

**RICHMOND SELECTBOARD  
REGULAR MEETING  
December 19, 2016 MINUTES**

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Members Present: Ellen Kane; Lincoln Bressor; David Sander; Steve May

Absent: Bard Hill

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Others Present: Geoffrey Urbanik, Town Manager; Frederick Barrett; Mary Houle; Josi Kytle & Brendan O’Reilly from Buttermilk, LLC; Bob Heiser, Vermont Land Trust; Ian Stokes; Jim Feinson, Richmond Land Trust; Bob Low; Judy Rosovsky, Richmond Conservation Commission; Bruce LaBounty; Cara LaBounty; and Ruth Miller was present to videotape the meeting for MMCTV Channel 15.

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Ellen Kane called the meeting to order at 7:05 PM.

**1. Welcome and Public Comment**

Ms. Kane asked if there were any comments from the public.

Mary Houle talked about her pending appeal of the DRB’s upholding of the Notice of Violation and the list of interested parties sent to her included just everyone at the hearing, not those who actually would qualify as interested parties. She wanted the list amended, and this was time-sensitive to the Environmental Court appeal.

Cara LaBounty said she was afraid for her family, her property and her well being. She produced emails from town employees (obtained through a public records request) that mentioned “debunking” the 2008 appeal of her own in a similar case to that of the Houle’s. She said that the town should not try to reopen a case of law, and people had to stand up for their rights and the comments in the emails were disparaging.

**2. Public Hearing Continued**

Buttermilk LLC – Application # 16-114 for PUD, Conditional Use & Site Plan Review for the construction of a 4-story, mixed-use building at parcel BR0125 and JC0074 located within the Jolina Court Interim Zoning District (Public Hearing continued from 12/05)

Ms. Kane explained that this hearing would carry from the previous meeting regarding Buttermilk, LLC’s development application under the interim zoning rules. Mr. May offered a motion to reopen the public hearing on Application # 16-114 for PUD, Conditional Use & Site Plan Review for the construction of a 4-story, mixed-use building at parcel BR0125 and JC0074 located within the Jolina Court Interim Zoning District and was seconded by Mr. Bressor. The motion carried 4-0.

Brendan O’Rielly and Josi Kytle of Buttermilk continued their presentation, and answered concerns raised in the staff reports prepared by Town Planner Clare Rock.

The discussion focused on building height, easements between lots, and storm water infrastructure. Buttermilk had hired Grenier Engineering to do storm water calculations after the Town had hired East Engineering to comment on the original plan. East Engineering had found some deficiencies in the plan regarding storm water flow and infiltration calculations.

1 As discussion hinged on how to calculate the height of the building, and whether it was an average of  
2 35 feet or max height at any one point, Mr. Sander offered a motion to determine that the height of the  
3 building was not at a single point but measured over the entire distance. Ms. Kane seconded the  
4 motion. The motion carried 3-1 with Mr. May dissenting.

5 There was discussion on how to handle this issue, since a revised plan had not yet been prepared due  
6 to the late timing of the East Engineering report. Mr. O'Reilly suggested that the town conditionally  
7 approve the development plan provided that a storm water plan is produced that satisfied staff (and  
8 East Engineering) concerns.

9 The board discussed the easement or access agreement between the Blue Seal Feeds building owner  
10 and Buttermilk would also be a condition. Partial paving would also be allowed, and the 60' right-of-  
11 way width should be waived. Parking requirements were discussed. The number of residential units  
12 in the building increased by 2, to ten total, and some parking spaces were allocated for them on the  
13 plan. Lighting would be on photocell timers, and it was noted that Water Resources Superintendent  
14 Kendall Chamberlin wanted pvc materials used for utility lines in the road.

15 Mr. Bressor discussed work times, and said there should be at a minimum no work lights after 7:00  
16 pm. He also wanted that the 40% residential/60% commercial split across the entire project be  
17 memorialized as a condition of approval. There was some discussion on this, and Mr. Bressor also  
18 said that the public works spec for utility installations should be followed.

19 Mary Houle supported the use of the public works spec an suggested the town hire an engineer to  
20 review all installations.

21 Mr. Bressor also said he wasn't interested in seeing the Town Center parking lot used as a through-  
22 road to this development. Ms. Kane suggested we should say not unless there was some study to show  
23 its viability.

24 Mary Houle said that if there was a town benefit, then perhaps the town would want it, so don't say  
25 never to this.

26 There being no further public comment and with Buttermilk ending their presentation, Mr. Sander  
27 offered a motion to close the public hearing and was seconded by Mr. May. The motion carried 4-0.

28 Ms. Kane told the audience that the Selectboard would now deliberate on the application. She asked  
29 for a motion to approve the application with conditions, which were read by Ms. Kane:

30

31 The Selectboard approves Application # 16-114 for PUD, Conditional Use & Site Plan Review for the  
32 construction of a 4-story, mixed-use building on parcel BR0125 and JC0074 located within the Jolina Court  
33 Interim Zoning District with the following waivers:

- 34 1. The interior setback between BR0125 and JC0074 will be waived;
- 35 2. The front setback of BR0125 will be waived from 15ft to 5ft; and
- 36 3. As per the Richmond Public Improvement Standards and Specifications, the 60' ROW  
37 requirement shall be waived.

38 And with the following conditions:

- 39 1. Within 30 days of this decision the Applicant shall record this decision in the Richmond Land Records  
40 (cost \$10 per page).
- 41 2. The Applicant shall apply for a Zoning Permit within 6 months of the issuance of this Final Decision  
42 (based upon the date the Decision was signed by the Chair) as per Jolina Court Interim Zoning  
43 Regulations, section VII. The fee for the Zoning Permit will be \$0.20 per sq ft of residential + \$0.30 per  
44 sq ft of commercial space plus the fire impact fee (\$153.09 per unit + \$0.11 per sq ft. of non-residential)  
45 + \$10 recording fee. Estimated fee is approximately \$5,470.

3. Upon completion of Phase I (and before use or occupancy) the Applicant shall apply for a Certificate of Occupancy.
4. Phase I building is approved with 2 floors of mixed commercial space totaling 6,410 sq ft containing any combination of bank, retail store, personal service, professional office, light industry, deli/take out eatery – with no seats); and 2 floors of residential use with 10 dwelling units.
5. Any changes to the site plan shall follow the procedure as defined within RZR section 5.5.5
6. Any changes to approved uses shall require conditional use review by the Selectboard to primarily to ensure adequate parking.
7. Detailed plans for stormwater infrastructure and water and sewer utilities shall be submitted to the Town for review and approval by the Town Engineer, Town Highway Forman and Town Water Resources Superintendent prior to the issuance of a Zoning Permit. Written approvals along with the approved plans shall be provided to the Planning and Zoning Department by the Applicant.
8. The Applicant shall provide a copy of the executed License agreement between JC0013 & JC0074 to the Planning and Zoning Office before the issuance of a Zoning Permit.
9. The Applicant shall obtain Access Approval from the Town prior to the issuance of a Zoning Permit.
10. The applicant shall obtain a Water and Sewer Allocation approval from the Town Manager prior to the issuance of a Zoning Permit.
11. The Applicant shall submit a revised site plan depicting a total of 40 parking spaces to the Planning and Zoning Office prior to the issuance of a Zoning Permit.
12. During construction, and upon completion of the road upgrade, sidewalks, installation of water and sewer utilities and stormwater infrastructure the Town Engineer, Town Highway Foreman and Water Resources Superintendent shall inspect the work for conformance with the Richmond Public Improvement Standards and Specifications. Written approvals shall be obtained by the applicant and provided to the Zoning Administrator prior to the issuance of a Certificate of Occupancy. The Applicant shall be responsible for the costs associated with these inspections. The Town Manager shall provide the applicant with a listing of contact people and inspection fees. These inspections shall include associated approvals and inspections associated with work within the Town Right of Way. A separate ROW permit shall not be required.
13. If there are any changes to the stated construction schedule, the Applicant shall provide notice to the Selectboard 48-hours prior to commencement.
14. Prior to the issuance of a Certificate of Occupancy, easement agreements between BR0125 & JC0074 will be finalized and a plat shall be filed within the land records to documents all referenced legal agreements. A copy shall be submitted to the Planning and Zoning Office.
15. All parking areas shall be paved upon completion of Phase II or if part of the development area or the whole development area is sold.
16. Phase I is approved with a 50/50 residential/commercial ratio, and upon completion of Phase II and all subsequent phases the development area must demonstrate a residential to commercial floor area ratio of 40% residential to 60% commercial.
17. If the parcels are merged the Applicant shall submit a permit for a Boundary Line Adjustment and a Final Plat shall be filed within the Land Records.
18. The project shall be developed in conformance with the above referenced survey plat, plans, and submittal documents.
19. Any other applicable zoning regulations not expressly waived in this decision must be complied with.
20. This decision shall not relieve the applicant from any obligation to obtain all other applicable required federal, state and local permits.

These conditions were discussed, and approved. Mr. Sander offered a motion to approve the Buttermilk application with conditions, as described, and was seconded by Mr. Bressor. The motion carried 4-0.

### **3. Items for Discussion with Those Present**

Conservation Reserve Fund Recommendation: Andrews Forestland

1 The Conservation Commission has recommended approval of an application for the use of  
2 Conservation Reserve Funds to acquire and preserve the Andrews Forest – their recommendation and  
3 the original application were provided to the Selectboard.  
4

5 If the Selectboard agreed, they would forward the issue to the voters. The Conservation Reserve Fund  
6 Policy, approved by both the Selectboard and Conservation Commission in 2005, states under Section  
7 V: “Any acquisition of real estate by the Town, meaning acquisition of a whole parcel and not solely  
8 its development rights, requiring in excess of \$20,000 from the reserve fund will require approval of  
9 the voters.”  
10

11 This would be the first instance of acquisition of land submitted to the voters. The majority of the  
12 Selectboard may vote in favor of placing this on the ballot at Town Meeting. The Manager’s  
13 recommended question language read:  
14

15 Shall the voters of Richmond authorize the use Conservation Reserve Fund monies to acquire a 428-  
16 acre parcel of undeveloped land located at 1149 East Main Street, known as the Andrews Forestland,  
17 for conservation and recreation purposes, in an amount up to \$125,000, as the Town’s contribution  
18 toward the full purchase?  
19

20 Additionally, if the board wished to have this item voted on by Australian Ballot – opposed to a floor  
21 vote – then a special meeting would need to be warned to consider that voting method according to 17  
22 V.S.A. 2641(a). This must be 30-40 days following the call for a special meeting; this timeframe  
23 would be January 18-January 28, 2017.  
24

25 The law allows for a petition to challenge the use of Australian Ballot, so following this special  
26 meeting to consider the voting method, someone could petition to overturn that decision. Therefore,  
27 since we are at the very end of our Town Meeting prep cycle, we would have no ability to change the  
28 Annual Meeting Warning if a challenge was made, and successful. The outcome of that would be that  
29 the article would have to be voted on from the floor.  
30

31 So, should the Selectboard choose, they should call this special meeting to consider the Australian  
32 Ballot method of voting on this ballot item:  
33

34 **The Richmond Selectboard will hold a special meeting of the voters in accordance with 17 V.S.A.**  
35 **2641(a) to consider the following question:**  
36

37 **Shall the voters decide the approved ballot article for use of the Conservation Reserve Fund for**  
38 **the Andrews Farm, by Australian Ballot, at the March 8, 2017 Town Meeting?**  
39

40 **The special meeting will be held at 7:00 PM, on Thursday, January 19, 2017 at 203 Bridge**  
41 **Street, Richmond.**  
42

43 The Selectboard discussed this issue, and agreed to place the question on the ballot, slightly modified.  
44 Mr. Sander offered a motion to approve the Conservation Commission’s recommendation to utilize the  
45 Conservation Reserve Fund to purchase the Andrews Forestland in an amount not to exceed \$125,000.  
46 Mr. Bressor seconded the motion and the motion carried 4-0.  
47

48 Mr. May offered a motion to approve the ballot question, “Shall the voters of Richmond authorize the  
49 use Conservation Reserve Fund monies to acquire a 428-acre parcel of undeveloped land located at

1 1149 East Main Street, known as the Andrews Forestland, for conservation and recreation purposes,  
2 in an amount not to exceed \$125,000, as the Town's contribution toward the full purchase?  
3

4 Mr. Bressor offered a motion to call a special meeting to consider this by Australian Ballot, "Shall the  
5 voters decide the approved ballot article for use of the Conservation Reserve Fund for the Andrews  
6 Farm, by Australian Ballot, at the March 8, 2017 Town Meeting?" such special meeting to be held at  
7 7:00 PM on January 23, 2017 in Town Center. Mr. Sander seconded the motion, and the motion  
8 carried 4-0.  
9

10 Bob Heiser of the Vermont Land Trust also requested that the Selectboard modify the Conservation  
11 Commission request for an expiration of this approval to be on June 30, 2018, instead of December 31,  
12 2017. Conservation Commission chair Judy Rosovsky, in attendance, approved of this request. Mr.  
13 Bressor offered a motion to have the expiration of this approval to utilize the Conservation Reserve  
14 Fund to June 30, 2018. Mr. May seconded the motion and the motion carried 4-0.  
15

### 16 Ballot Questions Discussion

17

18 The Manager explained that Selectboard member Steve May asked that the board consider an advisory  
19 question for the Town Meeting ballot:  
20

21 "Shall it be advised that the people of the town of Richmond find that there is a fundamental right to  
22 basic and adequate healthcare as a matter of law.  
23

24 And as such, we instruct our Congressional delegation in Washington and Legislative delegation in  
25 Montpelier to take all appropriate steps to safeguard these rights through adoption of law up to and  
26 including a Constitutional Amendment."  
27

28 Mr. May also asked that we consider this by Australian Ballot. The Selectboard discussed this issue.  
29

30 Ms. Kane said that she believed healthcare should be universal but wasn't sure this should be an  
31 Australian Ballot item. Mr. May explained his reasoning and wanted to see a vote on this question, or  
32 something similar. The result would be the town staff writing a letter to the legislative delegation on  
33 the issue.  
34

35 Mary Houle said this needed more consideration.  
36

37 Mr. Sander suggested a non-binding discussion from the floor at Town Meeting. Ms. Kane agreed,  
38 perhaps a non-binding resolution from the floor at Town Meeting was a better way to proceed. There  
39 was other discussion. There was no motion, however, there was an intent to discuss this from the floor  
40 at Town Meeting, not as a separate article.  
41

42 Ms. Kane brought up the issue of the Police/Fire/Public Safety Building. She felt that the amount of  
43 money being called for now was too high, and it should be less. She wondered if the public supported  
44 the building being talked about, or just a Police station? She suggested a discussion from the floor at  
45 Town Meeting on this issue. Mr. May suggested a presentation on this. There was discussion, and the  
46 Selectboard asked for the Public Safety Building Committee be present to discuss this.  
47

### 48 Winooski River Bank Update

49

1 The Manager explained that he hadn't had time to explore this issue. Conservation Commission chair  
2 Judy Rosovsky asked to be involved in this process. Bob Low suggested that we contact the Friends  
3 of the Winooski River for their expertise in design, before we engage an engineer.

#### 4 5 Reports from Selectboard and Town Manager

6  
7 Reports were briefed.

#### 8 9 FY2018 Budget Update

10  
11 The Manager explained that following the special session last week, the budget was on target.

12  
13 Ms. Kane explained that spending was \$3,533,883.89, and taxation was \$3,102,803 – up 1.99 cents or  
14 2.99%. All that was outstanding were pending discussions with the Constable and the Library.

#### 15 16 Approval of Minutes

17  
18 Mr. Sander offered a motion to approve the December 5, 2016 minutes, as amended with minor edits  
19 on a comment from Mr. Bressor, and was seconded by Mr. May. The motion carried 4-0.

20  
21 Mr. Sander offered a motion to approve the minutes of December 12, 2016 and was seconded by Mr.  
22 Bressor. The motion carried 4-0.

#### 23 24 Approval of Warrants

25  
26 Warrants were reviewed and approved.

27  
28 It was noted that the next two Selectboard meetings would be on Tuesdays following the normal  
29 Monday.

#### 30 31 Executive Session

32  
33 Ms. Kane explained that there was a need to discuss pending litigation regarding the appeal of the  
34 Development Review Board's upholding of the Notice of Violation to the Houles in executive session.

35  
36 Mr. Bressor offered a motion to find that premature public knowledge about the Houle Environmental  
37 Court appeal would cause the town or person to suffer a substantial disadvantage. Mr. Sander seconded  
38 the motion and the motion carried 4-0.

39  
40 At 10:00 PM Mr. Bressor offered a motion to enter an executive session to discuss the pending  
41 litigation, under section 1 VSA 313 (a)(3), and Mr. May seconded the motion. The motion carried 4-  
42 0.

43  
44 At 10:25 PM Mr. Bressor offered a motion to adjourn the executive session and reconvene the regular  
45 session. Mr. Sander seconded the motion and the motion carried 4-0.

### 46 47 **3. Adjourn**

48 Motion by Mr. Bressor to adjourn the meeting at 10:25 p.m. Seconded by Mr. Sander. So voted.