

**HARVARD CONSERVATION COMMISSION  
MINUTES OF MEETING  
SEPTEMBER 7, 2017  
APPROVED: OCTOBER 5, 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, Don Ritchie, Wendy Sisson, Joanne Ward, Jaye Waldron, Jim Burns and Mark Shaw (Associate Member)

**Others Present:** Liz Allard (LUB Admin), Judy Schmitz (MassDEP), John Osborne (Harvard Press), Jim Lee (HCT), Alice von Loesecke (BOS), Peter von Loesecke (BHPWMC), Brian McClain (BHPWMC), Bruce Leicher (BHOWMC), Wendy Gendron (Aquatic Restoration Consulting), Carrie Frasier, Dan Wolfe (Ross Associates), Bill Johnson, John Lee (CPC), Carol Hoffman, Allen Hoffman, Beth Ruze, Rose Ruze, Mary Ann Boynton, Robert Kody (Envision Homes), Neil Gorman (Ross Associates), Peter Deng, Peter Dorward and Tom Cotton (HCT)

**Agricultural & Forestry Use under the Wetland Protection Act with DEP Circuit Rider Judy Schmitz**

Judy Schmitz, the MassDEP circuit rider for the central region, was present to discuss agriculture and forestry and the Wetland Protection Act (WPA). Ms. Schmitz stated the forestry brochure has a good summary of where jurisdiction applies. Small cuttings of less than 10 cords for personal use are exempt. Cuttings larger than 10 cords for personal use are considered a limited project. A Forest Cutting Plan does not require a wetland permit, but a Commission can have input into the plan. When reviewing a plan the Commission should determine if this is a change in the land use or a forestry project. A change in the land use is not allowed by use of a forest cutting plan. The Commission can request restoration in areas that have been cut that would not be allowed to do so under the WPA if a Notice of Intent had been filed.

Plans can be submitted for long or short term management of forested areas. A red flag of a short term plan is that the land owner may be trying to circumvent the WPA or preparing the land for sale. Any wetland crossings that are temporary are to be removed once the plan is executed. If a permanent crossing is needed it needs to be permitted by the Commission under the WPA. Impacts to a wetland after the fact can be enforced by the Commission under the WPA.

Liz Allard asked who is responsible for sending the plan to the Commission prior to approval by the State. Ms. Schmitz stated the plan preparer.

In regards to agricultural use many horse properties do not qualify as agricultural use. In order to qualify for an agricultural exemption the property has to be making a commodity. There are some types of agricultural that can fall under limited project exemptions. Rescue sanctuaries are another use that is not exempt as agricultural use.

Land within a resource area or its buffer zone that has not been in use within a five year period has to be approved by the Commission. Emergency activities within the resource area or the buffer zone do not need to be permitted, but do need to notify the Commission.

The management of existing field edges is limited to within 100' from the land in production, as detailed under the definition of Agriculture within 310 CMR 10.04(b)5. Existing land in production can not be drained, for example a wet meadow can not have drainage installed to convert to a dry meadow. The land can be tilled, cultivated and be generally maintained, but it can not be changed; however the commodity can be changed.

The Commission thanked Ms. Schmitz for her time this evening.

**Notice of Intent Hearing – Bare Hill Pond Watershed Management Committee – Bare Hill Pond, Harvard#0817-02.** Opened at 8:03pm

**Approve Letters**

- Turner Lane Association – Wendy Sisson made a motion to approve the letter as amended this evening to the Turner Lane Association, c/o Jane Sawyer, dated September 7, 2017. Jim Burns seconded the motion. The vote was unanimously in favor of the motion.
- Forestry Therapy – Don Ritchie made a motion to approve the letter to Pam Fredrick, RE: Forest Therapy on Town of Harvard Conservation Land, dated September 7, 2017. Joanne Ward seconded the motion. The vote was unanimously in favor of the motion.
- Harvard Energy Advisory Committee – Wendy Sisson made a motion to approve the letter to Harvard Energy Advisory Committee, RE: Town of Harvard's Participation in the HeatSmart Pilot Program, dated September 7, 2017. Jim Burns seconded the motion. The vote was unanimously in favor of the motion.

**CPIC Fiscal Year 2019 Application**

The Board of Selectmen has been sent a letter detailing the Commission's desire to re-establish annual funding of the conservation fund. Members discussed the application to the Capital Planning and Investment Committee (CPIC) and wondered why the request to re-establish this fund would need to be submitted to CPIC. Paul Willard and Don Ritchie agreed to meet with Town Administrator, Tim Bragan, to get clarification.

**Charter Commission Public Meeting September 13, 2017**

The public comment period is four weeks from the September 13 public meeting. Members were asked to prepare their comments and send them to Liz Allard for collation by Tuesday September 19<sup>th</sup> for discussion at the next meeting.

**Notice of Intent Hearing – Mary Ann Boynton, 12 Peninsula Road, DEP#177-658.** Opened at 9:00pm

**Informal Discussion with Peter Deng re: Poof Farm Development**

Neil Gorman, of Ross Associates, along with Peter Deng, were present to discuss the site plan for the land along Littleton Road known as the Poor Farm. The proposed plan details five frontage lots. Due to the requirements of a basic lot under the Town of Harvard Protective (Zoning) Bylaw Lot 1 would require a waiver from the Conservation Commission's Wetland Bylaw Regulations Chapter 147-17 Setbacks, in regards to the 75' setback from a wetland resource area for a structure. Buildable land area under the Protective Bylaw is determined by land area available, under the Bylaw and any other lawful restrictions, for location of a main building. Therefore land area that falls within the setbacks established by Chapter 147-17 would not qualify as buildable land.

After discussing in great detail, the Commission agreed they would need to seek Town Counsel advice as this request is not part of an application before them. The allowance of waivers to the regulations was established to give the Commission the ability to make a decision on a case by case basis. The Commission expressed a desire to have the back land of this property, including the entire pond, protected under a conservation restriction. Mr. Gorman will send necessary documents to Liz Allard in order to seek guidance from Town Counsel.

**ZBA Request for Comments**

- 12 Peninsula Road – This location is before the Commission this evening and will result in the issuance of an Order of Conditions. This information will be given to the ZBA to be included in their decision.

- 53 Turner Lane – As an application for seasonal conversion the Commission has no comment.

### **Executive Session**

Don Ritchie made a motion to go into Executive Session to discuss the possible purchase of real property, the public discussion of which could have detrimental effects on the negotiating position, only to return to the public meeting once completed. Jaye Waldron seconded the motion. A roll call vote was taken: Wendy Sisson, aye; Paul Willard, aye; Jaye Waldron, aye; Jim Burns, aye; Joanne Ward, aye; and Don Ritchie, aye.

At the end of executive session Don Ritchie made a motion to adjourn and return to the public meeting. Joanne Ward seconded. A roll call vote was taken: Wendy Sisson, aye; Paul Willard, aye; Jaye Waldron, aye; Jim Burns, aye; Joanne Ward, aye; and Don Ritchie, aye.

### **2018 Protective Bylaw Amendments – Erosion Control Bylaw**

This item was passed over until the next meeting.

### **All Board's Meeting September 6<sup>th</sup> Update**

Several members of the Commission attend the All Board's meeting last night held by the Board of Selectmen. The meeting was an opportunity for departments, boards, commissions and committees in town to lay out their goals for the 2019 fiscal year budget season. Wendy Sisson spoke on behalf of the Commission and outlined the following:

- Maintain the rural character of the Town by continuing to protect open space
- Adapting to climate change by increasing the protection of floodplains
- Protecting smaller parcels of land that will increase and connect the existing green belt
- Protection of agricultural land through Agricultural Preservation Restrictions
- Partnering with others to develop creative ways to protect open space
- Secure annual funding that is non-restricted

### **Potential Open Space – Woodside Road, Map 30 Parcel 14**

As requested price quotes were obtained to determine if the lot is unbuildable. The Commission was still uncertain if they should proceed with declaring the lot unbuildable. Liz Allard has not had an opportunity to follow up with Town Administrator Tim Bragan as to if there is funding available to pay off the principle owed on this property in order for the Town to take ownership. This matter will be further discussed at the next meeting.

### **Licensing of Conservation Land Update**

This item was continued to the next meeting.

### **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 next week.

### **Adjournment**

Don Ritchie made a motion to adjourn the meeting at 10:49pm. Jim Burns 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  
Bare Hill Pond Watershed Management Committee, Bare Hill Pond, Harvard#0817-02  
September 7, 2017**

The public hearing was opened at 8:03pm 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, Don Ritchie, Wendy Sisson, Joanne Ward, Jaye Waldron, Jim Burns and Mark Shaw (Associate Member)

**Others Present:** Liz Allard (LUB Admin), John Osborne (Harvard Press), Alice von Loesecke (BOS), Peter von Loesecke (BHPWMC), Brian McClain (BHPWMC), Bruce Leicher (BHOWMC), Wendy Gendron (Aquatic Restoration Consulting), Carrie Frasier, Bill Johnson, Carol Hoffman, Allen Hoffman and Beth Ruze, Rose Ruze

This Notice of Intent was filed on behalf of Bare Hill Pond Watershed Management Committee for the draw down of Bare Hill Pond to protect the watershed in accordance with the proposed Order of Conditions, the Massachusetts Generic Environmental Impact Report for Lakes and Ponds and related environmental watershed monitoring.

Bruce Leicher, chairman of the Bare Hill Pond Watershed Management Committee (BHPWMC), was present to present the annual report of Bare Hill Pond to the Commission as required by the previous Order of Conditions (OOC) and to permit the draw downs over the next three years under a new OOC. As detailed in the application, the BHPWMC is suggesting an October 1<sup>st</sup> start date for the draw down. Last season the pond was drawn down by 5.75 feet. The water table is in good shape after a drought last year and the recharge in the spring was quicker than in the past. Surveys show more native species in the draw down zones, which are not free of invasive species, but show a reduction in invasives. Wendy Gendron, of Aquatic Restoration Consulting, stated if the pond level is kept consistent over the winter there is a possibility of an increase in invasive plant species. As requested last year the Committee added monitoring points around the pond.

Reports provided by the Committee and Aquatic Restoration Consulting detail the status of the pond and can be reviewed on the Town website.

One main concern this year was discovery of Phragmites in the area of the dam. Removal was completed as best as possible. Other techniques for removal can be considered and discussed over the winter.

Wendy Sisson made a motion to motion to ratify the removal of Phragmites from Bare Hill Pond and to allow for a six-foot draw down of Bare Hill Pond to commence on October 1<sup>st</sup>. Don Ritchie seconded the motion. The vote was unanimously in favor of the motion.

Wendy Sisson made a motion to close the hearing and issue an Order of Conditions with the standard conditions for the draw down of Bare Hill Pond. 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  
Notice of Intent Hearing Meeting Minutes  
Mary Ann Boynton, 12 Peninsula Road, Harvard#0817-03  
September 7, 2017**

The public hearing was opened at 9:00pm 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, Don Ritchie, Wendy Sisson, Joanne Ward, Jaye Waldron, Jim Burns and Mark Shaw (Associate Member)

**Others Present:** Liz Allard (LUB Admin), John Osborne (Harvard Press), Dan Wolfe (Ross Associates), Carol Hoffman, Allen Hoffman, Mary Ann Boynton and Robert Kody (Envision Homes)

This Notice of Intent was filed on behalf of Mary Ann Boynton for the demolition of an existing dwelling, reconstruction of a single family home and installation of a new sewage disposal system within 200' of Bare Hill Pond at 12 Peninsula Road, Harvard

Dan Wolfe, Ross Associates, was present, along with the applicant, Mary Ann Boynton. Mr. Wolfe explained the plan calls for the removal of the existing structure to be replaced with one that does not encroach on the existing distance (77') from Bare Hill Pond. A new septic system will be installed and the existing gravel driveway will remain. An additional gravel access drive will remain as well with slight grading due to the new septic system. Recharge trenches will be installed along the edges of the structure.

Carol and Allen Hoffman, abutters, had no issues with the proposal. The comments received from Bare Hill Pond Watershed Management Committee were in regards to paving the driveway, which as stated previously is not intended to be paved. The existing lawn area will be returned to its original state once construction is complete.

Wendy Sisson made a motion to close the hearing and issue an Order of Conditions with the special condition that if the driveway is to be paved in the future a permit from the Commission will be required. Don Ritchie seconded the motion.

Respectfully submitted,

Liz Allard  
Land Use Administrator/  
Conservation Agent

## **EXHIBITS & OTHER DOCUMENTS**

### **Conservation Commission Agenda, dated September 7, 2017**

#### **Agricultural & Forestry Use under the Wetland Protection Act with DEP Circuit Rider Judy Schmitz**

- PowerPoint© Presentation – Farming in Wetland Resource Areas, Judy Schmitz, undated
- Massachusetts Forestry Best Management Practices Manual, 2013

#### **Notice of Intent Hearing – Bare Hill Pond Watershed Management Committee – Bare Hill Pond, Harvard#0817-02**

- Bare Hill Pond In-Lake Water Quality and Plant Surveys – 2017, Prepared by: Aquatic Restoration Consulting, LLC, dated August 2017
- Report from Bare Hill Pond Watershed Management Committee, Re: 2016-17 Drawdown Report and Fall 2017 Drawdown Plans; Notice of Intent Filing, dated August 16, 2017

#### **Approve Letters**

- Letter to the Turner Lane Association, c/o Jane Sawyer, dated September 7, 2017
- Letter to Pam Fredrick, RE: Forest Therapy on Town of Harvard Conservation Land, dated September 7, 2017
- Letter to Harvard Energy Advisory Committee, RE: Town of Harvard's Participation in the HeatSmart Pilot Program, dated September 7, 2017

#### **Notice of Intent Hearing – Mary Ann Boynton, 12 Peninsula Road, DEP#177-658**

- Sewage Disposal System Plan, prepared for Mary Ann Boynton, #12 Peninsula Road, Harvard, MA. Job No. 31904, dated 8/17/17

#### **Informal Discussion with Peter Deng re: Poof Farm Development**

- Conceptual Site Plan, designed for Harvard Municipal Affordable Housing Trust, 166 Littleton Road, Harvard, MA, prepared by David E. Ross Associates, Inc., Job No. 29133, dated March 22, 2017