

BOARD OF SELECTMEN MEETING

Wednesday July 24, 2019 – 6:00 PM – Richmond Town Hall, 1529 State Road

PRESENT: Mr. Neal Pilson, Selectman; Mr. Roger Manzolini, Chair; Mr. Alan Hanson, Selectman, Mr. Robert Markel, Interim Town Administrator

ABSENT:

GUESTS: Mr. Joseph Rich, State Road; Mr. Jeff Cook, representing the Rich Family; Mr. Tom Rich, Pittsfield; Ms. Jeanne Goodrich, Hancock; Mr. Tom Grizey, Wiring Inspector; Mr. Christian Hanson, Balderdash; Ms. Tracie Barry, Dublin Road

Mr. Manzolini opened the meeting at 6:00 PM. He invited Ms. Tracie Barry to address the Board. Ms. Barry outlined the process she has been going through since April of 2019 in order to obtain the appropriate permits to build a garage on her property. She noted the difficulty she had contacting the Building Inspector in order to determine if she needed any special permits to have the barn erected but was unable to get a response. On the advice of the vendor of the modular building, she had the work go forward with the belief that she would only need a normal building permit. Once the work had begun, she doubled her attempts to reach the Building Inspector and was finally successful. The Building Inspector expressed some concerns about the placement of the building so Ms. Barry completed the permit request on line and asked the modular company to speak to the Building Inspector who advised them that so long as there was no problem with the placement meeting all Town bylaws, there should be no problem. Ms. Barry then went to Town Hall that morning to pay the \$50 for the permit and was told by the Building Inspector that the permit application had been rejected on the basis of the property being non-conforming, which would require a Special Permit from the Zoning Board and that she would not be able to get on their agenda for the upcoming meeting on July 31st.

Mr. Markel advised Ms. Barry to send him an email with some of those details and he will contact the Chair of the Zoning Board to see if she can be placed on the Agenda for July 31st. Mr. Pilson noted that he sees no problem with the garage being on a non-conforming property so long as it conforms to other requirements for the building.

Farm Function Special Permit: Balderdash Cellars – Mr. Pilson provided Mr. C. Hanson and attorney Jeff Cook with a copy of the Board's proposed decision. The Board approved the Permit at the last meeting, subject to a written decision that would be issued at this meeting. The Town Attorney has prepared a draft of that decision, which has been reviewed by the Board. The Board is prepared to discuss with the applicant and the abutting property owner whether there are any concerns with respect to that decision.

Mr. Pilson raised the issue that the Farm Function Special Permit is limited to events that take place entirely on Mr. Hanson's property. The Board is not prepared to issue a Farm Function Special Permit that involves a road race on the State Highway or Town Roads. A member of the

audience advised Mr. Pilson that plans have changed and there will no longer be a road race on any road – state or town, which resolved the concern Mr. Pilson had.

Mr. Pilson noted that he would move that the decision be adopted as written, unless there are comments or concerns expressed by anyone in the audience. Mr. C. Hanson noted that on page 2, point 5 of the decision there is discussion of the review requirement. He questioned whether review would occur annually or at the end of an initial three-year period. Mr. Pilson said that he believes that the decision does not commit the Board to a three-year review period, though it could work out that way. He would like to wait until the currently scheduled summer events are ended to make that decision after the initial review.

There was a discussion of the parameters for sound amplification. Mr. C. Hanson spoke to his concern about the notation in the decision, “amplified music shall not be audible off the property after 10:00 PM.” He agreed that the level of sound will be dramatically reduced at 10:00 PM, but there would probably be back-up music that might be heard on the Pond or elsewhere. Mr. Pilson reiterated that on review in September, if there are no complaints from the Richmond Pond people, things can be moved forward. After a short discussion of the sound-amplification qualities of the Pond, Mr. C. Hanson withdrew his comment.

Mr. Pilson moved that the Board issue the decision in the Primadonna (Balderdash Cellars) application as written and prepared by the Town Attorney, reviewed by the abutter who has been present throughout the hearing and by the applicant. As neither party has expressed any objections, the Board will sign the decision and allow it to be filed immediately. Mr. Hanson seconded the motion, which was adopted by unanimous voice consent: Mr. Pilson, Aye; Mr. Manzolini, Aye; Mr. Hanson, Aye.

Mr. Pilson commended Mr. Christian Hanson and the Rich family for their considerate and thoughtful cooperation throughout this permitting procedure.

Special Event Permits: Balderdash This is a 5k run, entirely on the Balderdash property. There will be a Sheriff on duty to monitor a road crossing at one point. As there was no discussion from the public, Mr. Manzolini moved that the Board approve the application. The motion was seconded by Mr. Pilson and carried by unanimous consent.

As the original application noted that the route of the race would include State roads and Town roads, which has been changed, Mr. Manzolini asked that the application be amended to read that the route will be entirely on private property. Mr. Manzolini made that change by hand, dated it and he and the applicant initialed it.

A second event was for a celebration of a CD release, which was previously approved.

A third Special Permit application was presented for August 17th – in consideration of the appeal period, the Board was asked to consider that permit as well. The permit was for Autism Speaks and anticipated less than 100 people in attendance from 6:00 – 9:00 PM on a Saturday. Parking will be in the North Parking lot, there might be live or recorded amplified music, which

Balderdash will deal with respectfully. There may be people both inside the Tasting Room and outside on the patio. Mr. Manzolini moved that the permit be approved. The motion was seconded by Mr. Pilson and passed by unanimous vote.

Minutes of the July 15, 2019 meeting: Mr. Pilson read and provided edits, which were included in the minutes as read at this meeting. Mr. Pilson moved that the minutes be adopted as read. Mr. Hanson seconded the motion, which was passed by unanimous consent.

Sewer Matters: Mr. Tom Grizey reported that he has spoken to Mr. Ken Kelly and advised him that the weed control vendor only went part way up the channel turned around and went back out, as they had done last year. Mr. Manzolini asked Mr. Grizey if, in his opinion, the vendor did not meet the terms of the contract and Mr. Grizey said he would assume so. Mr. Markel said he will speak to Mr. Ken Kelly, the President of the Richmond Pond Association, to determine what needs to be done. Mr. Manzolini asked that next year the Board have some way to determine that the exact scope of the work contracted for is done completely.

Mr. Grizey reported that in his conversation with the vendors, he was advised that there is no problem for swimmers or boats to be back in the water as soon as the treatment is done. Mr. Manzolini asked that that issue be included in the information for Ms. Danielle Fillio so that she will be aware it needs to be dealt with next summer. Mr. Pilson noted that next year the weed treatment should be done earlier in the season so that it would not raise the issue of when swimmers and boaters can resume use of the lake after treatment.

Mr. Grizey raised the issue of the emergency sirens. Mr. Manzolini reported that he spoke to Chief Traver about why the sirens had not gone off to warn of a possible tornado approaching the town. Chief Traver found out from County that they dropped the ball. Chief Traver has been in contact with Mr. Grady and they are going through the steps necessary to get the process at the Sheriff's office working so that the sirens will go off when a tornado warning is advised. Once the process is corrected, it will be necessary to test whether the siren works and, if it does not, have it fixed. After that, it should be tested periodically. There was a discussion of the correct frequency for such testing, during which Mr. Markel reported that in a conversation he had with Chief Traver, once a month was suggested. Mr. Markel will put this issue on the agenda for the next meeting to complete that discussion.

Update – New Boat Shed: Addition of a fence costing \$5,300.00: Mr. Markel provided the Board members with copies of the bill for the fence. Mr. Manzolini moved that the additional cost of the fence be approved. Mr. Pilson seconded the motion, which passed with unanimous consent.

Contract with the City of Pittsfield for Veterans' Services: Mr. Markel reported that there is still no word from the Pittsfield Veterans' Services other than that they are performing the service but cannot seem to get the contract out of the Law Department.

Update – Constable Issue: Mr. Markel advised the Board that their packets contain copies of the letter written to the constable being asked to surrender the radio and the pager. The letter was drafted by Mr. Pilson, reviewed by Mr. Markel and referred to Town Counsel for review. Mr. Pilson reported that the constable in question was seen in attendance at the accident on Rte. 41, apparently without direct authorization. Mr. Manzolini noted that he has had similar reports from the constables, by the Sheriff’s Department and by the State Police that this is an issue.

Mr. Manzolini moved that the letter be released for mailing to the constable. Mr. Pilson seconded the motion, which was carried by unanimous vote.

Sewer Matters: There were no issues to discuss.

Town Administrator Report: Mr. Markel reported the following:

There were pre-bid conferences for the OPM as well as a potential Town Hall renovation project on July 15th and July 22nd.

Mr. Markel finally received authorization to do CORI checks and he completed that process for three new employees of the Town. He is now arranging for the transfer of that authority as well as the Code Red authority to Ms. Danielle Fillio when she arrives on August 5th.

Hilltop noise Cease & Desist Order is in effect. Town Counsel agrees that this is the correct process. It goes before the Zoning Board on July 31st. Mr. Markel has sent a copy of the Town’s Noise Bylaw to Officer Buell of the Massachusetts State Police.

Mr. Manzolini agreed to speak to the contractor for Ms. Jill Rawlings of 15 Reservoir Road, who wrote the letter of complaint about construction noise on Reservoir Road. She had been upset by the construction process, especially as the contractor and the architect were dismissive of her complaints. The situation is better for her now after having contacted the owners who made some adjustments.

Mr. Pilson noted that he has met the three gentlemen who own the property and that they seem to be reasonable and responsible people.

The Long-Range Sustainability Working Group. Mr. Markel reported that they will be meeting to look at the Master Plan and develop something long-term to determine what kinds of issues the Town will be involved with in the future. Mr. Markel noted that he received a note from the people who will handle an application for the Town at no charge for grant funds to study vulnerability issues in the Town like flooding that would result from severe weather events. Mr. Manzolini noted that he saw the biggest threat for the Town as being a railroad disaster involving train cars carrying hazardous chemicals. Mr. Pilson added that flash flooding and brush fires also constitute a possible threat.

Mr. Markel summed up the necessary steps to become eligible for the State-funded grants to conduct such a study. Typically, he noted, towns would hire a professional to study all the areas

where the town might be vulnerable, come up with a list of potential problems and then funding becomes available to address those problems.

Highway Garage Repairs – Mr. Peter Beckwith spoke with Mr. Markel today to advise him that there is \$18,000 in his budget, voted at the Town Meeting, for this project. The report came back with an estimate of upwards of \$30,000 to get all the work done. He wants to spend the \$18,000 that he has and see if he can bring the cost down, while getting the repairs started.

Mr. Manzolini revisited the issue of Hilltop Orchards noise complaints. He asked how the Board will know what is and is not permissible under the licenses issued. Mr. Markel said that his understanding was that the ZBA must make the determination as to whether what is being done is being done as of “right” because they are grandfathered in or if a Special Permit is required. The ZBA will be starting the process to make that determination at their meeting on July 31st and, in the meantime, the Cease and Desist Order is in effect. Mr. Markel asked Town Counsel if she thought there was anything further that should be done at this time and she said to wait until after the ZBA has met and ruled.

Mr. Markel reported on legislation that Senator Adam Hind is involved with that would allow the Town to have a shared Town Administrator with West Stockbridge. That legislation is moving forward but to secure approval we must have an Inter-Municipal Agreement with West Stockbridge. Copies of the draft of that agreement were distributed to the Board with the notation that most of the wording comes from the Inter-Municipal Agreement between the Towns of Lee and Lenox. Mr. Pilson spoke to Rep. Smitty Pignatelli who advised him that the State Senate wants this Agreement to be in place before the legislation is enacted.

This Agreement will be on the agenda of the next meeting of the Board of Selectmen. If the Board signs the Agreement, Mr. Markel will forward it to Ms. Marie Ryan, Town Administrator for West Stockbridge.

Mr. Markel had been asked to check on whether there was anything in the Alcohol Pouring License for Hilltop Orchards that created restrictions. He distributed copies of the license, which contain only three conditions, none of which provide for restrictions on noise or music, etc.

Selectmen’s Matters: Mr. Manzolini reported that Mr. Peter Beckwith, the Highway Superintendent, had brought to his attention issues that the snowplow drivers have in terms of safety and being able to get out of certain roads. On one of the routes, the driver comes out of Dublin Road and must make a right-hand turn onto Route 41 and/or cross Route 41 coming from Hancock. When he gets to Rte. 41, in order to proceed to the point where he can see if there is traffic on that road, his plow is already in the middle of the road. He is asking that a mirror be installed so that the snowplow drivers can see in either direction, eliminating the danger in that intersection. He also cited a few other places in Town where similar dangerous conditions exist. Mr. Manzolini requested that Mr. Beckwith be asked to take some members of the Board to those locations so that a determination can be made as to whether the Board agrees with the installation of mirrors at those locations.

Mr. Pilson voiced his concern with mirrors in general; they are fine when you are dealing with a private driveway and the driver knows where the mirror is and where it is aimed. Having mirrors for the general public, which reflect light and will create a surprise for people, makes him cautious about their use. He suggested that mirrors might be installed high up on the far side, where the average driver will not notice it, but it would be visible to our plow drivers. The Board will arrange with Mr. Beckwith to set a date for this tour.

Chief William Bullett: Chief Bullett approached the Board to advise them of the fatal automobile accident at the corner of Rte. 41 and Dublin Road and that the constable cited in a discussion earlier was known to have driven through the accident site, which is absolutely not permitted. Chief Bullett said he did not confront the constable and reported that the Fire Chief said that everything that could be done has been done. As part of his administrative duties, Chief Bullett went to the accident site to confirm that everything proper had been done and found that Rte. 20 and 41 were not blocked off at Rte. 20. That area is in Pittsfield and not within the jurisdiction of Richmond – the State Police would have been in charge at that point.

Mr. Pilson spoke about the emails that have been arriving from Mr. Schumaker and his concerns about his grandmother's gravesite. Mr. Markel spoke to the Cemetery Superintendent who gave Mr. Markel the bylaw regulations that he was enforcing. Mr. Markel communicated to Mr. Schumaker the regulations covering the cemetery. Mr. Schumaker responded that he will abide by those conditions but asked if the materials that were confiscated could be returned to him. Mr. Markel will call the Cemetery Superintendent and ask him to return the materials.

Mr. Pilson reported that Mr. Markel and he met with Laura Brennan earlier this week. The Town has an ongoing agreement with the Berkshire Regional Planning Commission to use her services as a Shared Economic Planner. Mr. Pilson would like to know what it is the organization is requesting. Mr. Markel accessed the email he received which contained an addendum that needs to be initialed. It mentions an annual fee not to exceed \$10,500 with an average of 2.5 hours of service per week, which Ms. Brennan will keep track of. Mr. Manzolini moved that the Board authorize Mr. Markel to initial the addendum, if it is within the scope of what has been agreed to and if it is within the budget. Mr. Pilson seconded the motion, which was carried by unanimous vote.

Mr. Pilson asked whether the Board of Selectmen was aware that a member of the Planning Board has sent a letter to the Attorney General of Massachusetts, complaining that the Planning Board discussed two matters that were not on the agenda. Rather than bring this matter to the attention of the Selectboard or to the attention of the Town Administrator or to the attention of Town Counsel, a letter was sent directly to the Attorney General in which criticism of decisions made by the Chair of the Planning Committee were made. Mr. Pilson said he was disappointed to hear that it was felt necessary to direct that letter to the State Attorney General, especially considering the extraordinary devotion of time and care given to this Town by the Chair of the Planning Committee. Mr. Pilson wanted to express his total support of the

decisions and actions of the Planning Board Chairman, Mr. John Hanson. Mr. Markel reported that he had met with Mr. John Hanson and they are rescheduling a Planning Board meeting with those two items on the agenda to “fix” the situation. The proper form wasn’t used in filing with the Attorney General and, therefore, nothing will be done by his office unless and until the proper form is filed. There is some chance that when the Planning Board next meets, they can address those items as properly posted agenda items. Then it will be a matter of just letting the whole issue drop.

Mr. Markel did not know if the person making the complaint is aware that it had not been done properly and that the A.G. will not act on it. Mr. Pilson noted that this is inconsistent with the way Richmond normally runs its affairs and it is disappointing. He was pleased to know that it could be fixed by simply scheduling another meeting. Mr. Manzolini added his support for Mr. John Hanson and expressed his extreme disappointment with the way it was handled.

Mr. Alan Hanson brought to the Board’s attention the issue of the dangerous intersection cited above, and especially in light of the unfortunate recent fatality, suggested that the Board petition Representative Smitty Pignatelli and Senator Adam Hind to look into this matter because he felt that the intersection could be made safer. Mr. Manzolini and Mr. Pilson agreed that this should be done. Mr. Markel said that he would move ahead with contacting Rep. Pignatelli and Senator Hines.

Next Meeting Dates: Wednesday August 14, 2019 – 6:00 PM and Wednesday, August 28, 2019.

Mr. Pilson noted for the record that; in the event this is the final meeting of the Selectboard at which Mr. Markel will be working with them, he wanted to express his thanks and appreciation for the total professional job that Mr. Markel has done for the Town during his time as Interim Town Administrator. Mr. Pilson was contacted by the Stockbridge selectwoman who asked for his appraisal of Mr. Markel’s services and aptitude for the job. Mr. Pilson reported that he could not have been more effusive in his remarks. Mr. Markel responded that he was very happy to have had this opportunity and will take away from this experience having had the best relationship with a Board of Selectmen as he has ever had. Mr. Manzolini added his appreciation for Mr. Markel’s professional and pleasant way of working.

There being no further business before the Board, Mr. Pilson moved that the meeting be adjourned. The motion was seconded by Mr. Manzolini and adopted by unanimous vote.

The meeting was adjourned at 7:30 PM.

Signed:

Mr. Roger Manzolini, Chair