

**HARVARD CONSERVATION COMMISSION
MINUTES OF MEETING
OCTOBER 5, 2017
APPROVED: NOVEMBER 16, 2017**

Chairman Paul Willard called the meeting to order at 7:01pm in the Town Hall, 13 Ayer Road, under MGL Chapter 131 §40 Wetland Protection Act and Code of the Town of Harvard Chapter 119 Wetland Protection Bylaw

Members Present: Paul Willard, Wendy Sisson, Joanne Ward, Jaye Waldron, Jim Burns and Mark Shaw (Associate Member)

Others Present: Liz Allard (LUB Admin), Carl Sciple, Marty Green (Harvard Press), Patrick Wind, and Jim Lee (HCT)

Volunteer Application – Carl Sciple

Carl Sciple was present to discuss his interest in serving on the Commission. Mr. Sciple has served most recently on the Wellesley Wetland Protection Committee. Mr. Sciple served as a member of the Harvard Conservation Commission during a previous residency in the Town of Harvard some sixteen years ago. Mr. Sciple stated Harvard has similar issues to Wellesley in regards to wetland and land protection. Mr. Sciple is familiar with laws surrounding wetlands and land protection. Mr. Sciple has a military background with the Army Corp of Engineers.

The Commission briefly discussed the available position and the recent appointment of Mark Shaw as an Associate member. Jaye Waldron made a motion to recommend to the Board of Selectmen the appointment of Carl Sciple as a member of the Conservation Commission. Wendy Sisson seconded the motion. The vote was unanimously in favor of the motion.

Davis Land – Still River Road (Map 16 Parcel 15)

- Update from CPIC Meeting 9/25/2017
Wendy Sisson stated the meeting with CPIC consisted of providing clarification of the responses to the CPIC questions. David Outman, Director of Harvard Conservation Trust (HCT), was present and confirmed HCT was committed up to \$500,000 toward the project. A site walk was held on September 28th with members of CPIC.
- Update on Requested Documentation
Liz Allard stated she received an email from Suzanne Dutkewych today that stated the Davis were not willing to entertain an offer of \$800,000. Members discussed and agreed at this point to withdraw funding requests from Community Preservation Committee and the Capital Planning and Investment Committee. There is the option of the right of first refusal should an offer be presented to the property owners.

Request for Determination of Applicability Hearing – Patrick Wind, 37 Peninsula Road, Harvard#0917-03. Opened at 7:36pm

Approve Minutes

Jaye Waldron made a motion to approve the minutes of September 7th & 21st as amended, including the executive session minutes. Joanne Ward seconded the motion. The vote was unanimously in favor of the motion.

Approve Invoice

Joanne Ward made a motion to approve the following invoice:

- J&S Business - \$5.04
- J&S Business - \$325.00
- MACC - \$60.00

Wendy Sisson seconded the motion. The vote was unanimously in favor of the motion.

CISMA Funding Request

Wendy Sisson explained the request made was not an official request, but one from the departing Director on a funding request that will be presented to the Commission in an official capacity.

Approve Community Preservation Act FY2019 Application for Funding

Wendy Sisson reviewed the application submitted to the Community Preservation Committee for invasive plant management. Ms. Sisson has determined at an annual funding of \$16,600 a year the Commission would be able to maintain existing locations and complete one project annually. The application is for a three year cycle, that includes the continued work on Dean's Hill and follow up on other sites. Existing funds will be used to complete the Herman Orchard.

Joanne Ward made a motion to approve the submittal of an application to the Community Preservation Committee in the amount of \$25,000 for invasive plant management on conservation land over the next three years. Jim Burns seconded the motion. The vote was unanimously in favor of the motion.

Filing Clarification RE: Vernal Pools

Liz Allard had previously updated the Commission in regards to a request to verify the need to file a Request for Determination of Applicability under the Wetland Protection Bylaw by Bill Johnson. Mr. Johnson's property is within 200' of a vernal pool that has not been certified. State certification guidelines states vernal pools that are not certified may also be protected by local Conservation Commissions if credible scientific evidence is presented. Mr. Johnson questioned what credible evidence has been presented. Upon further review of this statement, Ms. Allard learned the language was in conjunction with the process of appealing a decision of a Conservation Commission.

Additionally, Ms. Allard noted that the Massachusetts Wildlife Habitat Protection Guidance for Inland Wetlands states vernal pool habitat may be identified by certification prior to the filing of the application or may be identified during the application review process with evidence from a competent source. Conservation Commissioners with appropriate training or experience can be considered competent sources for the identification of vernal pool habitat. Whether certified or "documented" during the application review process, vernal pool habitat is protected as long as it occurs within resource areas. Furthermore under the Town's Wetland Protection Bylaw vernal pools are protected whether they are certified or not.

Jaye Waldron, who happens to reside next door to Mr. Johnson, stated she is well aware of wood frogs in the pool in question in the spring time, which is an obligate species to vernal pools. Members agreed the resource area in fact functions as a vernal pool, therefore the activity conducted by Mr. Johnson to remove and resurface his existing driveway does require a filing with the Commission.

Nashua River Wild & Scenic River Study and Draft River Management Plan

After a brief discussion, Jaye Waldron volunteered to review the management plan for the next meeting of the Commission.

Paddle on the Nashua – October 16th 4:00pm, Nashoba Paddlers, LLC, Groton

Liz Allard stated she plans to attend this event and that there is space available for one more individual. If anyone is interested they should contact Tim Bragan.

Request for a Certificate of Compliance – BHPWMC, Bare Hill Pond, DEP#177-630

Jaye Waldron made a motion to issue the Certificate of Compliance to the Bare Hill Pond Watershed Management Committee, DEP#177-630. Wendy Sisson seconded the motion. The vote was unanimously in favor of the motion.

Capital Planning & Investments Committee FY2019 Application Questions

Liz Allard stated questions from CPIC will be received on Tuesday October 17th, with responses due on the following Monday. Wendy Sisson volunteered to respond to the questions once received, which can then be reviewed at the October 19th meeting of the Commission.

Discuss Interest in Purchasing Smith Land – Littleton County Road (Map 14 Parcel 56) requested by Sudbury Valley Trustees

The Commission had discussed earlier this year the potential of purchasing land adjacent to Black Pond on Littleton County Road. This land is under a conservation restriction held by the Littleton Conservation Trust, which has been amended to allow for public access. The asking price would be \$36,000 for the 12.79 acres. Wendy Sisson stated by purchasing the land the Commission would have control over the land. After a brief discussion, Wendy Sisson made a motion to allocate \$36,000 from the Conservation Community Preservation fund for the purchase of 12.79 acres along Littleton Road known as the Smith land. Joanne Ward seconded the motion. The vote was unanimously in favor of the motion.

2018 Protective Bylaw Amendments – Erosion Control Bylaw

Liz Allard spoke with the Planning Board, who also agreed to revisit the erosion control bylaw for the 2019 Annual Town Meeting. Ms. Allard will need to review recording of the 2016 ATM to determine concerns raised by residents. In addition, Ms. Allard will review other community's bylaws to determine if there is a simpler way to include this provision along with site plan review, which is under the purview of the Planning Board.

Potential Open Space – Woodside Road, Map 30 Parcel 14

Ms. Allard stated the Commission is still waiting on the Town Administrator to determine if funding is available to pay principle owed on this property.

Licensing of Conservation Land Update

As requested Don Ritchie expanded the information on the spreadsheets to include when the land was acquired and the cost of the land at the time of purchase by the Town. Wendy Sisson stated she would follow up with Carlson Orchard to determine if any fields have been missed. The gift of land known as the Dunlap Land on Old Littleton Rd. will need to be reviewed as this land was being used, and continues today, by Carlson Orchard for pumpkins at the time of gift.

Update from the State Service Forester

The State Forest Service, Lara Dooley, has not been in touch with the Conservation Agent in regards to the review of the property on Cruft Lane. The Agent will follow up with Ms. Dooley.

MDAR Notification re: Pesticide Control Act and Chapter 147-17 Wetland Protection Bylaw Setbacks

The Commission received a letter from the Massachusetts Department of Agricultural Resources (MDAR) in regards to concerns they have with the Commissions authority to regulate pesticide use. MDAR has exclusive authority over pesticides in the Commonwealth. After a brief discussion, the members agreed to send a letter to MDAR stating we are working on revising Chapter 147 to better align with the regulations detailed in the MDAR letter dated September 13, 2017. Further advice will be sought from the Massachusetts Association of Conservation Commissioners.

Adjournment

Joanne Ward made a motion to adjourn the meeting at 8:59pm. 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
Request for Determination of Applicability Hearing Meeting Minutes
Patrick & Tracy Wind, 37 Peninsula Road, Harvard#0917-03
October 5, 2017**

The public hearing was opened at 7:36pm by Chairman Paul Willard under Massachusetts Wetland Protection Act, Ch. 131 §40 and Harvard Wetland Protection Bylaw, Chapter 119 of the Code of the Town of Harvard in the Town Hall Meeting Room, 13 Ayer Road, Harvard

Members Present: Paul Willard, Wendy Sisson, Joanne Ward, Jaye Waldron, Jim Burns and Mark Shaw (Associate Member)

Others Present: Liz Allard (LUB Admin), Carl Sciple, Marty Green (Harvard Press) and Patrick Wind,

This Request for a Determination of Applicability was filed on behalf of Patrick & Tracey Wind for site improvements, paving of the existing driveway and the installation of a shed within 200' of Bare Hill Pond at 37 Peninsula Road, Harvard.

Patrick Wind was present to request site improvements to his property at 37 Peninsula Road. Mr. Wind explained the proposed improvements, which includes the installation of a 10' x 12' shed, the removal of the existing evergreen hedge at the front of the dwelling, to be replaced with Dwarf River Birch trees or similar, the paving of the existing driveway, the replacement of the stone walkways and terrace, an outdoor fire pit and a Bocce court.

During the site walk earlier this evening Mr. Wind agreed to include a berm along the north edge of the driveway in order to direct stormwater runoff to the existing stone trench at the end of the driveway. Members also discussed the need for additional woody vegetation along the steps to the pond.

With no further comments, Jaye Waldron made a motion to close the hearing and issue a Negative #3 Determination of Applicability with the following conditions:

- 1) During the paving of the driveway a berm shall be installed on the north side of the driveway's edge to direct runoff to the trench at the toe of the driveway;
- 2) Additional woody vegetation shall be planted on the south side of the stepping stones to the water; and
- 3) In order to allow natural revegetation of the site, no additional wood chips shall be used for stabilization

Jim Burns seconded the motion. The vote was unanimously in favor of the motion.

Respectfully submitted,

Liz Allard
Land Use Administrator/
Conservation Agent

EXHIBITS & OTHER DOCUMENTS

Conservation Commission Agenda, dated October 5, 2017