

## **ANNUAL TOWN MEETING**

**MARCH 29, 2008**

The meeting was called to order in the Bromfield School Gym at 9:07 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.

Moderator David Westerling noted that the following non-voters would be allowed to speak to the meeting if necessary:

Timothy Bragan	Town Administrator
Thomas Jefferson	Superintendent of Schools
Lorraine Leonard	Finance Director
Mark Lanza	Town Counsel
Edward Denmark	Police Chief
Robert Mignard	Fire Chief
Richard Nota	Director of DPW
Bob Anderson	President of the Trustees of Fruitlands
Tammy Lajoie	Montachusets Regional Vocational Regional School

The Moderator led the Town Meeting in the Pledge of Allegiance.

### **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 Bob Eubank, 16 Old Schoolhouse Road, Board of Selectmen, and seconded,

Voted unanimously yes that the Town 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.

Bob Eubank presented a report for the Special Education Audit Committee.

### **ARTICLE 2: RESERVE FUND – FISCAL YEAR 2008**

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,

with unexpended funds as of June 30, 2008 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by Finance Committee)

(2/3 vote required)

On a motion by Terry Mead, 163 Littleton Road, Finance Committee, and seconded,

Voted unanimously yes to take to action on Article 2.

### **ARTICLE 3: HEALTH INSURANCE OFF-SET**

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to be added to the appropriate line(s) of Article 4 of the March 31, 2007 Annual Town Meeting Warrant in order to fund the second and final part of the one-time payments, as a health insurance off-set, for non-union Town employees who were receiving health insurance, at a rate of 90 percent paid by the Town and 10 percent paid by the employee, prior to July 1, 2004 and who were still employed by the Town as of the October 10, 2007 Special Town Meeting.

(Inserted by Board of Selectmen)

(2/3 vote required)

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

Voted greater than 2/3rds yes (1 no), that the Town vote to transfer from Stabilization the sum of \$42,000 to be added to the appropriate line(s) of Article 4 of the March 31, 2007 Annual Town Meeting Warrant in order to fund the second and final part of the one-time payments, as a health insurance off-set, for non-union Town employees who were receiving health insurance, at a rate of 90 percent paid by the Town and 10 percent paid by the employee, prior to July 1, 2004 and who were still employed by the Town as of the October 10, 2007 Special Town Meeting.

### **ARTICLE 4: 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 which is contingent upon the passage of a Proposition Two and One-Half Levy Limit Override referendum ballot question (Question #1) at the Annual Town Election to be held on April 1, 2008 or pass any vote or votes in relation thereto.

(Inserted by Finance Committee)

On a motion by Debbie Ricci, 19 East Bare Hill Road, Finance Committee, and seconded,

Voted majority yes (25 no), that the Town appropriate the sum \$20,078,544 to defray the expenses of the Town for Fiscal Year 2009 as printed in the Handout provided at Town Meeting, that such appropriation be provided by raising \$20,067,690. by taxation and transferring \$10,854. from the Wetlands Fund, contingent upon the passage of a Proposition Two and One-Half Levy Limit Override referendum ballot question (Question #1) at the Annual Town Election to be held on April 1, 2008 or pass any vote or votes in relation thereto.

[Due to the fact that the override did NOT pass, a revised budget was approved at the Special Town Meeting on May 21 and the Special Town Election on June 11.]

The Finance Committee stated that they had no position on articles 5, 6, and 7.

#### **ARTICLE 5: COUNCIL ON AGING – ADDITIONAL HOURS**

To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of money to increase the work hours of the Council on Aging Director from the current 30 hours per week to 40 hours per week, contingent upon the passage of a Proposition Two and One-Half Levy Limit Override referendum ballot question (Question #1) at the Annual Town Election to be held on April 1, 2008, 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 (6 no), that the Town vote to raise and appropriate the sum of \$12,505. to increase the work hours of the Council on Aging Director from the current 30 hours per week to 40 hours per week, contingent upon the passage of a Proposition Two and One-Half Levy Limit Override referendum ballot question (Question #1) at the Annual Town Election to be held on April 1, 2008.

#### **ARTICLE 6: HARVARD PUBLIC LIBRARY – SUBSTITUTE COVERAGE**

To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of money to allow for substitute coverage and provide for after school monitors, contingent upon the passage of a Proposition Two and One-Half Levy Limit Override referendum ballot question (Question #1) at the Annual Town Election to be held on April 1, 2008, or pass any vote or votes in relation thereto.  
(Inserted by Board of Library Trustees)

On a motion by Ginger Kendall, 16 Orchard Hill, Library Trustee, and seconded,

Voted majority yes (28 no), that the Town vote to raise and appropriate the sum of \$15,715. to allow for substitute coverage and provide for after school monitors, contingent upon the passage of a Proposition Two and One-Half Levy Limit Override referendum ballot question (Question #1) at the Annual Town Election to be held on April 1, 2008.

#### **ARTICLE 7: HARVARD SCHOOLS – PERSONNEL COSTS AND BOOKS**

To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of money to fund an additional special education position, benefits for that position, and textbooks, contingent upon the passage of a Proposition Two and One-Half Levy Limit Override

referendum ballot question (Question #1) at the Annual Town Election to be held on April 1, 2008, or pass any vote or votes in relation thereto.  
(Inserted by School Committee)

On a motion by Willie Wickman, 27 Willow Road, School Committee, and seconded,

Voted majority yes (47 no), that the Town vote to raise and appropriate the sum of \$73,780. to fund an additional special education position, benefits for that position, and textbooks, contingent upon the passage of a Proposition Two and One-Half Levy Limit Override referendum ballot question (Question #1) at the Annual Town Election to be held on April 1, 2008.

#### **ARTICLE 8: RESERVE FUND – FISCAL YEAR 2009**

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 Bob Thurston, 149 Bolton Road, Finance Committee, and seconded,

Voted majority yes (6 no), that the Town vote to raise and appropriate the sum of \$350,000. to be placed in the Reserve Fund Account for unforeseen and extraordinary expenses for the ensuing fiscal year.

#### **ARTICLE 9: INSTALL FIRE HYDRANT ON LOWER COMMON**

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 Director of Public Works Water Commissioners, with the approval of the Board of Selectmen, to purchase and install a fire hydrant on the lower Town Common, with unexpended funds as of June 30, 2009 being returned to their funding source, or pass any vote or votes in relation thereto.  
(Inserted by Board of Selectmen)

On a motion by Tim Clark, 114 Bolton Road, Board of Selectmen, and seconded,

Voted majority yes (3 no), that the Town vote to raise and appropriate the sum of \$20,000. to be expended by the Director of Public Works and the Board of Water Commissioners, with the approval of the Board of Selectmen, to replace the existing water main located between the Common and Massachusetts Avenue, with unexpended funds as of June 30, 2009 being returned to their funding source.

#### **ARTICLE 10: PURCHASE FIRE CHIEF'S VEHICLE**

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, to purchase a new Fire Chief's Vehicle, and to authorize the sale or trade of existing equipment, with unexpended funds as of June 30, 2009 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by Board of Selectmen)

On a motion by Tim Clark, 114 Bolton Road, Board of Selectmen, and seconded,

Voted majority yes (2 no), that the Town vote to raise and appropriate the sum of \$35,000. to be expended by the Fire Chief, with the approval of the Board of Selectmen, to purchase a new Fire Chief's vehicle, and to authorize the sale or trade of existing equipment, with unexpended funds as of June 30, 2009 being returned to their funding source.

#### **ARTICLE 11: TOWN CLERK - BALLOT BOX REPLACEMENT**

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 Town Clerk, to purchase a new ballot box, with unexpended funds as of June 30, 2009 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by Town Clerk)

On a motion by Janet Vellante, 83 Ann Lees Road, Town Clerk, and seconded,

Voted majority yes (2 no), that the Town vote to raise and appropriate the sum of \$7,000. to be expended by the Town Clerk, to purchase a new ballot box, with unexpended funds as of June 30, 2009 being returned to their funding source.

#### **ARTICLE 12: GASB 45 OPEB ACTUARIAL VALUATION**

To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of money to conduct the required GASB 45 Other Post Employment Benefits (OPEB) actuarial valuation, with unexpended funds as of June 30, 2009 being returned to their funding source, 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 vote to raise and appropriate the sum of \$12,000. to conduct the required GASB 45 Other Post Employment Benefits (OPEB) actuarial valuation, with unexpended funds as of June 30, 2009 being returned to their funding source.

## ARTICLE 13: BORROWING – NON EXCLUDED DEBT

To see if the Town will vote to authorize the borrowing of a sum of money, as non-excluded debt, and to transfer the unexpended portion of a prior debt issuance authorized under Article 16 of the March 27, 1999 Annual Town Meeting to fund various capital expenditures or pass any vote or votes in relation thereto.

(Inserted by Board of Selectmen)

(2/3 vote required)

Lucy Wallace, 18 Orchard Hill, Board of Selectmen, made the following motion which was seconded,

I move that the Town vote to authorize the borrowing of the sum of money up to \$500,000., as non-excluded debt, and to transfer the unexpended portion of a prior debt issuance authorized under Article 16 of the March 27, 1999 Annual Town Meeting to fund the following capital items and associated approximate costs (and borrowing costs):

DPW Garage Floor	\$ 48,000
DPW Transfer Station Electrical Upgrade	25,000
DPW Salt Shed Repairs	8,000
DPW Heating System	25,000
DPW Hydraulic Lift	39,000
DPW Floor Drains	15,000
DPW Building Addition	<u>120,000</u>
Subtotal	\$280,000
HES Ceiling Fans	25,000
Bromfield Classroom Renovation	25,000
Bromfield Boiler	<u>140,000</u>
Subtotal	\$190,000

The following motion was made by Bill Salter, 3 Elm Street, and seconded,

I move that the \$25,000 for the ceiling fans in HES be removed from the expenditures to be covered by that article, making the total expenditures \$475,000.

The Capital Planning Committee did not accept the amendment.

A motion made by Bob Lerner, 101 West Bare Hill Road, to move the question for the motion was seconded, and voted majority yes, (37 no).

Voted majority **NO** (43 yes), that the \$25,000 for the ceiling fans in HES be removed from the expenditures to be covered by that article, making the total expenditures \$475,000.

A motion made by Bob Lerner, 101 West Bare Hill Road, to move the question [main motion], was seconded, and voted majority yes, (5 no).

Voted 156 yes, 169 no [does **NOT** pass] that the Town vote to authorize the borrowing of the

sum of money up to \$500,000., as non-excluded debt, and to transfer the unexpended portion of a prior debt issuance authorized under Article 16 of the March 27, 1999 Annual Town Meeting to fund the following capital items and associated approximate costs (and borrowing costs):

DPW Garage Floor	\$ 48,000
DPW Transfer Station Electrical Upgrade	25,000
DPW Salt Shed Repairs	8,000
DPW Heating System	25,000
DPW Hydraulic Lift	39,000
DPW Floor Drains	15,000
DPW Building Addition	<u>120,000</u>
Subtotal	\$280,000
HES Ceiling Fans	25,000
Bromfield Classroom Renovation	25,000
Bromfield Boiler	<u>140,000</u>
Subtotal	\$190,000

**A motion by Bob Eubank, 16 Old Schoolhouse Road, Board of Selectmen, to take Article 32 before the lunch break was seconded, and voted unanimously yes, to advance the article. [See Article 32 in numerical order of articles.]**

#### **ARTICLE 14: MUNICIPAL SEWER - ANALYSIS**

To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of money not to exceed \$40,000 to be expended by the Board of Selectmen to:

- 1) Contract for and oversee professional services associated with design, feasibility and cost analysis related to the construction of a sewer system or other appropriate septic solutions necessary to serve the needs of the Town,
- 2) Inform the Town in public forums and by other means, of the design considerations and anticipated capital and operating costs of building a municipal sewer system or other appropriate septic solutions,
- 3) Investigate the cost impact to the Town and feasibility of sharing capital and operating expenses among additional users,
- 4) Develop a detailed financial model of how said shared use could be structured, and
- 5) Make a report thereof and seek a resolution of the sewer question at the next regular or special town meeting,

with unexpended funds returning to their funding source no later than June 30, 2009 or pass any vote or votes in relation thereto.

(Inserted by Board of Selectmen)

(2/3 voted required)

On a motion by Tim Clark, 114 Bolton Road, Board of Selectmen, and seconded,

Voted greater than 2/3rds yes (2 no), that the Town vote to transfer from the stabilization fund the sum of \$9,500. to be expended by the Board of Selectmen to:

- 1) Contract for and oversee professional services associated with design, feasibility and cost analysis related to the construction of a sewer system or other appropriate septic solutions necessary to serve the needs of the Town,
- 2) Inform the Town in public forums and by other means, of the design considerations and anticipated capital and operating costs of building a municipal sewer system or other appropriate septic solutions,
- 3) Investigate the cost impact to the Town and feasibility of sharing capital and operating expenses among additional users,
- 4) Develop a detailed financial model of how said shared use could be structured, and
- 5) Place a warrant article for a resolution of the Town Center sewer question on the warrant of the next regular or special town meeting,

with unexpended funds returning to their funding source no later than June 30, 2009.

#### **ARTICLE 15: RECEIPTS RESERVED FOR APPROPRIATION – AMBULANCE**

To see if the Town will vote to establish an account in accordance with Massachusetts General Laws Chapter 40, Section 5F for the purpose of providing a receipts reserved for appropriation account for ambulance service charges receipts with the first \$12,660.00 of such receipts being used to fund the increase in their portion of the Fiscal Year 2009 Budget, 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 unanimously yes that the Town vote to establish an account in accordance with Massachusetts General Laws Chapter 40, Section 5F for the purpose of providing a receipts reserved for appropriation account for ambulance service charges receipts with the first \$12,660. of such receipts being used to fund the increase in their portion of the Fiscal Year 2009 Budget.

#### **ARTICLE 16: 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 2009 Community Preservation Budget, or pass any vote or votes in relation thereto.

(Inserted by Community Preservation Committee)

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



Voted unanimously yes that the Town vote to hear the report and recommendations of the Community Preservation Committee on the Fiscal Year 2009 Community Preservation Budget.

#### **ARTICLE 17: TRANSFER FUNDS FROM COMMUNITY PRESERVATION FUND HISTORIC RESERVES TO COUNCIL ON AGING**

To see if the Town will vote to appropriate and transfer from Community Preservation Fund Historic Reserves the sum of \$20,000 to be expended by the Council on Aging, with Harvard Historical Commission oversight, for the scraping and painting of the trim of the Hildreth House, with unexpended funds as of June 30, 2009 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by Council on Aging and Community Preservation Committee)

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

Voted majority yes (1 no), that the Town vote to appropriate and transfer from Community Preservation Fund Historic Reserves the sum of \$20,000. to be expended by the Council on Aging, with Harvard Historical Commission oversight, for the scraping and painting of the trim of the Hildreth House, with unexpended funds as of June 30, 2009 being returned to their funding source.

#### **ARTICLE 18: SHAKER HERB DRYING HOUSE - DOORS**

To see if the Town will vote to appropriate and transfer from Community Preservation Fund Historic Reserves the sum of \$3,000 to be expended by the Harvard Historical Commission for the restoration of two doors on the Shaker Herb Drying House with unexpended funds as of June 30, 2009 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 (1 no), that the Town vote to appropriate and transfer from Community Preservation Fund Historic Reserves the sum of \$3,000. to be expended by the Harvard Historical Commission for the restoration of two doors on the Shaker Herb Drying House with unexpended funds as of June 30, 2009 being returned to their funding source.

#### **ARTICLE 19: RESTORATION OF MASSACHUSETTS AVENUE STONE WALL**

To see if the Town will vote to appropriate and transfer from Community Preservation Fund Historic Reserves the sum of \$5,000 to be expended by the Board of Selectmen, with oversight by the Harvard Historical Commission, for the restoration of three areas of the Mass Avenue

stone wall with unexpended funds as of June 30, 2009 being returned to their funding source, or pass any vote or votes in relation thereto.

(Inserted by Board of Selectmen and Community Preservation Committee)

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

Voted majority yes (1 no), that the Town vote to appropriate and transfer from Community Preservation Fund Historic Reserves the sum of \$5,000. to be expended by the Board of Selectmen, with oversight by the Harvard Historical Commission, for the restoration of three areas of the Massachusetts Avenue stone wall with unexpended funds as of June 30, 2009 being returned to their funding source.

## **ARTICLE 20: COMMUNITY PRESERVATION FUND HISTORIC RESERVES**

To see if the Town will vote to appropriate and transfer from Fiscal Year 2009 Community Preservation Revenues the sum of \$30,250 to be placed in the Community Preservation Fund Historic Reserves, or pass any vote or votes in relation thereto.

(Inserted by Community Preservation Committee)

On a motion by Deborah Thomson, 130 Poor Farm Road, Community Preservation Committee, and seconded,

Voted majority yes (1 no), that the Town vote to appropriate and transfer from Fiscal Year 2009 Community Preservation Revenues the sum of \$24,250. to be placed in the Community Preservation Fund Historic Reserves.

## **ARTICLE 21: CONSERVATION FUND**

To see if the Town will vote to appropriate and transfer from Fiscal Year 2009 Community Preservation Revenues the sum of \$150,000 to be placed in the Conservation Fund, or pass any vote or votes in relation thereto.

(Inserted by Conservation Commission and 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 vote to appropriate and transfer from Fiscal Year 2009 Community Preservation Revenues the sum of \$150,000 to the Conservation Fund.

## **ARTICLE 22: HARVARD MUNICIPAL AFFORDABLE HOUSING TRUST FUND**

To see if the Town will vote to appropriate and transfer from a) Community Preservation Fund Unallocated Reserves the sum of \$100,000; and b) Fiscal Year 2009 Community Preservation Revenues the sum of \$50,000 to be placed in the Harvard Municipal Affordable Housing Trust Fund, or pass any vote or votes in relation thereto.

(Inserted by Harvard Municipal Affordable Housing Trust and Community Preservation Committee)

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

Voted majority yes (43 no), that the Town appropriate and transfer from a) Community Preservation Fund Unallocated Reserves the sum of \$80,750; b) Housing Reserves the sum of \$45,000; and c) Fiscal Year 2009 Community Preservation Revenues the sum of \$24,250 to be placed in the Harvard Municipal Affordable Housing Trust Fund.

**The following article was moderated by Tom Daniells, 141 West Bare Hill Road.**

## **ARTICLE 23: APPOINTMENT OF FINANCE COMMITTEE**

To see if the Town will vote to amend Chapter 36, of the Code of the Town of Harvard by making the following revisions thereto in order to change the process by which the members of the Town's Finance Committee are appointed and provide for the addition of associate members:

**[Key to Revisions: ~~striketrough~~ denotes deletions; *italics* denotes additions]**

### **§36-1 Membership**

The Finance Committee shall consist of seven voters, no one of whom shall be a Town officer elected by ballot or an appointed officer or employee receiving a salary, who shall perform their duties without salary or compensation. ~~The two new members, in addition, in addition to those now serving shall be appointed by the moderator, following the effective date of this bylaw, one for two years and one for three years. Each year thereafter, including the year of adoption, the Moderator shall appoint members of the Finance Committee according to the expiration of their respective terms. Members shall be appointed by the Moderator to staggered three-year terms. The Moderator shall exercise due care in the process of selecting members to ensure that the Committee represents a cross section of the Town as a whole.~~

### **§36-4 Vacancies and Reappointment**

Upon the occurrence of any vacancy *or conclusion of a given term*, the Moderator shall appoint a successor who shall serve during said unexpired terms. ~~The Moderator shall notify the Board of Selectmen will publicize the opening and invite candidates to submit a letter of interest and qualifications to the Town Administrator. The Moderator shall present the candidates at a meeting of the Board of Selectmen allowing time for public participation during the meeting. The Moderator shall make the appointment no later than sixty days after public notice of the vacancy or conclusion of a given term.~~

### **§36-5 Associate Members**

*The Moderator shall appoint two associate members to the Finance Committee who shall participate in the Finance Committee's duties and functions but without authority to vote. The associate members shall serve one-year terms. Candidates for associate membership shall adhere to the same appointment process as set forth in §36-4, and may apply for reappointment to another one year term.*

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 vote to amend Chapter 36, of the Code of the Town of Harvard by making the following revisions thereto in order to change the process by which the members of the Town's Finance Committee are appointed and provide for the addition of associate members as printed in the FinCom Report on page 37 and 38.

A motion made by Barbara Brady, 316 Stow Road, to amend the last sentence to read "...*subsequent* one year term(s)." was seconded, and accepted by the Finance Committee Selection Study Committee.

Voted majority yes (2 no), that the Town vote to amend Chapter 36, of the Code of the Town of Harvard by making the following revisions thereto in order to change the process by which the members of the Town's Finance Committee are appointed and provide for the addition of associate members:

**[Key to Revisions: ~~striketrough~~ denotes deletions; *italics* denotes additions]**

### **§36-1 Membership**

The Finance Committee shall consist of seven voters, no one of whom shall be a Town officer elected by ballot or an appointed officer or employee receiving a salary, who shall perform their duties without salary or compensation. ~~The two new members, in addition, in addition to those now serving shall be appointed by the moderator, following the effective date of this bylaw, one for two years and one for three years. Each year thereafter, including the year of adoption, the Moderator shall appoint members of the Finance Committee according to the expiration of their respective terms. Members shall be appointed by the Moderator to staggered three-year terms. The Moderator shall exercise due care in the process of selecting members to ensure that the Committee represents a cross section of the Town as a whole.~~

### **§36-4 Vacancies and Reappointment**

Upon the occurrence of any vacancy ~~or conclusion of a given term~~, the Moderator shall appoint a successor who shall serve during said unexpired terms. ~~The Moderator shall notify the Board of Selectmen will publicize the opening and invite candidates to submit a letter of interest and qualifications to the Town Administrator. The Moderator shall present the candidates at a~~

*meeting of the Board of Selectmen allowing time for public participation during the meeting. The Moderator shall make the appointment no later than sixty days after public notice of the vacancy or conclusion of a given term.*

#### **§36-5 Associate Members**

*The Moderator shall appoint two associate members to the Finance Committee who shall participate in the Finance Committee's duties and functions but without authority to vote. The associate members shall serve one-year terms. Candidates for associate membership shall adhere to the same appointment process as set forth in §36-4, and may apply for reappointment to subsequent one year term(s).*

Approved by the Attorney General on June 2, 2008, and effective on posting date of June 4, 2008.

### **ARTICLE 24: SENIOR RENTAL HOUSING PROJECT**

To see if the Town will vote to express its desire to pursue the development of a senior rental housing project on Town-owned property at the Hildreth House, incorporating affordable housing units and, potentially, market- rate units, which preserves and utilizes the existing historic structure as common activity area for the development and the use and occupancy by the Council on Aging and authorize and encourage the Housing Authority to explore the feasibility of and seek funding sources for this development, with any development or disposition of the site subject to future town meeting approval, or pass any vote or votes in relation thereto.  
(Inserted by Harvard Housing Authority)

On a motion by Scott Hayward, 5 Elm Street, Harvard Housing Authority, and seconded,

Voted majority yes (35 no), that the Town vote to express its desire to pursue the development of a senior rental housing project on Town-owned property at the Hildreth House, incorporating affordable housing units and, potentially, market- rate units, which preserves and utilizes the existing historic structure as common activity area for the development and the use and occupancy by the Council on Aging and authorize and encourage the Housing Authority to explore the feasibility of and seek funding sources for this development, with any development or disposition of the site subject to future town meeting approval.

### **ARTICLE 25: PROTECTIVE BYLAW AMENDMENT RE: MUSEUMS**

To see if the Town will vote to amend the Protective (Zoning) Bylaw by:

1.) **Adding to §125-2 (Definitions)** immediately after the definition of "MULTIPLE RESIDENCE" and before the definition of "OPEN LAND" the following definition of the term "MUSEUM":

"MUSEUM -- a building or institution owned and operated by a non profit corporation, or the

Town of Harvard, in the service of society and its development, and open to the public, which has as its fundamental activities to acquire, conserve, research and exhibit, for the purpose of study and enjoyment, material evidence of people and their environment, especially objects of artistic, historical, or scientific importance and value.”; and

2.) Adding to §125-16 (Institutional Uses) the following provisions (indicated in underlining):

**§ 125-16. Institutional uses. [Added 3-7-1970 ATM by Art. 46; amended 3-6-1971 ATM by Art. 34; 3-3-1973 ATM by Arts. 35 and 36; 3-25-1978 ATM by Art. 23].**

(See the Zoning Act, Section 3). Development is subject to § 125-39, Site standards, except for ways and for emergency access lanes for a fire, police, or other emergency service station. [Amended 11-30-1999 STM by Art. 12].

- A. Parks, conservation, water supply areas, or other open space.
- B. Church or other religious purpose.
- C. Educational purposes on land owned or leased by the Commonwealth or its agencies, subdivisions or bodies politic, or by a religious sect or denomination, or by a nonprofit educational corporation.
- D. Town Uses, including: Way, as provided in § 125-41I, Off-site signs on Town ways; Town library, Town museum, Town office or Town hall; or Town protective services; other use by the Town of Harvard by special permit (see § 125-46, Special permits) authorized by the Board of Selectmen.
- E. Public service corporation with no service yard or garage, subject to special permit (see § 125-46, Special permits) authorized by the Board of Appeals, except for a corporation or other business enterprise which provides wireless communications services to the public. [Amended 6-19-1997 STM by Art. 6].
- F. Charitable institution, or a social and recreation club not including living quarters, tax exempt under the U.S. Internal Revenue Code, subject to special permit (see § 125-46, Special permits) authorized by the Board of Appeals.
- G. Burial places or cemeteries on and under land owned by religious institutions, the Town or a cemetery corporation. [Added 3-29-2003 ATM by Art. 35].
- H. Museums, as defined in Section 125-2, with the following provisions:
  - a. The lot occupied by a museum must have a minimum area of 2.5 acres and access frontage of at least 180 feet.

- b. Museums may have a permanent on-site eating establishment and/or an on-site social function facility, provided that they have obtained the required permits and licenses from the Board of Selectmen and Board of Health and comply with all provisions and conditions of such permits and licenses.
- c. The seating capacity of such a permanent on-site eating establishment shall be limited to 100; the seating capacity of such an on-site social function facility shall be limited to 180.
- d. Such an on-site eating establishment and/or social function facility shall serve to fund the museum's operations.
- e. If alcoholic beverages shall be served or sold in any such on-site eating establishment or social function facility permitted by subparagraphs b and c above, then the establishment or facility must be setback by at least 500 feet from any off-site building used for residential purposes, except for accessory structures without living quarters.

or pass any vote or votes in relation thereto.

(Inserted by Planning Board)

(2/3 vote required)

The following motion was made by Mary Essary, 239 Stow Road, Planning Board, and seconded,

I move that the Town vote to amend the Protective (Zoning) Bylaw according to the text in the FinCom Handbook on page 38 and page 39.

The following motion was made by Bill Marinelli, 50 Stow Road, and seconded,

At the end of Section H. d. add the following sentence at the end:

“Each museum shall provide a financial statement to the Board of Selectmen demonstrating compliance with this provision annually, within 90 days of the close of its fiscal year.”

The Planning Board accepted the amendment.

Bruce Nickerson, 212 Stow Road, made a motion to delete the “friendly” amendment. It was seconded, and voted majority yes to delete it.

Voted greater than two thirds yes (14 no), as follows:

1.) **Adding to §125-2 (Definitions)** immediately after the definition of “MULTIPLE RESIDENCE” and before the definition of “OPEN LAND” the following definition of the term “MUSEUM”:

“MUSEUM -- a building or institution owned and operated by a non profit corporation, or the Town of Harvard, in the service of society and its development, and open to the public, which

has as its fundamental activities to acquire, conserve, research and exhibit, for the purpose of study and enjoyment, material evidence of people and their environment, especially objects of artistic, historical, or scientific importance and value.”; and

2.) Adding to §125-16 (Institutional Uses) the following provisions (indicated in underlining):

**§ 125-16. Institutional uses. [Added 3-7-1970 ATM by Art. 46; amended 3-6-1971 ATM by Art. 34; 3-3-1973 ATM by Arts. 35 and 36; 3-25-1978 ATM by Art. 23].**

(See the Zoning Act, Section 3). Development is subject to § 125-39, Site standards, except for ways and for emergency access lanes for a fire, police, or other emergency service station. [Amended 11-30-1999 STM by Art. 12].

A. Parks, conservation, water supply areas, or other open space.

B. Church or other religious purpose.

C. Educational purposes on land owned or leased by the Commonwealth or its agencies, subdivisions or bodies politic, or by a religious sect or denomination, or by a nonprofit educational corporation.

D. Town Uses, including: Way, as provided in § 125-41I, Off-site signs on Town ways; Town library, Town museum, Town office or Town hall; or Town protective services; other use by the Town of Harvard by special permit (see § 125-46, Special permits) authorized by the Board of Selectmen.

E. Public service corporation with no service yard or garage, subject to special permit (see § 125-46, Special permits) authorized by the Board of Appeals, except for a corporation or other business enterprise which provides wireless communications services to the public. [Amended 6-19-1997 STM by Art. 6].

F. Charitable institution, or a social and recreation club not including living quarters, tax exempt under the U.S. Internal Revenue Code, subject to special permit (see § 125-46, Special permits) authorized by the Board of Appeals.

G. Burial places or cemeteries on and under land owned by religious institutions, the Town or a cemetery corporation. [Added 3-29-2003 ATM by Art. 35].

H. Museums, as defined in Section 125-2, with the following provisions:

a. The lot occupied by a museum must have a minimum area of 2.5 acres and access frontage of at least 180 feet.

b. Museums may have a permanent on-site eating establishment and/or an on-site



social function facility, provided that they have obtained the required permits and licenses from the Board of Selectmen and Board of Health and comply with all provisions and conditions of such permits and licenses.

- c. The seating capacity of such a permanent on-site eating establishment shall be limited to 100; the seating capacity of such an on-site social function facility shall be limited to 180.
- d. Such an on-site eating establishment and/or social function facility shall serve to fund the museum's operations.
- e. If alcoholic beverages shall be served or sold in any such on-site eating establishment or social function facility permitted by subparagraphs b and c above, then the establishment or facility must be setback by at least 500 feet from any off-site building used for residential purposes, except for accessory structures without living quarters.

The Planning Board made a verbal presentation in support of this article.

Approved by the Attorney General on June 2, 2008.

## **ARTICLE 26: AMEND PROTECTIVE BYLAW – LIGHTING**

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 § 125-40: .

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

### **HARVARD PROTECTIVE BYLAW CHAPTER 125-40 LIGHTING**

**§ 125-40. Lighting.** [Added 3-27-1976 ATM by Art. 28; amended 3-26-1983 ATM by Art. 27; 4-5-1997 ATM by Art. 43]

A. It is the purpose and intent of this Section to reduce light pollution, light trespass, prevent unnecessary sky glow and other glare in order to preserve and enhance the natural, scenic and aesthetic character and historical environment, and to preserve the night sky as a natural resource to enhance nighttime enjoyment of property within the Town of Harvard. particularly that interfering with astronomical research. Any outdoor lighting fixture ~~newly installed or replaced~~ shall be shielded from above in such a manner that:

- (1) The edge of the shield is below the light source, all outdoor lighting fixtures shall be full cutoff fixtures; and
- (2) Except for streetlights, direct rays from the light source are confined to the property boundaries.

B. The following light sources are prohibited: ~~Metal halide lamps shall not be used.~~

(1) Neon lights

(2) metal halide, mercury vapor and quartz lamps

C. ~~Single family r~~ Residential lighting, customary holiday lighting, and lamps of low luminosity and low intensity serving primarily as markers or as low-level illumination for entrances and exits or similar use need not be shielded. Requirements for shielding, filtering, and type of light need not be met for emergency lighting required by a public agency in the performance of its duties.

D. Outdoor lighting shall not be illuminated between 11p.m. and 6a.m. with the following exceptions: ~~of substantially minimum intensity needed at the particular time; in particular, parking area lighting shall be reduced or eliminated outside business hours. Preferred surfacing for lighted areas shall be of materials such as blacktop which reflect a relatively small fraction of incident light.~~

(1) If the use is being operated, such as a business open to customers, or where employees are working or where an institution or place of public assembly is conducting activity, normal illumination shall be allowed during the activity and for not more than one half hour after the activity ceases.

(2) Low level lighting sufficient for the security of persons or property on the lot may be in operation between 11p.m. and 6a.m., provided the average illumination on the ground or on any vertical surface is not greater than 0.5 foot candles.

(3) Municipal street lighting, lights that control traffic or other lighting for public safety on Town street and ways.

E. For the purpose of these provisions, light source includes any refractor or globe.

or pass any vote or votes in relation thereto.

(Inserted by Planning Board)

(2/3 vote required)

The following motion was made by Joseph Sudol, 35 Lancaster County Road, Planning Board, and seconded,

I move that the Town vote to amend the Protective Bylaw, Chapter 125 of the Code of the Town of Harvard, by making the following revisions to § 125-40 – Lighting as printed in the handout for Article 26: Amend Protective Bylaw – Lighting.

Voted greater than two-thirds yes (28 no), that the Town vote to amend the Protective Bylaw, Chapter 125 of the Code of the Town of Harvard, by making the following revisions to § 125-40:

.

[Key to revisions: underlining denotes additions; ~~strikethrough~~ denotes deletions]

## HARVARD PROTECTIVE BYLAW CHAPTER 125-40 LIGHTING

§ 125-40. Lighting. [Added 3-27-1976 ATM by Art. 28; amended 3-26-1983 ATM by Art. 27; 4-5-1997 ATM by Art. 43]

A. It is the purpose and intent of this Section to reduce light pollution, light trespass, prevent unnecessary sky glow and other glare in order to preserve and enhance the natural, scenic and aesthetic character and historical environment, and to preserve the night sky as a natural resource to enhance nighttime enjoyment of property within the Town of Harvard, particularly that interfering with astronomical research. Any outdoor lighting fixture ~~newly installed or replaced~~ shall be shielded from above in such a manner that:

- (1) The edge of the shield is below the light source, all outdoor lighting fixtures shall be full cutoff fixtures; and
- (2) Except for streetlights, direct rays from the light source are confined to the property boundaries.

B. The following light sources are prohibited: ~~Metal halide lamps shall not be used.~~

- (1) Neon lights
- (2) metal halide, mercury vapor and quartz lamps

C. ~~Single-family r~~ Residential lighting, customary holiday lighting, and lamps of low luminosity and low intensity serving primarily as markers or as low-level illumination for entrances and exits or similar use need not be shielded. Requirements for shielding, filtering, and type of light need not be met for emergency lighting required by a public agency in the performance of its duties.

D. Outdoor lighting shall not be illuminated between 11p.m. and 6a.m. with the following exceptions: ~~of substantially minimum intensity needed at the particular time; in particular, parking area lighting shall be reduced or eliminated outside business hours. Preferred surfacing for lighted areas shall be of materials such as blacktop which reflect a relatively small fraction of incident light.~~

- (1) If the use is being operated, such as a business open to customers, or where employees are working or where an institution or place of public assembly is conducting activity, normal illumination shall be allowed during the activity and for not more than one half hour after the activity ceases.
- (2) Low level lighting sufficient for the security of persons or property on the lot may be in operation between 11p.m. and 6a.m., provided the average illumination on the

ground or on any vertical surface is not greater than 0.5 foot candles.

(3) Municipal street lighting, lights that control traffic or other lighting for public safety on Town street and ways.

(4) Residential lighting and temporary decorative lighting such as holiday lighting.

E. For the purpose of these provisions, light source includes any refractor or globe.

The Planning Board made a verbal presentation in support of this article.

Approved by the Attorney General on June 2, 2008.

## **ARTICLE 27: AMEND GENERAL BYLAWS – SCENIC ROADS**

To see if the Town will vote to amend the Code of the Town of Harvard **by deleting Chapter 90 (Scenic Roads) therefrom in its entirety and replacing it with the following new Chapter 90:**

### **Chapter 90 SCENIC ROADS**

**§90-1 Purpose and designation**

**§90-2 Repair and maintenance**

**§90-2 Definitions**

**§90-3 Designated Scenic Roads**

**§90-4 Applications & Fees**

**§90-5 Appeals**

**§90-6 Enforcement**

**§90-7 Invalidity**

**[HISTORY: Adopted by Annual Town Meeting of the Town of Harvard 3-30-1974 by Art. 33. Amendments noted where applicable.]**

### **GENERAL REFERENCES**

**Historical districts – See Ch. 48**

**Streets and sidewalks – See Ch. 96**

**Scenic roads Bylaw Rules – See Ch. XXX**

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#### **§90-1 Purpose and designation**

In order to preserve the qualities and character of the Town ways, the roads, streets and ways set forth in §90-3 below are designated as scenic roads under the provisions of Massachusetts General Laws Chapter 40, Section 15C.

A) The Town of Harvard adopts the provisions of Massachusetts General Laws Chapter 40, Section 15C, as amended, which provides, in part, that any repair, maintenance, reconstruction or paving work done with respect to any road, as defined in §90-2 of this Chapter, designated as a

scenic road in §90-3 of this Chapter shall not involve or include the cutting or removal of trees, or the tearing down, destruction, or alteration of stone walls or portions of stone walls within the right of way of a designated scenic road, except with prior written consent of the Planning Board after a public hearing.

B) A scenic road consent is not required for the temporary removal and replacement of a stone wall at the same location with the same materials, but only if the Harvard Department of Public Works is notified before the work begins so that it can confirm that the wall is properly replaced.

C) The Planning Board shall consider, among other things, the public safety, scenic views, preservation of historic and regional characteristics, and preservation and enhancement of natural and aesthetic qualities of the environment.

D) After public notice and public hearing, the Planning Board may promulgate rules to accomplish the purposes of this bylaw, effective when voted and filed with the Town Clerk. Failure by the Planning Board to promulgate such rules or a legal declaration of their invalidity by a court of law shall not operate to suspend or invalidate the effect of this bylaw.

## **§90-2 Repair and maintenance**

Any repair, maintenance, reconstruction, or paving work done with respect to a scenic road shall not involve or include the cutting or removal of trees, or the tearing down or destruction of stone walls, or portions thereof except with the prior written consent of the Planning Board after a public hearing duly advertised. In granting or refusing such consent, the Planning Board shall consider, among other things, the public safety, scenic views, preservation of historic and regional characteristics, and preservation and enhancement of natural and aesthetic qualities of the environment. The Planning Board may adopt reasonable further standards relative to scenic roads not inconsistent with this bylaw and state law.

## **§90-2 Definitions**

The following definitions shall apply in the interpretation of this Bylaw.

**Cutting or Removal of Trees** - The removal of one or more trees, trimming of major branches, or cutting of roots sufficient in the Tree Warden's written opinion to cause eventual destruction of a tree. However, such cutting or removal shall not be construed to include clearing of nuisance growth, routine or emergency tree maintenance which removes only permanently diseased or damaged limbs, trunks or roots and dead whole trees, or thinning out of overcrowded trees as determined by the Tree Warden, but shall include such cutting or removal done in contemplation of, or following the repair, maintenance, reconstruction or paving work for a road.

**Repair, Maintenance or Reconstruction** - Any such work done within the right-of-way by any person or agency, public or private, including, but not necessarily limited to, any work on any portion of any right-of-way which was not physically commenced at the time the road was designated as a scenic road; and the construction of any new driveway or private way or the alteration of any existing driveway or private way in so far as such alteration take places within

the right-of-way when such work involves the cutting down of trees or the destruction of stone walls.

**Right-of-way** - The area on and within the boundaries of the public way. If the boundaries are unknown, any affected trees or stone walls shall be presumed to be within the public right-of-way until shown to be otherwise.

**Road** - The entire right-of-way of a way used for vehicular travel and appurtenant structures and facilities including, but not limited to bridge structures, drainage systems, retaining walls, traffic control devices, sidewalks, pedestrian facilities, and the air space above them, but not intersecting streets or driveways.

**Tearing Down or Destruction of Stone Walls** - The defacement, removal, physical covering (other than naturally occurring plant covering) or rearrangement of a stone wall as defined herein. Temporary removal and replacement at the same location with the same materials is permitted without Planning Board consent, but only if the Harvard Department of Public Works is notified before the work begins so that it can confirm that the wall is properly replaced.

**Temporary Removal of Stone Walls** – The temporary removal and replacement at the same location with the same materials.

**Tree** - For the purposes of this Scenic Road Bylaw only, a living tree whose trunk has a diameter of one (1) and one-half (1.5) inches or more as measured one (1) foot from the ground. All trees so defined within the right-of-way of a designated scenic road or on the boundaries thereof shall be subject to this Bylaw. If, for whatever reason, it is uncertain as to whether a tree is within the right-of-way of a designated scenic road, it shall be presumed to be subject to the provisions of this Bylaw and the provisions of Massachusetts General Laws Chapter 40, Section 15C s until the contrary is shown. Nothing in this definition shall be construed to permit a person, other than the Tree Warden or his deputy, to trim, cut down or remove a public shade tree.

### **§90-3 Designated Scenic Roads**

Armstrong Road  
Bemis Road (Craggs Rd.)  
Blanchard Road  
Bolton Road  
Brown Road  
Cameron Road  
Cleaves Hill Road  
Cross Road  
Cruft Lane  
East Bare Hill Road  
Eldridge Road  
Elm Street  
Fairbanks Street  
Finn Road

Old Post Road (Lovers Lane)  
Old Schoolhouse Road  
Old Shirley Road  
Pattee Road  
Pinnacle Road  
Pond Road  
Poor Farm Road  
Prospect Hill Road  
St. John Road  
Scott Road  
Shaker Road  
Sherry Road  
Slough Road  
South Shaker Road

Green Hill Road	Still River Depot Road
Harvard Depot Road	Stow Road
Lancaster County Road	Tahanto Trail
Littleton County Road	Under Pin Hill Road
Littleton Road [Added 3-26-1977 ATM by Art. 32]	Warren Avenue
Madigan Lane	West Bare Hill Road
Mill Road	Westcott Road
Murray Lane	Whitney Lane
Oak Hill Road	Whitney Road
Old Boston Road	Woodchuck Hill Road
Old Littleton Road	
Old Mill Road	

#### **§90-4 Applications and Fees**

A. Written application shall be filed with the Planning Board to perform activities affecting areas protected by this Bylaw. The application shall include such information and plans as are deemed necessary by the Planning Board to describe proposed activities and their effects on the areas. No activities shall commence without receiving and complying with written consent issued pursuant to this bylaw.

B. At the time of an application, the applicant shall pay a filing fee as specified on the Scenic Road Consent Application.

C. The Planning Board may waive the filing fee and costs and expenses for an application filed by a government agency, the Town, or a non-governmental organization working the interest of the Town.

#### **§90-5 Appeals**

A decision of the Planning Board shall be reviewable in the Superior Court in accordance with Massachusetts General Laws Chapter 249, Section 4.

#### **§90-6 Enforcement**

This Bylaw shall be administered and enforced by the Planning Board, the Building Inspector, the Tree Warden, the Director of the Department of Public Works or others designated by the Town Administrator. Enforcing officials may issue a citation for the violation of this Bylaw and shall take appropriate action in the name of the Town of Harvard to prevent, correct, restrain or abate such violations. Violators shall be subject to a fine of \$100.00 per violation for the first offense, \$200.00 per violation for the second offense and \$300.00 per violation for the third and all subsequent offenses.

#### **§90-7 Invalidity**

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 decision, which previously has been issued.

Or pass any vote or votes in relation thereto.

(Inserted by Planning Board)

(2/3 vote required)

The following motion was made by Joseph Sudol, 35 Lancaster County Road, Planning Board, and seconded,

I move that the Town vote to amend the Code of the Town of Harvard by deleting Chapter 90 (Scenic Roads) therefrom in its entirety and replacing it with the following new Chapter 90 as shown in warrant Article 27 with the following correction:

Deletion of Section 90-2 Repair and Maintenance as it is included as a part of Section 90-2 Definitions.

Voted unanimously yes, that the Town vote to amend the Code of the Town of Harvard by deleting Chapter 90 (Scenic Roads) therefrom in its entirety and replacing it with the following new Chapter 90:

## **Chapter 90 SCENIC ROADS**

**§90-1 Purpose and designation**

**§90-2 Definitions**

**§90-3 Designated Scenic Roads**

**§90-4 Applications & Fees**

**§90-5 Appeals**

**§90-6 Enforcement**

**§90-7 Invalidity**

**[HISTORY: Adopted by Annual Town Meeting of the Town of Harvard 3-30-1974 by Art. 33. Amendments noted where applicable.]**

## **GENERAL REFERENCES**

**Historical districts – See Ch. 48**

**Scenic roads Bylaw Rules – See Ch. XXX**

**Streets and sidewalks – See Ch. 96**

**§90-1 Purpose and designation**

In order to preserve the qualities and character of the Town ways, the roads, streets and ways set forth in §90-3 below are designated as scenic roads under the provisions of Massachusetts General Laws Chapter 40, Section 15C.

A) The Town of Harvard adopts the provisions of Massachusetts General Laws Chapter 40, Section 15C, as amended, which provides, in part, that any repair, maintenance, reconstruction or paving work done with respect to any road, as defined in §90-2 of this Chapter, designated as a



scenic road in §90-3 of this Chapter shall not involve or include the cutting or removal of trees, or the tearing down, destruction, or alteration of stone walls or portions of stone walls within the right of way of a designated scenic road, except with prior written consent of the Planning Board after a public hearing.

B) A scenic road consent is not required for the temporary removal and replacement of a stone wall at the same location with the same materials, but only if the Harvard Department of Public Works is notified before the work begins so that it can confirm that the wall is properly replaced.

C) The Planning Board shall consider, among other things, the public safety, scenic views, preservation of historic and regional characteristics, and preservation and enhancement of natural and aesthetic qualities of the environment.

D) After public notice and public hearing, the Planning Board may promulgate rules to accomplish the purposes of this bylaw, effective when voted and filed with the Town Clerk. Failure by the Planning Board to promulgate such rules or a legal declaration of their invalidity by a court of law shall not operate to suspend or invalidate the effect of this bylaw.

## **§90-2 Definitions**

The following definitions shall apply in the interpretation of this Bylaw.

**Cutting or Removal of Trees** - The removal of one or more trees, trimming of major branches, or cutting of roots sufficient in the Tree Warden's written opinion to cause eventual destruction of a tree. However, such cutting or removal shall not be construed to include clearing of nuisance growth, routine or emergency tree maintenance which removes only permanently diseased or damaged limbs, trunks or roots and dead whole trees, or thinning out of overcrowded trees as determined by the Tree Warden, but shall include such cutting or removal done in contemplation of, or following the repair, maintenance, reconstruction or paving work for a road.

**Repair, Maintenance or Reconstruction** - Any such work done within the right-of-way by any person or agency, public or private, including, but not necessarily limited to, any work on any portion of any right-of-way which was not physically commenced at the time the road was designated as a scenic road; and the construction of any new driveway or private way or the alteration of any existing driveway or private way in so far as such alteration take places within the right-of-way when such work involves the cutting down of trees or the destruction of stone walls.

**Right-of-way** - The area on and within the boundaries of the public way. If the boundaries are unknown, any affected trees or stone walls shall be presumed to be within the public right-of-way until shown to be otherwise.

**Road** - The entire right-of-way of a way used for vehicular travel and appurtenant structures and facilities including, but not limited to bridge structures, drainage systems, retaining walls, traffic control devices, sidewalks, pedestrian facilities, and the air space above them, but not intersecting streets or driveways.

**Tearing Down or Destruction of Stone Walls** - The defacement, removal, physical covering (other than naturally occurring plant covering) or rearrangement of a stone wall as defined herein. Temporary removal and replacement at the same location with the same materials is permitted without Planning Board consent, but only if the Harvard Department of Public Works is notified before the work begins so that it can confirm that the wall is properly replaced.

**Temporary Removal of Stone Walls** – The temporary removal and replacement at the same

location with the same materials.

**Tree** - For the purposes of this Scenic Road Bylaw only, a living tree whose trunk has a diameter of one (1) and one-half (1.5) inches or more as measured one (1) foot from the ground. All trees so defined within the right-of-way of a designated scenic road or on the boundaries thereof shall be subject to this Bylaw. If, for whatever reason, it is uncertain as to whether a tree is within the right-of-way of a designated scenic road, it shall be presumed to be subject to the provisions of this Bylaw and the provisions of Massachusetts General Laws Chapter 40, Section 15C s until the contrary is shown. Nothing in this definition shall be construed to permit a person, other than the Tree Warden or his deputy, to trim, cut down or remove a public shade tree.

### **§90-3 Designated Scenic Roads**

Armstrong Road	Old Post Road (Lovers Lane)
Bemis Road (Craggs Rd.)	Old Schoolhouse Road
Blanchard Road	Old Shirley Road
Bolton Road	Pattee Road
Brown Road	Pinnacle Road
Cameron Road	Pond Road
Cleaves Hill Road	Poor Farm Road
Cross Road	Prospect Hill Road
Cruft Lane	St. John Road
East Bare Hill Road	Scott Road
Eldridge Road	Shaker Road
Elm Street	Sherry Road
Fairbanks Street	Slough Road
Finn Road	South Shaker Road
Green Hill Road	Still River Depot Road
Harvard Depot Road	Stow Road
Lancaster County Road	Tahanto Trail
Littleton County Road	Under Pin Hill Road
Littleton Road [Added 3-26-1977 ATM by Art. 32]	Warren Avenue
Madigan Lane	West Bare Hill Road
Mill Road	Westcott Road
Murray Lane	Whitney Lane
Oak Hill Road	Whitney Road
Old Boston Road	Woodchuck Hill Road
Old Littleton Road	
Old Mill Road	

### **§90-4 Applications and Fees**

A. Written application shall be filed with the Planning Board to perform activities affecting areas protected by this Bylaw. The application shall include such information and plans as are deemed necessary by the Planning Board to describe proposed activities and their effects on the areas. No activities shall commence without receiving and complying with written consent issued pursuant to this bylaw.

B. At the time of an application, the applicant shall pay a filing fee as specified on the Scenic Road Consent Application.

C. The Planning Board may waive the filing fee and costs and expenses for an application filed by a government agency, the Town, or a non-governmental organization working the interest of the Town.

### **§90-5 Appeals**

A decision of the Planning Board shall be reviewable in the Superior Court in accordance with Massachusetts General Laws Chapter 249, Section 4.

### **§90-6 Enforcement**

This Bylaw shall be administered and enforced by the Planning Board, the Building Inspector, the Tree Warden, the Director of the Department of Public Works or others designated by the Town Administrator. Enforcing officials may issue a citation for the violation of this Bylaw and shall take appropriate action in the name of the Town of Harvard to prevent, correct, restrain or abate such violations. Violators shall be subject to a fine of \$100.00 per violation for the first offense, \$200.00 per violation for the second offense and \$300.00 per violation for the third and all subsequent offenses.

### **§90-7 Invalidity**

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 decision, which previously has been issued.

The Planning Board made a verbal presentation in support of this article.

Approved by the Attorney General on June 2, 2008, and effective on posting date of June 4, 2008.

## **ARTICLE 28: AMEND GENERAL BYLAW – ASSOCIATE MEMBER OF PLANNING BOARD**

To see if the Town will vote to amend the Code of the Town of Harvard by adding thereto the following new Chapter 11 relative to the Associate Member of the Planning Board:

### **Chapter 11**

#### **Associate Member of the Planning Board**

**§11-1. Associate Member of the Planning Board; administrative matters.** The Associate Member of the Planning Board appointed pursuant to Paragraph E of §125-46 of the Code of the Town of Harvard may attend all Planning Board meetings, participate in discussions, and, at the

designation of the Chair, may act as a regular member of the Board on administrative matters, including but not limited to providing a quorum in for discussion of agenda items, approving minutes, making motions and voting on other administrative tasks. The Associate Member may not act in lieu of a regular elected or appointed Board member on any non-administrative issues, such as site plans and land division plans, which requires a simple majority of the Board, or pass any vote or votes in relation thereto.

(Inserted by Planning Board)

The following motion was made by Peter Brooks, 12 Orchard Hill, Planning Board, and seconded,

I move that the Town vote to amend the Code of the Town of Harvard by adding thereto the following new Chapter 11 relative to the Associate Member of the Planning Board as set forth in Article 28 on page 44 of the FinCom Handbook.

Voted unanimously yes, that the Town vote to amend the Code of the Town of Harvard by adding thereto the following new Chapter 11 relative to the Associate Member of the Planning Board:

## **Chapter 11**

### **Associate Member of the Planning Board**

**§11-1. Associate Member of the Planning Board; administrative matters.** The Associate Member of the Planning Board appointed pursuant to Paragraph E of §125-46 of the Code of the Town of Harvard may attend all Planning Board meetings, participate in discussions, and, at the designation of the Chair, may act as a regular member of the Board on administrative matters, including but not limited to providing a quorum in for discussion of agenda items, approving minutes, making motions and voting on other administrative tasks. The Associate Member may not act in lieu of a regular elected or appointed Board member on any non-administrative issues, such as site plans and land division plans, which require a simple majority of the Board.

Approved by the Attorney General on June 2, 2008, and effective on posting date of June 4, 2008.

## **ARTICLE 29: CITIZENS' PETITION - WIND ENERGY SYSTEMS**

To see if the Town will vote to amend the Protective (Zoning) Bylaw to include the following language:

### **WIND ENERGY SYSTEMS**

#### **§ 125-53 Wind Energy Systems**

##### **A. Purpose.**

The purpose of this section is to:

- (1) Promote the safe, effective and efficient use of residential Wind Energy Systems installed to reduce the on-site consumption of utility-supplied electricity;
- (2) Minimize the impacts of Wind Energy Systems on the character of neighborhoods, property values, scenic, historic, and environmental resources of the Town; and
- (3) Protect health and safety, while encouraging Wind Energy Systems and limiting obstacles to their installation and use.

B. Applicability.

Construction and use of a Wind Energy System, Meteorological Tower or any part thereof shall be permitted in all zoning districts subject to the requirements set forth in this section.

C. Definitions.

For the purpose of this section, terms shall have the following meanings:

**WIND ENERGY SYSTEM (WES)** - A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, and which is intended to reduce on-site consumption of residential utility power for a single residential lot.

**METEOROLOGICAL TOWER (MET TOWER)** – A tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment, anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

**TOTAL HEIGHT** - The vertical distance from ground level to the tip of a wind turbine blade when it is at its highest point.

**TOWER** - The monopole, freestanding, or guyed structure that supports a wind turbine.

**WIND TURBINE** - A device for converting wind energy to mechanical, electrical or another form of energy.

D. Use Regulations.

A WES may be erected on a lot in residential use as provided for in this section, provided that the WES is an accessory use to the primary residential use of the lot.

- (1) A Meteorological Tower shall be allowed as of right for a period of two years, subject to renewal for one additional two year period. A Met Tower shall conform to all provisions of this section, with the exception of the requirement for a special permit.

- (2) A WES which exceeds 140 feet in total height shall require a special permit from the Planning Board.
- (3) A WES shall be set back from property lines a distance which is equal to the total height of the WES, measured from the point of a tower base which is closest to the property line. A Wind Energy System may be located closer to a property line only under the following circumstances: a) the adjacent lot is held in common ownership with the lot on which the WES is proposed; or b) upon provision by the applicant of a recordable easement from an abutting property owner(s) that is satisfactory to the permitting authority.
- (4) In no instance may the noise level at the lot line exceed 10 dB(A) over the ambient sound level. In a case where the applicant is also the owner of the abutting lot, the distance shall be measured from the furthest lot line of the abutting lot. Any WES which is located at least 600 feet from a property line shall be presumed to meet this requirement.
- (5) Unauthorized climbing access to the tower shall be limited by one or more of the following methods: a) by placing climbing apparatus no lower than 10 feet from the ground; b) by placing shielding over climbing apparatus or access; or c) by installation of a fence.
- (6) Tower lighting shall not be permitted.
- (7) A WES shall be properly maintained and kept in good working order by the owner at all times.
- (8) A WES shall be deemed to have been discontinued if it is out of service for a continuous 24-month period. Upon receipt of a Notice of Discontinuance from the Building Commissioner, the owner shall have the right to respond to the Notice within 30 days of receipt. The Building Commissioner shall withdraw the Notice of Discontinuance and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates the satisfaction of the Building Commissioner that the WES has not been discontinued. If the WES is determined to be discontinued, the owner of the WES shall remove the system at the owner's sole expense within three months of receipt of the Notice of Discontinuance. Failure to remove the system within said time period may subject the owner to action pursuant to § 125-49.
- (9) The visual impact of Wind Energy Systems shall be mitigated to the extent possible. Methods such as the use of landscaping, alternative locations, and non-reflective paint may be utilized.
- (10) There shall be periodic inspection of the WES by a Registered Professional Structural Engineer and submission of such reports to the Building Commissioner.
- (11) Nothing in this section shall prevent the co-location of wireless communications equipment on the tower, provided that all other provisions of this bylaw have been

satisfied, including the issuance of all necessary permits.

#### E. Administration

- (1) A record owner desiring to erect a WES which is 140 feet or less in total height or to erect a Met Tower shall file with the Building Commissioner sufficient documentation to address the provisions of this section, together with such plans, drawings, specifications, and additional information as may be required by the Building Commissioner.
- (2) A record owner desiring to erect a WES which would be greater than 140 feet in total height shall file with the Planning Board an application for a Wind Energy System Special Permit, together with such plans, drawings, specifications, fees and additional information as required by the Planning Board.
  - a. The Planning Board shall conduct its review, hold a public hearing and file its decision with the Town Clerk as required by MGL c. 40A, § 9 and § 125-46 of this bylaw.
  - b. Approval Criteria. Before the Planning Board may issue the special permit, it shall determine each of the following in addition to the provisions of § 125-46.C:
    1. The WES conforms to the use regulations and purpose of this section.
    2. The WES will not be detrimental to the neighborhood or the Town.
    3. The WES is an accessory use to the principal residential use of the lot.

If the Planning Board does not make all of the above determinations, it shall deny the application stating its reasons for such denial.

- c. The Planning Board shall have the authority to waive specific provisions of this section upon a determination that the waiver is not inconsistent with the purpose and intent of this section.
- d. The Planning Board may issue the special permit with conditions, which may include, the requirement that a performance bond, secured by deposit of money or negotiable securities, is posted with the Town to guarantee proper maintenance and/or removal of the WES. The amount of the performance bond shall not exceed the estimated cost of the WES removal.

or pass any vote or votes in relation thereto.  
(Inserted by Petition by 10 or More Citizens)

The following motion was made by John Sweeney, 38 Madigan Lane and seconded,

I move that the Town vote to amend the Protective (Zoning) Bylaw as written in the warrant on page 44 through 47, with the exception of eliminating section D (11).

The Planning Board did NOT recommend passage of this article without a special permit requirement.

The following two amendments were made by John Marschall, 93 Ayer Road, and seconded,

1) change D (3) setback to "...equal to twice the height..."

Town Counsel Mark Lanza stated that the first amendment was not within the scope of the bylaw because it made the article more restrictive. The amendment was withdrawn.

2) in section E (2) d. – change the second “may” to “shall”

The citizens group that presented the bylaw accepted the second amendment.

Patricia W. White, 162 East Bare Hill Road, made a motion to move the question which was seconded and voted majority yes.

Voted less than 2/3rds [**does not pass**] that the Town vote to amend the Protective (Zoning) Bylaw to include the following language:

## **WIND ENERGY SYSTEMS**

### **§ 125-53 Wind Energy Systems**

#### **A. Purpose.**

The purpose of this section is to:

- (1) Promote the safe, effective and efficient use of residential Wind Energy Systems installed to reduce the on-site consumption of utility-supplied electricity;
- (2) Minimize the impacts of Wind Energy Systems on the character of neighborhoods, property values, scenic, historic, and environmental resources of the Town; and
- (3) Protect health and safety, while encouraging Wind Energy Systems and limiting obstacles to their installation and use.

#### **B. Applicability.**

Construction and use of a Wind Energy System, Meteorological Tower or any part thereof shall be permitted in all zoning districts subject to the requirements set forth in this section.

#### **C. Definitions.**



For the purpose of this section, terms shall have the following meanings:

**WIND ENERGY SYSTEM (WES)** - A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, and which is intended to reduce on-site consumption of residential utility power for a single residential lot.

**METEOROLOGICAL TOWER (MET TOWER)** – A tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment, anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

**TOTAL HEIGHT** - The vertical distance from ground level to the tip of a wind turbine blade when it is at its highest point.

**TOWER** - The monopole, freestanding, or guyed structure that supports a wind turbine.

**WIND TURBINE** - A device for converting wind energy to mechanical, electrical or another form of energy.

#### D. Use Regulations.

A WES may be erected on a lot in residential use as provided for in this section, provided that the WES is an accessory use to the primary residential use of the lot.

- (1) A Meteorological Tower shall be allowed as of right for a period of two years, subject to renewal for one additional two year period. A Met Tower shall conform to all provisions of this section, with the exception of the requirement for a special permit.
- (2) A WES which exceeds 140 feet in total height shall require a special permit from the Planning Board.
- (3) A WES shall be set back from property lines a distance which is equal to the total height of the WES, measured from the point of a tower base which is closest to the property line. A Wind Energy System may be located closer to a property line only under the following circumstances: a) the adjacent lot is held in common ownership with the lot on which the WES is proposed; or b) upon provision by the applicant of a recordable easement from an abutting property owner(s) that is satisfactory to the permitting authority.
- (4) In no instance may the noise level at the lot line exceed 10 dB(A) over the ambient sound level. In a case where the applicant is also the owner of the abutting lot, the distance shall be measured from the furthest lot line of the abutting lot. Any WES which is located at least 600 feet from a property line shall be presumed to meet this requirement.

- (5) Unauthorized climbing access to the tower shall be limited by one or more of the following methods: a) by placing climbing apparatus no lower than 10 feet from the ground; b) by placing shielding over climbing apparatus or access; or c) by installation of a fence.
- (6) Tower lighting shall not be permitted.
- (7) A WES shall be properly maintained and kept in good working order by the owner at all times.
- (8) A WES shall be deemed to have been discontinued if it is out of service for a continuous 24-month period. Upon receipt of a Notice of Discontinuance from the Building Commissioner, the owner shall have the right to respond to the Notice within 30 days of receipt. The Building Commissioner shall withdraw the Notice of Discontinuance and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates the satisfaction of the Building Commissioner that the WES has not been discontinued. If the WES is determined to be discontinued, the owner of the WES shall remove the system at the owner's sole expense within three months of receipt of the Notice of Discontinuance. Failure to remove the system within said time period may subject the owner to action pursuant to § 125-49.
- (9) The visual impact of Wind Energy Systems shall be mitigated to the extent possible. Methods such as the use of landscaping, alternative locations, and non-reflective paint may be utilized.
- (10) There shall be periodic inspection of the WES by a Registered Professional Structural Engineer and submission of such reports to the Building Commissioner.
- (11) Nothing in this section shall prevent the co-location of wireless communications equipment on the tower, provided that all other provisions of this bylaw have been satisfied, including the issuance of all necessary permits.

#### E. Administration

- (1) A record owner desiring to erect a WES which is 140 feet or less in total height or to erect a Met Tower shall file with the Building Commissioner sufficient documentation to address the provisions of this section, together with such plans, drawings, specifications, and additional information as may be required by the Building Commissioner.
- (2) A record owner desiring to erect a WES which would be greater than 140 feet in total height shall file with the Planning Board an application for a Wind Energy System Special Permit, together with such plans, drawings, specifications, fees and additional information as required by the Planning Board.

- a. The Planning Board shall conduct its review, hold a public hearing and file its decision with the Town Clerk as required by MGL c. 40A, § 9 and § 125-46 of this bylaw.
- b. Approval Criteria. Before the Planning Board may issue the special permit, it shall determine each of the following in addition to the provisions of § 125-46.C:
  1. The WES conforms to the use regulations and purpose of this section.
  2. The WES will not be detrimental to the neighborhood or the Town.
  3. The WES is an accessory use to the principal residential use of the lot.

If the Planning Board does not make all of the above determinations, it shall deny the application stating its reasons for such denial.

- c. The Planning Board shall have the authority to waive specific provisions of this section upon a determination that the waiver is not inconsistent with the purpose and intent of this section.
- d. The Planning Board may issue the special permit with conditions, which shall include, the requirement that a performance bond, secured by deposit of money or negotiable securities, is posted with the Town to guarantee proper maintenance and/or removal of the WES. The amount of the performance bond shall not exceed the estimated cost of the WES removal.

### **ARTICLE 30: CITIZENS' PETITION – RESUME DEVENS JURISDICTION**

To see if the Town will vote to direct the Board of Selectmen to petition the Great and General Court of the Commonwealth of Massachusetts to acquire municipal jurisdiction and permanent government structure for the ongoing operation and administration within such portion of the Devens Regional Enterprise Zone, as established by Chapter 498 of the Acts of 1993, as was within the historic boundaries of the Town, or pass any vote or votes in relation thereto.  
(Inserted by Petition by 10 or More Citizens)

The following motion was made by Tom Kinch, 61 Elm Road, and seconded,

I move that the Town vote to direct the Board of Selectmen to petition the Great and General Court of the Commonwealth of Massachusetts to acquire municipal jurisdiction and permanent government structure for the ongoing operation and administration within such portion of the Devens Regional Enterprise Zone, as established by Chapter 498 of the Acts of 1993, as was within the historic boundaries of the Town, or pass any vote or votes in relation thereto.

### **Discussion ensued on Articles 30 and 31 concurrently.**

Town Counsel Mark Lanza stated that as currently worded, both articles were out of order with the law.

Bruce Nickerson, 212 Stow Road, made a motion to change the word “direct” to “advise”, and although the petitioner accepted the change, Town Counsel stated that it was still not legal.

A motion to pass over article 30 and 31 was made by Jeff Harris, 69 Whitney Road, and seconded.

Tom Kinch, petitioner, offered to withdraw both articles pending a straw vote. The results of the straw votes are as follows:

	<b>YES</b>	<b>NO</b>	<b>ABSTAIN</b>
<b>Article 30</b>	33	60	48
<b>Article 31</b>	56	31	51

#### **ARTICLE 31: CITIZENS’ PETITION – CREATE TOWN OF DEVENS**

To see if the Town will vote to direct the Board of Selectmen to petition the Great and General Court of the Commonwealth of Massachusetts to create the Town of Devens within the Devens Regional Enterprise Zone as established by Chapter 498 of the Acts of 1993, or pass any vote or votes in relation thereto.

(Inserted by Petition by 10 or More Citizens)

**[See above vote.]**

#### **ARTICLE 32: 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 Bob Eubank, 16 Old Schoolhouse Road, Board of Selectmen, and seconded,

Voted unanimously yes, that the Town accept as a gift of land three parcels of land on Old Littleton Road shown on assessors’ map 18 as parcels 14, 69, and 70 and containing in the aggregate, approximately 40 acres for open space purposes, and express our gratitude to James A. Dunlap, Jr. for his generosity in donating this land to the town.

#### **ARTICLE 33: 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 Tim Clerk, 114 Bolton Road, Board of Selectmen, and seconded,

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

Checkers for the meeting were Sandy Lefkovitz, Nancy Reifenstein, Dorothy Solbrig, and Jane Venditti, Ruth Miller, and Michelle Catalina. They checked in 492 voters out of a total of 3973 registered voters (3720 active voters).

Tellers for the meeting were Donald Boyce, Jim DeZutter, Charles Kronauer, Ben Quarles, Steve Rowse, Maryann Cheveralls, and Ellen Sachs Leicher.

Prior to the lunch break, Selectman Lucy Wallace recognized two Citizens of Note: Robert Lerner and William Ashe.

The meeting was dissolved at 6:05 P.M.

Respectfully submitted,

Janet A. Vellante  
Town Clerk