

**HARVARD CONSERVATION COMMISSION
MINUTES OF MEETING
DECEMBER 16, 2010
APPROVED: January 6, 2011**

Chairman Paul Willard called the meeting to order at 7:03pm in the Old Library

Members Present: Paul Willard, Wendy Sisson, Don Ritchie, Charlie Gorss, Jim Breslauer, Janet Waldron and Lewis Beilman (Associate Member)

Others Present: Liz Allard (LUB Admin), Michele Girard, Jack Whelan, Dennis Wagner, Rich Nota (Highway Department), Warren Henderson, David & Rachael Coffin, Tony Shaw and Jeff Richards (Transformations, Inc.)

Culvert Repair/ Upgrade Still River Road

Highway Director Rich Nota was present to discuss with the Commission the Enforcement Order they had issued in regards to the work performed by the Highway Department on Still River Road in conjunction with the routine cleaning of a culvert. Mr. Nota presented plans from 1938 that showed all of the water from Still River Road and West Bare Hill Road dumping onto the property between station 850 and 875. Mr. Nota stated that it was his intention to maintain a culvert that was installed in 1938. Mr. Nota is not sure what maintenance had taken place beyond 1998, as records are not available. Mr. Nota stated that a long term employee of the Department has stated that the culvert at one point did have an associated trench for the flow of water that ran directly to the stream. The outflow pipe, over time had become full of road sand and other debris, causing it to not function properly. Mr. Nota added that the area was immediately stabilized as requested by the Commission's Agent.

Mr. Nota read Chapter 83 Section 4 of the Massachusetts General Law, which allows the Town to "construct ditches or drains for the purpose of properly draining any highway....." Mr. Nota then read Section 9 of the same Chapter, which imposes fines to anyone who obstructs a ditch. Wendy Sisson would like to know what would have been brought before the Commission if the Highway Director had applied to the Commission prior to this activity. Mr. Nota felt that the activity did not and does not require permitting from the Commission. Ms. Sisson stated that there is a complicating factor in this situation on the abutting property, that being a pond that has been filling in with sediment over time. The pond is only about 10' from a dwelling causing great concern for the homeowners.

Jack Whelan, the owner of the pond, saw an increase of water in the recent storm, which he feels is due to the fact that the water previously sheeted over land prior to the installation of the trench. Mr. Whelan stated that last year during historic flooding he had no issues with the pond. Paul Willard asked if all of the water previously ended up in the brook and then eventually into the pond, or did some of the water stay on the roadway. Mr. Whelan stated that the water came out of the culvert and spreads out across a vegetated area, in which some would leach into the ground or make its way to the brook.

Ms. Sisson asked if the house flooded would you the owner sue the Town. Mr. Whelan stated yes, he would have no other option. Mr. Willard stated his review of the trench has shown it to be in proper working order to reduce the amount of silt from getting into the stream.

Jim Breslauer stated there is nothing in the Wetland Protection Bylaw that gives the Highway Department the right to do work within the resource area without a permit. He noted that G.L. c 83 was probably passed prior to the Wetlands Protection Act and the two statutes needed to be read to be consistent with each other. Mr. Breslauer read from 310 CMR 10.24 General Provisions which specifically states that a Commission has the authority to permit and issue an Order of Conditions for “the routine maintenance and repair of road drainage structures including culverts...”. Mr. Nota felt that no one present had the legal experience to know what is legal and what is not, but he thinks the Department and the Commission need to come to a reasonable procedure to work together on knowing when the Commission should be involved. The Commission agreed.

Mr. Breslauer stated there are two alternatives here; we can sit back and see what happens over the next several months or we can employ an expert to come in and see if the new trench will cause additional water and siltation into the stream and associated pond. Ms. Sisson would suggest the latter if this were being looked at as if it had never been done. Don Ritchie asked if there are boards in the pond that could be removed. Mr. Whelan stated there is one board that could be removed. Mr. Willard stated that the Commission and the Highway Department could ask the Town to under take an analysis of the drainage system. Mr. Nota stated that money would need to be found to do that analysis. He also added that it might be found that the system needed to be improved and funding for that might not be easy to come by.

Mr. Breslauer suggested the area be monitored into the spring of 2011 and at that point determine if a study is needed on how to improve the situation. Members agreed. Jim Breslauer made a motion to reconvene at the 1st meeting in May with the Highway Director to determine how the system is functioning. The Highway Department is to monitor the area from now until May 1, 2011 after any rain event larger than 1/2”. Don Ritchie seconded the motion. The vote was unanimously in favor of the motion.

Potential Wetland Violation – 189 Stow Road

Rich Nota, Highway Director, explained to the Commission that the property owner at 189 Stow Road has placed two feet of stone in the channel along with 12” pipes to gain access to the back part of the property. Mr. Nota stated the pipes are not functioning properly, which is causing the culvert on Stow Road to not function properly. Wendy Sisson stated that the property owner has stated to the Agent that the Commission gave him permission to gain access to the back portion of the site. Mr. Nota believes the activity has caused the wetland to be artificially raised. Mr. Nota also believes there has been work done to that crossing within the past five years.

Jim Breslauer made a motion to contact the property owner by certified mail requesting proof that the Commission gave him permission to access the back of the property by crossing the wetland, if proof is not available, access is denied and the Commission will be forced to proceed with obtaining a subpoena to gain access to the site. Don Ritchie seconded the motion. The vote was unanimously in favor of the motion.

Solution to Drainage Issues at the Highway Department

Members asked Rich Nota, the Highway Director, about resolving the drainage issue at the rear of the Highway Department property on Depot Road. Paul Willard stated he would review the site next week with Mr. Nota to explain what it is the Commission is looking for.

Continuation of a Notice of Intent Hearing – Transformations, Inc. Stow Road, DEP#177-586 Depot Road. Opened at 7:56pm

Request for a Certificate of Compliance – Callahan, 70 Warren Ave, DEP#177-580
Liz Allard informed the members that the work at 70 Warren Avenue has been completed and the applicant has requested a Certificate of Compliance. Wendy Sisson asked if the work was done as required by the Order of Conditions. Ms. Allard stated that the contractors to great care in doing the work and that she was on site on numerous occasions during the construction. Jim Breslauer made a motion to issue a Certificate of Compliance for DEP#177-580. Don Ritchie seconded the motion. The vote was unanimously in favor of the motion.

Land Stewardship Sub-committee Request for Funds

Wendy Sisson explained to the members that she would like to have maps created by Montachusett Regional Planning Commission (MRPC) of individual parcels of Conservation Land that will eventually be available on the Town website. Ms. Sisson explained that the Town is allotted eight hours of free GIS mapping each year from MRPC. In order to use the hours a request must be made to the Board of Selectmen. Ms. Sisson is requesting the allocations of funds should the hours not be granted or insufficient to cover the expenses of the maps. Don Ritchie made a motion to allocate funds not to exceed \$240.00 for the creation of maps for the Land Stewardship Sub-committee. Charlie Gorss seconded the motion. The vote was unanimously in favor of the motion.

Continuation of a Notice of Intent Hearing – David & Rachel Coffin, 8 Westcott Road, DEP#177-588, Harvard#1110-01. Opened at 8:33pm

Revisions to the Tully Land, Depot Road, Determination of Applicability, Harvard#10101-03

Tony Shaw, of the Harvard Snowmobile Club, was present to discuss the recent repair to the existing culvert on the Tully Land off Depot Road. Wendy Sisson explained that by placing the culvert back at its historical location the water level in the northern portion of the wetland has decreased. Don Ritchie and Wendy Sisson have viewed the site and believe the culvert should be raised by a foot. It may be impossible to do the repair this

year as we are late in the season. Mr. Shaw stated he would try and get the work done before the weather gets too bad.

Warrant Articles for 2011 Annual Town Meeting

Members discussed requesting the re-instatement of the Conservation Fund from the Finance Committee. It has been determined that Community Preservation Act funds should not be used to replace line items in the omnibus budget. Charlie Gorss made a motion to request that the Conservation Fund, in the amount of \$100,000, be re-instated within the omnibus budget. Don Ritchie seconded the motion. The vote was unanimously in favor of the motion.

Approval of Minutes

Wendy Sisson made a motion to approve the minutes of October 21, 2010 as amended. Jaye Waldron seconded the motion. The vote was unanimously in favor of the motion.

Wendy Sisson made a motion to approve the minutes of November 14, 2010 as amended. Jim Breslauer seconded the motion. The vote was unanimously in favor of the motion.

2010 Annual Town Report

Liz Allard will draft the annual report for the members review at the January 6, 2011 meeting.

Review and Discuss Tree Cutting Policy

Members had been asked to review the Policy drafted by Wendy Sisson. Charlie Gorss still believes it can be shortened. Members were again asked to review the document and see if they can make suggestions to shorten the document.

Discuss Request made to the Bare Hill Pond Watershed Management Committee

Jaye Waldron asked the members to further clarify the intent of the letter sent to the Bare Hill Pond Watershed Management Committee (BHPWMC) in regards to the Commission's request for a review of the draw down results. Paul Willard explained that the Commission is seeking to determine if the draw down is being effective or not by review of the documentation by an outside consultant. Mr. Willard further clarified that the consultant should be one that has no previous interaction with the BHPWMC. Mr. Willard will attempt to follow up with the Chairman, Bruce Leicher.

Update of Bare Hill Pond Stormwater Management Project, DEP#177-575

Don Ritchie stated that he has reviewed the plan for BHP-3 and then reviewed the site. Mr. Ritchie stated that the system is functioning; however the fore bay needs to be cleaned out. Mr. Ritchie requested that the reports generated by the mandatory testing of different parts of the construction as outlined on the approved plan be obtained. Liz Allard stated that she has been in contact with the Chair of the Bare Hill Pond Committee to request said reports with no luck. Ms. Allard stated she has received several emails stating the system is watertight, but no actual report.

Adjournment

Jim Breslauer made a motion to adjourn the meeting at 9:40pm. Don Ritchie seconded the motion. The vote was unanimously in favor of the motion.

Respectfully submitted,

Liz Allard
Land Use Administrator/
Conservation Agent

Harvard Conservation Commission
Continuation of a Notice of Intent Hearing Meeting Minutes
Transformations, Inc., Stow Road (Map 36 Parcel 85 & 86.1) Harvard#1010-01
December 16, 2010

The public hearing was opened at 7:56pm by Chairman Paul Willard under the Massachusetts Wetland Protection Act, Ch. 131 §40 in the Town Hall Meeting Room

Members Present: Paul Willard, Wendy Sisson, Don Ritchie, Charlie Gorss, Jim Breslauer, Janet Waldron and Lewis Beilman (Associate Member)

Others Present: Liz Allard (LUB Admin), Warren Henderson and Jeff Richards (Transformations, Inc.)

This hearing was continued from November 18, 2010 on a Notice of Intent filed on behalf of Transformations, Inc. for the construction of a roadway, 17 residential buildings, septic system and public water supply source within the 100' wetland buffer zone on Stow Road (Map 36 Parcel 85 & 86.1), Harvard.

Liz Allard had forwarded to the members the two proposals the Commission had received in regards to the peer review of the project. Proposals were received from Nitsch Engineering and Norfolk-Ram Engineering Solutions. Both Jim Breslauer and Charlie Gorss were okay with the proposal submitted by Nitsch Engineering. Wendy Sisson stated she would like to see references as she is unfamiliar with Nitsch. Jeff Richards, of Transformations, Inc., asked if the applicant could confer with Nitsch about an hourly rate rather than a lump sum. Ms. Sisson and Jaye Waldron would be more comfortable with that request coming from the Commission rather than the applicant. Don Ritchie made a motion that at the expense of the applicant the Commission shall contract with Nitsch Engineering to complete an independent review of the Notice of Intent application, including review of the proposed Stormwater Management and its associated calculations, the applicant is also free to submit a request to the Commission to be forwarded to Nitsch in regards to the total cost of the review. Charlie Gorss seconded the motion. The vote was 5-0 in favor of the motion with Wendy Sisson abstaining from the vote.

Mr. Richards updated the Commission on other aspects of the project. Comments on the septic designs have been received by the Board of Health (BOH) agent. The design for all five systems has been completed, but not all have been submitted for review. Mr. Richards explained that there is a relationship between the locations of the rain gardens and the septic design, so they are waiting to hear from the BOH before finalizing the plans to be sent to the consultant. Stormwater Management calculations have been updated. The structure on Lot 1, that was a concern for the Commission, has been shifted west and north and is now over 50' from the corner of that structure to the wetlands edge. As for the visibility of the constructed wetland, it has been moved north and west as well making it 315' from Stow Road rather than 300'. The Department of Environmental Protection has issued the Public Water Supply permits.

Warren Henderson, an abutter, would like to see the peer review address his concern over the potential contamination of well water in the area from the chemicals that may be used on the lawn areas. Mr. Henderson would also like to see an increase in the number of Stormwater Management structures. It was explained to Mr. Henderson that under new State guidelines both the quality and quantity of stormwater is addressed.

With no further information available for this evening, Don Ritchie made a motion to continue the hearing to January 20, 2011 at 7:30pm. Jim Breslauer seconded the motion. The vote was unanimously in favor of the motion.

Respectfully submitted,

Liz Allard
Land Use Administrator/
Conservation Agent

Harvard Conservation Commission
Continuation of a Notice of Intent Hearing Meeting Minutes
David & Rachel Coffin, 8 Westcott Road, DEP#177-588, Harvard#1110-01
December 16, 2010

The public hearing was opened at 8:33pm by Chairman Paul Willard under the Massachusetts Wetland Protection Act, Ch. 131 §40 and the Harvard Wetland Protection Bylaw, Chapter 119 of the Code of Harvard in the Town Hall Meeting Room

Members Present: Paul Willard, Wendy Sisson, Don Ritchie, Charlie Gorss, Jim Breslauer, Janet Waldron and Lewis Beilman (Associate Member)

Others Present: Liz Allard (LUB Admin), David and Rachael Coffin

This hearing was continued from December 2, 2010 on a Notice of Intent filed on behalf of David & Rachel Coffin for erosion reduction within the 100' wetland buffer zone at 8 Westcott Road, Harvard.

The Commission reviewed the abutting property on December 11th to get a better understanding as to what is happening on both sites. The applicant has proposed to loam and seed with grass the shady area of his property. However the Commission would not allow for the use of fertilizer in that area, which would make it difficult to grow grass. The Commission would prefer that a ground cover be planted as it would hold better. The Commission recommended either periwinkle or myrtle for the area to avoid adding additional loam. Additional organic material would be required for something to grow. The Commission requested that silt fence for erosion control be installed while the work was being completed and the plants were being established. The work is to take place when conditions dry. The members agreed that approval from the Commission will be required of the chosen ground cover.

Wendy Sisson made a motion to close the hearing and issue an Order of Conditions to include the planting of ground cover to vegetate the area north of the pond, work is to be done in dry weather after the spring rains, erosion controls are to be used during the installation and establishment of the ground cover and the final choice of ground cover is to be approved by the Commission prior to installation. Jim Breslauer seconded the motion. The vote was unanimously in favor of the motion.

Respectfully submitted,

Liz Allard
Land Use Administrator/
Conservation Agent

DOCUMENTS & OTHER EXHIBITS

Culvert Repair/ Upgrade Still River Road

- 1938 Plan (waiting for more info from R. Nota)
- Massachusetts General Law, Chapter 83 Sewers, Drains and Sidewalks Section 4 Highway ditches or drains
- Massachusetts General Law, Chapter 83 Sewers, Drains and Sidewalks Section 9 Obstruction of ditches

Continuation of a Notice of Intent Hearing – Transformations, Inc. Stow Road, DEP#177-586 Depot Road

- Nitsch Proposal #8497.P Peer Review – Conservation 40B-Pine Hill Village Harvard, MA, dated December 10, 2010
- Response to Invitation to Review Notice of Intent and Stormwater Calculations for Pine Hill Village, Norfolk Proposal No. P12-10-160, dated December 14, 2010

Request for a Certificate of Compliance – Callahan, 70 Warren Ave, DEP#177-580

- WPA Form 8A Request for a Certificate of Compliance, Thomas & Eleanor Callahan, received December 1, 2010
- Residential Improvements Notice of Intent, Construction Record Drawing, 70 Warren Avenue, Harvard, MA JOB 101034, dated November 2010

Tree Cutting Policy

- Revised Tree Cutting Policy , undated