boardwalk was included in the Overall Site Plan Dwg (dated Oct 25, 2018) accompanying the NOI submitted to the Commission. Mr. Veillette noted that these drawings did not provide details on the above bank landing design or the in water post design and installation and requested that information.

Ken Kelly spoke and said that if the Beaver Dam at Tracy Brook is breached then the bridge that they have planned will be washed away. Discussion about the bridge took place and the Chair requested more information about the structural design of the bridge.

Mr. Puntin said that DEP has received the dock information, SK Design has not heard back from the DEP. SK Design has submitted to the ConCom prior to getting DEP approval. The board walk and docks must be approved by the DEP Waterfront Rules per the Chapter 91 program.

Mr. Veillette requested more detailed information about the docks, boardwalk, bridges and path that the applicants are proposing to construct.

The Co- Chair, Mr. Veillette, indicated that the commission needs to continue the hearing for more information before they can vote on a permit. Mr. Veillette made a motion to continue this hearing to the next meeting which is Tuesday December 11<sup>th</sup>, to obtain the information that the Commission has requested. The motion seconded by Bob Dahlen and passed unanimously.

**3B. Notice of Intent (DEP File # 271-0201)** filed under the Mass Wetlands Protection Act by Tighe & Bond on behalf of Eversource Energy, property near 99 Dublin Road, in the roadway Right of Way. The proposed work, which consists of remediation of non-PCB mineral oil dielectric fluid from transformer release, will be conducted in accordance with 310 CMR 40.0 (the Massachusetts Contingency Plan).

Melissa Coady from Tighe & Bond spoke on behalf of Eversource. In January of 2018 a transformer came down and released a considerable amount of non-PCB mineral dielectric fluid, the Mass Contingency Plan dictates how this is to be cleaned up. The goal is to have soil that is as clean as they can get it. The normal depth of soil removal is 14 inches but if that proves not to be deep enough, they might have to go as far down as 2-3 feet. The exact determination will be on site with the use of specialized equipment. Eversource will be installing a "ready wall" behind the existing headwall so there will not be any excavation within the stream. They do not think they will have any issues with ground water. All contaminated soil will be excavated out and replaced with clean soil to be loamed and seeded. They may try to start remediation over the winter. The clean-up is done by private companies (LSP's, License Sight Professional). An absorption boom was installed at the very beginning to prevent contamination of the stream, once the sheen of oil was gone the boom was removed and now the only contamination is in the soil. A new pole was installed. The contaminated material is trucked away for disposal. Clean-up contractors vacuum the contaminated soil into a waiting enclosed truck, and do not stock pile it on the ground.

Mr. Evans made a motion to approve the clean-up with standard conditions. It was seconded by Mr. Veillette and passed unanimously.

#### **4. Request for Determination of Applicability (RDA): None Submitted**

#### **5. Requests for Extensions of Orders of Conditions**

5A. Request from White Engineering on behalf of John Balboni to extend for three years the terms of the Orders of Conditions under DEP File #271-0153 and the Berkshire Scenic Mountains Act, originally issued 12-18-2008, extended under the Permit Extension Act to 12-18-2015 and again by the Commission thereafter to 12-18-2018. This extension is being requested to accommodate continuing work on the driveway, the storm-water system and a septic system.

The Chair wants to see an eventual end to this project. Mr. Evans suggested that the applicant be informed that this will be the last extension and that when the work is done, they need to apply for a Certificate of Compliance. Mr. Evans made a motion to grant one 3-year extension. The motioned was seconded Bob Dahlen by and passed unanimously.

#### **6. Enforcement Orders (EO)**

6A. Enforcement Order issued to Richard King on 7-11-2018 for continuing construction and site work at Lenox Branch Road without a Scenic Mountains Act Order of Conditions. The Conservation Agent seeks Commission authorization to secure from the Town the necessary funds (\$75) to pay the filing fees and to travel to the Registry of Deeds in Pittsfield and to record the Notice of Enforcement Order recently signed by members of the Commission.

Mr. Evans noted that the funds need to be voted upon since there isn't a line in the budget for this expenditure. The Chair commented that it should have been added at the last meeting when the Enforcement Order was voted on and issued because this has led to a delay. A motion was made to authorize the expenditure it was seconded and passed unanimously.

#### **7. Recommendations to permit granting authorities on Special Permits, Variances & Appeals**

7A. Matthew Ballinger & Lauren Yarmonsky: To construct a new 864 sq. ft. garage accessory building 23 ft. tall on an existing non-conforming lot at 193 Osceola Road.

7B. Deval & Diane Patrick: To construct a barn for agricultural use and storage at 245 Furnace Road, Map 106 Lot 19.

7C. Doreen D. Vittori, Trustee of Vittori Realty Trust: An appeal from a Request for Enforcement pursuant to M.G.L. Ch. 40A, Sec. 7 regarding 598 Canaan Road as per letter of Donovan O'Connor & Dodig, LLP dated September 14, 2018.

Mr. Veillette and Mr. Evans said they have looked at all of these properties and each of these sites except for Hilltop are non-jurisdictional for the Commission. Hilltop has jurisdictional areas with the existence of swamps and streams. The Chair said he did have an issue with one (Hilltop, Vittori) about parking of the cars and other land disturbing activities in buffer zones, Mr. Evans agreed with the parking issue. The Chair had put that issue into Commission's letter.

The Chair wrote a letter for each of the requests, he did note some issues of concern where he thought it was needed.

Mr. Evans made a motion that the Co-Chairs sign and send the letters, it was seconded by Mr. Veillette and passed unanimously. The letters were signed by the co-chairs.

**8. The Richmond Conservation Fund:** Discussion of a draft of a Land Conservation Fund Policy document currently under consideration.

**8A.** The Mr. Veillette stated that a policy document has been created for the Richmond Conservation Fund, and that the Commission must vote on and every member sign the policy document. The Chair made a motion to approve the document it was seconded by Freya Segal and approved unanimously. Everyone present signed the document after the approval vote.

**8B.** Mr. Keenum explained to the Commission about the purchase of the Berkshire Farm land and how it will be maintained. BNRC will mark trails and maintain them. Each of the participating members will be making a contribution of \$125,000. It is the first expenditure from the Fund. It is already tax-exempt and so no tax dollars are being lost by the town.

**8C.** Mr. Veillette pointed out to the Commission that the property contained the headwaters of Sleepy Hollow and Scace Brooks and was in the Scenic Mountain watershed areas.

The Chair made a

" Motion to authorize expenditure of Richmond Conservation Funds in the amount of \$125,000 to help purchase the land of Berkshire Farm, Assessors Map 401, Lot 2. Berkshire Natural Resources Council(BNRC), the Town of Richmond and Richmond Land Trust (will be) in partnership to conserve the Berkshire Farm land in Massachusetts. BNRC will be the fee owner and the Richmond Land Trust and the Town of Richmond will co-hold the Conservation Restriction(CR)."

It was seconded by Bob Dahlen. The ConCom members voted unanimously to approve this motion.

The land is expected to be purchased by June 30, 2019. The Conservation Restriction then needs to be placed on it. BNRC has applied for a grant to contribute to the purchase effort. If the grant doesn't come thru for BNRC more fund raising will be necessary.

**9. Open Space and Recreation Plan-** Discussion, Action Items, Conservation related matters  
**9A.** No Discussion

**10. Periodic review of local Wetland Bylaw and Local Regulations under Scenic Mountains Act**  
**10A.** No Discussion

**11. Richmond Pond Association (RPA)-** Ken Kelly from the pond Association spoke.

**11A.** Developing an all pond goose management plan, which all owners of land adjacent to the pond will participate in and help pay for. A comprehensive approach is what is under consideration, employing dogs plus other methods. January 8<sup>th</sup>, 2019 will be the next RPA meeting at Town Hall.

**11B.** Discussion about weeds and how they are going to try to get rid of them, chemicals seem to be the best method.

**12. Periodic review of filings instruction-web site posting and general circulation &handouts**  
The Chair asked if the instructions have been updated and Mr. Evans said that they have been updated on web-site.

**13. Open Orders, Conditions & Certificates of Compliance**

13A. Mr. Evans has issued and the Commission needs to sign an enforcement order on construction at 300 Shore Rd. The original RDA request was for a deck (which allows water to flow thru) then the deck got a roof (which does not allow water to flow thru) and walls. Water runoff from the roof and is requiring a storm-water management plan for water runoff. The new structure is only 43.5 feet from the pond.

The owner (John Scorpa), said he got a verbal permit for the roof from the building inspector and that the water is directed toward a drain which goes to a tank where it is filtered before it goes into the pond. The Co-Chairs were not happy that there was only a verbal okay from the building inspector, nothing written and no coordination with the Conservation Agent/ ConCom. Work has been stopped on the project.

Mr. Evans and the Chair suggested a site visit should take place before the December meeting. The Chair said an NOI would have been required for this project as now constructed. There was a major discussion about whether the Commission should allow the work to continue. Further discussion was deferred until the next meeting.

14. Recent Inquiries to Con Com about future / potential new applications: None

15. Citizen speak time: None

16. Other items not reasonably anticipated prior to Agenda posting. (1): Chair handed out a new bylaw for meeting attendance rules that was voted on and passed at town meeting. A commission member can miss one meeting about a project and still vote if proof of familiarity of the project is provided.

17. Adjournment at 9:20 PM

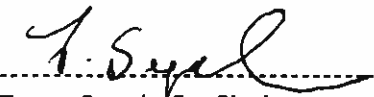
Next Meeting: Tuesday, 12/11/2018 at 7:00PM

New submittals requested by, 11/21/20xx at 3:00PM

(1) NOTE: Pursuant to MGL. 7c. 30A sec. 20(f), after notifying the chair of the public body, any person may make a video or audio recording of an open session of a meeting of a public body or may transmit the meeting through any medium. At the beginning of the meeting, the chair shall inform other attendees of any such recordings. Any member of the public wishing to speak at the meeting must receive permission of the chair. The listings of agenda items are those reasonably anticipated by the chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.



Ron Veillette, Co-Chair



Freya Segal, Co-Chair