

**HARVARD CONSERVATION COMMISSION
MINUTES OF MEETING
JANUARY 17, 2013
APPROVED: February 7, 2013**

Chairman Paul Willard called the meeting to order at 7:01pm in the Town Hall Meeting Room

Members Present: Paul Willard, Wendy Sisson, Don Ritchie, Charlie Gorss, Jaye Waldron and Jim Breslauer

Others Present: Liz Allard (LUB Admin), Lucy Wallace, Joann Ward, Marty Green (Harvard Press), Dan Wolfe (Ross Assoc.), Bill & Carolyn Herbert and Bill Johnson

Amendments to the Code of the Town of Harvard, Chapter 147 Wetland Protection Bylaw Rules Hearing. Opened at 7:01pm

Notice of Intent Hearing – William & Carolyn Herbert, 14 Park Lane, DEP#177-613, Harvard#0113-01. Opened at 7:30pm

Eagle Scout Project – Ed Talanian

Ed Talanian was present to discuss with the Commission a potential Eagle Scout project in which he is seeking to create a solution to the existing trail behind the McCurdy Track on Lancaster County Road; which includes a significant wetland and would require a permit from the Commission for the work to be completed. Mr. Talanian stated he is interested in creating a bog bridge or rock water bar to reduce the existing erosion. The Commission agreed a Notice of Intent would need to be filed with appropriate plans outlining the activity, the materials to be used, and the location of roots that would need to be removed. As a project on Town owned land, fees would be waived. The Commission suggested a site walk so that Mr. Talanian could show specifically what he is proposing to do and the Commission members could offer suggestions. Mr. Talanian thanked the Commission for their time and will be in touch with the Conservation Agent to further discuss the details.

Approve Minutes

Jaye Waldron made a motion to approve the minutes of December 20, 2012 as amended. Wendy Sisson seconded the motion. The vote was unanimously in favor of the motion.

Approval of Bills

The following bill has been received and will require the Commissions approval for inclusion on the next bill warrant:

- Attorney Mark J. Lanza - \$342.00

Jim Breslauer made a motion to approve the above mentioned bill for payment. Don Ritchie seconded the motion. The vote was unanimously in favor of the motion.

Remaining November Tax for Bamford Land

Liz Allard explained to the members that the deed for the gift of land from Ann Bamford was not recorded until December 5th, thereby leaving a remaining balance on the November tax bill in amount of \$49.88. Ms. Bamford has stated she is willing to pay the remaining tax bill if necessary. The Commission agreed the delay in getting the deed recorded was not due to Ms. Bamford; therefore she should not be responsible for the outstanding taxes.

Jim Breslauer made a motion to allocate \$49.88 from the Conservation Fund to pay the remaining taxes on the Bamford land. Charlie Gorss seconded the motion.

Allocation of Funding for COLAP & MACC

Liz Allard stated the annual conference for the Massachusetts Association of Conservation Commissioners (MACC) is scheduled for March 2nd. In addition the Massachusetts Congress of Lakes and Ponds Association (COLAP) are holding their annual workshop on January 26th. Jaye Waldron would like to attend the COLAP workshop. Don Ritchie made a motion to allocate the funds for Jaye Waldron to attend the COLAP workshops on January 26th. Jim Breslauer seconded the motion. The vote was unanimously in favor of the motion.

Members will need to check their schedules to determine if they are available to attend the MACC conference. Potential attendees are Liz Allard, Wendy Sisson, Charlie Gorss and Jaye Waldron. Jim Breslauer made a motion to allocate the require funds for members to attend the annual MACC conference. Don Ritchie seconded the motion. The vote was unanimously in favor of the motion.

Potential Conservation Commission Member

Joanne Ward was in attendance this evening to get a sense of the types of activities the Commission is involved in as she is interested in the member position. Ms. Ward is relatively new to Town and is seeking an opportunity to volunteer. Ms. Ward enjoys the outdoors and has volunteered with OARS doing water testing. Members encouraged Ms. Ward to attend additional meetings of the Commission before making a final decision.

Center on the Common Notice RE: Entertainment License

Liz Allard explained as abutters (Ruben Reed land) to the Center on the Common (COC) the Commission has been notified that the COC is seeking an entertainment license from the Board of Selectmen. Jim Breslauer recused himself from the discussion as he has been doing legal work for the COC.

After a brief discussion, members agreed they had no issues with the issuance of a entertainment license for the Center on the Common.

Update on Ruben Reed Land Encroachment

Liz Allard stated she has not had any updates from Mass Highway. Jim Breslauer asked Ms. Allard to send him the contact information for Mass Highway and he will discuss the matter with an aide a Senator Eldridge's office.

Required Conservation Restrictions under Community Preservation Act

Liz Allard stated she had emailed Judy Pickett to get her opinion on the letter from Town Counsel in regards to the Conservation Restrictions on several parcels of conservation land purchased with Community Preservation Act funds and/or her advice on seeking a final resolution from the Attorney General. Ms. Allard has not received any response from Attorney Pickett. Members suggest Ms. Allard call Attorney Pickett directly.

Discuss Damage to Shaker Spring House – Lacroix Land, Green Hill Road

Liz Allard explained she has heard from Ken Swanton of the Historic Commission who has stated the Shaker Spring House is not within their purview and will not require any approval from the Historic commission.

Ms. Allard stated she has gone to the site with Ron Gilbert, foreman of the Department of Public Works, to show him what needs to be done to secure the structure from entry. Once work is complete Mr. Gilbert will inform Ms. Allard.

Open Space Priority and Evaluation Checklist

Paul Willard has not yet had an opportunity to stop into the office to work on this list with Liz Allard.

2012 Annual Report

Liz Allard had previously distributed the annual report for members to review. Wendy Sisson has completed the section on Land Stewardship, but had not included the repair to the culverts at William's Pond, the new drainage on the Tully land, the new guidelines on farming in wetlands or the work with Nashua River Watershed Associate in regards to the use of the Galerucella beetle to aid in the reduction of purple loosestrife.

With the report technically due tomorrow, Ms. Allard asked if she could get provisional approval of the report this evening, then she will add the missing items and circulate for any final comments or suggestions and submit once everyone is satisfied. Don Ritchie made a motion to provisionally approve the 2012 annual report, to include additional information as mentioned above, with comments returned only to Liz Allard for inclusion in the final version. Jim Breslauer seconded the motion. The vote was unanimously in favor of the motion.

Land Stewardship Subcommittee Update on Herman Orchard

Wendy Sisson informed the members she had spoken with a gentleman who may have interest in the apple wood on the Herman Orchard.

Executive Session

Jim Breslauer made a motion that the Conservation Commission go into executive session pursuant to Massachusetts General Law Chapter 30A, Section 21(a)(6) to consider the purchase, exchange, lease or value of real property in which a public discussion of these matters will have a detrimental effect on the negotiating position of the Commission, only to adjourn the public meeting once the discussion is complete. Don Ritchie seconded the motion. A roll call vote was taken, Paul Willard, aye; Wendy Sisson, aye, Charlie Gorss, aye; Jaye Waldron, aye; Jim Breslauer, aye; Don Ritchie, aye.

Adjournment

Don Ritchie made a motion to adjourn the meeting at 9:00pm. Jaye Waldron seconded the motion. The vote was unanimously in favor of the motion.

Respectfully submitted,

Liz Allard
Land Use Administrator/
Conservation Agent

**Harvard Conservation Commission
Amendments to the Code of the Town of Harvard,
Chapter 147 Wetland Protection Bylaw Rules Hearing Meeting Minutes
January 17, 2013**

The public hearing was opened at 7:00pm by Chairman Paul Willard under the Harvard Wetland Protection Bylaw, Chapter 119 of the Code of the Town of Harvard in the Town Hall Meeting Room

Members Present: Paul Willard, Wendy Sisson, Don Ritchie, Charlie Gorss, Jaye Waldron and Jim Breslauer

Others Present: Liz Allard (LUB Admin), Lucy Wallace, Joann Ward, Marty Green (Harvard Press), Dan Wolfe (Ross Assoc.) and Bill Johnson

Paul Willard gave a brief overview of the request made by the Finance Committee (FinCom) for all departments to review their expenses and revenue sources. By doubling the existing fees, with the exception of the Request for Determination of Applicability fee, the Commission has the potential to increase the amount of hours of the Conservation Agent, which currently shared with both the Planning Board and the Zoning Board of Appeals.

Bill Johnson stated there are two things that drove the examination of the fees; the FinCom request mentioned previously and the request from the Planning Board for a Town Planner. Mr. Johnson stated when looking at the Conservation piece on the land use side of things, FinCom understood the request for a Planner, but stated that the money to do so had to be found. Mr. Johnson is looking to see where we can find money under land use. Review of the past three years indicates the Commission has collected roughly \$15,000 in bylaw fees and \$2,200 in State fees annually. There is a physical transfer of money each year in the amount of \$11,071 from the wetlands account to the personnel account to cover the hours of the conservation agent. This calculates to about nine hours a week when you take into account the hourly rate and associated benefits. Since more than nine hours a week are spent on conservation commission matters, he is looking at cost recovery or a least those services that are specific to applications. The question becomes is there reasonable cost absorption when it comes to applications.

Mr. Johnson stated by doubling the fees the Commission could generate an additional \$14,000 annually, which covers twenty hours of the agent's time. Mr. Johnson reiterated that FinCom wants everyone to look at the time spent by the agent in these functions and or other expenses you have or provide, look at the fees you collect and come back and tell us how well you are covered; where the gaps are and are there any opportunities to close the gaps. Mr. Johnson stated the Commission should use this evening as the start of a dialog, review the information provided, and go talk to FinCom before making any decisions on the fees.

Jim Breslauer stated if FinCom wants to talk to us about our fees they should come talk to us and anything else is premature. Wendy Sisson asked if Lucy Wallace had anything to add to the discussion. Ms. Wallace stated she was in attendance as the liaison to the Commission from the Board of Selectmen and wanted to hear why the Commission was bringing up this whole issue of doubling the filing fees.

Ms. Sisson stated the Commission has spent many hours in the past determining the appropriate fees based on the time and expense of services provided; it is not based on how much money we need. The Commission does not have the power to set fees arbitrarily. The Commission hears the message that it would behoove us to generate more income, but there is a process to that

and this is not something we can decide on quickly. Ms. Sisson asked about the deadline from FinCom.

Mr. Johnson explained this was one of the questions from FinCom that was sent to the Land Use Boards; which are vetted out at a FinCom meeting, at which a representative or representatives from the LUB attend. Liz Allard explained questions are sent to the chairs of the three boards; answers are compiled and then sent to FinCom. The questions in regards to fees were received only recently.

Charlie Gorss stated the Bylaw allows the Commission to set the fees, however State law does not allow for it to be higher than the cost of doing business. Mr. Johnson stated a cost analysis would justify the fees.

Ms. Sisson stated this is a new process for the Commission, the operating budget, the Commission has never has a straight picture of what money is coming in and going out. Don Ritchie stated this is why we have recently begun a new process of tracking money better from the member's point of view.

Ms. Wallace asked what the agreement with the other Boards is spent on each board's activities. Ms. Allard explained the agreement was 15 hours each for the Commission and Planning Board and 10 hours a week for ZBA. Ms. Wallace pointed out that not all of the agent's time is spent on wetland based activities. It was determined that the Commission is the only one of the three land use boards directly contributing to the salary, the balance comes from the general fund, which is where the fees associated with the other two boards go as well.

Mr. Breslauer asked if FinCom was looking at fees of other boards. Mr. Johnson believes the letter from FinCom went to all Land Use Boards, not just Concom. Ms. Allard explained that the questions are being answered collectively.

Ms. Sisson made one point; this is a new way of looking at Town responsibilities and income. In the past the understanding was the Town has these functions and values and we'll pay for it, prioritize what is needed and pay for it without specifying who is incurring that fee. Is one using the transfer station? Do we value having a transfer station as a public value, do we value having upgraded septic systems for the Town? Ms. Sisson would argue that even though she is not building a new house everybody in Town gains a lot in their property values by having these land issues managed well,. It is okay to say we need more revenue for the Town and we want to raise fees as much as possible, but I don't buy trying to say everything we do in Town needs to be paid for by some fee or it is not a worth while pursuit. A great deal of what goes on is still done by volunteers. Keeping our system workable and keeping everybody happy is a value to people wanting to volunteer and give what would cost a lot of money to pay other people to do. If you want to itemize what it would cost to do all the things we do if everybody was paid for it then you are talking something else and you have to keep people feeling good about doing that.

Wendy Sisson made a motion to continue the hearing to February 7, 2013 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
Notice of Intent Hearing Meeting Minutes
William & Carolyn Herbert, 14 Park Lane, DEP#177-613, Harvard#0113-01
January 17, 2013**

The public hearing was opened at 7:30pm 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 the Town of Harvard in the Town Hall Meeting Room

Members Present: Paul Willard, Wendy Sisson, Don Ritchie, Charlie Gorss, Jaye Waldron and Jim Breslauer

Others Present: Liz Allard (LUB Admin), Joann Ward, Dan Wolfe (Ross Assoc.), Bill & Carolyn Herbert

This hearing is for a Notice of Intent filed on behalf of William and Carolyn Herbert for the replacement of a sewage disposal system within the 100' wetland buffer zone at 14 Park Lane, Harvard.

Dan Wolfe, of Ross Associated, was present to represent the applicants, who were also present. Mr. Wolfe explained the existing septic system requires an upgrade. A site walk was conducted on Monday with members of the Commission, the Conservation Agent and Mr. Wolfe. Mr. Wolfe stated soil testing was conducted in the front of the property, which indicated shallow depths to ledge. In addition a cost evaluation was completed and determined to be too costly because the existing well would need to be relocated. This left the only workable area at the rear of the property. Mr. Wolfe explained the existing wetland system is draining to the west, away from the proposed septic, and consists of a series of man made ditches. A Presby© system was chosen as the favored system as it reduces both the footprint and the impacts to the surrounding wetlands.

Jim Breslauer asked what the closest point to the wetland is from the system. Mr. Wolfe stated 81'; with 55' -60' to the disturbance, which is down gradient of the wetland. Paul Willard asked what the relative grade will be of the system once complete. Mr. Wolfe stated there will be a 3' to 3 ½' rise. Members asked what the ground cover will be after completion of work. Mr. Wolfe stated the area will be covered with wood chips and/or mulch and the natural vegetation will be allowed to take over.

Mr. Wolfe explained there have been two access points designated on the plan because the primary point would require the destruction of existing garden areas that the property owners have diligently worked on for years; where as a secondary access would be closer to the existing stream, but less detrimental to the area as a whole. It will come down to a matter of cost; the applicant is waiting to hear from the contractors. In both cases proper erosion controls have been incorporated. The work will take place in the summer. Don Ritchie asked about using six wheeler construction vehicles rather than ten wheelers to reduce the disturbance. Mr. Wolfe agreed and recommended this be further discussed at the preconstruction meeting with the contractor and conservation agent.

Mr. Breslauer asked if Mr. Wolfe is requesting a waiver to the 50' setback under the bylaw regulations. Mr. Wolfe stated he was. Jim Breslauer made a motion to allow the waiver to the 50' no disturb setback under the bylaw regulation as the project will have minimal impact on the

bylaw interests and improving a failing septic system furthers those interests. Don Ritchie seconded the motion. The vote was unanimously in favor of the motion.

With no further questions or comments, Don Ritchie made a motion to close the hearing and issue an Order of Conditions to include the special condition that the construction is to be conducted in manner that will have minimal impact o the existing cart road, such as the use of a six wheeled construction vehicle as opposed to a ten wheeled vehicle. 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

Amendments to the Code of the Town of Harvard, Chapter 147 Wetland Protection Bylaw Rules Hearing

- ❖ Form F of the Wetland Protection Bylaw Rules, dated 05/19/2012

Notice of Intent Hearing – William & Carolyn Herbert, 14 Park Lane, DEP#177-613, Harvard#0113-01

- ❖ Sewage Disposal System, designed for William & Carolyn Herbert, prepared by David E. Ross Associates, Inc., dated December 2012