

## Richmond Conservation Commission Minutes

Tuesday, December 8, 2020 at 7 P.M.

This was a zoom meeting, it was done remotely due to the COVID-19 restrictions

### Call to Order and Introductions:

- Mr. Veillette opened the meeting at 7:05.
- Mr. Veillette announced that the meeting was being recorded and read the COVID Executive Order from the Governor of MA.

“Notice: This meeting will be recorded by the Richmond ConCom (1) and if any other person will be recording this meeting, they are to notify the Commission at this time.”

Mr. Veillette stated that Clarence Fanto was recording the meeting.

- Commission Members Present: Ron Veillette-Chair, Dan Scorpa; John Scorpa (associate member), Shep Evans (associate member and agent), Pat Seckler, Harley Keisch, Adam Weinberg-vice chair
- Commission Members Absent: Bob Dahlen

Applicants and Others Present: Clarence Fanto-Berkshire Eagle, Peter Miller, Tom Lautzenheiser-Mass Audubon

#### 1. Review & approval of the minutes from the Nov 10, 2020 meeting.

Ron Veillette Asked if there were any comments concerning the minutes, there were none.

Ron Veillette made a motion to approve Nov 10 minutes, it was seconded by Adam Weinberg, a roll call vote was taken and it passed unanimously.

#### 2. Notices of Intent (New/ Continued/ Extensions): None

#### 3.Requests for Determination of Applicability New/Continued/Extensions:

**3a. Request for Determination of Applicability** from Wood Environment & Infrastructure Solutions, Inc. on behalf of CSX Transportation, Inc. The subject property is the entire railway Right-of-Way through Richmond. The applicant is seeking a determination whether the boundaries of wetland resource areas depicted on 13 plans and/or maps submitted by the Applicant are accurately delineated. **Continued from Nov 10, 2020.**

Shep Evans explained to the Commission that he is still waiting on quotes on the project from the companies that he requested a project quote from. He stated that it is a very involved project so it takes a long time to put together an accurate quote. Ron Veillette made a motion to continue the RDA until the Jan. 12,2021 meeting. It was seconded by Adam Weinberg and passed unanimously by roll call vote.

#### **3b. Storm Downed Tree(s) Inquiry:** Clean-up after storm damage/big trees 751 East Road.

Shep Evans explained to the commission that a giant oak tree came down and took other trees down with it. These trees fell across the driveway so they needed to be removed. The owner called him because the owner didn't want to be accused of clear cutting the area. The trees are in the Scenic Mountain Area but it is less than the threshold level for submitting a work permit.

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### 4. Certificate of Compliance Requests:

#### 4a. 20 Swamp Rd/Levy, Original NOI #271-0195

This is a request for the first NOI that they submitted. A site visit was done by Ron Veillette, Shep Evans, Harley Keisch and Adam Weinberg. Mr. Veillette and Mr. Weinberg stated that they liked the rain garden that was put in. They all noticed that the driveway was made of a non-porous material, it was supposed to be made of a material that allowed for drainage through it, this was stated in the original NOI, having a driveway made of a pervious material is a standard condition when it is in a resource area. There is a portion of the driveway that is in a resource area. It isn't a really major issue according to Ron Veillette due to the fact that the runoff is sloped away from the resource area. Mr. Veillette stated that he had two suggestions for fixing the problem.

1. Ask the owners to give the commission an analysis of the water runoff to make sure it doesn't end up in the resource area.
2. Have the owners put in additional plantings to mitigate runoff from the driveway.

Mr. Evans suggested to the Commission that considering the driveway is not consistent with the original plan that prior to giving the owner a Certificate of Compliance they have the owner come back to the Commission with a plan for dealing with the water runoff from the driveway. Adam Weinberg stated that there is a drain in the low point of the driveway but he doesn't know where the runoff goes from the upper portion. Mr. Veillette made a motion to continue this to the January 12<sup>th</sup>, 2021 meeting and to request the applicant to come back with a plan for mitigating the runoff from the hardtop driveway. It was seconded by Adam Weinberg and passed unanimously by roll call vote.

**4b. 421 Swamp Road, Cardillo driveway, Original NOI #271-0145:** Original COC issued 9-14-2010, never recorded & can't be found. We have a copy.

Shep Evans stated that the previous Commission had issued a Certificate of Compliance but the owners never registered it and now the lawyer for the estate needs a one to register. The Commission just needs to create a duplicate copy of the original one and sign it. Shep Evans will send it out to the lawyer and he will register it. Ron Veillette made a motion to allow Shep Evans to create a duplicate Certificate of Compliance for NOI # 271-0145 originally issued 9-14-2110. It was seconded by Adam Weinberg and passed unanimously by roll call vote.

### 5. Discussion of Violations and/or Enforcement Actions, Superseding Orders:

#### 5a. View Drive Fire Tower Power Easement Violation: Enforcement Order & Tickets

Ron Veillette told the members that tickets were issued to the two contractors and DCR. The two contractors are appealing the tickets to the District Court. They are claiming that they are exempt from the Scenic Mountain Act since they were doing the work for DCR under an emergency job description. Town counsel disagrees with this analysis. Town counsel has written two letters, one for each contractor, to be signed by the ConCom, stating that they are not exempt from the Town's Scenic

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Mountain Act. The letters will be sent to the contractors, the District Court and the abutters to the property in involved. Mr. Veillette gave the members a short synopsis of the letters being sent, there wasn't enough time prior to the meeting to send members copies of the letters. Ron Veillette made two motions to send out the letters to the two contractors, they were seconded by Harley Keisch and passed unanimously by roll call vote. Ron Veillette stated that if this goes to District Court the town will be represented by Town Counsel, since they have been involved in drafting the letters and are familiar with the entire situation.

Mr. Evans stated that Richmond is the only town that has taken DCR to court in reference to violation of the Scenic Mountain Act. Ron Veillette stated that DCR had stated that they would provide a restoration plan to both the town and Mass. Audubon (which is an abutter) but neither has received any plans from them. Tom Lautzenheiser, from Mass Audubon, stated that he would provide testimony in support of the town if it goes to court. Harley Keisch asked what the next step would be if DCR doesn't respond. As of now the Commission hasn't had a response from them concerning the ticketing. Shep Evans explained that the next step if they do not respond to the District Court would be to send the paperwork to the District Attorney's office because it goes from a civil case to a criminal one. Mr. Evans stated that he would create a form letter to send to the magistrate with respect to past tickets issued.

Harley Keisch asked the Commission if Patrick Abate could speak and tell the commission about what he saw on the property. Mr. Abate stated that there have been hikers and people on ATVs going up the road that was created. The people are just going around the gate and disregarding the no trespassing signs that DCR put up. Shep Evans suggested contacting the Environmental State Police, he stated that he has dealt with them before and could contact them.

### **5b. 159 Willow Drive Violation: Enforcement & Ticket Status:**

Mr. Evans stated that there has been a very long history with this property not abiding by both ConCom regulations and building regulations. Since several of the Enforcement Orders were registered prior to the ConCom's ability to issue tickets, Mr. Evans suggested that the Commission give the owner 60 days to comply with all the Enforcement Orders prior to issuing tickets. This will demonstrate that the Commission has acted in good faith towards the homeowner.

The owner needs to request an application for Certificate of Compliance for the work that had been done under an earlier permit. The applicant then has to come to the Commission with a plan as to how he will rectify all of the issues mentioned in the Enforcement Orders. The biggest issue for the ConCom is the huge wrap around deck that was built in the resource region without any permits.

Harley Keisch made a motion to put the tickets on hold but to issue a warning letter requiring the owner to come before the Commission with in 60 days with a plan for rectifying the issues of the Enforcement Orders and with an application for a Certificate of Compliance for the work that had previously been permitted. It was seconded by Ron Veillette and passed unanimously by roll call vote.

### **5c. King Property Violation status: Recent request for COC Request Form**

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Shep Evans stated that the owner called him and asked for the paperwork, he stated that he sent the owner the standard application for Certificate of Compliance. He has not heard back from him.

### **5d. Potential 1305 Swamp Road Violation Investigation:**

Shep Evans stated that he hasn't yet looked into the issue any further than was discussed last month.

### **5e. Scace Brook DEP Superseding Order Status:**

Shep Evans stated he has not been able to get in contact with Tim McKenna (DEP) as to what DEP is doing about it. Mr. McKenna had left a message for Mr. Veillette to inform him that they had not as of yet received a restoration plan from Mr. Bartlett.

### **6. Special Permits, Variances or Appeals Recommendations:**

#### **6a. Balderdash Special Permit Amendment**

Ron Veillette stated that the Commission has no issue with this permit, it doesn't affect any area of the wetlands that are on the properties.

### **7. Open NOI/OOC's & RDAs: Status, Inspections and Action Items:**

**7a. Update on getting signatures on Orders, Determinations and other documents at Town Hall after Zoom Meetings-Electronic Signatures.**

Ron Veillette stated he has not yet spoken to Danielle Fillio about the possibility of getting set up for Electronic Signatures.

### **8. Agent's Report**

#### **8a. Expiring/About to Expire Permits-None**

#### **8b. Potential future permits:**

##### **1. Steep slope/retaining structure @ 751 East Road**

Shep Evans stated that the house is built on a shelf and steep slope with a retaining wall that has begun to shift downhill. The owner wants to reinforce the plateau that the house sits on. Most of the property including the house is in Lenox just a little bit of the property is in Richmond.

**2. Dublin Road stream crossing replacement.** Shep Evans stated that in the near future the town will come before the Commission for this project.

**9. Richmond Pond Association: None,** Ron Veillette stated that they are not meeting at this time. Still no knowledge as to what will be done with the Lakeside Camp that has been purchased.

### **10. Discussion of OSRP action items: None**

**11. Conservation Land/Fund Discussions:** Discussion of Richmond Shores Parcel 101.0-0142-0000.0, Corner of Shore & Beach Roads disposition by Town.

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Ron Veillette stated after consultation with Town Counsel, a Land Trust Member and another ConCom member (Mr. Keisch) that the best action for the Select Board is to put the land in Article 97 and that they plan on putting it on the warrant to be voted on the next town meeting. The town will maintain ownership of the property but the ComCom will be in charge of managing it.

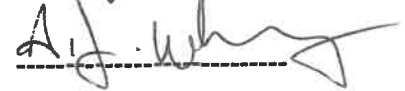
**12. Citizen speak Time: None**

**13. Other discussions including items not reasonably anticipated prior to Agenda posting: None**

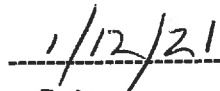
**14 Adjournment:** Ron Veillette made a motion at 9:05 to adjourn the meeting. It was seconded by Adam Weinberg and passed unanimously by roll call vote.



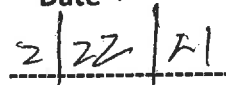
Mr. Veillette - Chair



Mr. Adam Weinberg-Vice Chair



Date



Date