

## ANNUAL TOWN MEETING

**MARCH 25, 2006**

The meeting was called to order in the Bromfield School gym at 9:05 a.m. by Moderator, David Westerling. The call of the meeting and the return of service were found to be in order by Town Clerk Janet A. Vellante.

On a motion by Moderator David Westerling, and seconded,

Voted unanimously yes, that the town allow the following non-voters to speak to the meeting if necessary:

Edward Denmark	Police Chief
Thomas Jefferson	Superintendent of Schools
Mark Lanza	Town Counsel
Lorraine Leonard	Finance Director
Robert Mignard	Fire Chief
John Dzerkiz	Montachusetts Regional Vocational Regional School
James Culkeen	Montachusetts Regional Vocational Regional School

A group of Bromfield students sang the National Anthem.

### **ARTICLE 1: ANNUAL REPORTS**

To see if the Town will hear the reports of the Board of Selectmen, School Committee, and any other officers or committees that may be ready to make a report and act thereon.

(Inserted by Board of Selectmen)

On a motion by, Bill Marinelli, 50 Stow Road, Board of Selectmen, and seconded,

Voted unanimously yes, that the Town accept the reports of the Board of Selectmen, School Committee, and any other officers or committees as printed in the 2005 Annual Town Report.

### **ARTICLE 2: GENERAL STABILIZATION FUND**

To see if the Town will vote to transfer from Free Cash, a sum of money to be placed in the General Stabilization Fund, or pass any vote or votes in relation thereto.

(Inserted by the Finance Committee)

(2/3 vote required)

On a motion by, Steve Colwell, 192 Littleton Road, Finance Committee, and seconded,

Voted unanimously yes, that the Town transfer from Free Cash the sum of \$219,916. to the General Stabilization Fund.

### **ARTICLE 3: THE BROMFIELD SCHOOL - WASTEWATER TREATMENT PLANT**

To see if the Town will vote to transfer from available funds a sum of money to be expended by the School Committee to modify The Bromfield School wastewater treatment plant, with unexpended funds as of June 30, 2006 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by School Committee)

On a motion by, Mark Hardy, 18 Ann Lees Road, School Committee, and seconded,

Voted unanimously yes, that the Town transfer from the General Stabilization Fund the sum of \$55,657. to be expended by the School Committee to modify The Bromfield School wastewater treatment plant, with unexpended funds as of June 30, 2006 being returned to their funding source.

### **ARTICLE 4: RESERVE FUND – FISCAL YEAR 2006**

To see if the Town will vote to transfer from available funds, a sum of money to be placed in the Reserve Fund Account for unforeseen and extraordinary expenses for the current fiscal year, or pass any vote or votes in relation thereto.

(Inserted by Finance Committee)

On a motion by Paul Olsen, 35 Lancaster County Road, Finance Committee, and seconded,

Voted unanimously yes, that the Town transfer from the General Stabilization Fund the sum of \$100,000. to the Reserve Fund Account for unforeseen and extraordinary expenses for the current fiscal year.

### **ARTICLE 5: OMNIBUS BUDGET**

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds, such sums of money as may be necessary to defray expenses for the ensuing fiscal year, or pass any vote or votes in relation thereto.

(Inserted by Finance Committee)

On a motion by Cindy Russo, 116 Oak Hill Road, Finance Committee, and seconded,

Voted majority yes, (21 no) that the Town appropriate the sum of \$17,447,249. to defray the expenses of the Town for Fiscal Year 2007 as printed in the Finance Committee Report on pages 21 through 27, that such appropriation be provided by raising \$17,434,149. by taxation,

transferring \$8,100. from the Wetlands Protection Fund, and transferring \$5,000. from library trust funds, contingent upon the passage of the Proposition 2 ½ levy limit override at the Annual Town Election of March 28, 2006.

**ARTICLE 6: RESERVE FUND – FISCAL YEAR 2007**

To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of money to be placed in the Reserve Fund Account for unforeseen and extraordinary expenses for the ensuing fiscal year, or pass any vote or votes in relation thereto.

(Inserted by Finance Committee)

On a motion by Paul Donovan, 80 Ann Lees Road, Finance Committee, and seconded,

Voted majority yes (3 no), that the Town raise and appropriate the sum of \$225,000. to be placed in the Reserve Fund Account for unforeseen and extraordinary expenses for Fiscal Year 2007.

**ARTICLE 7: DEBT EXCLUSION – REPLACE PORTIONS OF THE BROMFIELD SCHOOL ROOF**

To see if the Town will vote to transfer from the General Stabilization Fund and/or appropriate, and authorize the Town Treasurer, with the approval of the Board of Selectmen, to borrow pursuant to Chapter 44, Section 7 of the Massachusetts General Laws, or any other enabling authority, a sum of money to be expended by the School Committee to fund the replacement of portions of the roof at the Bromfield School, contingent upon the passage of a Proposition Two and One-Half debt exclusion ballot question at the Annual Town Election on March 28, 2006, or pass any vote or votes in relation thereto.

(Inserted by School Committee)

(2/3 vote required)

1st Motion:

On a motion by Willie Wickman, 18 Ayer Road, School Committee, and seconded,

Voted greater than 2/3rds yes, (21 no) that the Town appropriate, and authorize the Town Treasurer, with the approval of the Board of Selectmen, to borrow pursuant to Chapter 44, Section 7 of the Massachusetts General Laws, or any other enabling authority, the sum of \$1,250,000. to be expended by the School Committee to fund the replacement of portions of the roof at The Bromfield School, contingent upon the passage of a Proposition Two and One-Half debt exclusion ballot question at the Annual Town Election on March 28, 2006.

2nd Motion:

On a motion by Willie Wickman , 18 Ayer Road, School Committee, and seconded,

Voted majority yes (1 no) that the Town transfer from the General Stabilization Fund the sum of \$300,000. to repair the cafeteria/science wing portion of the roof at The Bromfield School,

contingent upon the failure of the Proposition Two and One-Half debt exclusion ballot question for the replacement of portions of the roof at The Bromfield School be defeated at the Annual Town Election on March 28, 2006.

Tom Daniells, 141 West Bare Hill Road, served as Temporary Moderator for articles 8 and 9.

**ARTICLE 8: HYDROGEOLOGIC EVALUATION OF A PARCEL OF LAND FOR A PROPOSED TOWN CENTER SEWER DISTRICT**

To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of money to be expended by the Board of Selectmen to perform a hydrogeologic evaluation of a portion of the 21.81 acre, more or less, parcel of land owned by the Harvard Conservation Trust situated on Slough Road and Woodchuck Hill Road for the construction of a secondary leaching facility associated with a wastewater treatment plant for a proposed Town Center sewer district, or pass any vote or votes in relation thereto.

(Inserted by Board of Selectmen)

The following motion was made by Lucy Wallace, 18 Orchard Hill, Board of Selectmen, and seconded,

I move that the Town transfer from the General Stabilization Fund the sum of \$17,500. to be expended by the Board of Selectmen to perform a hydrogeologic evaluation of a portion of the 21.81 acre, more or less, parcel of land owned by the Harvard Conservation Trust situated on Slough Road and Woodchuck Hill Road for the construction of a secondary leaching facility associated with a wastewater treatment plant for a proposed Town Center sewer district.

A motion by Bob Lerner, 101 West Bare Hill Road, to move the question was seconded and voted majority yes.

Voted 293 yes, 131 no, (greater than 2/3 yes) that the Town transfer from the General Stabilization Fund the sum of \$17,500. to be expended by the Board of Selectmen to perform a hydrogeologic evaluation of a portion of the 21.81 acre, more or less, parcel of land owned by the Harvard Conservation Trust situated on Slough Road and Woodchuck Hill Road for the construction of a secondary leaching facility associated with a wastewater treatment plant for a proposed Town Center sewer district.

**ARTICLE 9: DEBT EXCLUSION – LAND ACQUISITION**

To see if the Town will vote to appropriate, and authorize the Town Treasurer, with the approval of the Board of Selectmen, to borrow pursuant to Chapter 44, Section 7 of the Massachusetts General Laws, or any other enabling authority, a sum not to exceed \$400,000 in order to acquire a portion of a 21.81 acre, more or less, parcel of land owned by the Harvard Conservation Trust situated on Slough Road and Woodchuck Hill Road for the construction of a secondary leaching facility associated with a wastewater treatment plant for a proposed Town Center sewer district,

contingent upon the passage of a Proposition Two and One-Half debt exclusion ballot question at the Annual Town Election on March 28, 2006, or pass any vote or votes in relation thereto.  
(Inserted by Board of Selectmen) (2/3 vote required)

The following motion was made by Lucy Wallace, 18 Orchard Hill, Board of Selectmen, and seconded,

I move that the Town appropriate, and authorize the Town Treasurer, with the approval of the Board of Selectmen, to borrow pursuant to Chapter 44, Section 7 of the Massachusetts General Laws, or any other enabling authority, the sum of \$400,000. to be expended by the Board of Selectmen in order to acquire any portion of a 21.81 acre, more or less, parcel of land owned by the Harvard Conservation Trust situated on Slough Road and Woodchuck Hill Road and described in a deed recorded with the Worcester District Registry of Deeds in Book 34876, Page 226 for the construction of a secondary leaching facility associated with a wastewater treatment plant for a proposed Town Center sewer district, contingent upon the passage of a Proposition Two and One-Half debt exclusion ballot question at the Annual Town Election on March 28, 2006.

A motion by Lucy Wallace, 18 Orchard Hill, to move the question, was seconded and voted unanimously yes.

Voted 283 yes and 203 no, (less than 2/3rds, does **not** pass) that the Town appropriate, and authorize the Town Treasurer, with the approval of the Board of Selectmen, to borrow pursuant to Chapter 44, Section 7 of the Massachusetts General Laws, or any other enabling authority, the sum of \$400,000. to be expended by the Board of Selectmen in order to acquire any portion of a 21.81 acre, more or less, parcel of land owned by the Harvard Conservation Trust situated on Slough Road and Woodchuck Hill Road and described in a deed recorded with the Worcester District Registry of Deeds in Book 34876, Page 226 for the construction of a secondary leaching facility associated with a wastewater treatment plant for a proposed Town Center sewer district, contingent upon the passage of a Proposition Two and One-Half debt exclusion ballot question at the Annual Town Election on March 28, 2006.

#### **ARTICLE 10: AMEND PROTECTIVE BYLAW – ACCESSORY APARTMENTS**

To see if the Town will vote to amend its Protective Bylaw, Chapter 125 of the Code of the Town of Harvard, by making the following revisions to §125-18 thereof:

[Key to revisions: underlining = additions; ~~striketrough~~ = deletions]

**§ 125-18. ~~In-law apartment use~~ Accessory Apartment Use. [Added 3-27-1982 ATM by Art. 37; amended 4-5-1986 ATM by Art. 33]**

Intent.

~~It is the intent to provide for the use of a group of rooms in an existing single-family residence as a so-called "in-law apartment" with its own kitchen and bathroom facilities, for the use of a limited number of persons such as, but not limited to, relatives or tenants-at-will, subject to special precautions with respect to privacy, safety, numbers of occupants, and adequacy of water supply and sewage disposal; where the owner is a resident of the premises; and the where the use of such a group of rooms as an apartment is clearly accessory to the principal use of the premises as a single-family residence. It is the further intent that the structural changes, if any, necessary to effect the in-law apartment use be sufficiently modest that such use could be terminated, and a single family reoccupy the entire premises, without substantial hardship in reconstruction.~~

The intent of this bylaw is to provide the owner of an existing single-family residence the possibility of establishing a single and separate accessory apartment in a section of the residence or in an accessory building with no change in the principal use of the premises. The establishment of such an accessory apartment will be by special permit issued by the Zoning Board of Appeals. The outside appearance of the premises shall remain that of a single-family residence. The apartment is for the use of a limited number of persons, with no restriction on the relationship of the occupants to the owner.

To be considered a separate apartment, the apartment must have its own kitchen, sleeping, and interior toilet and bath facilities, as well as a separate entrance. To be considered accessory, the apartment shall be restricted in size relative to the primary residence, and must be clearly accessory to the principal use of the premises as a single-family residence. The apartment will provide adequate privacy, safety, and convenience for the occupants.

Establishment of such an Accessory Apartment is as follows:

- A. Requirements: By special permit from the Board of Appeals, a group of rooms in a single-family residence may be used as a separate one accessory apartment on a premises can be established, provided the applicant demonstrates that:
- (1) The premises primary residence shall have been established as a single-family residence are being used by the owner as a principal residence, and have been used lawfully as principal residence by present or previous owners for a period of at least five years prior to the date of application for the special permit.
  - (2) ~~(5)~~ The outside appearance of the residence and premises shall remain that of a single-family residence premises.
  - (3) The apartment, whether located in a detached accessory structure or in the primary residence structure, shall occupy a maximum of 1200 square feet, but no more than one-third of the total usable floor area of both the apartment and the primary residence.
  - (4) ~~(2)~~ The apartment shall have its own separate entrance from the outside.

- (5) ~~(3)~~ The apartment shall have its own kitchen facilities, sleeping, and its own interior toilet and bathing facilities.
- (6) The rooms in the apartment shall have adequate ventilation and shall have heat that is adequately supplied and controlled.
- (7) The apartment shall have smoke and/or fire detectors.
- (8) ~~(4)~~ Evidence verified in writing by the Board of Health (or its qualified agent) is submitted with, and as part of, the application for special permit, that there is available on the lot an adequate supply of drinking water and adequate provisions for sewerage disposal. If the creation of the accessory apartment involves an increase in the count of the number of bedrooms, the addition must comply with standard Board of Health regulations for such an increase.

B. Limitations: The special permit shall be issued only if it contains the following limitations and ~~precautions~~ conditions:

- (1) ~~(2)~~ The premises shall continue to be used as a principal residence by ~~an~~ its owner.
- (2) ~~(4)~~ The number of residents of the apartment is limited to ~~the number, not exceeding three, but no more than the number~~ which the Board of Appeals finds to be consistent in accordance with the adequacy of the facilities provided, even if each occupant wishes to occupy a separate bed.
- (3) All turnaround and parking areas shall be provided on the lot. As viewed from the street, turnaround and parking area should be that of a single-family premises.
- (4) The special permit shall be issued to the owner of the premises and shall not run with the premises. When the ownership of the premises changes, the special permit shall expire and terminate without any action by the Board of Appeals, unless it is sooner re-issued to the new owner of the premises.

C. Site Standards: ~~This use, standing alone, is not subject to §125-39, Site Standards. A special permit issued under this section, by itself, does not require separate site review under §125-39.~~

, or pass any vote or votes in relation thereto.

(Inserted by Planning Board)

(2/3 vote required)

The following motion was made by Barbara Brady, 316 Stow Road, Planning Board, and seconded,

I move that the Town amend the Protective Bylaw, Chapter 125 of the Code of the Town of Harvard, §125-18 In-law apartment use, by making the revisions as printed under Article 10 in the Finance Committee Report Recommendations and Warrant Articles, Report of the Capital Plan Committee, and Report of the Community Preservation Committee handbook on pages 30

through 32.

Mary Essary, 239 Stow Road, stated that the Planning Board recommended this amendment.

Bob Lerner, 101 West Bare Hill Road, asked if the Planning Board would consider reducing the size to 750 square feet. The proposal was rejected by the Planning Board and dismissed by the proponent.

Bill Marinelli, 50 Stow Road, asked the Planning Board to consider striking section B. (4) The Planning Board accepted amendment.

Bruce Leicher, 58 Warren Avenue asked the Planning Board to add the phrase “shall not run will the land unless it is owner occupied” to B(4). It was not accepted by the Planning Board and was withdrawn.

The following motion was made by Nils Nordberg, 95 Slough Road, and seconded,

Delete 1200 and insert 850, in section A.(3). The Planning Board did not accept the amendment.

Voted majority no, to delete 1200 and insert 850, in section A.(3).

Voted greater than 2/3 yes, to amend the Protective Bylaw, Chapter 125 of the Code of the Town of Harvard, §125-18 In-law apartment use, as follows:

**§ 125-18. Accessory Apartment Use. [Added 3-27-1982 ATM by Art. 37; amended 4-5-1986 ATM by Art. 33]**

**Intent.**

The intent of this bylaw is to provide the owner of an existing single-family residence the possibility of establishing a single and separate accessory apartment in a section of the residence or in an accessory building with no change in the principal use of the premises. The establishment of such an accessory apartment will be by special permit issued by the Zoning Board of Appeals. The outside appearance of the premises shall remain that of a single-family residence. The apartment is for the use of a limited number of persons, with no restriction on the relationship of the occupants to the owner.

To be considered a separate apartment, the apartment must have its own kitchen, sleeping, and interior toilet and bath facilities, as well as a separate entrance. To be considered accessory, the apartment shall be restricted in size relative to the primary residence, and must be clearly accessory to the principal use of the premises as a single-family residence. The apartment will provide adequate privacy, safety, and convenience for the occupants.

Establishment of such an Accessory Apartment is as follows:

- A. Requirements: By special permit from the Board of Appeals, one accessory apartment on a premises can be established, provided the applicant demonstrates that:
- (1) The primary residence shall have been established as a single-family residence at least five years prior to the date of application for the special permit.
  - (2) The outside appearance of the residence and premises shall remain that of a single-family premises.
  - (3) The apartment, whether located in a detached accessory structure or in the primary residence structure, shall occupy a maximum of 1200 square feet, but no more than one-third of the total usable floor area of both the apartment and the primary residence.
  - (4) The apartment shall have its own separate entrance from the outside.
  - (5) The apartment shall have its own kitchen, sleeping, interior toilet and bathing facilities.
  - (6) The rooms in the apartment shall have adequate ventilation and shall have heat that is adequately supplied and controlled.
  - (7) The apartment shall have smoke and/or fire detectors.
  - (8) If the creation of the accessory apartment involves an increase in the count of the number of bedrooms, the addition must comply with standard Board of Health regulations for such an increase.
- B. Limitations: The special permit shall be issued only if it contains the following limitations and conditions:
- (1) The premises shall continue to be used as a principal residence by its owner.
  - (2) The number of residents of the apartment is limited to three, but no more than the number which the Board of Appeals finds to be consistent with the adequacy of the facilities provided.
  - (3) All turnaround and parking areas shall be provided on the lot. As viewed from the street, turnaround and parking area should be that of a single-family premises.
- C. Site Standards: A special permit issued under this section, by itself, does not require separate site review under §125-39.

*Approved by the Attorney General on July 20, 2006.*

**ARTICLE 11: HARVARD ELEMENTARY SCHOOL – RESURFACE DRIVEWAYS**

To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of money to be expended by the School Committee to resurface the front driveway and north side fire lane at the Harvard Elementary School, with unexpended funds as of June 30, 2007 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by School Committee)

On a motion by Mark Hardy, 18 Ann Lees Road, School Committee, and seconded,

Voted majority yes (8 no) that the Town raise and appropriate the sum of \$40,000. to be expended by the School Committee to resurface the front driveway and north side fire lane at the Harvard Elementary School, with unexpended funds as of June 30, 2007 being returned to their funding source.

**ARTICLE 12: HARVARD ELEMENTARY SCHOOL – K-WING BATHROOMS**

To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of money to be expended by the School Committee to renovate the bathrooms located in the Kindergarten Wing at the Harvard Elementary School, with unexpended funds as of June 30, 2007 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by School Committee)

On a motion by Mark Hardy, 18 Ann Lees Road, School Committee, and seconded,

Voted unanimous yes that the Town raise and appropriate the sum of \$25,000 to be expended by the School Committee to renovate the bathrooms located in the Kindergarten Wing at the Harvard Elementary School, with unexpended funds as of June 30, 2007 being returned to their funding source.

**ARTICLE 13: BROMFIELD HOUSE WINDOWS AND PAINTING**

To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of money to be expended by the School Committee to repair the windows and to paint the exterior of the Bromfield House, with unexpended funds as of June 30, 2007 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by School Committee)

On a motion by Mark Hardy, 18 Ann Lees Road, School Committee, and seconded,

Voted unanimous yes, that the Town raise and appropriate the sum of \$40,000. to be expended by the School Committee to repair the windows and to paint the exterior of the Bromfield House, with unexpended funds as of June 30, 2007 being returned to their funding source.

**ARTICLE 14: INSTALL WATER LINE FROM CROSS STREET/OAK HILL ROAD INTERSECTION TO TOWN CENTER**

To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of money to install a water line from the intersection of Cross Street and Oak Hill Road to the Town Center, with unexpended funds as of June 30, 2007 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by Water Commission)

On a motion by David Swain, 25 Fairbank Street, Water Commission, and seconded,

Voted unanimous yes, that the Town raise and appropriate the sum of \$50,000. to install a water line from the intersection of Cross Street and Oak Hill Road to the Town Center, with unexpended funds as of June 30, 2007 being returned to their funding source.

**ARTICLE 15: RESOLUTION: DEVENS DISPOSITION**

To see if the Town will vote to endorse a proposal to establish the Town of Devens within the historic geographic boundaries of Harvard and Ayer. This would result in the Town of Harvard assuming jurisdiction over the “Barnum Road” area of Devens; or pass any other vote or votes in relation thereto.

(Inserted by Board of Selectmen)

The following motion was made by William Marinelli, 50 Stow Road, Board of Selectmen, and seconded,

I move that the Town vote to endorse a proposal to establish the Town of Devens within the historic geographic boundaries of Harvard and Ayer. This would result in the Town of Harvard assuming jurisdiction over the “Barnum Road” area of Devens.

A presentation was made by Rick Maiore, 12 Woodchuck Hill Road, Devens Focus Committee.

After 2 ½ hours of debate, a motion to move the question was seconded, and voted majority yes.

Voted 187 yes, 201 no, (does **NOT** pass) that the Town endorse a proposal to establish the Town of Devens within the historical geographic boundaries of Harvard and Ayer. This would result in the Town of Harvard assuming jurisdiction over the “Barnum Road” area of Devens.

**ARTICLE 16: NEW HARVARD PUBLIC LIBRARY – OPERATING COSTS**

To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of money to be expended by the Board of Library Trustees to operate the new Harvard Public

Library located at the Old Bromfield building, or pass any vote or votes in relation thereto.  
(Inserted by Finance Committee)

On a motion by George McKenna, 41 Old Littleton Road, Finance Committee, and seconded,

Voted majority yes that the Town transfer from the General Stabilization Fund the sum of \$24,500. to be expended by the Board of Library Trustees to operate the new Harvard Public Library located at the Old Bromfield building.

**ARTICLE 17: PLANNING/DESIGN FOR RE-USE OF TOWN CENTER MUNICIPAL BUILDINGS**

To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of money to be expended by the Board of Selectmen for the planning and design for the re-use of the current library and Town Hall buildings, with unexpended funds as of June 30, 2007 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by Board of Selectmen)

On a motion by Lucy Wallace, 18 Orchard Hill, Board of Selectmen, and seconded,

Voted majority yes (1 no) that the Town raise and appropriate the sum of \$5,000. to be expended by the Board of Selectmen for the planning and design for the re-use of the current library and Town Hall buildings, with unexpended funds as of June 30, 2007 being returned to their funding source.

**ARTICLE 18: AMEND PROTECTIVE BYLAW – SITE STANDARDS FOR DRIVEWAYS**

To see if the Town will vote to amend the Protective Bylaw, Chapter 125 of the Code of the Town of Harvard, by making the following revisions to §125-39 thereof:

[Key to revisions: underlining = additions; ~~striketrough~~ = deletions]

§125-39 A (3)(a)

[1] Parking stalls at least 9 1/2 by 19 feet.

§125-39 B

Table 1: Lane Widths for Driveways Less Than or Equal to 150 Feet Long

<b>Application</b>	<i>Dual Lane</i>	<i>Separate Lanes</i>	
		Entrance Lane	Exit Lane

---

<u>Residential use with parking for up to 12 cars or for non-industrial use for pickup/delivery or parking for 12 cars</u>	16 feet min.*		
<u>Use by cars only with 12 parking spaces</u> <u>Residential use with parking for more than 12 cars or for non-industrial use for pickup/delivery</u>		8 ft min. 16 ft max.	8 ft min. 13 ft max.
Loading and parking for trucks		12 ft min. 16 ft max.	12 ft min. 13 ft max.

**NOTES:**

\* Twelve feet minimum for branch driveway ~~servicing~~ servicing a one- or two-family residence. May also be reduced to 12 (twelve) feet by the special permit granting authority upon a finding that light use warrants the lesser dimension, if a special permit is involved.

**§125-39 B (4) Radius of curvature.** The minimum center-line radius of curvature of a driveway may not be less than ~~80~~ 40 feet ~~except for a driveway that serves a residential use in the AR District, for which the minimum radius of curvature shall be greater than 40 feet.~~ However, specific design standards for intersections and turnarounds shall take precedence over these general curvature requirements.

**§125-39 B (4)**

Table 2 Lane and Shoulder Widths for Driveways More Than 150 Feet Long and Curved Driveways.

For General traffic, change shoulder width  $S = 61 + 150/C$

**§125-39 B (5) (e)**

The angle of intersection of the driveway center line with the roadway center line is ~~not less than~~ at least 60° and the transition from driveway to roadway is flared so that vehicles, including an SU30, may make the required turns without leaving the surface of either, or, if lanes are marked, without leaving marked lanes.

[1] For the purpose of designing flares, a passenger car has the turning radii of an American Association of State Highway Officials (AASHO) passenger car, P20, and a “fire truck” or “moving van” [see §125-29F(1)(f)] has the turning radii of an AASHO single-unit truck, SU30, with minimum turning radii as follows:

Vehicle	Inside Radius	Outside Radius
---------	---------------	----------------

Car	20 feet	30 feet
Truck	30 feet	45 feet

[2] ~~For the purpose of providing truck access to residential uses in the AR District, and for the purpose of utilizing the intersection of a branch of a shared driveway as a required turnaround for such trucks, the~~ The flare at an intersection of a branch of the driveway is designed so that vehicles may make the required turn. If there is no additional turnaround, the intersection must be constructed so that it can serve as a turnaround for vehicles. ~~will be satisfactory is the radius of curvature of the flare (R in the illustration below) is at least 30 feet and both driveway (or branch) and roadway (or main driveway) are at least 16 feet wide for a distance of at least 30 feet from the intersection of their center lines in all (three) directions.~~ Exception: If the lot frontage and the roadway are too narrow to permit an AASHO SU truck to make both turns in a single pass, the driveway layout shall favor the turn from the direction of the fire station, by the most likely route.

3] ~~Where the lane width of the street roadway and the lot frontage are adequate, the transition from a driveway shall be flared so that the edge of the paved or traveled portion of each flare has a radius R (indicated in the illustration below). If the driveway is primarily for use by cars, the flare dimensions shall be computed, with linear interpolation for intermediate cases, in accordance with the Table of Flare Dimensions, Table 3 below. If the driveway is intended for use by trucks, or for shared use by cars and trailer trucks, the dimensions in Table 3 are to be increased uniformly by 10 feet.~~

[4] ~~The circular flare arcs may be approximated in whole or in part by straight lines tangent to the circle, provided that the straight lines are themselves joined with an arc of five foot radius where they intersect one another, and provided that the length of any such line segment from its tangency with the flare circle does not exceed 1/2 the radius R of the flare circle. If the frontage is limited (for example, to 50 feet for an existing Type 2 lot), such broken line approximation shall be used for the first 60° of flare arc from the roadway, so that the first line is a continuation of the roadway line and the second turns from it by an angle of at least 60°.~~

, or pass any vote or votes in relation thereto.

(Inserted by Planning Board)

(2/3 vote required)

On a motion by Mary Essary, Stow Road, Planning Board, and seconded,

Voted declared 2/3 yes (1 no) that the Town amend the Protective Bylaw, Chapter 125 of the Code of the Town of Harvard, §125-39 by making the revisions as printed under Article 18 in the Finance Committee Report Recommendations and Warrant Articles, Report of the Capital Plan Committee, and Report of the Community Preservation Committee handbook on pages 36 through 38, and with the amendments as reflected in the handout. [See wording below.]

**§125-39 A (3)(a)**

[1] Parking stalls at least 9 by 19 feet.

**§125-39 B**

B. Standards for driveways. The intent is to make available site standards for driveways which are appropriate to the intensity of actual use. For a driveway which serves only one- or two-family residences the use of this site standard is required only if it is specifically so stated in § 125-31, Driveways, of this Bylaw. [Amended 3-27-1982 ATM by Art. 40; 3-31-1984 ATM by Art. 28]

1. Number of lanes. For each site, the total number of traffic access lanes shall not exceed three plus one for each 200 feet of frontage or additional fraction thereof. Lanes shall be grouped into driveways, which shall not encroach on the buffer strip except to intersect with the street, and to reach said intersection directly from within the interior of the lot. Lane width and driveway width shall be determined by severest intensity of use in accordance with the following Tables 1, 2, and 3.
2. Residential use. Driveways installed to serve residential uses of the type permitted in the AR District (but not more than eight dwelling units) may be constructed with a single lane, provided that it widens to at least a twenty-five-foot length of dual lane every 300 feet along its length, with one such dual lane section at the street or its intersection with another driveway.
3. Lane and shoulder width. If either of the following conditions apply, the access lanes shall have a curvature-dependent minimum width  $W$ , and the driveway shall also have a minimum shoulder width  $S$ , both dependent on the inside radius of curvature  $C$  of the access lane, as given in Table 2; otherwise lane widths shall be as in Table 1: [Amended 3-29-2003 ATM by Art. 37]
  - a. If the lane is part of a driveway more than 50 feet long; or
  - b. If the lane has a center-line radius of curvature less than 150 feet.
4. Radius of curvature. The minimum center-line radius of curvature of a driveway may not be less than 40 feet. However, specific design standards for intersections and turnarounds shall take precedence over these general curvature requirements.

**Table 1: Lane Widths for Driveways Less than or equal to 150 Feet Long**

Application	Dual Lane	Separate Lanes	
		Entrance Lane	Exit Lane
Residential use with parking for up to 12 cars or for non-industrial use for pickup/delivery*	16 feet min.*		

Residential use with parking for more than 12 cars or for non-industrial use for pickup/delivery		8 ft min. 16 ft max.	8 ft min. 13 ft max.
Loading and parking for trucks		12 ft min. 16 ft max.	12 ft min. 13 ft max.

\*Twelve feet minimum for single-lane driveway or branch driveway serving one- or two-family residence(s).

**Table 2  
Lane and Shoulder Widths for  
Driveways More than 150 Feet Long and Curved Driveways**

Use	Formula	Notes
Single-lane driveway or branch driveway serving residence(s) in AR District	$W = 10 + 225/C$ $S = 1 + 150/C$	Widens to two lanes every 300ft. and at intersections
Dual lane, where dual lane required	$W=14 + 225/C$ (16 ft. min. width*) $S=1 + 150/C$	Use formula if $C \leq 100$ ft. Plus drainage $C \leq 150$ (extra width only on inside shoulder)
General traffic.	$W=10 + 200/C$ $S= 1+150/C$	Use formula if $C \leq 100$ ft.

**NOTES:**

Round off calculated distances to nearest foot.

\*Add two feet to width of both lane and shoulder if drive-side parking likely.

**§125-39 B (5) (e)**

The angle of intersection of the driveway center line with the roadway center line is at least 60° and the transition from driveway to roadway is flared so that vehicles, including an SU30, may make the required turns without leaving the surface of either, or, if lanes are marked, without leaving marked lanes.

[1] For the purpose of designing flares, a passenger car has the turning radii of an American Association of State Highway Officials (AASHO) passenger car, P20, and a “fire truck” or “moving van” [see §125-29F(1)(f)] has the turning radii of an AASHO single-unit truck, SU30, with minimum turning radii as follows:

Vehicle	Inside Radius	Outside Radius
Car	20 feet	30 feet
Truck	30 feet	45 feet

[2] The flare at an intersection of a branch of the driveway is designed so that vehicles may make the required turn. If there is no additional turnaround, the intersection must be constructed so that it can serve as a turnaround for vehicles. Exception: If the lot frontage and the roadway are too narrow to permit an AASHO SU truck to make both turns in a single pass, the driveway layout shall favor the turn from the direction of the fire station, by the most likely route.

~~3]\_\_\_\_\_Where the lane width of the street roadway and the lot frontage are adequate, the transition from a driveway shall be flared so that the edge of the paved or traveled portion of each flare has a radius R (indicated in the illustration below). If the driveway is primarily for use by cars, the flare dimensions shall be computed, with linear interpolation for intermediate cases, in accordance with the Table of Flare Dimensions, Table 3 below. If the driveway is intended for use by trucks, or for shared use by cars and trailer trucks, the dimensions in Table 3 are to be increased uniformly by 10 feet.~~

~~[4]\_\_\_\_\_The circular flare arcs may be approximated in whole or in part by straight lines tangent to the circle, provided that the straight lines are themselves joined with an arc of five foot radius where they intersect one another, and provided that the length of any such line segment from its tangency with the flare circle does not exceed 1/2 the radius R of the flare circle. If the frontage is limited (for example, to 50 feet for an existing Type 2 lot), such broken line approximation shall be used for the first 60° of flare arc from the roadway, so that the first line is a continuation of the roadway line and the second turns from it by an angle of at least 60°.~~

The Planning Board recommended the bylaw unanimously in a verbal report.

*Approved by the Attorney General on July 20, 2006.*

## **ARTICLE 19: AMEND PROTECTIVE BYLAW – REZONE HARVARD GREEN**

To see if the Town will vote to amend the Protective Bylaw, Chapter 125 of the Code of the Town of Harvard, by amending the Zoning Map referenced in §125-42 B thereof and on file in the Office of the Town Clerk by changing the zoning district within which the parcel of land on Lancaster County Road shown as Lot 62.1 on Assessors Map 8 is located from C (Commercial) to AR (Agricultural-Residential).

, or pass any vote or votes in relation thereto.

(Inserted by Planning Board)

(2/3 vote required)

On a motion by Eric Nestler, 31 Cruft Lane, Planning Board, and seconded,

Voted greater than 2/3 (3 no), that the Town amend the Protective Bylaw, Chapter 125 of the Code of the Town of Harvard, by amending the Zoning Map referenced in §125-42 B thereof and on file in the Office of the Town Clerk by changing the zoning district within which the parcel of land on Lancaster County Road shown as Lot 62.1 on Assessors Map 8 is located from

C (Commercial) to AR (Agricultural-Residential).

The Planning Board recommended the bylaw unanimously in a verbal report.

*Approved by the Attorney General on July 20, 2006.*

**At 4:30 p.m. a motion to adjourn to a date and time specific was seconded, but was voted majority no.**

#### **ARTICLE 20: CONTRACT – DISPATCHER WAGES**

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to be added to line #21, Communications Department Personnel of Article 5 of this Warrant in order to fund the collective bargaining agreement negotiated with the Dispatchers Union, or pass any vote or votes in relation thereto.

(Inserted by Board of Selectmen)

On a motion by Randy Dean, 48 Madigan Lane, Board of Selectmen, and seconded,

Voted unanimously yes, that the Town raise and appropriate the sum of \$3,500. to be added to line #21, Communications Department Personnel of Article 5 of this Warrant in order to fund the collective bargaining agreement negotiated with the Dispatchers Union.

#### **ARTICLE 21: AMEND GENERAL BYLAWS – NEW WETLANDS PROTECTION BYLAW**

To see if the Town will amend the Code of the Town of Harvard by deleting therefrom Chapter 119, Wetlands Protection, in its entirety and replacing it with the following new Chapter 119 and making corresponding revisions to the list of section headings preceding the text of said Chapter 119.:

##### **§119-1. Purpose.**

The purpose of this bylaw is to protect the wetlands, water resources and adjoining land areas in the Town of Harvard by controlling activities deemed by the Conservation Commission likely to have a significant or cumulative impact upon resource area values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water quality, water pollution control, fisheries, shellfisheries, wildlife habitat, rare species habitat including rare plant species, agriculture, aquaculture, and recreation values deemed important to the community (collectively, the “resource area values protected by this bylaw”). This bylaw is intended to utilize the Home Rule authority of the Town of Harvard to protect additional resource areas, for additional values, with additional standards and procedures stricter than those of the Wetlands Protection Act (M.G.L. Chapter 131, Section 40)

and Regulations promulgated thereunder (310 CMR 10.00), subject, however, to the rights and benefits accorded to agricultural uses and structures of all kinds under the laws of the Commonwealth.

§119-2. Jurisdiction.

Except as permitted by the Conservation Commission (sometimes hereinafter “Commission”) or as provided in this bylaw, no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resources: any wetlands; marshes; wet meadows; bogs; swamps; vernal pools; banks; reservoirs; lakes; ponds of any size; rivers; streams; creeks; beaches; dunes; estuaries; land subject to flooding; land under water bodies; and lands abutting any of the aforesaid resources as set out in §119-7 of this bylaw (collectively, the “resource areas protected by this bylaw”). Said resource areas shall be protected whether or not they border surface waters.

**§119-3. Exemptions and Exceptions.**

A. The application and permit required by this bylaw shall not be required for work performed for normal maintenance or improvement of land in agricultural use, provided that written notice has been given to the Conservation Commission prior to commencement of work and provided that the work conforms to any performance standards and design specifications in regulations adopted by the Commission.

B. The application and permit required by this bylaw shall not be required for maintaining, repairing or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph or other telecommunication services, provided that written notice has been given to the Commission prior to commencement of work and provided that the work conforms to any performance standards and design specifications in regulations adopted by the Commission.

C. The application and permit required by this bylaw shall not be required for emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof; provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement; provided that the Commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Conservation Commission for review as provided by this bylaw. Upon failure to meet these and other requirements of the Conservation Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

D. Other than stated in this section, the exceptions provided in the Wetlands Protection Act and Regulations promulgated thereunder shall not apply under this bylaw.

#### **§119-4. Applications and Fees.**

A. Written application shall be filed with the Conservation Commission to perform activities affecting resource areas protected by this bylaw. The permit application or Notice of Intent (NOI) shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by this bylaw. No activities shall commence without receiving and complying with a permit issued pursuant to this bylaw.

B. The Commission in an appropriate case may accept as the application and plans under this bylaw any application and plans filed under the Wetlands Protection Act and the Regulations promulgated thereunder.

C. Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may in writing request a determination from the Commission. Such a Request for Determination (RFD) shall include information and plans as are deemed necessary by the Commission.

D. Any person desiring to know where a resource area or a wetland line lies may in writing submit an Abbreviated Notice of Resource Delineation (ANRAD) from the Commission. Such a Request for Delineation shall include information and plans as are deemed necessary by the Commission.

E. At the time of an application, the applicant shall pay a filing fee specified in regulations of the Commission. The fee is in addition to that required by the Wetlands Protection Act and the Regulations promulgated thereunder.

F. Upon receipt of an application or at any point during the hearing process, the Conservation Commission is authorized to require an applicant to pay a fee for the reasonable costs and expenses borne by the Commission for specific expert engineering and other consultant services deemed necessary by the Commission to reach a final decision on the application. This fee is called the "consultant fee." The specific consultant services may include, but are not limited to, performing or verifying the accuracy of resource area survey and delineation; analyzing resource area functions and values, including wildlife habitat evaluations, hydrogeologic and drainage analysis; and researching environmental or land use law.

G. Filing and/or Consultant Fees shall be deposited in a separate account (a revolving fund) for uses set out in the vote establishing it. This account will be kept separate from the account established for filing fees paid under the state Wetlands Protection Act.

H. The exercise of discretion by the Commission in making its determination to require the payment of a consultant fee shall be based upon its reasonable finding that additional information available through outside consultants is necessary for the making of an objective decision. Any applicant aggrieved by the imposition of, or size of, the consultant fee, or any act related thereto, may appeal according to the provisions of the Massachusetts General Laws.

I. The Commission may waive the filing fee, consultant fee and costs and expenses for a permit or other application or RFD filed by a government agency, the town, or a non-governmental organization working the interest of the Town.

#### **§119-5. Notice and Hearings.**

A. Any person filing a permit or other application or RFD with the Conservation Commission at the same time shall give to all Abutters (as described below) written notice thereof, delivered by hand or by certified mail (return receipt requested) to their mailing addresses shown on the most recent applicable tax list of the Assessors of the Town. These Abutters include owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the applicant, including any in another municipality or across a body of water. The notice to abutters shall have enclosed a copy of the application or request, with plans, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission.

B. When a person requesting a determination is other than the owner, the request, the notice of the hearing and the determination itself shall be sent by the Commission to the owner as well as to the person making the request.

C. The Commission shall conduct a public hearing on any permit application, NOI, ANRAD or RFD, with written notice given in a newspaper of general circulation in the Town at the expense of the applicant at least five business days prior to the hearing.

D. The Commission shall commence the public hearing within 21 days from receipt of a completed permit application, NOI, ANRAD or RFD unless an extension is authorized in writing by the applicant. The Commission shall have authority to continue the hearing to a specific date and time announced at the hearing, for reasons stated at the hearing, which may include the need for additional information from the applicant or others deemed necessary by the Commission in its discretion, based on comments and recommendations of the boards and officials listed in §119-6.

E. The Commission shall issue its permit, order, delineation or determination (See §119-7 Permits and Conditions) in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant.

F. The Commission in an appropriate case may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act and the Regulations promulgated thereunder.

#### **§119-6. Coordination with Other Town Boards and Officials.**

A. Any person filing a permit application, NOI, ANRAD or RFD with the Conservation Commission may be required to provide a copy thereof, by certified mail (return receipt requested) or hand delivery, to the Town's Board of Selectmen, Planning Board, Board of Appeals, Board of Health, Building Inspector, Fire Chief or Police Chief. A copy shall be provided in the same manner to the Conservation Commission of the adjoining municipality if the application pertains to property within 300 feet of that municipality. An affidavit of the person providing notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. The Commission shall not take final action until the Town boards and officials have had 14 days from receipt of

notice to file written comments and recommendations with the Commission, which the Commission shall take into account but which shall not be binding on the Commission. The applicant shall have the right to receive any comments and recommendations and to respond to them at a hearing of the Commission prior to final action.

B. Any person filing a permit application, NOI, ANRAD or RFD with the Conservation Commission shall, if other permits from other boards are required for their project, file simultaneously with those boards. Any information or plans communicated to those boards shall also be sent to the Commission.

#### **§119-7. Permits and Conditions.**

A. If the Conservation Commission, after a public hearing, determines that the activities which are subject to the permit application or the land and water uses which will result there from, are likely to have a significant specific or cumulative effect upon the resource area values protected by this bylaw, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions that the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions. The Commission shall take into account the cumulative adverse effects of loss, degradation, isolation and replication of protected resource areas throughout the Town and the watershed, resulting from past activities, permitted and exempt, and foreseeable future activities.

B. Where no conditions are adequate to protect those resource values, the Commission is empowered to deny a permit for failure to meet the requirements of this bylaw. It may also deny a permit: for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in regulations of the Commission; or for failure to avoid or prevent unacceptable significant or cumulative effects upon the resource area values protected by this bylaw. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

C. Resource Areas are presumed to be important for the protection of the resources enumerated in §119-2 because activities undertaken in close proximity to resource areas have a high likelihood of adverse impact upon the wetland or other resource, either immediately, as a consequence of construction, or over time, as a consequence of daily operations or existence of the activities. These adverse impacts from construction and use can include, without limitation: erosion, siltation, loss of groundwater recharge, poor water quality and loss of wildlife habitat. The Commission may therefore establish performance standards for protection of such lands including, without limitation, strips of continuous, undisturbed vegetative cover within the 200-foot or 100-foot area, or other form of work limit or setback to buildings, roads, landscaping and other features, unless the applicant convinces the Commission that the area or part of it may be disturbed without harm to the values protected by the bylaw. The specific size and type of protected area may be established by regulations of the Commission.

D. In the review of Resource Areas, no permit issued hereunder shall permit any activities unless

the applicant, in addition to meeting the otherwise applicable requirements of this bylaw, has proved by a preponderance of the evidence that (1) there is no practicable alternative to the proposed project with less adverse effects, and that (2) such activities, including proposed mitigation measures, will have no significant adverse impact on the areas or values protected by this bylaw. The Commission shall regard as practicable an alternative that is reasonably available and capable of being done after taking into consideration the proposed property use, overall project purpose (e.g. its residential, institutional, commercial, or industrial purpose), logistics, existing technology, costs of the alternatives, and overall project costs.

E. To prevent wetlands loss, the Commission shall require applicants to avoid wetlands alteration wherever feasible; to minimize wetlands alteration; and, where alteration is unavoidable, to install full mitigation. The Commission may authorize or require replication of wetlands as a form of mitigation, but only with adequate security, professional design and monitoring to ensure success, because of the high likelihood of failure of replication.

F. The Commission is authorized to require an applicant to pay a fee for the reasonable costs borne by the Commission for a wildlife habitat study of the project area whenever it deems appropriate, regardless of the type of resource area or the amount or type of alteration proposed. The decision shall be based upon the Commission's estimation of the importance of the habitat area considering, but not limited to, such factors as: proximity to other areas suitable for wildlife, the importance of wildlife corridors in the area, or the possible presence of rare species in the area. The work shall be performed by an individual who at least meets the qualifications set out in the wildlife habitat section of the Wetlands Protection Act Regulations (310 CMR 10.60).

G. The Commission shall presume that all areas meeting the definition of "vernal pool" under §119-9 of this bylaw, including the 200-foot adjacent area, perform essential habitat functions. This presumption may be overcome only by the presentation of credible evidence that, in the judgment of the Commission, demonstrates that the basin or depression does not provide essential habitat functions. Any formal evaluation should be performed by an individual who at least meets the qualifications set out in the wildlife habitat section of the Wetlands Protection Act Regulations (310 CMR 10.60).

H. A permit shall expire three years from the date of issuance. Any permit may be renewed once for an additional one-year period, provided that the Commission, prior to expiration, receives a request for a renewal in writing. The Conservation Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. A permit may identify requirements that shall be enforceable for a stated number of years, in perpetuity, or until permanent protection is in place, and shall apply to current and subsequent owners of the land affected thereby.

I. For good cause, the Commission may revoke any permit, delineation, determination or other decision issued under this bylaw after notice to the holder of the permit, the public, abutters and town boards pursuant to §119-5 and §119-6 of this bylaw and a public hearing. Amendments to permits, delineations or determinations shall be handled in the manner set out in the Wetlands Protection Act Regulations and policies adopted thereunder.

J. The Conservation Commission in appropriated cases may combine the decision issued under the bylaw with the Order of Conditions (OOC), Order of Resource Area Delineation (ORAD), Determination of Applicability (DOA) or Certificate of Compliance (COC) issued under the Wetland Protection Act and the Regulations promulgated thereunder.

K. No work proposed in any application shall be undertaken until the permit, OOC, ORAD or DOA issued by the Commission with respect to such work has been recorded in the Worcester County Registry of Deeds or, if the land affected is registered land, in the registry section of the Land Court for Worcester County, and until the holder of the permit certifies in writing to the Commission that the document has been recorded. If the applicant fails to perform, the Commission may record the document.

### **§119-8. Regulations**

A. After public notice and public hearing, the Conservation Commission shall promulgate rules and regulations to effectuate the purposes of this bylaw, effective when adopted by the Commission and filed with the Town Clerk. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not operate to suspend or invalidate the effect of this bylaw.

B. At a minimum these regulations shall define key terms in this bylaw not inconsistent with the bylaw, and procedures governing the amount and filing of fees.

### **§119-9. Definitions.**

The following definitions shall apply in the interpretation and implementation of this bylaw

The term “abutter” shall mean, in addition to the usual meaning of the term, owners of land directly opposite on any public or private street or way, and abutters to abutters within 300 feet of the property line of the applicant, including any in another municipality or across a body of water.

The term ‘alter’ shall include, without limitation, the following activities when undertaken to, upon, within, or affecting resource areas protected by this bylaw:

- Removal, excavation or dredging of soil, sand, gravel or aggregate materials of any kind
- Changing of preexisting drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns or flood retention characteristics
- Drainage or other disturbance of water level or water table
- Dumping, discharging or filling with any material which may degrade water quality
- Placing of fill or removal of matter that would alter elevation
- Driving of piles, erection, expansion or repair of buildings or structures of any kind
- Placing obstructions or objects in water
- Destruction of plant life including cutting or trimming of trees and shrubs
- Changing temperature, biochemical oxygen demand or other physical, biological or chemical characteristics of any waters

- Any activities, changes or work that may cause or tend to contribute to pollution of any body of water or groundwater
- Incremental activities that have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw

The term “Bank” shall include the land area which normally abuts and confines a water body; the lower boundary being the mean annual low flow level and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.

The phrase “land in agricultural use” shall mean land within resource areas presently and primarily used in producing or raising the following agricultural commodities for commercial purposes:

1. Animals, including but not limited to livestock, poultry and bees;
2. Fruits, vegetables, berries, nuts, maple sap and other foods for human consumption;
3. Feed, seed, forage, tobacco, sod, nursery or greenhouse products and ornamental plants or shrubs; and
4. Forest products on land maintained in forest use, including but not limited to biomass, saw logs and cordwood, but not including the agricultural commodities described in 310 CMR 10.4 (Agriculture)(a)1. through 3..

The abbreviated term “M.G.L.” shall mean the General Laws of the Commonwealth of Massachusetts.

The term “person” shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to Town bylaw, administrative agency, public or quasi-public corporation or body, the Town of Harvard, and any other legal entity, its legal representatives, agents or assigns.

The term “pond” shall follow the definition of 310 CMR 10.04 except that the size threshold of 10,000 square feet shall not apply.

The term “rare species” shall include, without limitation, all vertebrate and invertebrate animal and all plant species listed as endangered, threatened or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless of whether the site in which they occur has been previously identified by the Division.

The term “resource area” shall mean any wetlands; marshes; wet meadows; bogs; swamps; vernal pools; banks; reservoirs; lakes; ponds of any size; rivers; streams; creeks; beaches; dunes; estuaries; land subject to flooding; land under water bodies and lands within 200 feet of rivers, ponds, vernal pools, and lakes, and lands within 100 feet of other resources

The term “Town” shall mean the Town of Harvard.

The term “vernal pool” shall include, in addition to scientific definitions found in the regulations under the Wetlands Protection Act, any confined basin or depression which, at least in most years,

holds water for a minimum of two continuous months during the spring and/or summer, contain at least 200 cubic feet of water at some time during most years, is free of adult predatory fish populations and provides essential breeding and rearing habitat functions for amphibian, reptile or other vernal pool community species, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife. The boundary of the resource area for vernal pools shall be 200 feet outward from the mean annual high-water line defining the depression.

Except as otherwise provided in this bylaw or in regulations of the Conservation Commission, the definitions of terms and procedures in this bylaw shall be as set forth in the Wetlands Protection Act (G.L. Ch. 131 section 40) and Regulations (310 CMR 10.00).

#### **§119-10. Security.**

A. As part of a permit issued under this bylaw, in addition to any security required by any other Town board or state board, agency or official, the Commission may require that the performance and observance of the conditions imposed thereunder (including conditions requiring mitigation work) be secured wholly or in part by one or more of the methods described below:

- (1) By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Conservation Commission, to be released in whole or in part upon issuance of a Certificate of Compliance for work performed pursuant to the permit.
- (2) By accepting a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of the Town of Harvard whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.

#### **§119-11. Enforcement.**

A. No person shall remove, fill, dredge, build upon, degrade or otherwise alter resource areas protected by this bylaw, or cause, suffer or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.

B. The Commission, its agents, officers and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this bylaw and may make or cause to be made such examinations, surveys or sampling as the Commission deems necessary, subject to the Constitutions and laws of the United States and the Commonwealth.

C. The Commission shall have authority to enforce this bylaw, its regulations and permits issued thereunder by violation notices, non-criminal disposition under M.G.L. Chapter 40, Section 21D, and civil and criminal court actions. Any person who violates provisions of this bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.

D. Upon request of the Conservation Commission, the Town's Board of Selectmen and Town Counsel may take civil legal action to enforce said provisions. Upon request of the Conservation Commission, the Town's Chief of Police criminally prosecute violations of said provisions.

E. Town boards and officers, including any police officer of the Town or other officer having police powers, shall have authority to assist the Commission in the enforcement of said provisions.

F. Any person who violates any provision of this bylaw, or the regulations adopted by the Commission pursuant to §199-8 of this bylaw, permits or administrative orders issued hereunder, shall be punished by a fine of \$300.00. Each day or portion thereof during which a violation continues or unauthorized fill or other alteration remains in place shall constitute a separate offense and each provision of the bylaw, regulations, permits or administrative orders violated shall constitute a separate offense.

G. As an alternative to criminal prosecution in a specific case, the Conservation Commission may issue citations under the non-criminal disposition procedure set forth in M.G.L. Chapter 40 Section 21D.

#### **§119-12. Burden of Proof.**

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the resource area values protected by the bylaw. Failure to provide adequate evidence to the Conservation Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

#### **§119-13. Appeals.**

A decision of the Conservation Commission under this bylaw shall be reviewable in the Superior Court Department of the Trial Court of the Commonwealth in accordance with M.G.L. Chapter 249, Section 4.

#### **§119-14. Relation to the Wetlands Protection Act.**

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetland Protection Act (M.G.L. Chapter 131, Section 40) and the Regulations (310 CMR 1.00) promulgated thereunder.

#### **§119-15. Severability.**

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit, approval or determination, which previously has been issued.

, or pass any vote or votes in relation thereto.

(Inserted by Board of Selectmen)

On a motion by Bob Eubank, 16 Old Schoolhouse Road, Board of Selectmen, and seconded,

Voted majority yes that the Town amend the Code of the Town of Harvard by deleting therefrom Chapter 119, Wetlands Protection, in its entirety and replacing it with a new Chapter 119 and making corresponding revisions to the list of section headings preceding the text of said Chapter 119 as printed under Article 21 in the Finance Committee Report Recommendations and Warrant Articles, Report of the Capital Plan Committee, and Report of the Community Preservation Committee handbook on pages 39 through 49. [See wording above.]

***Approved by the Attorney General on July 20, 2006, with the following exception: delete highlighted wording in the following paragraph:***

**§119-3. Exemptions and Exceptions.**

A. The application and permit required by this bylaw shall not be required for work performed for normal maintenance or improvement of land in agricultural use. , provided that written notice has been given to the Conservation Commission prior to commencement of work and provided that the work conforms to any performance standards and design specifications in regulations adopted by the Commission.

***Bylaw effective on posting date of July 26, 2006.***

A motion to move the question was seconded and voted majority yes.

Prior to the lunch break, Harvard Brownie Troop # 7 presented a new town flag to the Town.

On a motion by Lucy Wallace, 18 Orchard Hill, Board of Selectmen, and seconded,

Voted unanimously yes, that the Town accept the town flag as presented and deliver it to the State House to be hung in the Hall of Flags.

At 4:55 p.m. a motion to adjourn to 7:00 p.m., March 27, 2006, in the Harvard Elementary School Cafeteria was seconded and voted unanimously yes.

Checkers for the meeting were Ruth Miller, Marilyn Morgan, Nancy Reifenstein, Betty Stone, and Jean McCrosky. They checked in 661 voters out of a total of 3849 registered voters (3581 active voters).

Respectfully submitted,  
Janet A. Vellante

Town Clerk

**ANNUAL TOWN MEETING  
SECOND SESSION**

**MARCH 27, 2006**

The meeting was reconvened in the Elementary School Cafeteria at 7:03 p.m. by Moderator David Westerling.

On a motion by Moderator David Westerling, and seconded,

Voted unanimously yes, that the town allow the following non-voters to speak to the meeting if necessary:

Mark Lanza	Town Counsel
Lorraine Leonard	Finance Director
Robert Mignard	Fire Chief

**ARTICLE 22: GENERAL BYLAW – AGRICULTURAL ADVISORY COMMISSION**

To see if the Town will vote to amend the Code of the Town of Harvard by adding thereto the following general bylaw establishing an Agricultural Advisory Commission to represent the Harvard commercial farming and agricultural community, as well as other farming activities:

**“Chapter 4**

**AGRICULTURAL ADVISORY COMMISSION**

**§4-1. Purpose.** The purpose of the Agricultural Advisory Commission, sometimes hereinafter “the Commission”, is to support commercial agriculture and other farming activities in the Town of Harvard. The Commission’s duties shall include, but are not limited to: serving as facilitators for encouraging the pursuits of agriculture in Harvard; promoting agricultural-based economic opportunities in Town; acting as mediators, advocates, educators, and/or negotiators on farming issues; working for preservation of prime agricultural lands; advising the Board of Selectman, Planning Board, Zoning Board of Appeals, Conservation Commission, Board of Health, Historical Commission, Board of Assessors, and the Open Space Committee, or any other appropriate Town Boards, on issues involving agriculture; and pursuing all initiatives appropriate to creating a sustainable agricultural community.

**§4-2. Membership.** The Agricultural Advisory Commission shall consist of five members appointed by the Board of Selectman, the majority of which Commission’s membership shall be substantially engaged in the pursuit of agriculture. All members of the Commission must either be residents of the Town, or owners and farmers of agricultural property within the Town.

There may be up to three alternates appointed to the Commission by the Selectman. Said alternates shall be designated by the Chair of the Commission to fill any vacancies at meetings of the Commission, regardless of the reason for the vacancy.

In making its appointments, the Board of Selectman shall consider the intent of the Commission to represent the agricultural interests of the Town.

The members shall serve overlapping terms of three years. For the first Agricultural Advisory Commission, the Board of Selectmen shall appoint two members for a term of three years, two members for a term of two years and one member for a term of one year. Thereafter, appointments shall be made for three year terms.

The Board of Selectman shall fill a vacancy based on the unexpired term of the vacancy in order to maintain the cycle of appointments, based upon the recommendations of the Commission.”

, or pass any vote or votes in relation thereto.  
(Inserted by Board of Selectmen)

On a motion by Bob Eubank, 16 Old Schoolhouse Road, Board of Selectmen, and seconded,

Voted majority yes, (1 no) that the Town amend the Code of the Town of Harvard by adding thereto a new general bylaw establishing an Agricultural Advisory Commission to represent the Harvard commercial farming and agricultural community, as well as other farming activities, as printed under Article 22 in the Finance Committee Report Recommendations and Warrant Articles, Report of the Capital Plan Committee, and Report of the Community Preservation Committee handbook on pages 49 and 50. [See wording above.]

*Approved by the Attorney General on July 20, 2006 and effective on posting date of July 26, 2006.*

## **ARTICLE 23: GENERAL BYLAW – RIGHT TO FARM**

To see if the Town will vote to amend the Code of the Town of Harvard by adding thereto the following new general bylaw relative to the right to farm:

### **“Chapter 123**

#### **RIGHT TO FARM BYLAW**

##### **§123-1. Purpose and Intent.**

The purpose and intent of this by-law is to state, with emphasis, the right to farm accorded to all citizens of the Commonwealth under Article 97 of the Articles of Amendment to the Massachusetts Constitution, and all state statutes and regulations adopted thereunder including,

but not limited to Massachusetts General Laws Chapter 40A, Section 3, Paragraph 1; Chapter 90, Section 9, Chapter 111, Section 125A and Chapter 128 Section 1A; and any farming rights as provided for within the Town's By-laws. We, the citizens of the Town of Harvard, restate, reaffirm and republish these rights pursuant to the Town's authority to do so conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution, (the "Home Rule Amendment").

This general by-law encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Harvard by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies. This by-law shall apply to all areas within the jurisdiction of the Town.

### **§123-2. Definitions.**

For the purposes of this by-law, the following words and terms shall have the following meanings and interpretations unless another is required by context or is specifically prescribed.

"FARM" shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose of commercial agriculture, or accessory thereto.

"FARMING" or "AGRICULTURE" or their derivatives shall include, but not be limited to the following:

- farming in all its branches and the cultivation and tillage of the soil;
- dairying;
- production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;
- growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations;
- raising of livestock, including horses;
- keeping of horses as a commercial enterprise; and
- keeping and raising of poultry, cattle, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels), and other domesticated animals for food and other agricultural purposes, including bees and fur bearing animals.

"FARMING" shall encompass activities including, but not limited to, the following:

- operation and transportation of slow-moving farm equipment over roads and ways within the Town;
- control of pests, including, but not limited to, insects, weeds, predators and disease organism of plants and animals;
- application of manure, fertilizers and pesticides;
- conducting agricultural related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to marketing the agricultural output or services of the farm;
- processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand including signage thereto;

- maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products; and
- on-farm relocation of earth and the clearing of ground for farming operations.

**§123-3. Right To Farm Declaration.**

The right to farm is hereby recognized to exist within the Town of Harvard. The above-described agricultural or farming activities may occur on holidays, weekdays, and weekends by day or night and shall include attendant incidental noise, odors, dust, and fumes associated with normally accepted agricultural practices. It is hereby determined that the impact that may be caused to others through the normal and lawful practice of agriculture is offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protections of this by-law are intended to apply to those commercial agricultural and farming operations and other non-commercial farming activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right To Farm By-law shall be deemed to effectuate an acquisition of any interest in land, or as the imposition of any land use regulation, which is properly the subject of state statute, regulation, or local zoning law.

**§123-4. Disclosure Notification.**

Not later than twenty one (21) days after the purchase and sale contract is entered into, or prior to the sale or exchange of real property (if no purchase and sale agreement exists), for the purchase or exchange of real property, or prior to the acquisition of a leasehold interest or other possessory interest in real property, located in the Town of Harvard, the landowner shall present the buyer or occupant with a written disclosure notification which states the following:

“It is the policy of this community to conserve, protect and encourage the maintenance and improvement of agricultural land for the production of food, and other agricultural products, and also for its natural and ecological value. This disclosure notification is to inform buyers or occupants that the property they are about to acquire or occupy lies within a town where farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust and odors. Buyers or occupants are also informed that the location of property within the Town may be impacted by commercial and other agricultural operations.”

A copy of the disclosure notification shall be given on a form prepared by the Town and shall be signed by the landowner prior to the sale, purchase, exchange or occupancy of such real property. A copy of the disclosure notification must be filed with the Board of Selectman or its designee prior to the sale, purchase, exchange or occupancy of such real property.

In addition to the above notification, a copy of this disclosure notification shall be provided by the Town to landowners in the Town, each fiscal year, by mail.

**§123-5. Resolution of Disputes.**

Any person who seeks to complain about the operation of a farm or its effects may, notwithstanding pursuing any other available remedy, file a grievance with the appropriate Town authority (such as the Board of Selectmen, the Zoning Enforcement Officer, the Board of Health, Zoning Board of Appeals, Conservation Commission, or others) depending upon the nature of the grievance. The filing of the grievance does not suspend the time within which to pursue any other available remedies that the aggrieved party may have. The Town authority so notified of such grievance may forward a copy to the Agricultural Advisory Commission, or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the referring Town authority within an agreed upon time frame.

The Board of Health shall not be obligated to consider forwarding a copy of any grievance to the Agricultural Advisory Commission in cases of imminent danger or a public health risk.

**§123-6. Severability Clause.**

If any part of this by-law is for any reason held to be unconstitutional, unlawful or invalid, such decision shall not affect the remainder of this by-law. The Town of Harvard hereby declares the provisions of this by-law to be severable.”

, or pass any vote or votes in relation thereto.  
(Inserted by Board of Selectmen)

The following motion was made by Bob Eubank, 16 Old Schoolhouse Road, Board of Selectmen, and seconded,

I move that the Town amend the Code of the Town of Harvard by adding thereto a new general bylaw relative to the right to farm, as printed under Article 23 in the Finance Committee Report Recommendations and Warrant Articles, Report of the Capital Plan Committee, and Report of the Community Preservation Committee handbook on pages 50 through 53.

A motion to amend was made by Richard McCrosky by adding the words “only between 6:00 a.m. and midnight” after incidental noise, last line, page 51, seconded.

A motion to move the question of the amendment was seconded,

Voted majority no to amend the original motion.

Voted majority yes, that the Town amend the Code of the Town of Harvard by adding thereto a new general bylaw relative to the right to farm, as printed under Article 23 in the Finance Committee Report Recommendations and Warrant Articles, Report of the Capital Plan Committee, and Report of the Community Preservation Committee handbook on pages 50 through 53. [See wording above.]

***Approved by the Attorney General on July 20, 2006 and effective on posting date of July 26, 2006.***

**ARTICLE 24: BARE HILL POND DRAWDOWN PUMPING SYSTEM - OPERATING COSTS**

To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of money to be expended by the Bare Hill Pond Watershed Management Committee for the operation of the pond drawdown pumping system, with unexpended funds as of June 30, 2007 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by Bare Hill Pond Watershed Management Committee)

On a motion by Bill Johnson, 72 Warren Avenue, Bare Hill Pond Watershed Management Committee, and seconded,

Voted majority yes, that the Town raise and appropriate the sum of \$6,000. to be expended by the Bare Hill Pond Watershed Management Committee for the operation of the pond drawdown pumping system, with unexpended funds as of June 30, 2007 being returned to their funding source.

**ARTICLE 25: WATER SYSTEM TEST WELL PUMPING**

To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of money to be expended by the Water Commissioners to conduct a pump test for a new municipal well, with unexpended funds as of June 30, 2007 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by Water Commissioners)

On a motion by David Swain, 25 Fairbank Street, Water Commission, and seconded,

Voted unanimously yes, that the Town raise and appropriate the sum of \$2,000. to be expended by the Water Commissioners to conduct a pump test for a new municipal well, with unexpended funds as of June 30, 2007 being returned to their funding source.

**ARTICLE 26: MUNICIPAL FIRE ALARM SYSTEM**

To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of money to be expended by the Fire Chief with the approval of the Board of Selectmen for the repair of the Town's municipal fire alarm system, with unexpended funds as of June 30, 2007 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by Board of Selectmen)

On a motion by Randy Dean, 48 Madigan Lane, Board of Selectmen, and seconded,

Voted unanimously yes, that the Town raise and appropriate the sum of the sum of \$5,000. to be expended by the Fire Chief with the approval of the Board of Selectmen for the repair of the Town's municipal fire alarm system, with unexpended funds as of June 30, 2007 being returned to their funding source.

#### **ARTICLE 27: PROPERTY TAX DEFERAL INTEREST RATE**

To see if the Town will vote pursuant to the provisions of Section 1 of Chapter 136 of the Acts of 2005 to establish an interest rate of 4% per annum, effective July 1, 2006, on property tax payments that have been deferred by qualified senior citizens, or pass any vote or votes in relation thereto.

(Inserted by Board of Selectmen)

The following motion was made by Scott Kimball, 350 Ayer Road, Board of Selectmen, and seconded,

I move that the Town establish pursuant to the provisions of Section 1 of Chapter 136 of the Acts of 2005 an interest rate of 4% per annum on property taxes deferred by eligible seniors citizens under Massachusetts General Laws Chapter 59, Section 5, Clause 41A, as amended, which interest rate shall apply to taxes assessed for any fiscal year beginning on or after July 1, 2006.

A motion to reduce the interest rate to 2% was made by Bob Harley, 73 Bolton Road, and seconded.

The motion to amend was accepted by the Board of Selectmen.

A motion to move the question was seconded and voted unanimously yes.

Voted majority yes that the Town establish pursuant to the provisions of Section 1 of Chapter 136 of the Acts of 2005 an interest rate of 2% per annum on property taxes deferred by eligible seniors citizens under Massachusetts General Laws Chapter 59, Section 5, Clause 41A, as amended, which interest rate shall apply to taxes assessed for any fiscal year beginning on or after July 1, 2006.

#### **ARTICLE 28: COMMUNITY PRESERVATION COMMITTEE REPORT**

To see if the Town will vote to hear the report and recommendations of the Community Preservation Committee on the Fiscal Year 2007 Community Preservation Budget, or pass any vote or votes in relation thereto.

(Inserted by Community Preservation Committee)

On a motion by Steve Rowse, 214 Old Littleton Road, Community Preservation Committee, and seconded,

Voted majority yes (2 no) that the Town hear the report and recommendations of the Community Preservation Committee on the Fiscal Year 2007 Community Preservation Budget.

#### **ARTICLE 29: HILDRETH HOUSE RENOVATION/RESTORATION**

To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of money to be expended by the Board of Selectmen, with oversight by the Historical Commission, to renovate/restore the Hildreth House to its historic condition, with unexpended funds as of December 31, 2008, being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by Board of Selectmen & Community Preservation Committee)

On a motion by Jonathan Feist, 82 Shaker Road, Community Preservation Committee, and seconded,

Voted majority yes (22 no) move that the Town appropriate and transfer from the Community Preservation Fund Historic Preservation Reserve the sum of \$41,507. and appropriate and transfer from Fiscal Year 2007 Community Preservation Fund revenues the sum of \$50,193. to be expended by the Board of Selectmen, with oversight by the Historical Commission, to renovate and/or restore the Hildreth House to its historic condition, with unexpended funds as of December 31, 2008, being returned to their funding source.

#### **ARTICLE 30: CONSERVATION FUND**

To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of money to be placed in the Conservation Fund, established under the provisions of Massachusetts General Laws Chapter 40, Section 8C, or pass any vote or votes in relation thereto.

(Inserted by Conservation Commission and Community Preservation Committee)

On a motion by Donald Boyce, 310 Stow Road, Community Preservation Committee, and seconded,

Voted majority yes (2 no) that the Town appropriate and transfer from Fiscal Year 2007 Community Preservation Fund revenues the sum of \$100,000. to be placed in the Conservation Fund.

#### **ARTICLE 31: MASS. AVE. SENIOR HOUSING PROJECT**

To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of money to be expended by the Harvard Housing Authority for architectural, engineering, legal, and other services related to the design and site preparation for the construction of affordable housing units on a 1.31 acre, more or less, parcel of Town-owned land located off Massachusetts Avenue, and shown on the Harvard Board of Assessors Map 22B as Parcel 19, with unexpended

funds as of December 31, 2007, being transferred to the Municipal Affordable Housing Trust Fund, or pass any vote or votes in relation thereto.

(Inserted by Harvard Housing Authority and Community Preservation Committee)

On a motion by Mark Cooper, 103 Bolton Road, Community Preservation Committee, and seconded,

Voted majority yes (7 no) that the Town appropriate and transfer from the Community Preservation Fund Housing Reserve the sum of \$30,000 to be expended by the Harvard Housing Authority for architectural, engineering, legal, and other services related to the design and site preparation for the construction of affordable housing units on a 1.31 acre, more or less, parcel of Town-owned land located off Massachusetts Avenue, and shown on the Harvard Board of Assessors Map 22B as Parcel 19, with unexpended funds as of December 31, 2007, being transferred to their funding source.

### **ARTICLE 32: PLAN AND DESIGN AFFORDABLE HOUSING AT STOW ROAD GRAVEL PIT**

To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of money to be expended by the Harvard Housing Partnership for architectural, engineering, legal, and other services related to the design and site preparation for the construction of affordable housing units on a 13.48 acre, more or less, parcel of Town-owned land located off Stow Road, and shown on the Harvard Board of Assessors Map 32 as Parcel 56, with unexpended funds as of December 31, 2007, being transferred to the Municipal Affordable Housing Trust Fund, or pass any vote or votes in relation thereto.

(Inserted by Harvard Housing Partnership and Community Preservation Committee)

On a motion by Steve Rowse, 214 Old Littleton Road, Community Preservation Committee, and seconded,

Voted 83 yes, 161 no (does **NOT** pass) that the Town appropriate and transfer from the Community Preservation Fund Housing Reserve the sum of \$23,500 and appropriate and transfer from Fiscal Year 2007 Community Preservation Fund revenues the sum of \$26,500 to be expended by the Harvard Housing Partnership for architectural, engineering, legal, and other services related to the design and site preparation for the construction of affordable housing units on a 13.48 acre, more or less, parcel of Town-owned land located off Stow Road, and shown on the Harvard Board of Assessors Map 32 as Parcel 56, with unexpended funds as of December 31, 2007, being transferred to their funding source.

### **ARTICLE 33: CITIZENS' PETITION**

To see if the Town will vote to prohibit the sale, gift or contribution of the Stow Road Gravel Pit for a 40B project or pass any vote or votes in relation thereto.

(Inserted by Petition by 10 or More Citizens)

On a motion by Mort Miller, 75 Westcott Road, and seconded,

Voted majority no (does **NOT** pass) that the Town prohibit the sale, gift or contribution of the Stow Road Gravel Pit for a 40B project.

#### **ARTICLE 34: CITIZENS' PETITION**

To see if the Town will vote to prohibit Town Boards and Committees from initiating or sponsoring any 40B housing developments to be located in the Town unless at least 75% of the development is designated to be affordable housing units or pass any vote or votes in relation thereto.

(Inserted by Petition by 10 or More Citizens)

On a motion by David Peterson, 60 Jacob Gates Road, and seconded,

Voted majority no (does **NOT** pass) to prohibit Town Boards and Committees from initiating or sponsoring any 40B housing developments to be located in the Town unless at least 75% of the development is designated to be affordable housing units

#### **ARTICLE 35: RENOVATE ROOF AT THE STILL RIVER BAPTIST CHURCH**

To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of money to be provided to the Harvard Historical Society to fund the renovation of the roof of the former Still River Baptist Church located at 213 and 215 Still River Road, or pass any vote or votes in relation thereto.

(Inserted by Community Preservation Committee)

On a motion by Jonathan Feist, 82 Shaker Road, Community Preservation Committee, and seconded,

Voted majority yes (1 no) that the Town appropriate and transfer from Fiscal Year 2007 Community Preservation Fund revenues the sum of \$14,078. to be provided to the Harvard Historical Society to fund the renovation of the roof of the former Still River Baptist Church located at 213 and 215 Still River Road.

#### **ARTICLE 36: RESTORATION OF THE SHAKER HERB DRYING SHED**

To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of money to be expended by the Historical Commission for the restoration of the Shaker Herb Drying Shed located at 81 Shaker Road in Harvard, Massachusetts, shown on the Harvard Board of Assessors' Map 5, as Lot 31, with unexpended funds as of June 30, 2007 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by Historical Commission and Community Preservation Committee)

On a motion by Ron Ricci, 19 East Bare Hill Road, Community Preservation Committee, and seconded,

Voted majority yes (17 no) that the Town appropriate and transfer from the Community Preservation Fund Historic Preservation Reserve the sum of \$13,500. to be expended by the Historical Commission for the restoration of the Shaker Herb Drying Shed located at 81 Shaker Road in Harvard, Massachusetts, shown on the Harvard Board of Assessors' Map 5, as Lot 31, with unexpended funds as of December 31, 2007 being returned to their funding source.

### **ARTICLE 37: RESTORATION OF THE POWDER HOUSE**

To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of money to be expended by the Historical Commission for the restoration of the Powder House located in front of the Town Center Fire Station, shown on the Harvard Board of Assessors' Map 17C, as Lot 35, with unexpended funds as of December 31, 2007 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by Historical Commission and Community Preservation Committee)

On a motion by Ron Ricci, 19 East Bare Hill Road, Community Preservation Committee, and seconded,

Voted majority yes (15 no) that the Town appropriate and transfer from the Community Preservation Fund Historic Preservation Reserve the sum of \$7,000. to be expended by the Historical Commission for the restoration of the Powder House located in front of the Town Center Fire Station, shown on the Harvard Board of Assessors' Map 17C, as Lot 35, with unexpended funds as of December 31, 2007 being returned to their funding source.

### **ARTICLE 38: BARE HILL POND DRAWDOWN PUMPING STATION**

To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of money to be expended by the Bare Hill Pond Watershed Management Committee, with the approval of the Board of Selectmen, for the purchase and installation of a drawdown pumping station for Bare Hill Pond, with unexpended funds as of June 30, 2007, being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by Community Preservation Committee)

On a motion by Mark Cooper, 103 Bolton Road, Community Preservation Committee, and seconded,

Voted unanimously yes that the Town appropriate and transfer from Fiscal Year 2007 Community Preservation Fund revenues the sum of \$30,000. to be expended by the Bare Hill Pond Watershed Management Committee, with the approval of the Board of Selectmen, for the

purchase and installation of a drawdown pumping station for Bare Hill Pond, with unexpended funds as of June 30, 2007, being returned to their funding source.

**Article 39 was voted unanimously yes that it be taken out of order, after Article 44.**

### **ARTICLE 39: COMMUNITY PRESERVATION FUND RESERVES**

To see if the Town will vote to reserve a sum of money from the Fiscal Year 2007 Community Preservation Fund revenues for Community Housing, Historic Resources, Open Space and/or the Fiscal Year 2007 Community Preservation Fund Budgeted Reserve, or pass any vote or votes in relation thereto.

(Inserted by Community Preservation Committee)

On a motion by Steve Rowse, 214 Old Littleton Road, Community Preservation Committee, and seconded,

Voted majority yes 91 (1 no) that the Town appropriate and transfer from Fiscal Year 2007 Community Preservation Fund revenues the sum of \$70,729 to Community Preservation Fund unspecified budgeted reserve and the sum of \$26,500 to the Affordable Housing Reserve.

### **ARTICLE 40: AMEND GENERAL BYLAWS – HISTORIC DISTRICT COMMISSION MEMBERSHIP**

To see if the Town will vote to amend Chapter 48 Historic Districts of the Code of the Town of Harvard by deleting in its entirety paragraph “A” of Section 48-4 Establishment and membership of Commission and replacing it with a new paragraph “A” substantially as follows:

- A. Three members appointed by the Board of Selectmen, to serve initially one for one year, one for two years, and one for three years.

, or pass any vote or votes in relation thereto.

(Inserted by Historical Commission and Board of Selectmen)

On a motion by Bob Eubank, 16 Old Schoolhouse Road, Board of Selectmen, and seconded,

Voted unanimously yes, that the Town amend Chapter 48 Historic Districts of the Code of the Town of Harvard by deleting in its entirety paragraph “A” of Section 48-4 Establishment and membership of Commission and replacing it with a new paragraph “A” as follows:

- A. Three members appointed by the Board of Selectmen, to serve initially one for one year, one for two years, and one for three years.

*Approved by the Attorney General on July 20, 2006.*

## **ARTICLE 41: GENERAL BYLAW – WATER SUPPLY CONSERVATION**

To see if the Town will vote to amend the Code of the Town of Harvard by adding thereto the following new general bylaw relative to water supply conservation:

### **“Chapter 117**

#### **WATER SUPPLY CONSERVATION**

##### **§117-1. Authority.**

This by-law is adopted by the Town under its police powers to protect public health and welfare and its powers under Massachusetts General Laws. (hereinafter “M.G.L.”)Chapter 40, Section 21, *et seq.* and implements the Town's authority to regulate water use pursuant to M.G.L. Chapter. 41, Section 69B. This by-law also implements the Town's authority under M.G.L. Chapter 40, Section 41A, conditioned upon a declaration of water supply emergency issued by the Massachusetts Department of Environmental Protection (hereinafter “DEP”).

##### **§117-2. Purpose.**

The purpose of this by-law is to protect, conserve, preserve, and maintain the public health, safety, and welfare whenever there is in force a State of Water Supply Conservation or State of Water Supply Emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions, or conditions imposed by the Town or by the DEP.

##### **§117-3. Definitions.**

For the purposes of this by-law, the following words and terms shall have the following meanings and interpretations unless another is required by context or is specifically prescribed.

“DEP” shall mean the Department of Environmental Protection of the Commonwealth of Massachusetts or an successor agency exercising said agency’s powers.

“Person” shall mean any individual, corporation, trust, partnership or association, or other entity.

“State of Water Supply Emergency” shall mean a State of Water Supply Emergency declared by the DEP under M.G.L. Chapter. 21G, Sections15-17.

“State of Water Supply Conservation” shall mean a State of Water Supply Conservation declared by the Town pursuant to §117- 4 of this by-law.

“Town” shall mean the Town of Harvard, Massachusetts.

“Water Users” or “Water Consumers” shall mean all public and private users of the Town's public water system, irrespective of any person's responsibility for billing purposes for water

used at any particular facility.

#### **§117-4. Declaration of a State of Water Supply Conservation.**

The Town, acting by and through its Board of Water Commissioners, may declare a State of Water Supply Conservation upon a determination by a majority vote of the Board that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a State of Water Supply Conservation shall be given in accordance with §117- 6 of this by-law before any such State of Water Supply Conservation may be enforced.

#### **§117-5 Restricted Water Uses.**

A declaration of a State of Water Supply Conservation shall include one or more of the following restrictions, conditions, limitations or requirements limiting the use of water as necessary to protect the water supply. The applicable restrictions, conditions, or requirements shall be included in the public notice required under §117- 6.

a) Odd/Even Day Outdoor Watering: Outdoor watering by water users with odd numbered addresses is restricted to odd numbered days. Outdoor watering by water users with even numbered addresses is restricted to even numbered days.

b) Outdoor Watering Ban: Outdoor watering is prohibited.

c) Outdoor Watering Hours: Outdoor watering is permitted only during daily periods of low demand, to be specified in the declaration of a State of Water Supply Conservation and public notice thereof.

d) Filling Swimming Pools: Filling of swimming pools is prohibited.

e) Automatic Sprinkler Use: The use of automatic sprinkler systems is prohibited.

#### **§117-6. Public Notification of a State of Water Supply Conservation; Notification of DEP.**

Notification of any provision, restriction, requirement, limitation or condition imposed by the Town as part of a State of Water Supply Conservation shall be published in a newspaper of general circulation within the Town, or by such other means reasonably calculated to reach and inform all users of water of the State of Water Supply Conservation. Any restriction imposed under §117-5 shall not be effective until such notification is provided. Written notification of the State of Water Supply Conservation shall also be simultaneously provided to the DEP.

#### **§117-7 Termination of a State of Water Supply Conservation; Notice.**

A State of Water Supply Conservation may be terminated by a majority vote of the Board of Water Commissioners, upon a determination that the water supply shortage no longer exists.

Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner required by §117-6.

**§117-8 State of Water Supply Emergency; Compliance with DEP Orders.**

**Upon notification to the public that a declaration of a State of Water Supply Emergency has been issued by the DEP, no person shall violate any provision, restriction, requirement, limitation or condition of any order approved or issued by the DEP intended to bring about an end to the State of Emergency.**

**§117-9. Violations; Penalties.**

Any person violating this by-law shall be liable to the Town for a fine in the amount of \$50.00 for the first violation and \$100.00 for each subsequent violation, which shall inure to the Town for such uses as the Board of Water Commissioners may direct. Fines shall be recovered by indictment, or on complaint before the District Court Division of the Trial Court of the Commonwealth, or by non-criminal disposition in accordance with Section 21D of Chapter 40 of the M.G.L. The enforcing person for violations of this by-law shall be the Director of Public Works. Each day of violation shall constitute a separate offense.

**§117-10. Severability.**

The invalidity of any portion or provision of this by-law shall not invalidate or affect the validity of any other portion or provision thereof. The Town hereby declares the provisions of this by-law to be severable.”

, or pass any vote or votes in relation thereto.  
(Inserted by Board of Selectmen)

Summary: The proposed By-law is to provide the Board of Water Commissioners authority to implement mandatory water use restrictions when it has been determined by the Department of Environmental Protection that there is a State of Water Supply Emergency or when the Board of Water Commissioners determines that there is a State of Water Supply Conservation.

On a motion by Ron Ricci, 19 East Bare Hill Road, Water Commission, and seconded,

Voted unanimously yes, that the Town amend the Code of the Town of Harvard by adding thereto a new general bylaw relative to water supply conservation as printed on a two-page, blue-colored, document entitled “Article 41: General Bylaw – Water Supply Conservation” which has been distributed to the registered voters assembled at this Annual Town Meeting. [See wording below.]

## **“Chapter 117**

### **WATER SUPPLY CONSERVATION**

#### **§117-1. Authority.**

This by-law is adopted by the Town under its police powers to protect public health and welfare and its powers under Massachusetts General Laws. (hereinafter “M.G.L.”)Chapter 40, Section 21, *et seq.* and implements the Town's authority to regulate water use pursuant to M.G.L. Chapter. 41, Section 69B.

#### **§117-2. Purpose.**

The purpose of this by-law is to protect, preserve, and maintain the public health, safety, and welfare whenever there is in force a State of Water Supply Conservation by providing for enforcement of any duly imposed restrictions, requirements, provisions, or conditions imposed by the Town.

#### **§117-3. Definitions.**

“Person” shall mean any individual, corporation trust, partnership or association, or other entity.

“State of Water Supply Conservation” shall mean a State of Water Supply Conservation declared by the Town pursuant to section 4 of this by-law.

“Water Users” or “Water Consumers” shall mean all public and private users of the Town's public water system, irrespective of any person's responsibility for billing purposes for water used at any particular facility.

#### **§117-4. Declaration of a State of Water Supply Conservation.**

The Town, through its Board of Water Commissioners, may declare a State of Water Supply Conservation upon a determination by a majority vote of the Board of Water Commissioners or, in its absence, the Director of Public Works that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a State of Water Supply Conservation shall be given under section 6 of this by-law before it may be enforced.

#### **§117-5 Restricted Water Uses.**

A declaration of a State of Water Supply Conservation shall include one or more of the following restrictions, conditions, or requirements limiting the use of water as necessary to protect the water supply. The applicable restrictions, conditions, or requirements shall be included in the public notice required under section 6.

- a) Odd/Even Day Outdoor Watering: Outdoor watering by water users with odd numbered addresses is restricted to odd numbered days. Outdoor watering by water users with even numbered addresses is restricted to even numbered days.
- b) Outdoor Watering Ban: Outdoor watering is prohibited.
- c) Filling Swimming Pools: Filling of swimming pools is prohibited.
- d) Automatic Sprinkler Use: The use of automatic sprinkler systems is prohibited.

**§117-6. Public Notification of a State of Water Supply Conservation; Notification of Commonwealth.**

Notification of any provision, restriction, requirement or condition imposed by the Town as part of a State of Water Supply Conservation shall be by posting in a sign board in the center of town, or by such other means reasonably calculated to reach and inform all users of water of the State of Water Supply Conservation. Any restriction imposed under section 5 shall not be effective until such notification is provided. Notification of the State of Water Supply Conservation shall also be simultaneously provided to the Massachusetts Department of Environmental Protection.

**§117-7 Termination of a State of Water Supply Conservation; Notice.**

A State of Water Supply Conservation may be terminated by a majority vote of the Board of Water Commissioners or, in its absence, the Director of Public Works, upon a determination that the water supply shortage no longer exists. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner required by Section 6.

**§117-8. Violations; Penalties.**

Any person violating this by-law shall receive a written warning for the first violation and will be liable to the Town in the amount of \$100.00 for each subsequent violation, which shall inure to the Town. Fines shall be recovered by indictment, or on complaint before the District Court, or by non-criminal disposition in accordance with Section 21D of Chapter 40 of the M.G.L. The enforcing person shall be the Director of Public Works. Each day of violation shall constitute a separate offense.

**§117-9. Severability.**

The invalidity of any portion or provision of this by-law shall not invalidate any other portion or provision thereof.”

Summary: The proposed By-law is to provide the Board of Water Commissioners authority to implement mandatory water use restrictions when it has been determined by the Board of Water Commissioners that there is a State of Water Supply Conservation.

*Approved by the Attorney General on July 20, 2006 and effective on posting date of July 26, 2006.*

**ARTICLE 42: ADOPT MGL CHAPTER 32B, SECTION 18 - MANDATORY  
MEDICARE FOR ELIGIBLE RETIREES**

To see if the Town will vote to accept the provisions of Massachusetts General Laws Chapter 32B, Section 18 to require that all retirees, their spouses and dependents who are enrolled in Medicare Part A at no cost to the retiree, their spouse or dependents, or eligible for coverage thereunder at no cost to a retiree, their spouse or dependents, be required to enroll in a medicare health benefits supplement plan offered by the Town, or pass any vote or votes in relation thereto.

(Inserted by Board of Selectmen)

On a motion by Randy, 48 Madigan Lane, Board of Selectmen, and seconded,

Voted majority yes (1 no) that the Town accept the provisions of Massachusetts General Laws Chapter 32B, Section 18 to require that all retirees, their spouses and dependents who are enrolled in Medicare Part A at no cost to the retiree, their spouse or dependents, or eligible for coverage thereunder at no cost to a retiree, their spouse or dependents, be required to enroll in a medicare health benefits supplement plan offered by the Town.

**ARTICLE 43: ACCEPTANCE OF GIFTS OF PROPERTY – CONSERVATION LAND**

To see if the Town will vote to accept the gifts of land or interests in land for conservation or other land preservation related purposes, previously accepted by the Conservation Commission and approved by the Board of Selectmen, or pass any vote or votes in relation thereto.

(Inserted by Board of Selectmen)

On a motion by Bill Marinelli, 50 Stow Road, Board of Selectmen, and seconded,

Voted unanimously yes that the Town accept the 2.5-acre parcel of conservation land donated to the Town by Pamela M. Smith, which parcel of land is located off of Oak Hill Road and is identified on the Harvard Board of Assessors s Map 18 as, Parcel 48.

#### **ARTICLE 44: ACCEPTANCE OF HIGHWAY FUNDS**

To see if the Town will vote to accept State funds to be used for reconstruction and improvements of public ways, or pass any vote or votes in relation thereto.

(Inserted by Board of Selectmen)

On a motion by Bill Marinelli, 50 Stow Road, Board of Selectmen, and seconded,

Voted unanimously yes, that the Town accept State funds to be used for reconstruction and improvements of public ways.

Checkers for the meeting were Nancy Cronin, Lisa Dagdigian, and Rhonda Sprague. They checked in 294 voters out of a total of 3849 registered voters (3581 active voters).

The meeting was dissolved at 10:15 P.M.

Respectfully submitted,

Janet A. Vellante  
Town Clerk