

Richmond Conservation Commission Minutes -Final
Tuesday June 11, 2019 at 7PM. Richmond Town Hall 1529 State Road

Call to order and Introductions.

- Ron Veillette, Co-Chair called the meeting to order at 7PM.
Ron Veillette made this statement:

NOTICE: This meeting will be recorded by the Richmond ConCom (1) and if any other person will be recording the meeting they are to notify the committee at this time.

- Commission members present: Ron Veillette Co-Chair, Freya Segal Co-Chair, Dan Scorpa, Adam Weinberg, Pat Seckler, Nick Martinelli, John Scorpa (associate member) Shep Evans (agent and associate member)
- Commission members absent: Bob Dahlen
- Applicants and Others Present: Claudia Ryan (recording secretary), Vern Tower, Eric Smith (RFD), Marc Volk (Foresight Land Services), John Mason (Richmond Land Trust), John Keenum (Richmond Land Trust), Zach Cochran, Jay Phelps (RFD), Chris Porter (RFD), Sarah Gapinski (SK Design Group), Christian Hanson (Balderdash Cellars), McKenzie Greer (Berkshire Natural Resources Council)

1. Review and approval of the minutes from May 14th, 2019 meeting.

It was noticed that the 6/11/2019 agenda said the meeting date was April 9, 2019 so the agenda was corrected to read May 14th, 2019.

There were no other comments about the minutes that had been previously distributed Ron Veillette made a motion to accept the minutes, it was seconded by Shep Evans, and approved unanimously.

2. Notices of Intent:

2A. WPA File # 271-0206 from Foresight Land Services on behalf of the Trustees of Richmond Volunteer Fire Department, Inc. Property located at 40 Fire House Lane, Map 408 Lot 0000. The proposed work includes the construction of a 50' X 80' steel garage with doors that are 12ft. X 12ft. large enough for the new truck, as well as paving two areas of existing gravel and grass to create space for emergency vehicles to maneuver on site. The proposed work will alter only buffer zone and previously developed riverfront area.

Ron Veillette made a comment that according to Richmond Muni Mapper records the address is 53 Fire House Lane not 40 and that needs to be investigated and corrected.

Marc Volk, from Foresight Land Services, presented to the commission the proposed plan and discussed the project. It will be a vehicle storage garage having electricity but no running water. It will be a structure that is built of steel and have a cement floor. Eric Smith (RFD) gave the commission some background about the need for a new building. He stated that the Trustees of the Richmond Volunteer Fire Department own the property and the existing building at 35 Fire House Ln. The building dates to the 1940's or 1950's and that it is not

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nearly big enough to hold all the equipment the fire Department now owns. They must juggle around the vehicles to get them into the building and the doors are not even large enough to get the new trucks thru. They thought about making additions to the existing building but that would mean the entire building would have to be brought up to ADA codes and that would make the cost too high. The town is not being asked to pay for the new building it will be paid for by the Trustees. To put the new building to either the north or west side of the existing building was looked at but rejected as possible sites. The FD pavilion is in the way and they did not want to remove it.

Marc Volk, Foresight Land Services, spoke again to explain to the commission exactly what was proposed to minimize the effects of storm water runoff. Planting of native shrubs and other native plants to act as filter on the surrounding land and water resources. They have proposed to put in a storm water filtration system and catch basin for 1" storage of water. Adam Weinberg asked where the over flow runoff from the drainage system would go. Marc Volk said over the bank. Shep Evans stated that most of the sediment and pollutants are in the first inch of runoff so if there was a storm that created more than what the system could handle the runoff from the catch basin /filtration system would not be very polluted. They plan on planting 1600 sq. ft. of native plants and if they can get the town to allow them to plant behind the salt shed which is town owned they will plant 1,000 sq. ft. of native plants there.

Marc Volk made a point in stating that this project was to be considered an Improvement and Redevelopment not a new land development project so that it did not fall under all new development regulations. He handed Shep a updated plan drawing with greater detail of the proposed drainage and stormwater system and Native Species plantings.

Ron Veillette read from a letter that had been sent by the DEP. It had many questions and issues about the project. Shep Evans stated that some of the issues raised are being dealt with by the proposed filtration system and native plantings. The question of whether any chemicals are used by the Fire Dept. and Chief Traver said they are not. There was a short discussion about how the Fire Dept. washes their vehicles and it was determined that they would still do it the same way in front of the existing Fire House and with the new filtration system more water will be contained than it is now.

Freya Segal stated that she felt the Fire Dept. needed extra storage space and the commission should support their efforts to obtain it.

Ron Veillette asked the Commission members if there were any more questions that they had, they said that they had heard enough. Ron Veillette felt that they did not have enough information documented in writing to make a final recommendation and wanted to continue to next month. Dan Scorpa asked what effect waiting a month would have on the project. Chief Traver stated waiting a month would hurt the timeline for the project so the commission decided to hold a special meeting on June 25. Shep has requested from Foresight Land Services that all aspects of the project that were mentioned at the meeting but not specified on the plans be documented in a letter and sent to the Commission prior to the June 25 meeting. Ron Veillette made a motion to continue this NOI discussion to a special meeting to be held on Tuesday June 25 at 7:00PM at Richmond Town Hall, it was seconded by Adam Weinberg and passed unanimously.

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3. Discussion of the status of the Conservation Fund.

3A. Berkshire Farm Property Acquisition- CR Status & Review & Vote on the Memorandum of Understanding.

McKenzie Greer from Berkshire Natural Resources Council informed the Commission that all parties have signed off on the acquisition of the property and what was now necessary was for the parties to sign the Memorandum of Understanding (a copy is attached to these minutes). Ms. Greer informed the Commission that many photos and detailed surveys of the property were taken to document exactly what the property looked like at the time of purchase. John Mason and John Keenum of the Richmond Land Trust said they were fine with the wording of the Memorandum of Understanding (MOU) and would sign it. It is a document that describes how the parties that oversee the Berkshire Farm Property Acquisition will communicate with each other. Ron Veillette said that Richmond's town council had an issue with a certain wording related to the dissolution of the Grantee, but the Commission did not have an issue with the wording. Ron Veillette asked if everyone on the commission was happy with the document. Shep Evans stated that all his experiences with Berkshire Natural Resources Council have been positive ones.

Ron Veillette made a motion to accept the MOU, Freya Segal seconded it, and was passed unanimously. Ron Veillette and Freya Segal, Co-Chairs, signed the MOU for the town, with the understanding that if town council wanted the wording changed it would be incorporated. Shep Evans said the original should be recorded at the Registry of Deeds by the town. Ron Veillette agreed about the recording but said town council had to okay the version prior to recording it. The MOU was then passed to John Mason and John Keenum for their signatures. The MOU is included with these minutes)

4. Recommendations to permit granting authorities on Special Permits, Variances or Appeals.

4A. 81 State Road, Special Permit/Variance/Appeal; Parking: Review and vote on comment letter to ZBA

Chris Hanson of Balderdash Cellars spoke and said that he was working with his neighbors in trying to come up with a parking plan for the Cellars. Mr. Hanson stated that the Selectmen had "no comment" on the off-street parking lot and that they were going to the ZBA for relief of the 100 foot set back requirement. Ron Veillette told the Commission that he composed a letter stating that the Conservation Commission has no jurisdiction for this property. Freya Segal made a motion to send the letter to the ZBA, Nick Martinelli seconded it and it passed unanimously.

4B. 590 Canaan Road, Hoe & Bouchard SPS Application- Short Term Rental Business.

ZBA hearing status. Ron Veillette made a statement that he submitted the letter that they voted on last month to the ZBA. He informed that the ZBA meeting was scheduled for June 19th of this month.

5. Discussion with Sarah Gapinski from S-K Design Group of the beach area at the Levy property, 20 Swamp Road (Mass DEP 271-0202).

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Sarah Gapinski told the Commission that the Levy's received approval for only 2 of the three docks that were in their original proposal, so the plan change is to keep the main house dock and the caretaker's dock.

Ms. Gapinski presented a photo (included in these minutes) to the Commission members with a delineation of where the sandy beach will be and showing where the cedar timbers that they plan to use and the large stepping stones will be. The plan is to remove from within the borders of the timbers the existing turf/sand and replace it with clean sand to create a sandy beach area. The timbers will be 6inch by 6inch cedar timbers with approximately 3inches above the surface. There will be a 2ft. break in the timbers where 2 large stones will be placed to make it easier to get from the beach area into the pond. The beach area will be 25ft x 20 ft. it will be the same size that it now is.

The Commission is requesting that S-K Design submit to the Commission for their approval a detailed plan that must include:

1. The type of sand that they will be using, an indigenous, no phosphate or sediment sand is required.
2. 10 ft of native plantings on the narrow side of the sandy-beach area,
3. 200 sq. ft of native plantings on the north side of the beach area 10ft x 20 ft.
4. On the south side a minimum of 6 ft deep of native plantings along the shore line.

They will be permitted to leave a 30" pervious surface path to the island and a wide enough pervious surface area which will allow for the towing and launching of a boat down to the pond.

6. Request for Determination of Applicability: None

7. Discussion of the Status of action item(s) in the Town OSRP.

7A. Status of development of WPA Brochure

Ron Veillette stated that he has gotten cost estimates for printing the WPA education brochure. He wants to mail it out to contractors, realtors, and residents as well as have ConCom, BOH, Building Inspector agents/board members hand it out to applicants.

7B. Town Beach Discussion

Ron Veillette stated he was meeting with the BOS and DPW Supervisor to have a discussion about removing some of the grassy areas and replacing them with native vegetation and pervious surface paths and picnic table footings. He had extracted some of the information from the BRPC/DEP MA Buffer Zone Manual.

8. Discussion of Enforcement Orders:

8A. 159 Willow Road: Update on an Enforcement Order issued to Robert Bohlman on 4-11-2019 for non-permitted construction in the 200ft. riverfront resource area on the inlet to Richmond Pond.

Shep Evans, Agent, told the Commission that the Enforcement Order that was sent to Mr. Bohlman, Return Receipt Requested, was never picked up by him. Since it was unclaimed the

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Post Office returned it. Since Mr. Bohlman refused to sign and pick up the order it was technically never given to him. Shep Evans discussed the option of placing "visible STOP WORK" placards on the building and property and the ConCom concurred. Shep Evans said that he did some research on the property and found that permit requests go back to 1990. There was an Order of Conditions dated 1991. S-K Design filed an NOI in 2001 to fix the foundation and staircase to the basement that showed a deck of 512 sq. ft on the house. The deck is now 1012 sq. ft with no permit for it. Shep Evans stated that he got a Cease and Desist Notice Poster from Great Barrington and that he will copy it and put them up on the building. He said that he would check with the town administrator and town council to see if he can issue monetary fines. The commission gave Shep Evans their full backing for him to go ahead with his plans.

9. Status of Review of Richmond Wetland Bylaw and scenic Mountain Regulations. None

10. Richmond Pond Association-ConCom meeting attendance update.

Dan Scorpa will be the new ConCom representative, he attends as a representative not a voting member. He can advise on DEP Best Management Practices but not make any decisions that the full ConCom is required to make.

11. Update of Instructions for Applicants. None

12. Open NOI/OOC's & RDAs Status and Action Items. None

13. Inquiries to ConCom re possible future applications, etc. None

14. Citizen speak time. None

15. Mail received and other topics not reasonably anticipated prior to Agenda posting. None

16. Adjournment: Ron Veillette made a motion at 9 PM to adjourn the meeting it was seconded by Freya Segal and passed unanimously.

Signed:


Ron Veillette Co-Chair


Freya Segal Co-Chair



Sandy Beach

Break Line On Shore

Photo taken 5/29/2019 (1/4" rain day before)

MEMORANDUM OF UNDERSTANDING

Between

TOWN OF RICHMOND, Acting by and through its CONSERVATION COMMISSION

And

RICHMOND LAND TRUST, INC.

The TOWN OF RICHMOND ("Town") acting by and through its CONSERVATION COMMISSION, its successors and permitted assigns ("Conservation Commission"), and RICHMOND LAND TRUST, INC. , its successors and permitted assigns ("RLT") (Conservation Commission and RLT shall be referred to collectively as the "Grantees"), being co-holders of a Conservation Restriction ("CR") on the former land of Berkshire Farm Center and Services for Youth (the "Conserved Land") recorded with the Berkshire Middle District Registry of Deeds at Book _____, Page _____ agree as follows with regard to the administration and enforcement of said CR, aforementioned restriction over land owned by Berkshire Natural Resources Council, Inc. (BNRC) and recorded with the Berkshire Middle District Registry of Deeds at Book _____, Page _____ .

The Conservation Commission and RLT both support the imposition of the CR on the Conserved Land. The parties support a CR co-holding arrangement between the Conservation Commission and RLT due to the belief that this collaboration will be beneficial to the public acceptance and long-term stewardship of the CR.

The parties also recognize that the Conservation Commission and the Richmond Land Trust each provide different resources and have differing abilities to bear responsibility for overseeing the CR. Therefore, certain activities will be divided as follows:

1. RLT shall be the primary holder and decision-maker for the Grantees, with full legal authority and responsibility for the administration and enforcement of the terms and conditions of the CR, except in the case of Reserved Right #14 as detailed in section 7 hereof.
2. Conservation Commission, being a body of the Town, shall be the secondary holder with advisory privileges and responsibilities to the primary holder.

As co-holders, the Conservation Commission and RLT commit themselves to working with each other in good faith to administer the CR in compliance with its terms and conditions. They agree to rely on the CR as the guiding document of any deliberations between them; to seek consensus whenever possible in accordance with the terms and conditions of the CR; to recognize without objection the division of authority described above when consensus cannot be reached; and to avoid or prevent any circumstances in which the statements or actions of one Grantee would undermine the standing of the other.

The following clarification of the Grantees' respective roles and responsibilities is intended to help foster efficient and effective administration of the CR by the parties:

1. **Record keeping.** RLT shall prepare and maintain all records and reports related to the CR. Copies of all records shall be provided to the Conservation Commission, which shall maintain its own duplicate set of records.
2. **Monitoring.** Conservation Commission and RLT agree that the CR premises will be monitored, on the ground, at least once annually. RLT shall be responsible for scheduling and planning monitoring visits. The Conservation Commission will be invited and encouraged to attend these visits, but Conservation Commission attendance is not mandatory. RLT may conduct monitoring visits alone, but this is not the preferred option. Neither Grantee shall conduct a monitoring visit without advance notice to the other, except in cases of emergency.
3. **Notices and Approvals.** Grantees shall abide by the notice and approval process described in the CR (*). Within the structures imposed by the terms of the CR and the governance of their respective organizations, the Grantees will work to communicate as flexibly, efficiently and constructively as possible with each other so as to resolve any pending matter without undue delay or inconvenience to each other or the Town.
4. **Enforcement.** Should either Grantee discover or suspect a potential violation of the terms of the CR, it shall communicate its observations to the other as quickly as practical. RLT, with participation by the Conservation Commission invited and encouraged but not required, shall investigate the activity in question, and shall subsequently consult with the Conservation Commission, sharing its findings and recommendations and soliciting its opinion as to potential responses or remedies. Following consultation, RLT shall make a decision as to the response to the potential violation. RLT's decision shall in all cases be final and controlling as to Grantees. RLT shall bear the cost of any enforcement action unless another funding arrangement is agreed to by both parties.
5. **Extinguishment.** Should the CR be extinguished, the process shall comply with paragraph V of the CR, and any net proceeds of extinguishment paid to the Grantees shall be divided equally by RLT and the Conservation Commission, with each Grantee's proceeds to be used in a manner consistent with its purposes and the conservation purposes of the CR.
6. **Endowment.** Any monies provided to endow the CR shall be held by RLT in a designated fund. Use of these funds shall be restricted to the administration, management and enforcement of RLT-held conservation restrictions. Use of the funds in the endowment shall be under the control of RLT and its Board of Directors, in compliance with all pertinent policies and practices.
7. **Approval of Reserved Right # 14.** As described in the CR, paragraph IIB (14), approval of recreational camping may only be permitted by BNRC once it promulgates regulations which are

then approved by both Grantees. Failure of both Grantees to approve the regulations for recreational camping shall be deemed a denial.

8. **Amendment and Assignment.** This Memorandum of Understanding may be amended at any time by the agreement of both parties. In the event that either CR Grantee ceases operations or is unable to fulfill its Grantee obligations, they will assign their responsibilities to another organization, qualified to hold a CR and approved by the remaining co-holder, or to the remaining Grantee which would then become the sole Grantee of the CR. In the event a new organization becomes a co-holder of the CR, a new MOU will be negotiated between the co-holders.

No violation of the terms of this Memorandum of Understanding shall have any effect on the enforceability of the Conservation Restriction or the effectiveness of this Memorandum, nor shall it give rise to any legal claim by either of the parties against the other.

Chair, Richmond Conservation Commission

Date: _____

Chair, Richmond Selectboard

Date: _____

President, Richmond Land Trust

Date: _____

(*) Notice and Approval procedure, excerpted from CR, paragraph 2(C). This language required by EOEEA:

C. Notice and Approval

Whenever notice to or approval by Grantees is required, Grantor shall notify Grantees by a method requiring proof of receipt, in writing not less than 60 days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit the Grantees to make an informed judgment as to its consistency with the purposes and Conservation Values of this Conservation Restriction. Where Grantees' approval is required,

Grantees shall grant or withhold approval in writing within 60 days of receipt of Grantor's request. Grantees' approval shall not be unreasonably withheld, but shall only be granted upon a showing that the proposed activity shall not materially impair the purposes or Conservation Values of this Conservation Restriction. Failure of Grantees to respond in writing within 60 days shall be deemed to constitute approval by Grantees of the request as submitted, so long as the request sets forth the provisions of this section relating to deemed approval after 60 days in the notice and the requested activity is not prohibited herein and the activity will not impair the Conservation Values or purposes of this Conservation Restriction.

Amendment Record

Rev 0, June 11, 2019 – Original document

