

## **ANNUAL TOWN MEETING**

**May 2, 2009**

The meeting was called to order in the Bromfield Gym at 9:05 a.m. by Moderator Robert Eubank. After the Pledge of Allegiance, the call of the meeting and the return of service were found to be in order by Town Clerk Janet Vellante.

Moderator Robert Eubank requested that the town allow the following non-voters to speak to the meeting if necessary:

Timothy Bragan	Town Administrator
Edward Denmark	Police Chief
Mark Force	Facilities Manager
Thomas Jefferson	Superintendent of Schools
Mark Lanza	Town Counsel
Lorraine Leonard	Finance Director
Robert Mignard	Fire Chief
Richard Nota	Director of DPW
Wayne Perry, PE	Consulting Engineer for Town Center Sewer Action Group
Francis Yanuskiewicz, PE	Weston & Sampson Engineers, Inc.
David Grenier	Monty Tech

Voted majority yes to approve the list of non-voters.

### **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.

On a motion by Lucy Wallace, 18 Orchard Hill, 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 2008 Annual Town Report.

### **ARTICLE 2: CLOSEOUT OF ARTICLES**

To see if the Town will vote to transfer unexpended funds appropriated under the following articles to the General Fund – Unreserved Fund Balance:

1. \$7,000.00 under Article 6 of the December 8, 1998 Special Town Meeting which

was for Devens Conservation Restrictions ; and,  
2. \$5,000.00 under Article 7 of the December 8, 1998 Special Town Meeting which was for Support Services for the Joint Boards of Selectmen,  
or pass any vote or votes in relation thereto.

On a motion by Lori Granville, 13 Bolton Road, Finance Committee, and seconded,

Voted unanimously yes that the Town transfer unexpended funds appropriated under the following articles to the General Fund – Unreserved Fund Balance:

1. \$7,000.00 under Article 6 of the December 8, 1998 Special Town Meeting which was for Devens Conservation Restrictions ; and,
2. \$5,000.00 under Article 7 of the December 8, 1998 Special Town Meeting which was for Support Services for the Joint Boards of Selectmen.

### **ARTICLE 3: FISCAL YEAR 2008 CERTIFIED FREE CASH**

To see if the Town will vote to transfer from the Fiscal Year 2008 Certified Free Cash Account the sum of \$26,000 to the Fiscal Year 2009 Allowance for Abatements and Exemptions Account and the sum of \$60,131 to the Fiscal Year 2010 Reserve Fund, or pass any vote or votes in relation thereto.

On a motion by Marie Sobalvarro, 1 St. John Lane, Finance Committee, and seconded,

Voted unanimously yes that the Town transfer from the Fiscal Year 2008 Certified Free Cash Account the sum of \$26,000 to the Fiscal Year 2009 Allowance for Abatements and Exemptions Account and the sum of \$60,131 to the Fiscal Year 2010 Reserve Fund.

### **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 (FY2010), or pass any vote or votes in relation thereto.

The following motion was made by George McKenna, 41 Old Littleton Road, Finance Committee, and seconded,

I move that the Town appropriate the sum of \$19,742,928 to defray the expenses of the Town for Fiscal Year 2010 as printed in the Finance Committee Report on pages 30 through 36, and that said appropriation be provided by raising and appropriating \$19,731,857 by taxation and transferring \$11,071 from the Wetlands Protection Fund.

The following motion was made by Thomas Philippou, 254 Stow Road, Board of Health, and seconded, then withdrawn,

I move the town provide funding for the Board of Health Department personnel at the same level that has been expended, not budgeted, during FY 2008 plus accrued costs, and applied to FY '09 and FY '10 as required under MGL CH. 111, Section 27. Further, I move that any additional funding requested for this department be provided, not withheld, pursuant to this same law. The Board of Health will exercise the same diligence and constraint it has over the years in requesting funding for the performance of its many responsibilities.

Voted majority yes that the Town appropriate the sum of \$19,742,928 to defray the expenses of the Town for Fiscal Year 2010 as printed in the Finance Committee Report on pages 30 through 36, and that said appropriation be provided by raising and appropriating \$19,731,857 by taxation and transferring \$11,071 from the Wetlands Protection Fund.

## **INSERT BUDGET**

## **ARTICLE 5: RESERVE FUND – FISCAL YEAR 2010**

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.

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

Voted unanimously yes that the Town raise and appropriate the sum of \$350,000 to be placed in the Reserve Fund Account for unforeseen and extraordinary expenses for fiscal year 2010.

## **ARTICLE 6: CAPITAL PLANNING AND INVESTMENT COMMITTEE AND CAPITAL STABILIZATION AND INVESTMENT FUND**

To see if the Town will vote to amend the Code of the Town of Harvard by adding thereto the following new, Chapter in order to create a Capital Planning and Investment Committee in accordance with Massachusetts General Law Chapter 41, Section 106B, :

### **Chapter 17, CAPITAL PLANNING AND INVESTMENT COMMITTEE:**

**§17-1 – Establishment; membership.** – There shall be a Capital Planning and Investment Committee comprised of eight (8) members consisting of three (3) non-voting members who shall be the Town Administrator, Superintendent of Schools and Finance Director and five (5) voting members each chosen by their respective boards as follows: one member each from the Finance Committee, School Committee and Board of Selectmen; and two citizens at-large appointed by the Board of Selectmen. Each citizen-at-large shall serve a three (3) year term that beginning July 1 and expiring June 30, except for the initial appointments to the committee which will run from the date of appointment through June 30, 2011 for the first member and June 30, 2012 for the second member. All voting members shall be registered voters of the Town of Harvard. Said Committee shall choose its own officers, set its own rules and shall serve without pay. Any vacancies shall be filled in the same manner as the original appointment and persons appointed to fill vacancies shall serve for the remainder of his predecessor's term of office.

### **§17-2 -Duties.**

A. The Committee shall consider matters relating to appropriations from the Capital Stabilization and Investment Fund, and shall make recommendations to the Town or any board committee or official thereof, and establish policies relative to the funding of capital projects of the Town and set priorities and schedules for such capital projects. The Committee shall study proposed capital outlays involving the acquisition of land or an expenditure of \$10,000. or greater and having a useful life of at least three years. All officers, boards, and committees, including the Board of Selectmen and the School Committee, shall by September each year give to such Board, on forms prepared by it, information concerning all anticipated capital projects

needing town meeting action during the ensuing five years. The Committee shall consider the relative need, timing, and cost of these expenditures and the effect each will have on the financial position of the Town.

B. The Committee shall transmit its recommendations to the Town Administrator, as well as the appropriate officer, board, agency or department involved in the proposed capital improvement. Such recommendations shall constitute a Capital Improvement Program. The report of this program shall, as to items planned for the ensuing fiscal year, be given to the Town Administrator and Finance Committee for their review and possible inclusion in the budget. The text and tables of the Capital Improvement Program for the following five years shall be published in the Town's Annual Report. Expenditures for surveys, architectural or engineering advice, options or appraisals and similar expenses relating to future capital projects shall be a part of the Capital Improvement Program, and no such expenditure shall be made without study and written report from the Committee.

**§17-3 Capital Stabilization and Investment Fund.** The Town of Harvard hereby establishes and shall maintain a special fund to be known as the Capital Stabilization and Investment Fund. The Town may appropriate funds into the Capital Stabilization and Investment Fund by a majority vote at an annual or special town meeting. Any interest earned on the assets of the Fund shall be added to and become part of the Capital Stabilization and Investment Fund. The Treasurer of the Town shall be the custodian of the fund and may deposit proceeds in national banks or invest the proceeds by deposit in savings banks, cooperative banks or trust companies organized under the laws of the Commonwealth or invest the same in such securities as are legal for the investment of funds of savings banks under the laws of the Commonwealth or in federal savings and loan associations situated in the Commonwealth. Monies in the Capital Stabilization and Investment Fund may be appropriated at any annual or special town meetings by a two thirds vote. Said fund may be appropriated for any purpose for which the Town would be authorized to borrow money under sections seven and eight of Chapter 44 of the Massachusetts General Laws, other than clauses (1) and (2) of said Chapter 44 Section 8, and to pay the debt service on said projects, which are recommended by the by the Capital Investment Committee.

Or pass any vote or votes in relation thereto.

The following motion was made by Leo Blair, 106 East Bare Hill Road, Board of Selectmen, and seconded,

I move that the Town amend the Code of the Town of Harvard by adding thereto the new Chapter 17 in order to create a Capital Planning and Investment Committee in accordance with Massachusetts General Law Chapter 41, Section 106B as printed under Article 6 in the Warrant for the 2009 Annual Town Meeting.

Voted majority yes that the Town will vote to amend the Code of the Town of Harvard by adding thereto the following new, Chapter in order to create a Capital Planning and Investment Committee in accordance with Massachusetts General Law Chapter 41, Section 106B, :

## **Chapter 17, CAPITAL PLANNING AND INVESTMENT COMMITTEE:**

**§17-1 – Establishment; membership.** – There shall be a Capital Planning and Investment Committee comprised of eight (8) members consisting of three (3) non-voting members who shall be the Town Administrator, Superintendent of Schools and Finance Director and five (5) voting members each chosen by their respective boards as follows: one member each from the Finance Committee, School Committee and Board of Selectmen; and two citizens at-large appointed by the Board of Selectmen. Each citizen-at-large shall serve a three (3) year term that beginning July 1 and expiring June 30, except for the initial appointments to the committee which will run from the date of appointment through June 30, 2011 for the first member and June 30, 2012 for the second member. All voting members shall be registered voters of the Town of Harvard. Said Committee shall choose its own officers, set its own rules and shall serve without pay. Any vacancies shall be filled in the same manner as the original appointment and persons appointed to fill vacancies shall serve for the remainder of his predecessor's term of office.

### **§17-2 -Duties.**

A. The Committee shall consider matters relating to appropriations from the Capital Stabilization and Investment Fund, and shall make recommendations to the Town or any board committee or official thereof, and establish policies relative to the funding of capital projects of the Town and set priorities and schedules for such capital projects. The Committee shall study proposed capital outlays involving the acquisition of land or an expenditure of \$10,000. or greater and having a useful life of at least three years. All officers, boards, and committees, including the Board of Selectmen and the School Committee, shall by September each year give to such Board, on forms prepared by it, information concerning all anticipated capital projects needing town meeting action during the ensuing five years. The Committee shall consider the relative need, timing, and cost of these expenditures and the effect each will have on the financial position of the Town.

B. The Committee shall transmit its recommendations to the Town Administrator, as well as the appropriate officer, board, agency or department involved in the proposed capital improvement. Such recommendations shall constitute a Capital Improvement Program. The report of this program shall, as to items planned for the ensuing fiscal year, be given to the Town Administrator and Finance Committee for their review and possible inclusion in the budget. The text and tables of the Capital Improvement Program for the following five years shall be published in the Town's Annual Report. Expenditures for surveys, architectural or engineering advice, options or appraisals and similar expenses relating to future capital projects shall be a part of the Capital Improvement Program, and no such expenditure shall be made without study and written report from the Committee.

**§17-3 Capital Stabilization and Investment Fund.** The Town of Harvard hereby establishes and shall maintain a special fund to be known as the Capital Stabilization and Investment Fund.

The Town may appropriate funds into the Capital Stabilization and Investment Fund by a majority vote at an annual or special town meeting. Any interest earned on the assets of the Fund shall be added to and become part of the Capital Stabilization and Investment Fund. The Treasurer of the Town shall be the custodian of the fund and may deposit proceeds in national banks or invest the proceeds by deposit in savings banks, cooperative banks or trust companies organized under the laws of the Commonwealth or invest the same in such securities as are legal for the investment of funds of savings banks under the laws of the Commonwealth or in federal savings and loan associations situated in the Commonwealth. Monies in the Capital Stabilization and Investment Fund may be appropriated at any annual or special town meetings by a two-thirds vote. Said fund may be appropriated for any purpose for which the Town would be authorized to borrow money under sections seven and eight of Chapter 44 of the Massachusetts General Laws, other than clauses (1) and (2) of said Chapter 44 Section 8, and to pay the debt service on said projects, which are recommended by the by the Capital Investment Committee.

**Approved by the Attorney General's office on August 12, 2009, with the exception of §17-3. Effective on posting date of August 18, 2009. Final wording is as follows:**

**Chapter 17, CAPITAL PLANNING AND INVESTMENT COMMITTEE:**

**§17-1 – Establishment; membership.** – There shall be a Capital Planning and Investment Committee comprised of eight (8) members consisting of three (3) non-voting members who shall be the Town Administrator, Superintendent of Schools and Finance Director and five (5) voting members each chosen by their respective boards as follows: one member each from the Finance Committee, School Committee and Board of Selectmen; and two citizens at-large appointed by the Board of Selectmen. Each citizen-at-large shall serve a three (3) year term that beginning July 1 and expiring June 30, except for the initial appointments to the committee which will run from the date of appointment through June 30, 2011 for the first member and June 30, 2012 for the second member. All voting members shall be registered voters of the Town of Harvard. Said Committee shall choose its own officers, set its own rules and shall serve without pay. Any vacancies shall be filled in the same manner as the original appointment and persons appointed to fill vacancies shall serve for the remainder of his predecessor's term of office.

**§17-2 -Duties.**

A. The Committee shall consider matters relating to appropriations from the Capital Stabilization and Investment Fund, and shall make recommendations to the Town or any board committee or official thereof, and establish policies relative to the funding of capital projects of the Town and set priorities and schedules for such capital projects. The Committee shall study proposed capital outlays involving the acquisition of land or an expenditure of \$10,000. or

greater and having a useful life of at least three years. All officers, boards, and committees, including the Board of Selectmen and the School Committee, shall by September each year give to such Board, on forms prepared by it, information concerning all anticipated capital projects needing town meeting action during the ensuing five years. The Committee shall consider the relative need, timing, and cost of these expenditures and the effect each will have on the financial position of the Town.

B. The Committee shall transmit its recommendations to the Town Administrator, as well as the appropriate officer, board, agency or department involved in the proposed capital improvement. Such recommendations shall constitute a Capital Improvement Program. The report of this program shall, as to items planned for the ensuing fiscal year, be given to the Town Administrator and Finance Committee for their review and possible inclusion in the budget. The text and tables of the Capital Improvement Program for the following five years shall be published in the Town's Annual Report. Expenditures for surveys, architectural or engineering advice, options or appraisals and similar expenses relating to future capital projects shall be a part of the Capital Improvement Program, and no such expenditure shall be made without study and written report from the Committee.

#### **ARTICLE 7: CAPITAL STABILIZATION AND INVESTMENT FUND – INITIAL FUNDING**

To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$400,000 as start-up funding to be deposited in the Town's Capital Stabilization and Investment Fund, or pass any vote or votes in relation thereto.

On a motion by Leo Blair, 106 East Bare Hill Road, Board of Selectmen, and seconded,

Voted greater than 2/3 yes that the Town transfer, from the General Stabilization Fund, the sum of \$400,000 as start-up funding to be deposited in the Town's Capital Stabilization and Investment Fund.

#### **ARTICLE 8: HARVARD ELEMENTARY SCHOOL – SMART BOARDS**

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 Department, with the approval of the School Committee, to purchase thirteen Smart Boards with appurtenant equipment and install them in the Harvard Elementary School classrooms that currently do not have this technology, with unexpended funds as of June 30, 2010 being returned to their funding source, or pass any vote or votes in relation thereto.

On a motion by Virginia Justicz, 20 Woodside Road, School Committee, and seconded,



Voted unanimously yes that the Town take no action on Article 8.

#### **ARTICLE 9: HARVARD ELEMENTARY SCHOOL – AIR-CONDITIONING**

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 Department, with the approval of the School Committee, to make modifications and repairs to the HES Library air-conditioning system, with unexpended funds as of June 30, 2010 being returned to their funding source, or pass any vote or votes in relation thereto.

On a motion by Keith Cheveralls, 21 Quarry Lane, School Committee, and seconded,

Voted unanimously yes that the Town transfer from the General Stabilization Fund the sum of \$37,000 to be expended by the School Department, with the approval of the School Committee, to make modifications and repairs to the Harvard Elementary School Library air-conditioning system, with unexpended funds as of June 30, 2010 being returned to their funding source.

#### **ARTICLE 10: HARVARD ELEMENTARY SCHOOL – HEATING 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 School Department, with the approval of the School Committee, to make changes to the heating system and/or oil tank at the Harvard Elementary School, with unexpended funds as of June 30, 2010 being returned to their funding source, or pass any vote or votes in relation thereto.

On a motion by Keith Cheveralls, 21 Quarry Lane, School Committee, and seconded,

Voted unanimously yes that the Town transfer from the General Stabilization Fund the sum of \$60,000 to be expended by the School Department, with the approval of the School Committee, to make changes to the heating system and/or oil tank at the Harvard Elementary School, with unexpended funds as of June 30, 2010 being returned to their funding source.

#### **ARTICLE 11: HES/TBS – REPLACE HVAC LOW LIMIT SWITCHES**

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to replace low limit switches in both Harvard Elementary and Bromfield Schools, with unexpended funds as of June 30, 2010 being returned to their funding source, or pass any vote or votes in relation thereto.

On a motion by Keith Cheveralls, 21 Quarry Lane, School Committee, and seconded,

Voted unanimously yes that the Town raise and appropriate the sum of \$18,000 to be expended by the School Department, with the approval of the School Committee, to replace low limit switches in both Harvard Elementary School and Bromfield School, with unexpended funds as of June 30, 2010 being returned to their funding source.

#### **ARTICLE 12: BROMFIELD – LIBRARY CEILING COIL AND CEILING**

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to repair the ceiling coil and ceiling at Bromfield, with unexpended funds as of June 30, 2010 being returned to their funding source, or pass any vote or votes in relation thereto.

On a motion by Keith Cheveralls, 21 Quarry Lane, School Committee, and seconded,

Voted majority yes that the Town raise and appropriate the sum of \$10,000 to be expended by the School Department, with the approval of the School Committee, to repair the ceiling coil and ceiling at Bromfield, with unexpended funds as of June 30, 2010 being returned to their funding source.

#### **ARTICLE 13: WATER DEPARTMENT - UPGRADES TO WATER 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 Director of Public Works and Water Commissioners, with the approval of the Board of Selectmen, to remove 9 water services on Bolton Road from the existing 80 -year old six inch diameter unlined water main and reconnect them to newer twelve inch diameter cement lined water main and take this section of said existing six inch water main out of service, install level sensors in the water systems two active wells and connect them to our computerized telemetry system , and for investigating new locations for the development of new water resources including the drilling of exploratory wells , with unexpended funds as of June 30, 2010 being returned to their funding source, or pass any vote or votes in relation thereto.

On a motion by Ronald Ricci, 19 East Bare Hill Road, Board of Selectmen, and seconded,

Voted unanimously yes that the Town transfer from the General Stabilization Fund the sum of \$47,500 to be expended by the Director of Public Works and Water Commissioners, with the approval of the Board of Selectmen, to (i) remove 9 water services on Bolton Road from the existing 80-year old six inch diameter unlined water main and reconnect them to newer twelve inch diameter cement lined water main and take this section of said existing six inch water main out of service, (ii) install level sensors in the water systems two active wells and connect them to our computerized telemetry system , and (iii) investigate new locations for the development of new water resources including the drilling of exploratory wells , with unexpended funds as of June 30, 2010 being returned to their funding source

#### **ARTICLE 14: TOWN CLERK – CHANGE SUNSET FOR BALLOT BOX REPLACEMENT**

To see if the Town will vote to extend the expenditure sunset clause of Article 11, Ballot Box Replacement, of the March 29, 2008 Annual Town Meeting from June 30, 2009 to June 30, 2010, or pass any vote or votes in relation thereto.

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

Voted unanimously yes that the Town extend the expenditure deadline in Article 11, Ballot Box Replacement, of the March 29, 2008 Annual Town Meeting from June 30, 2009 to June 30, 2010.

#### **ARTICLE 15: BOARD OF SELECTMEN - TOWN WEB-SITE**

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to contract with a company to update and host a new web-site for the Town, with unexpended funds as of June 30, 2010 being returned to their funding source, or pass any vote or votes in relation thereto.

On a motion by Ronald Ricci, 19 East Bare Hill Road, Board of Selectmen, and seconded,

Voted majority yes that the Town raise and appropriate the sum of \$12,000 to be expended by the Board of Selectmen to contract with a company to update and host a new web-site for the Town, with unexpended funds as of June 30, 2010 being returned to their funding source.

#### **ARTICLE 16: EMERGENCY COMMUNICATION - EMERGENCY CONTACT SYSTEM**

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to contract with a company for a town wide emergency communication system, with unexpended funds as of June 30, 2010 being returned to their funding source, or pass any vote or votes in relation thereto.

On a motion by Peter Warren, 52 Lancaster County Road, Board of Selectmen, and seconded,

Voted majority yes that the Town raise and appropriate the sum of \$7,500 to be expended by the Board of Selectmen to contract with a company for a town wide emergency communication system, with unexpended funds as of June 30, 2010 being returned to their funding source.

## **ARTICLE 17: FIRE DEPARTMENT - RADIOS**

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 be used as the Town's match for a federal grant to purchase new radio equipment for the Fire Department, with unexpended funds as of June 30, 2010 being returned to their funding source, or pass any vote or votes in relation thereto.

On a motion by Peter Warren, 52 Lancaster County Road, Board of Selectmen, and seconded,

Voted unanimously yes that the Town raise and appropriate the sum of \$3,500 to be expended by the Fire Chief, with the approval of the Board of Selectmen, to be used as the Town's match for a federal grant to purchase new radio equipment for the Fire Department, with unexpended funds as of June 30, 2010 being returned to their funding source.

## **ARTICLE 18: FIRE DEPARTMENT – ADOPT MGL REGARDING SPRINKLERS**

To see if the Town will vote to accept the provisions of Massachusetts General Laws Chapter 148, Sections 26G relative to automatic suppressant or sprinkler systems in nonresidential buildings or additions, and 26I relative to automatic sprinkler systems in newly constructed multiple dwelling units, or take any other action in relation thereto.

On a motion by Peter Warren, 52 Lancaster County Road, Board of Selectmen, and seconded,

Voted majority yes that the Town accept the provisions of Massachusetts General Laws Chapter 148, Sections 26G relative to automatic suppressant or sprinkler systems in nonresidential buildings or additions, and 26I relative to automatic sprinkler systems in newly constructed multiple dwelling units.

## **ARTICLE 19: REVOLVING FUND – COUNCIL ON AGING (COA)**

To see if the Town will vote to re-authorize a revolving account, as allowed by Massachusetts General Laws Chapter 44, Section 53E ½, to be used to fund the activities of the Council On Aging with the revenue or expenditures of this account not to exceed \$30,000 in any given fiscal year, or pass any vote or votes in relation thereto.

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

Voted majority yes that the Town re-authorize a revolving account, as allowed by Massachusetts General Laws Chapter 44, Section 53E ½, to be used to fund the activities of the Council On Aging with the revenue or expenditures of this account not to exceed \$30,000 in any given Fiscal Year.

## **ARTICLE 20: REVOLVING FUND – FOURTH OF JULY**

To see if the Town will vote to re-authorize a revolving account, as allowed by Massachusetts General Laws Chapter 44, Section 53E ½, to be used to fund the activities of the Fourth of July Committee with the revenue or expenditures of this account not to exceed \$25,000 in any given fiscal year, or pass any vote or votes in relation thereto.

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

Voted majority yes that the Town re-authorize a revolving account, as allowed by Massachusetts General Laws Chapter 44, Section 53E ½, to be used to fund the activities of the Fourth of July Committee with the revenue or expenditures of this account not to exceed \$25,000 in any given Fiscal Year.

## **ARTICLE 21: REVOLVING FUND – AMBULANCE**

To see if the Town will vote to authorize a revolving account, as allowed by Massachusetts General Laws Chapter 44, Section 53 E ½, to be used to fund the activities of the Harvard Ambulance Service with the revenue or expenditures of this account not to exceed \$65,000, or pass any vote or votes in relation thereto.

On a motion by Peter Warren, 52 Lancaster County Road, Board of Selectmen, and seconded,

Voted unanimously yes that the Town vote to authorize a revolving account, as allowed by Massachusetts General Laws Chapter 44, Section 53 E ½, to be used to fund the activities of the Harvard Ambulance Service with the revenues or expenditures of this account not to exceed \$65,000.

## **ARTICLE 22: FISCAL IMPACT ANALYSIS TEAM - AYER ROAD COMMERCIAL DISTRICT**

To see if the Town will vote to direct the Board of Selectmen to appoint an Economic Development Analysis Team (EDAT) no later than June 30, 2009, to prepare a commercial and industrial (C&I) development strategy for the Town. The EDAT will analyze the town's opportunities to reduce its reliance on residential property tax revenue and increase its commercial property tax revenue by encouraging managed and desirable development of C&I (including retail) property. The EDAT will report progress to the Board of Selectmen on a quarterly basis, and issue a final report to the town no later than the Annual Town Meeting of 2010. Such report will include, but not necessarily be limited to:

- identification and cost/benefit analysis of C&I development opportunities that meet community-driven service needs and/or maximize revenue potential;

- current obstacles to desired C&I development and recommended solutions, e.g.;
  - infrastructure and/or other potential investment requirements;
  - necessary changes to zoning ordinances;
  - mitigation measures, if necessary, to protect nearby residential areas, and
  - recommended changes to taxation structure; and
- proposed implementation plan defining tasks and drivers, projected schedule, and estimated costs.

or pass any vote or votes in relation thereto.

The following motion was made by Timothy Clark, 114 Bolton Road, Board of Selectmen, and seconded,

I move that the Town vote to direct the Board of Selectmen to appoint an Economic Development Analysis Team (EDAT) no later than June 30, 2009, to prepare a commercial and industrial (C&I) development strategy for the Town. The EDAT will analyze the town's opportunities to reduce its reliance on residential property tax revenue and increase its commercial property tax revenue by encouraging managed and desirable development of C&I (including retail) property. The EDAT will report progress to the Board of Selectmen on a quarterly basis, and issue a final report to the town no later than the Annual Town Meeting of 2010. Such report will include, but not necessarily be limited to:

- identification and cost/benefit analysis of C&I development opportunities that meet community-driven service needs and/or maximize revenue potential;
- current obstacles to desired C&I development and recommended solutions, e.g.;
  - infrastructure and/or other potential investment requirements;
  - necessary changes to zoning ordinances;
  - mitigation measures, if necessary, to protect nearby residential areas, and
  - recommended changes to taxation structure; and
- proposed implementation plan defining tasks and drivers, projected schedule, and estimated costs.

or pass any vote or votes in relation thereto.

A motion by Paul vonLoesecke to move the question was seconded, and voted greater than 2/3 yes.

Voted majority yes to direct the Board of Selectmen to appoint an Economic Development Analysis Team (EDAT) no later than June 30, 2009, to prepare a commercial and industrial (C&I) development strategy for the Town. The EDAT will analyze the town's opportunities to reduce its reliance on residential property tax revenue and increase its commercial property tax revenue by encouraging managed and desirable development of C&I (including retail) property. The EDAT will report progress to the Board of Selectmen on a quarterly basis, and issue a final

report to the town no later than the Annual Town Meeting of 2010. Such report will include, but not necessarily be limited to:

- identification and cost/benefit analysis of C&I development opportunities that meet community-driven service needs and/or maximize revenue potential;
- current obstacles to desired C&I development and recommended solutions, e.g.;
  - infrastructure and/or other potential investment requirements;
  - necessary changes to zoning ordinances;
  - mitigation measures, if necessary, to protect nearby residential areas, and
  - recommended changes to taxation structure; and
- proposed implementation plan defining tasks and drivers, projected schedule, and estimated costs.

After the vote on Article 22, the Fiscal Impact Analysis Team handed out a survey for voters to complete.

## **ARTICLE 23: HOME RULE PETITION – GENERAL STORE WINE AND MALT LICENSE**

To see if the Town will vote to authorize the Board of Selectmen to petition the State Legislature to enact a special act substantially the same as the special act set forth below, or take any action in relation thereto.

### **AN ACT AUTHORIZING THE TOWN OF HARVARD TO GRANT LICENSES FOR THE SALE OF WINE AND MALT BEVERAGES NOT TO BE DRUNK ON THE PREMISES.**

Section 1. Notwithstanding the provisions of section 17 of chapter 138 of the General Laws, the licensing authority of the Town of Harvard may grant up to three licenses for the sale of wine and malt alcoholic beverages not to be drunk on the premises under section 15 of said chapter 138, provided that one such license may only be granted to the owner or operator of the premises known as the Harvard General Store located at 1 Still River Road in the town of Harvard. Once issued, a license granted under this section shall not be transferred to any other location and no such license shall be re-issued to the same location within 6 months from the date the prior license terminated unless the applicant files a letter in writing from the department of revenue with the local licensing authority indicating the prior licensee's good standing with said department. If a license granted under this section is cancelled, revoked or no longer in use, it shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority of the Town of Harvard. Notwithstanding section 17 of chapter 138 of the General Laws or any other general or special law to the contrary, the licensing authority may then grant the license to a new applicant at the same location and under the same conditions as specified in the preceding paragraph.

Section 2. This act shall take effect upon its passage.

The following motion was made by Ronald Ricci, 19 East Bare Hill Road, Board of Selectmen, and seconded,

I move that the Town authorize the Board of Selectmen to petition the State Legislature to enact a special act substantially the same as the special act printed in Article 23 of the Warrant for the 2009 Annual Town Meeting.

The following amendment was made by Paul Cohen, 35 Candleberry Lane, and seconded,

I move that approval of home rule petition at next annual town election [is required] after approval by legislature.

The Board of Selectmen did not accept the amendment.

The motion to amend was voted majority NO.

A motion by Peter Warren to move the question was seconded, and voted greater than 2/3 yes.

Voted majority yes to authorize the Board of Selectmen to petition the State Legislature to enact a special act substantially the same as the special act set forth below, or take any action in relation thereto.

**AN ACT AUTHORIZING THE TOWN OF HARVARD TO GRANT LICENSES FOR  
THE SALE OF WINE AND MALT BEVERAGES NOT TO BE DRUNK ON THE  
PREMISES.**

Section 1. Notwithstanding the provisions of section 17 of chapter 138 of the General Laws, the licensing authority of the Town of Harvard may grant up to three licenses for the sale of wine and malt alcoholic beverages not to be drunk on the premises under section 15 of said chapter 138, provided that one such license may only be granted to the owner or operator of the premises known as the Harvard General Store located at 1 Still River Road in the town of Harvard. Once issued, a license granted under this section shall not be transferred to any other location and no such license shall be re-issued to the same location within 6 months from the date the prior license terminated unless the applicant files a letter in writing from the department of revenue with the local licensing authority indicating the prior licensee's good standing with said department. If a license granted under this section is cancelled, revoked or no longer in use, it shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority of the Town of Harvard. Notwithstanding section 17 of chapter 138 of the General Laws or any other general or special law to the contrary, the licensing authority may then grant the license to a new applicant at the same location and under the same conditions as specified in the preceding paragraph.



Section 2. This act shall take effect upon its passage.

A motion made by Tim Clark, 114 Bolton Road, Board of Selectmen, and seconded, to take up Articles 24, 25, and 26 at the same time, was voted unanimously yes.

## **ARTICLE 24: SEWER DISTRICT HOME RULE PETITION**

To see if the Town will vote to authorize the Board of Selectmen to petition the State Legislature to enact a special act substantially the same as the special act set forth below or pass any vote or votes in relation thereto.

(Inserted by Board of Selectmen)

### **AN ACT RELATIVE TO A WASTEWATER MANAGEMENT DISTRICT IN THE TOWN OF HARVARD**

**Section 1. Name.** This act shall be known as the Harvard Wastewater Management District Act.

**Section 2. Purpose.** The purpose of this act is to ensure and facilitate the connection of buildings and structures located in the Harvard Wastewater Management Service Area to the common wastewater management system to be constructed and installed therein; reduce and prevent contamination and pollution of drinking water, groundwater and other natural resources in said service area; provide for an efficient and financially self-sustaining wastewater management system in said areas; facilitate the implementation of Title V of the State Environmental Code in order to protect and improve groundwater supplying drinking water; protect persons residing in said service area from the risks and hazards associated with such contamination and pollution, all to the public benefit and good, and to the extent and manner provided herein.

**Section 3. Definitions.** As used in this act, the following words shall, unless the context requires otherwise, have the following meanings:

“Board of Health”, the Board of Health of the Town of Harvard.

“Commission” the Harvard Wastewater Management District Commission of the Town established by Section 4 of this Act.

“Costs”, all costs and expenses of the planning, design, acquisition, construction, installation, reconstruction, alteration, extension, improvement or enlargement of the wastewater management system including, without limitation, costs of labor, materials, professional

services, consulting services, equipment, grinder and ejector pumps, materials, supplies, machinery, structures, all rights in real and personal property, costs of demolitions or relocations, costs of removal or relocations of public utilities, financing charges and expenses, debt service costs relative to the wastewater management system.

“Facility”, shall mean a facility as defined in 310 CMR 15.002 of the State Environmental Code as of May 1, 2009.

“Revenues”, all revenues, rates, fees, charges, rents, proceeds of loans, grant funds, insurance proceeds, investment earnings and other receipts derived from the operation of the wastewater management system.

“Harvard Wastewater Management Service Area”, shall mean that portion of the Town of Harvard shown as “Plan of \_\_\_\_\_” on a plan entitled “Plan of \_\_\_\_\_ Harvard, Mass. prepared for Town of Harvard”, dated \_\_\_\_\_, 2009, prepared by \_\_\_\_\_ and filed in the office of the Town Clerk of the Town or as such service area may be modified by majority vote of the Town at a town meeting, upon the recommendation of the Commission.

“Town”, the Town of Harvard.

“Wastewater management system”, the wastewater collection, conveyance, treatment and disposal systems serving more than one facility to be constructed or to be in the possession of and under the jurisdiction and control of the Commission, including all components thereof.

“Wastewater”, greywater and blackwater from domestic, municipal and other governmental and institutional uses, but not from industrial sources, as defined in 310 CMR 15.002 of the State Environmental Code.

**Section 4. Commission.** There is hereby established in the Town of Harvard a commission to be known as the Harvard Wastewater Management District Commission, which shall have the rights, powers and duties specified in this Act and the General Laws relating to town boards, and shall be subject to such instructions as the Town may from time to time impose by vote of its town meeting.

Except as otherwise provided in this Act, said commission shall consist of three members, each of whom shall be a resident of the Town. At least one such member shall reside in the Harvard Wastewater Management Service Area. The members shall be appointed by the Board of Selectmen of the Town within sixty days after the effective date of this Act, provided that the design of the wastewater management system to be constructed in said service area has been approved by vote of the Town at a town meeting. Of the members first appointed, one shall serve in office for a term expiring on June thirtieth in the year following the effective date of this Act, and one for a term expiring on June thirtieth in the second year following the effective date of

this Act, and one for a term expiring on June thirtieth in the third year following the effective date of this Act. Thereafter, said board of selectmen shall appoint successors for a term of three years, or in the case of an appointment to fill a vacancy, for the unexpired term, and until the successor is appointed and qualified. Any member of said commission shall be eligible for reappointment. Any member of said commission may be removed at any time for cause. No vacancy in the membership of said commission shall impair the right of a quorum to exercise the powers of said commission. Two members of said commission shall constitute a quorum and the affirmative vote of two members shall be necessary for any action taken by vote of said commission.

Said commission shall annually elect one of its members as chair. The members shall serve without compensation. The members of said commission shall not be municipal employees within the meaning of Chapter 268A of the General Laws.

The Commission shall have all the rights, authority and powers necessary or convenient to carry out and effectuate this Act, including, but without limiting the generality of the foregoing, the rights, authority and power to:

(a) to hire, employ or engage the services of engineers, land surveyors, consultants and such other experts as it deems necessary and determine their duties;

(b) to construct, install, improve, extend, enlarge, operate, maintain, repair and reconstruct the wastewater management system, subject to the limitations set forth in Section 10 of this Act;

(c) to hold, manage, maintain, control and regulate the use of Town-owned property, real or personal, tangible or intangible, or interests therein, for the purposes of this Act, consistent with all requirements of the General Laws;

(d) to adopt rules and regulations relative to the use of and connection to the wastewater management system including the types of wastewater that can be discharged into the system, subject to the approval of the Board of Selectmen. The Commission may, by regulation, prescribe civil penalties, which shall enure to the Town, in accordance with Section 10 of Chapter 83 of the General Laws for the violation of any such rule or regulation of the Commission. Prior to adopting or amending such rules and regulations, the Commission shall hold a public hearing thereon, notice of which, giving the time, date and place, shall be placed in a newspaper of general circulation in the town, once in each of two successive weeks, with the first such publication being not less than fourteen (14) days before the hearing. Any such rules and regulations so adopted or amended and so approved shall be filed in the office of the Town Clerk whereupon they shall take effect. The Commission may also assess fines not exceeding three hundred dollars for each violation of its rules and regulations in accordance with Section 21 of Chapter 40 of the General Laws;

(e) to apply for, receive, accept, administer, expend and comply with the conditions of any grant, gift, loan, donation, or appropriation of any money or property in aid of the purposes of this Act;

(f) to sell, exchange, transfer or otherwise dispose of any surplus personal property, tangible or intangible, consistent with all requirements of the General Laws;

(g) to contract for and procure wastewater management, treatment and disposal from any person, private or public corporation or government agency or entity, consistent with all requirements of the General laws, when necessary or convenient for the operation of the wastewater management system;

(h) to use and expend monies borrowed or appropriated by the Town for the purposes of this Act;

(i) to make contracts of every name and nature and to execute and deliver all instruments necessary or convenient for carrying out its duties;

(j) to create an overall wastewater management policy and plan for the Harvard Wastewater Management Service Area, which shall be consistent with the Town's Master Plan and Open Space and Recreation Plan;

(k) to fix, revise, charge, collect and abate fees, rates, assessments, delinquency charges and other charges for wastewater collection, treatment and disposal services, facilities and commodities for facilities connected to the wastewater management system;

(i) Subject to Section 5 of this Act, such fees, rates, rents, assessments, delinquency charges and other charges of general application shall be adopted and revised by the Commission at least annually in accordance with procedures to be established by the Commission for assuring that interested persons are afforded notice and an opportunity to present data, views and arguments. The commission shall hold at least one public hearing on its schedule of fees, rates and charges or any revision thereof prior to adoption, notice of which shall be delivered to the Board of Selectmen of the Town and be published in a newspaper of substantial circulation in the Town at least one month in advance of the hearing. No later than the date of such publication, the Commission shall make available to the public and deliver to said selectmen and the Finance Committee of the Town the proposed schedule of fees, rates and charges and its proposed operating and capital budgets for its next fiscal year. The commission may combine its fees, rates and other charges for wastewater services provided by it in a single schedule of charges. Fees, rates, rents, assessments, abatements and other charges established by the Commission shall not be subject to supervision or regulation by any department, division, commission, board, bureau, or agency of the Commonwealth. Such schedule shall provide for the metering, monitoring and other measuring of, and charging for, wastewater management services provided by the commission to consumers of such services in said service area, except for the Town, provided,

further, that no betterment or special assessment shall be made by the Commission under the authority of Chapters 80 or 83 of the General Laws or any other provision of law against property owned by the Town, the Commonwealth, any political subdivisions thereof or the United States or any agencies thereof. In lieu of any betterment assessment or special assessment, the Town shall receive a reduction in any outstanding General Fund advances or loans or make payment or transfer from the General Fund equal to the amount such assessment.

(ii) Subject to Section 5 of this Act, the fees, rates, rents, assessments and other charges so established by the Commission shall be so fixed and adjusted in respect to the aggregate thereof so as to provide revenues at least sufficient (1) to pay the current expenses of the Commission, (2) to pay the principal of, premium, if any, and interest on bonds or other evidences of indebtedness issued by the Town for the Commission as the same become due and payable, (3) to create and maintain such reasonable reserves as may be reasonably required by any trust agreement or resolution securing bonds, (4) to provide funds for paying the cost of all necessary repairs, replacements and renewals of the wastewater management system and (5) to pay or provide for any amounts which the Commission may be obligated to pay or provide for by law or contract including any resolution or contract with or for the benefit of the holders of bonds issued for the Commission. The annual operating budget of the Commission shall be submitted to the Board of Selectmen and Finance Committee of the Town for review and recommendation, and all funds expended by the Commission shall be subject to appropriation by town meeting.

(l) to exercise the powers and privileges of, and to be subject to limitations upon towns and cities provided by the provisions of Sections 1 to 24, inclusive, and 27 to 29, inclusive, of Chapter 83 of the General Laws, insofar as such provisions may be applicable and are consistent with the provisions of this Act;

(m) to do all things necessary, convenient or desirable for carrying out the purposes of this Act or the powers expressly granted or necessarily implied in this Act; and

(n) consistent with the Constitution and laws of the Commonwealth, the Commission shall have such other powers as may be necessary for or incident to carrying out the foregoing powers and the accomplishment of the purposes of this Act; provided, however, that nothing in this Act shall impose any duty on the Commission to maintain groundwater levels within or without the boundaries of the Town.

**Section 5. Budgets.** The Town is hereby authorized to establish an Enterprise Fund in accordance with the provisions of Section 53F1\2 of Chapter 44 of the General Laws for the operation of the wastewater management system. On or before one year after the effective date of this act and annually thereafter, the Commission shall prepare a proposed capital improvement program for the next three succeeding fiscal years of said commission and shall adopt an operating and capital improvement budget for the next succeeding fiscal year. Such program and budgets shall include a description of the operations and projects proposed to be undertaken during such periods, the costs proposed to be incurred in connection with such operations and projects, the method of financing such costs and an estimate of the effect, if any, that such costs will have on the current or projected fees, rates, assessments and other charges of the

Commission. The program and budget shall be annually prepared and the budget shall be presented for approval to the town meeting. The commission shall submit its operating capital budget to the Board of Selectmen and Finance Committee of the Town for review and recommendation. The Commission shall hold at least one public hearing on the proposed capital improvement program and budget and operating budget prior to adoption, which hearing may be combined with a hearing provided in Section 4, Paragraph(i) of this Act, notice of which shall be delivered to said board of selectmen and be published in a newspaper of substantial circulation in the Town at least one month in advance of the hearing. No later than the date of such publication, the Commission shall make available to the public and deliver to said board of selectmen copies of the proposed program and budgets.

**Section 6. Borrowing.** The Town may incur debt for development of the wastewater management system in accordance with Chapter 44 of the General Laws. Notwithstanding any provision of Section 17 of Chapter 44 of the General Laws to the contrary, the Town may make temporary loans for a period of not more than five years in anticipation of the money to be derived from the sale of bonds for the construction and installation of the wastewater management system in said service area. The principal of, premium, if any, and interest on all notes and bonds issued by the Town for the Commission, unless otherwise provided by the Town, shall be payable solely from the funds provided therefore from revenues as herein provided, but shall be general obligations of the Town for payment of which the full faith and credit of said Town shall be pledged.

**Section 7. System Usage Charge Liens and Abatements.** The Commission shall have the benefit, without further acceptance of Sections 16A and 16B of said Chapter 83, to the extent applicable and consistent with this Act. Applications for abatements in accordance with Section 16E of said Chapter 83 shall be made to the Commission within thirty days after the date of such demand. Upon written application, the collector of taxes for the Town shall issue lien certificates in accordance with Section 23 of Chapter 60 of the General Laws. No recordation of certificates issued by the Town pursuant to said Section 23 of said Chapter 60 shall affect liens for the unpaid fees, rates, rents, assessments, and other charges of the Commission.

**Section 8. Betterment Assessment Payback Period and Interest Rate.** Notwithstanding any provision of Section 13 of Chapter 80 of the General Laws to the contrary, (a) the Board of Assessors of the Town may, at the request of the owner of the land so assessed, apportion all betterment assessments or unpaid balances thereof relative to the wastewater management system in said service area into equal portions of up to thirty to be paid annually for a period of up to thirty years after such assessments first appear on the affected landowner's real estate tax bill; and (b) betterment assessments made by the Commission shall, at the election of the Commission, bear interest at one rate of up to five per cent per annum or, at a rate of up to two per cent above the rate of interest chargeable to the Town for the betterment project to which the assessments relate, from the thirtieth day after betterment assessments have been committed to the Town Collector.

**Section 9. Deferral of Betterment Assessments and Usage Charges.** The Commission shall have the benefit, without further acceptance of Section 13B of said Chapter 80 and Section 16G of said Chapter 83.

**Section 10. Connections to the System.**

(a) Notwithstanding the provisions of Section 3 of Chapter 83 of the General Laws, said commission shall not be required to connect any home, facility or lot to the wastewater management system, except as set forth in Paragraph (b) below. The Commission shall not permit the connection of (i) a new facility; (ii) a facility that has been reconstructed resulting in an increase of the gross floor area or in the number of bedrooms; or (iii) a facility that has undergone a change in use to the wastewater management system or permit an increase in design flow into the wastewater management system for a facility in existence on May 1, 2009, if that new or changed facility could not have been constructed with a wastewater disposal system or septic system which would comply with Title V of the State Environmental Code or other applicable regulations of the Massachusetts Department of Environmental Protection or the increase in design flow could not have been permitted in the absence of a connection to the wastewater management system, unless the Commission, with the approval of the Board of Selectmen, determines that such a connection is necessary for the health, welfare or safety of the Town or creates a demonstrable benefit to the Town.

(b) Any facility within the Harvard Wastewater Management Service Area which is served by a subsurface sewage disposal system which is in a state of failure as determined by the Board of Health or the Massachusetts Department of Environmental Protection shall be connected to the wastewater management system within six months after the owner of the facility receives written notice from the Commission that the wastewater management system is complete and operational.

(c) Any owner of a facility who is aggrieved by a decision of the Commission relative to such owner's application to voluntarily or involuntarily connect such owner's facility to the wastewater management system may appeal the Commission's decision to the Board of Selectmen by filing a written petition with the Board of Selectmen within sixty (60) days after receipt of the Commission's written decision. The Board of Selectmen may hold a hearing on the petition, consult with the Board of Health, and shall render a written decision thereon affirming, modifying or reversing the Commission's decision within ninety (90) days after receipt of the petition or such longer period of time as may be agreed to by the Board of Selectmen and the petitioner. If the Board of Selectmen fails to act on such a petition within said period of time, the Commission's decision shall be deemed to be affirmed.

**Section 11. Consistency with Law.** Insofar as the provisions of this Act are inconsistent with the provisions of any general or special law, administrative order or regulation, or by-law, rule, regulation or code of the Town, other than rules and regulations or orders of the Board of Health or by-laws of the Town which require homes or facilities to be connected to the wastewater management system involuntarily, the provisions of this Act shall be controlling.

**Section 12. Construction.** This Act, being necessary for the health and welfare of the Town of Harvard and its inhabitants, shall be liberally construed to effectuate its purposes. This Act shall be construed in all respects so as to meet all constitutional requirements. In carrying out the purposes and provisions of this Act, all steps shall be taken which are necessary to meet constitutional requirements whether or not such steps are required by statute.

**Section 13. Effective Date.** This Act shall take effect upon its passage.

The following motion was made by Tim Clark, 114 Bolton Road, Board of Selectmen, and seconded,

I move that the Town authorize the Board of Selectmen to petition the State Legislature to enact a special act substantially the same as the special act printed in Article 24 of the Warrant for the 2009 Annual Town Meeting, except for the definition of the term "Harvard Wastewater Management Service Area", in Section 3 of said proposed special act which shall mean "that portion of the Town of Harvard as shown on a plan entitled "Proposed Sewer Service Plan, Town of Harvard, Mass. prepared for Town of Harvard", dated 11/19/2008 and revised on 3/30/2009, prepared by Norfolk Ram in association with Weston & Sampson and filed in the office of the Town Clerk of the Town or as such service area may be modified by majority vote of the Town at a town meeting, upon the recommendation of the Commission" and the words "at the request of the owner of the land so assessed," which shall be stricken from paragraph (a) of Section 8 of said proposed special act.

The following amendment was made by Kevin Durand, 13 Massachusetts Avenue, and seconded,

I move to add back in the wording deleted in Section 8.

Town Counsel Mark Lanza stated that the wording would not be approved by the state because it gave too much power to the homeowner.

Voted majority no to amend the motion.

A motion by Lucy Wallace to move the question was seconded, and voted greater than 2/3 yes.

Voted majority yes to authorize the Board of Selectmen to petition the State Legislature to enact a special act substantially the same as the special act set forth below or pass any vote or votes in relation thereto.



## **AN ACT RELATIVE TO A WASTEWATER MANAGEMENT DISTRICT IN THE TOWN OF HARVARD**

**Section 1. Name.** This act shall be known as the Harvard Wastewater Management District Act.

**Section 2. Purpose.** The purpose of this act is to ensure and facilitate the connection of buildings and structures located in the Harvard Wastewater Management Service Area to the common wastewater management system to be constructed and installed therein; reduce and prevent contamination and pollution of drinking water, groundwater and other natural resources in said service area; provide for an efficient and financially self-sustaining wastewater management system in said areas; facilitate the implementation of Title V of the State Environmental Code in order to protect and improve groundwater supplying drinking water; protect persons residing in said service area from the risks and hazards associated with such contamination and pollution, all to the public benefit and good, and to the extent and manner provided herein.

**Section 3. Definitions.** As used in this act, the following words shall, unless the context requires otherwise, have the following meanings:

“Board of Health”, the Board of Health of the Town of Harvard.

“Commission” the Harvard Wastewater Management District Commission of the Town established by Section 4 of this Act.

“Costs”, all costs and expenses of the planning, design, acquisition, construction, installation, reconstruction, alteration, extension, improvement or enlargement of the wastewater management system including, without limitation, costs of labor, materials, professional services, consulting services, equipment, grinder and ejector pumps, materials, supplies, machinery, structures, all rights in real and personal property, costs of demolitions or relocations, costs of removal or relocations of public utilities, financing charges and expenses, debt service costs relative to the wastewater management system.

“Facility”, shall mean a facility as defined in 310 CMR 15.002 of the State Environmental Code as of May 1, 2009.

“Revenues”, all revenues, rates, fees, charges, rents, proceeds of loans, grant funds, insurance proceeds, investment earnings and other receipts derived from the operation of the wastewater management system.

“Harvard Wastewater Management Service Area”, shall mean that portion of the Town of Harvard shown on a plan entitled “Proposed Sewer Service Plan, Town of Harvard, Mass. prepared for Town of Harvard”, dated 11/19/2008 and revised on 3/30/2009 prepared by Norfolk

Ram in Association with Weston & Sampson and filed in the office of the Town Clerk of the Town or as such service area may be modified by majority vote of the Town at a town meeting, upon the recommendation of the Commission.

“Town”, the Town of Harvard.

“Wastewater management system”, the wastewater collection, conveyance, treatment and disposal systems serving more than one facility to be constructed or to be in the possession of and under the jurisdiction and control of the Commission, including all components thereof.

“Wastewater”, greywater and blackwater from domestic, municipal and other governmental and institutional uses, but not from industrial sources, as defined in 310 CMR 15.002 of the State Environmental Code.

**Section 4. Commission.** There is hereby established in the Town of Harvard a commission to be known as the Harvard Wastewater Management District Commission, which shall have the rights, powers and duties specified in this Act and the General Laws relating to town boards, and shall be subject to such instructions as the Town may from time to time impose by vote of its town meeting.

Except as otherwise provided in this Act, said commission shall consist of three members, each of whom shall be a resident of the Town. At least one such member shall reside in the Harvard Wastewater Management Service Area. The members shall be appointed by the Board of Selectmen of the Town within sixty days after the effective date of this Act, provided that the design of the wastewater management system to be constructed in said service area has been approved by vote of the Town at a town meeting. Of the members first appointed, one shall serve in office for a term expiring on June thirtieth in the year following the effective date of this Act, and one for a term expiring on June thirtieth in the second year following the effective date of this Act, and one for a term expiring on June thirtieth in the third year following the effective date of this Act. Thereafter, said board of selectmen shall appoint successors for a term of three years, or in the case of an appointment to fill a vacancy, for the unexpired term, and until the successor is appointed and qualified. Any member of said commission shall be eligible for reappointment. Any member of said commission may be removed at any time for cause. No vacancy in the membership of said commission shall impair the right of a quorum to exercise the powers of said commission. Two members of said commission shall constitute a quorum and the affirmative vote of two members shall be necessary for any action taken by vote of said commission.

Said commission shall annually elect one of its members as chair. The members shall serve without compensation. The members of said commission shall not be municipal employees within the meaning of Chapter 268A of the General Laws.

The Commission shall have all the rights, authority and powers necessary or convenient to carry out and effectuate this Act, including, but without limiting the generality of the foregoing, the rights, authority and power to:

(a) to hire, employ or engage the services of engineers, land surveyors, consultants and such other experts as it deems necessary and determine their duties;

(b) to construct, install, improve, extend, enlarge, operate, maintain, repair and reconstruct the wastewater management system, subject to the limitations set forth in Section 10 of this Act;

(c) to hold, manage, maintain, control and regulate the use of Town-owned property, real or personal, tangible or intangible, or interests therein, for the purposes of this Act, consistent with all requirements of the General Laws;

(d) to adopt rules and regulations relative to the use of and connection to the wastewater management system including the types of wastewater that can be discharged into the system, subject to the approval of the Board of Selectmen. The Commission may, by regulation, prescribe civil penalties, which shall enure to the Town, in accordance with Section 10 of Chapter 83 of the General Laws for the violation of any such rule or regulation of the Commission. Prior to adopting or amending such rules and regulations, the Commission shall hold a public hearing thereon, notice of which, giving the time, date and place, shall be placed in a newspaper of general circulation in the town, once in each of two successive weeks, with the first such publication being not less than fourteen (14) days before the hearing. Any such rules and regulations so adopted or amended and so approved shall be filed in the office of the Town Clerk whereupon they shall take effect. The Commission may also assess fines not exceeding three hundred dollars for each violation of its rules and regulations in accordance with Section 21 of Chapter 40 of the General Laws;

(e) to apply for, receive, accept, administer, expend and comply with the conditions of any grant, gift, loan, donation, or appropriation of any money or property in aid of the purposes of this Act;

(f) to sell, exchange, transfer or otherwise dispose of any surplus personal property, tangible or intangible, consistent with all requirements of the General Laws;

(g) to contract for and procure wastewater management, treatment and disposal from any person, private or public corporation or government agency or entity, consistent with all requirements of the General laws, when necessary or convenient for the operation of the wastewater management system;

(h) to use and expend monies borrowed or appropriated by the Town for the purposes of this Act;

(i) to make contracts of every name and nature and to execute and deliver all instruments necessary or convenient for carrying out its duties;

(j) to create an overall wastewater management policy and plan for the Harvard Wastewater Management Service Area, which shall be consistent with the Town's Master Plan and Open Space and Recreation Plan;

(k) to fix, revise, charge, collect and abate fees, rates, assessments, delinquency charges and other charges for wastewater collection, treatment and disposal services, facilities and commodities for facilities connected to the wastewater management system;

(i) Subject to Section 5 of this Act, such fees, rates, rents, assessments, delinquency charges and other charges of general application shall be adopted and revised by the Commission at least annually in accordance with procedures to be established by the Commission for assuring that interested persons are afforded notice and an opportunity to present data, views and arguments. The commission shall hold at least one public hearing on its schedule of fees, rates and charges or any revision thereof prior to adoption, notice of which shall be delivered to the Board of Selectmen of the Town and be published in a newspaper of substantial circulation in the Town at least one month in advance of the hearing. No later than the date of such publication, the Commission shall make available to the public and deliver to said selectmen and the Finance Committee of the Town the proposed schedule of fees, rates and charges and its proposed operating and capital budgets for its next fiscal year. The commission may combine its fees, rates and other charges for wastewater services provided by it in a single schedule of charges. Fees, rates, rents, assessments, abatements and other charges established by the Commission shall not be subject to supervision or regulation by any department, division, commission, board, bureau, or agency of the Commonwealth. Such schedule shall provide for the metering, monitoring and other measuring of, and charging for, wastewater management services provided by the commission to consumers of such services in said service area, except for the Town, provided, further, that no betterment or special assessment shall be made by the Commission under the authority of Chapters 80 or 83 of the General Laws or any other provision of law against property owned by the Town, the Commonwealth, any political subdivisions thereof or the United States or any agencies thereof. In lieu of any betterment assessment or special assessment, the Town shall receive a reduction in any outstanding General Fund advances or loans or make payment or transfer from the General Fund equal to the amount such assessment.

(ii) Subject to Section 5 of this Act, the fees, rates, rents, assessments and other charges so established by the Commission shall be so fixed and adjusted in respect to the aggregate thereof so as to provide revenues at least sufficient (1) to pay the current expenses of the Commission, (2) to pay the principal of, premium, if any, and interest on bonds or other evidences of indebtedness issued by the Town for the Commission as the same become due and payable, (3) to create and maintain such reasonable reserves as may be reasonably required by any trust agreement or resolution securing bonds, (4) to provide funds for paying the cost of all necessary repairs, replacements and renewals of the wastewater management system and (5) to pay or

provide for any amounts which the Commission may be obligated to pay or provide for by law or contract including any resolution or contract with or for the benefit of the holders of bonds issued for the Commission. The annual operating budget of the Commission shall be submitted to the Board of Selectmen and Finance Committee of the Town for review and recommendation, and all funds expended by the Commission shall be subject to appropriation by town meeting.

(l) to exercise the powers and privileges of, and to be subject to limitations upon towns and cities provided by the provisions of Sections 1 to 24, inclusive, and 27 to 29, inclusive, of Chapter 83 of the General Laws, insofar as such provisions may be applicable and are consistent with the provisions of this Act;

(m) to do all things necessary, convenient or desirable for carrying out the purposes of this Act or the powers expressly granted or necessarily implied in this Act; and

(n) consistent with the Constitution and laws of the Commonwealth, the Commission shall have such other powers as may be necessary for or incident to carrying out the foregoing powers and the accomplishment of the purposes of this Act; provided, however, that nothing in this Act shall impose any duty on the Commission to maintain groundwater levels within or without the boundaries of the Town.

**Section 5. Budgets.** The Town is hereby authorized to establish an Enterprise Fund in accordance with the provisions of Section 53F1\2 of Chapter 44 of the General Laws for the operation of the wastewater management system. On or before one year after the effective date of this act and annually thereafter, the Commission shall prepare a proposed capital improvement program for the next three succeeding fiscal years of said commission and shall adopt an operating and capital improvement budget for the next succeeding fiscal year. Such program and budgets shall include a description of the operations and projects proposed to be undertaken during such periods, the costs proposed to be incurred in connection with such operations and projects, the method of financing such costs and an estimate of the effect, if any, that such costs will have on the current or projected fees, rates, assessments and other charges of the Commission. The program and budget shall be annually prepared and the budget shall be presented for approval to the town meeting. The commission shall submit its operating capital budget to the Board of Selectmen and Finance Committee of the Town for review and recommendation. The Commission shall hold at least one public hearing on the proposed capital improvement program and budget and operating budget prior to adoption, which hearing may be combined with a hearing provided in Section 4, Paragraph(i) of this Act, notice of which shall be delivered to said board of selectmen and be published in a newspaper of substantial circulation in the Town at least one month in advance of the hearing. No later than the date of such publication, the Commission shall make available to the public and deliver to said board of selectmen copies of the proposed program and budgets.

**Section 6. Borrowing.** The Town may incur debt for development of the wastewater management system in accordance with Chapter 44 of the General Laws. Notwithstanding any provision of Section 17 of Chapter 44 of the General Laws to the contrary, the Town may make temporary loans for a period of not more than five years in anticipation of the money to be

derived from the sale of bonds for the construction and installation of the wastewater management system in said service area. The principal of, premium, if any, and interest on all notes and bonds issued by the Town for the Commission, unless otherwise provided by the Town, shall be payable solely from the funds provided therefore from revenues as herein provided, but shall be general obligations of the Town for payment of which the full faith and credit of said Town shall be pledged.

**Section 7. System Usage Charge Liens and Abatements.** The Commission shall have the benefit, without further acceptance of Sections 16A and 16B of said Chapter 83, to the extent applicable and consistent with this Act. Applications for abatements in accordance with Section 16E of said Chapter 83 shall be made to the Commission within thirty days after the date of such demand. Upon written application, the collector of taxes for the Town shall issue lien certificates in accordance with Section 23 of Chapter 60 of the General Laws. No recordation of certificates issued by the Town pursuant to said Section 23 of said Chapter 60 shall affect liens for the unpaid fees, rates, rents, assessments, and other charges of the Commission.

**Section 8. Betterment Assessment Payback Period and Interest Rate.** Notwithstanding any provision of Section 13 of Chapter 80 of the General Laws to the contrary, (a) the Board of Assessors of the Town may apportion all betterment assessments or unpaid balances thereof relative to the wastewater management system in said service area into equal portions of up to thirty to be paid annually for a period of up to thirty years after such assessments first appear on the affected landowner's real estate tax bill; and (b) betterment assessments made by the Commission shall, at the election of the Commission, bear interest at one rate of up to five per cent per annum or, at a rate of up to two per cent above the rate of interest chargeable to the Town for the betterment project to which the assessments relate, from the thirtieth day after betterment assessments have been committed to the Town Collector.

**Section 9. Deferral of Betterment Assessments and Usage Charges.** The Commission shall have the benefit, without further acceptance of Section 13B of said Chapter 80 and Section 16G of said Chapter 83.

**Section 10. Connections to the System.**

(a) Notwithstanding the provisions of Section 3 of Chapter 83 of the General Laws, said commission shall not be required to connect any home, facility or lot to the wastewater management system, except as set forth in Paragraph (b) below. The Commission shall not permit the connection of (i) a new facility; (ii) a facility that has been reconstructed resulting in an increase of the gross floor area or in the number of bedrooms; or (iii) a facility that has undergone a change in use to the wastewater management system or permit an increase in design flow into the wastewater management system for a facility in existence on May 1, 2009, if that new or changed facility could not have been constructed with a wastewater disposal system or septic system which would comply with Title V of the State Environmental Code or other applicable regulations of the Massachusetts Department of Environmental Protection or the increase in design flow could not have been permitted in the absence of a connection to the wastewater management system, unless the Commission, with the approval of the Board of

Selectmen, determines that such a connection is necessary for the health, welfare or safety of the Town or creates a demonstrable benefit to the Town.

(b) Any facility within the Harvard Wastewater Management Service Area which is served by a subsurface sewage disposal system which is in a state of failure as determined by the Board of Health or the Massachusetts Department of Environmental Protection shall be connected to the wastewater management system within six months after the owner of the facility receives written notice from the Commission that the wastewater management system is complete and operational.

(c) Any owner of a facility who is aggrieved by a decision of the Commission relative to such owner's application to voluntarily or involuntarily connect such owner's facility to the wastewater management system may appeal the Commission's decision to the Board of Selectmen by filing a written petition with the Board of Selectmen within sixty (60) days after receipt of the Commission's written decision. The Board of Selectmen may hold a hearing on the petition, consult with the Board of Health, and shall render a written decision thereon affirming, modifying or reversing the Commission's decision within ninety (90) days after receipt of the petition or such longer period of time as may be agreed to by the Board of Selectmen and the petitioner. If the Board of Selectmen fails to act on such a petition within said period of time, the Commission's decision shall be deemed to be affirmed.

**Section 11. Consistency with Law.** Insofar as the provisions of this Act are inconsistent with the provisions of any general or special law, administrative order or regulation, or by-law, rule, regulation or code of the Town, other than rules and regulations or orders of the Board of Health or by-laws of the Town which require homes or facilities to be connected to the wastewater management system involuntarily, the provisions of this Act shall be controlling.

**Section 12. Construction.** This Act, being necessary for the health and welfare of the Town of Harvard and its inhabitants, shall be liberally construed to effectuate its purposes. This Act shall be construed in all respects so as to meet all constitutional requirements. In carrying out the purposes and provisions of this Act, all steps shall be taken which are necessary to meet constitutional requirements whether or not such steps are required by statute.

**Section 13. Effective Date.** This Act shall take effect upon its passage.

## **ARTICLE 25: DEBT EXCLUSION – TOWN CENTER SEWER**

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, Sections 7 and 8 of the Massachusetts General Laws, or any other enabling authority, a sum not to exceed \$2,000,000 in order to design and construct a sewer system to serve the "Harvard Wastewater Management Service Area" as defined in "An Act Relative To A Wastewater Management District In the Town of Harvard" set forth in Article 24 of the Warrant for the 2009 Annual Town Meeting,

contingent upon the passage of a Proposition Two and One-Half debt exclusion ballot question at the Annual Town Election on May 5, 2009, or pass any vote or votes in relation thereto.

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

Voted greater than 2/3rds yes that the Town appropriate \$2,000,000. for the purpose of financing the planning and construction of a sewer system to serve the "Harvard Wastewater Management Service Area" as defined in "An Act Relative To A Wastewater Management District In the Town of Harvard" set forth in the motion adopted under Article 24 of the Warrant for the 2009 Annual Town Meeting including, without limitation, all costs thereof as defined in Section 1 of Chapter 29C of the Massachusetts General Laws, as most recently amended by Chapter 78 of the Acts of 1998; that to meet this appropriation the Treasurer, with the approval of the Board of Selectmen is authorized to borrow 2,000,000, and issue bonds or notes therefore under Sections 7 and 8 of Chapter 44 of the Massachusetts General Laws or , or any other enabling authority and/or Chapter 29C of the Massachusetts General Laws, as most recently amended by Chapter 78 of the Acts of 1998, contingent upon the passage of a Proposition Two and One-Half debt exclusion ballot question at the Annual Town Election on May 5, 2009; that such bonds or notes shall be general obligations of the Town, unless the Treasurer, with the approval of the Selectmen determines that they should be issued as limited obligations and may be secured by local system revenues as defined in Section 1 of said Chapter 29C, as most recently amended by Chapter 78 of the Acts of 1998; that the Treasurer, with the approval of the Selectmen, is authorized to borrow all or a portion of such amount from the Massachusetts Water Pollution Abatement Trust Fund established pursuant to said Chapter 29C, as most recently amended by Chapter 78 of the Acts of 1998, contingent upon the passage of a Proposition Two and One-Half debt exclusion ballot question at the Annual Town Election on May 5, 2009; and in connection therewith to enter into a loan agreement and/or security agreement with said Trust and otherwise to contract with the Trust and the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the project or for the financing thereof; that the Board of Selectmen and/or the Harvard Wastewater Management District Commission is authorized to enter into a project regulatory agreement with the Department of Environmental Protection, to expend all funds available for said project and to take any other action necessary to carry out said project.

## **ARTICLE 26: ENGINEERING DESIGN FOR WASTE WATER TREATMENT FACILITY REPAIRS AND UPGRADES**

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 an engineering design to correct deficiencies in the nitrogen processing capability and operation of the Town-owned Wastewater Treatment Facility on Massachusetts Avenue, provided that no funds appropriated under this article shall be so expended if funds are appropriated under Article 25 of the 2009 Annual Town Meeting Warrant for the design and construction of the sewer system described therein and the



related Proposition Two and One-Half debt exclusion ballot question passes at the Annual Town Election on May 5, 2009, or pass any vote or votes in relation thereto.

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

Voted greater than 2/3rds yes that the Town transfer \$80,000 from the General Stabilization Fund to be expended by the Board of Selectmen to perform an engineering design to correct deficiencies in the nitrogen processing capability and operation of the Town-owned Wastewater Treatment Facility on Massachusetts Avenue, provided that no funds appropriated under this article shall be so expended if funds are appropriated under Article 25 of the 2009 Annual Town Meeting Warrant for the design and construction of the sewer system described therein and the related Proposition Two and One-Half debt exclusion ballot question passes at the Annual Town Election on May 5, 2009.

#### **ARTICLE 27: 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 2010 Community Preservation Budget, 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 vote to hear the report and recommendations of the Community Preservation Committee on the Fiscal Year 2010 Community Preservation Budget.

#### **ARTICLE 28: BARE HILL POND STORMWATER POLLUTION CONTROL**

To see if the Town will vote to appropriate and transfer from Community Preservation Fund Unallocated Reserves the sum of \$119,100 to be expended by the Bare Hill Pond Watershed Management Committee for Bare Hill Pond Stormwater Pollution Control, with unexpended funds as of June 30, 2012 being returned to their funding source, or pass any vote or votes in relation thereto.

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

Voted unanimously yes that the Town appropriate and transfer from Community Preservation Fund Unallocated Reserves the sum of \$119,100 to be expended by the Bare Hill Pond Watershed Management Committee for Bare Hill Pond Stormwater Pollution Control, with

unexpended funds as of June 30, 2012 being returned to their funding source.

#### **ARTICLE 29: HARVARD MUNICIPAL AFFORDABLE HOUSING TRUST FUND**

To see if the Town will vote to appropriate and transfer from Fiscal Year 2010 Community Preservation Revenues the sum of \$100,000 to be placed in the Harvard Municipal Affordable Housing Trust Fund, or pass any vote or votes in relation thereto.

On a motion by Margaret Grogan, 19 Pond Road, Community Preservation Committee, and seconded,

Voted unanimously yes that the Town appropriate and transfer from Fiscal Year 2010 Community Preservation Revenues the sum of \$100,000 to be placed in the Harvard Municipal Affordable Housing Trust Fund.

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

To see if the Town will vote to appropriate and transfer from Fiscal Year 2010 Community Preservation Revenues the sum of \$100,000 to be placed in the Conservation Fund and any properties purchased with these funds will require a deed restriction or Conservation restriction, or pass any vote or votes in relation thereto.

On a motion by Joseph Sudol, 35 Lancaster County Road, Community Preservation Committee, and seconded,

Voted unanimously yes that the Town appropriate and transfer from Fiscal Year 2010 Community Preservation Revenues the sum of \$100,000 to be placed in the Conservation Fund, provided that any properties purchased with these funds shall be subject to a deed restriction or a conservation restriction.

#### **ARTICLE 31: COMMUNITY PRESERVATION COMMITTEE – ADMINISTRATIVE EXPENSES**

To see if the Town will vote to appropriate and transfer from Community Preservation Fund Unallocated Reserves the sum of \$2,500 to be expended by the Harvard Community Preservation Committee for administrative expenses, including Community Preservation Coalition dues and necessary legal fees, with unexpended funds as of June 30, 2010 being returned to their funding source, or pass any vote or votes in relation thereto.

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

seconded,

Voted majority yes that the Town vote to appropriate and transfer from Community Preservation Fund Unallocated Reserves the sum of \$2,500 to be expended by the Harvard Community Preservation Committee for administrative expenses, including Community Preservation Coalition dues and necessary legal fees, with unexpended funds as of June 30, 2010 being returned to their funding source.

### **ARTICLE 32: TRANSFER FUNDS FROM COMMUNITY PRESERVATION FUND HISTORIC RESERVES TO HARVARD HISTORICAL COMMISSION**

To see if the Town will vote to appropriate and transfer from Community Preservation Fund Historic Reserves the sum of \$7,500 to be expended by the Harvard Historical Commission for signage for the Town's Historic District, with unexpended funds as of June 30, 2010 being returned to their funding source, or pass any vote or votes in relation thereto.

On a motion by Chris Cutler, 56 Stow Road, Community Preservation Committee, and seconded,

Voted majority yes that the Town appropriate and transfer from Community Preservation Fund Historic Reserves the sum of \$7,500 to be expended by the Harvard Historical Commission for signage for the Town's Historic District, with unexpended funds as of June 30, 2010 being returned to their funding source.

### **ARTICLE 33: COMMUNITY PRESERVATION FUND HISTORIC RESERVES**

To see if the Town will vote to appropriate and transfer from Fiscal Year 2010 Community Preservation Revenues the sum of \$23,211 to be placed in the Community Preservation Fund Historic Reserves to meet the 10% requirement of the Community Preservation Act, or pass any vote or votes in relation thereto.

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

Voted unanimously yes that the Town vote to appropriate and transfer from Fiscal Year 2010 Community Preservation Revenues the sum of \$23,211 to be placed in the Community Preservation Fund Historic Reserves to meet the 10% requirement of the Community Preservation Act for such reserves.

## **ARTICLE 34: COMMUNITY PRESERVATION AFFORDABLE HOUSING RESERVES**

To see if the Town will vote to appropriate and transfer from Community Preservation Fund Unallocated Reserves the sum of \$6,556 to the Affordable Housing Reserve account to cure an existing deficit, or pass any vote or votes in relation thereto.

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

Voted unanimously yes that the Town appropriate and transfer from Community Preservation Fund Unallocated Reserves the sum of \$6,556 to the Affordable Housing Reserve account to cure an existing deficit in said account.

## **ARTICLE 35: AMEND PROTECTIVE BYLAW – SITE STANDARDS**

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:

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

### **HARVARD PROTECTIVE BYLAW CHAPTER 125-39 SITE STANDARDS**

#### **§ 125-39. Site Standards. [Amended 4-13-1968 ATM.....]**

B. Standards for driveways.

(5) Layout.

(c) Driveway locations shall meet the line of sight criteria based on the American Association of State Highway and Transportation Officials (AASHTO) Policy on Geometric Design of Highways and Streets or, where driveways are located on very low-volume local roads (average daily traffic volume of 400 vehicles per day or less), locations shall meet the guidelines of AASHTO Guidelines for Design of Very Low-Volume Local Roads (Average Daily Traffic less than or equal to 400). Exceptions to these guidelines may be considered by the Planning Board where it can be shown that less restrictive criteria would not impact safety or that more restrictive criteria would be required for safety. Substantially clear visibility of driveways is provided for approaching street traffic;  
or pass any vote or votes in relation thereto.

The following motion was made by Craig Bardenheuer, 101Ayer Road, Planning Board, and seconded,

I move that the Town amend the Protective Bylaw, Chapter 125 of the Code of the Town of Harvard, as printed in Article 35 of the 2009 Annual Town Meeting Warrant.

Voted greater than 2/3rds yes that 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:

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

## **HARVARD PROTECTIVE BYLAW CHAPTER 125-39 SITE STANDARDS**

### **§ 125-39. Site Standards. [Amended 4-13-1968 ATM.....]**

#### **B. Standards for driveways.**

##### **(5) Layout.**

(c) Driveway locations shall meet the line of sight criteria based on the American Association of State Highway and Transportation Officials (AASHTO) Policy on Geometric Design of Highways and Streets or, where driveways are located on very low-volume local roads (average daily traffic volume of 400 vehicles per day or less), locations shall meet the guidelines of AASHTO Guidelines for Design of Very Low-Volume Local Roads (Average Daily Traffic less than or equal to 400). Exceptions to these guidelines may be considered by the Planning Board where it can be shown that less restrictive criteria would not impact safety or that more restrictive criteria would be required for safety. Substantially clear visibility of driveways is provided for approaching street traffic;

**Approved by the Attorney General's Office on August 12, 2009.**

## **ARTICLE 36: AMEND PROTECTIVE BYLAW – GENERAL**

To see if the Town will vote to amend the Protective Bylaw, Chapter 125 of the Code of the Town of Harvard, by adding to §125-20 thereof the following new paragraph:

E. Drive-in or drive-through services are specifically prohibited. Also specifically prohibited are drive-in or drive-through services offered as accessory use or part of a use that would be otherwise eligible for a special permit under The Town of Harvard Protective Bylaw, Chapter 125.

or pass any vote or votes in relation thereto.

The following motion was made by Kara Minar, 204 Still River Road, Planning Board, and seconded,

I move that the Town amend the Protective Bylaw, Chapter 125 of the Code of the Town of Harvard, as printed in Article 36 of the 2009 Annual Town Meeting Warrant.

The following motion was made be Leo Blair, and seconded,

I move to amend the motion as follows:

E. Drive-in or drive-through services are specifically prohibited “, except for drive-in’s or drive-through’s for banks and pharmacies.”

The Planning Board accepted the amendment.

Voted 69 yes, 60 no [**does NOT pass**] to amend the Protective Bylaw, Chapter 125 of the Code of the Town of Harvard, by adding to §125-20 thereof the following new paragraph:

E. Drive-in or drive-through services are specifically prohibited, except for drive-in's or drive-through's for banks and pharmacies. Also specifically prohibited are drive-in or drive-through services offered as accessory use or part of a use that would be otherwise eligible for a special permit under The Town of Harvard Protective Bylaw, Chapter 125.

### **ARTICLE 37: AMEND PROTECTIVE BYLAW – DEFINITIONS**

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 § 125-2:

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

**STRUCTURE** – Any ~~construction or assemblage of materials with a fixed location, including a building,~~ platform, tower, pole, sign, ~~fence, wall,~~ dam, swimming pool, fence or wall that is greater than six (6) feet in height and in a fixed location, or any construction or assemblage of materials or any building greater than 120 square feet in floor area with or without pilings, footings or foundations. Underground utilities, ~~and~~ driveways and storage buildings having not more than 120 square feet of floor area shall not be considered structures. [**Amended 4-21-1992 STM by Art. 4**]

**FLOOR AREA, GROSS** -- Gross floor area shall be the floor area within the perimeter of all continuous exterior walls of the building under consideration, without deduction for hallways, stairs, closets, thickness of walls, columns or other features and shall contain all floor area within any portions of a building that may be completely separated from other portions by firewalls as defined in the Massachusetts Building Code, with the following exclusions: [**Added 3-27-1993 ATM by Art. 22; amended 4-5-1997 ATM by Art. 44**]

- A. The floor area of crawl spaces having less than four feet of headroom;
- B. In a dwelling, the floor area of unfinished attic space under a roof with a pitch no greater than 8/12 (vertical over horizontal)

#### **1) By adding the following new definition:**

**BUILDING** - A structure enclosed within all continuous exterior walls, built, erected and framed of a combination of any materials, whether portable or fixed having a roof to form a structure for the shelter of persons, animals or property. For the purpose of this definition, "roof" shall include an awning or similar covering, whether or not permanent in nature.

or pass any vote or votes in relation thereto.

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, as printed in Article 37 of the 2009 Annual Town Meeting Warrant, except Floor Area take no action.

Voted less than 2/3rd yes [**does NOT pass**] to amend the Protective Bylaw, Chapter 125 of the Code of the Town of Harvard, by making the following revisions to § 125-2:

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

STRUCTURE – Any ~~construction or assemblage of materials with a fixed location, including a building,~~ platform, tower, pole, sign, ~~fence, wall,~~ dam, swimming pool, fence or wall that is greater than six (6) feet in height and in a fixed location, or any construction or assemblage of materials or any building greater than 120 square feet in floor area with or without pilings, footings or foundations. Underground utilities, ~~and~~ driveways and storage buildings having not more than 120 square feet of floor area shall not be considered structures. [**Amended 4-21-1992 STM by Art. 4**]

**1) By adding the following new definition:**

BUILDING - A structure enclosed within all continuous exterior walls, built, erected and framed of a combination of any materials, whether portable or fixed having a roof to form a structure for the shelter of persons, animals or property. For the purpose of this definition, “roof” shall include an awning or similar covering, whether or not permanent in nature.

**ARTICLE 38: AMEND PROTECTIVE BYLAW – RESIDENTIAL WIND ENERGY CONVERSION SYSTEM OVERLAY DISTRICT**

To see if the Town will vote to amend the Protective Bylaw, Chapter 125 of the Code of the Town of Harvard, by adding thereto the following new §125-53:

**HARVARD PROTECTIVE BYLAW CHAPTER 125-53 RESIDENTIAL WIND ENERGY CONVERSION SYSTEM OVERLAY DISTRICT**

**§ 125-53. Residential Wind Energy Conversion System Overlay District**

**A. Purpose and Intent**

The purpose of the Residential Wind Energy Conversion System Overlay District is to establish a district in which wind energy conversion systems may be permitted to provide the safe, effective use of small scale residential wind energy conversion systems to reduce on-site consumption of utility supplied electricity with minimal impact upon the public safety and health, upon the environment, and upon scenic, natural and historic resources. A wind energy

conversion system is considered a residential wind energy conversion system only if it supplies electrical power solely for on-site residential use, except that when a lot on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site may be connected to the local utility electrical grid.

## **B. Definitions**

- (1) Ambient noise level – the background A-weighted sound level (dBA) that is exceeded 90% of the time
- (2) Electromagnetic Interference – a disturbance that effects an electrical circuit due to conditions caused by a large rotating device or electromagnetic radiation emitted from an external source
- (3) Fall zone – a circle drawn on the ground with a radius equal to the WECS tower height plus twenty feet with its center at the center of the base of the WECS tower
- (4) Meteorological tower – a temporary tower equipped with devices to measure wind speeds and direction used to determine how much wind power a site can be expected to generate
- (5) Shadowing and flickering – the effects of shadows cast on neighboring areas and the flickering (blinking or moving shadows effect) caused by a WECS rotor chopping and reflecting the sunlight
- (6) View shed – the visual impact of the site from the area surrounding the site
- (7) Wind Energy Conversion System (WECS) – a device, including its supporting structures and equipment, which converts wind energy to electrical energy
- (8) WECS tower – the structure that supports the WECS equipment (turbine, gear box, rotor blades, etc) and is fixed to the ground
- (9) WECS tower height – Height measured from natural grade at the base of the WECS tower to the top of the rotor blade when the blade is fully extended vertically, or to the highest point that the WECS will reach at any point, whichever is greater

## **C. Applicability**

The Planning Board may grant a special permit for the installation of a Residential WECS on any Agricultural-Residential (AR) zoned tract of land with the following exceptions:

- (1) Town Center as defined in Figure 2: Harvard Center Land Use Plan of the Harvard Town Center Action Plan prepared by the Harvard Town Center Planning Committee and the Bluestone Planning Group dated March 2005 and on file in the Town Clerk's Office.



- (2) All land within the Harvard Common and Shaker Village Historic Districts as shown on Plan of Harvard Common Historic District, Revision C dated June 1976 and Plan of Shaker Village Historic District, Revision B dated March 1974, prepared by the Harvard Historical Commission, approved by Massachusetts Office of the Attorney General and on file in the Town Clerk's Office.
- (3) All view sheds within Harvard as identified in the Harvard Reconnaissance Report, Massachusetts Heritage Landscape Inventory, prepared by the Massachusetts Department of Conservation and Recreation, Freedom's Way Heritage Association and local participants, dated June, 2006 and on file in the Town Clerk's Office.

#### **D. Underlying Zoning Requirements**

The Residential WECS Overlay District shall be construed as an overlay district with regard to said locations. All requirements of the underlying zoning district shall remain in full force and effect, except as may be specifically provided herein.

#### **E. Submittal Requirements**

An application for a Residential WECS special permit, together with an application for site plan approval, shall be filed with the Town Clerk to be submitted to the Planning Board in accordance with §125-38 and the requirements of this section of the Bylaw.

#### **F. General Requirements**

A Residential WECS may be erected on land located in the Residential WECS Overlay District upon the issuance of a special permit by the Planning Board pursuant to §125-46 of this Bylaw, subject to site plan approval by the Planning Board as set forth in §125-38, and the guidelines, requirements and limitations set forth below as they may be amended.

- (1) Only one (1) WECS will be allowed per lot. Sharing of a WECS is prohibited.
- (2) A WECS shall be erected only on a lot with a land area of at least 1.50 acres.
- (3) WECS turbine rated capacity (nameplate capacity) shall not exceed 20 kilowatts (kW).
- (4) A WECS shall be as unobtrusive as possible and shall not create an adverse visual impact to abutters and the general public.
- (5) Applicant shall be required to provide evidence of liability insurance in an amount and for duration sufficient to cover loss or damage to persons and structures occasioned by the failure or collapse of the WECS.
- (6) Applicant may erect a temporary meteorological tower to determine the viability of the site to generate wind power upon application and issuance of a special permit by the Planning Board. The temporary meteorological tower shall comply with all provisions of this section of the Bylaw. The special permit shall have a duration of twelve (12) months.

## **G. General Siting Requirements**

- (1) WECS tower height shall not exceed 100 feet.
- (2) A WECS shall have a minimum setback from abutting property lines equal to the WECS tower height plus twenty (20) feet. The erection of a WECS in front or side yards is prohibited.
- (3) The WECS fall zone shall be kept free of all habitable structures.
- (4) The WECS shall be sited in a manner that minimizes shadowing or flicker impacts. The applicant has the burden of providing proof that this effect does not have a significant adverse impact on neighboring or adjacent uses through either siting or mitigation.
- (5) The WECS shall be sited in a manner that minimizes the impact of potential ice throw from the rotor blades. The applicant has the burden of providing proof that ice throw will not impact abutting properties through either siting or mitigation.

## **H. Design and Construction Standards**

- (1) Design of the WECS tower and foundation shall be such as to preclude the necessity for guy wires. Monopole towers are preferred. The WECS tower and foundation design shall be appropriate for the soil and climate conditions and certified by a Professional Engineer.
- (2) Noise from the proposed WECS shall not exceed three (3) dBA above ambient levels measured at property lines. The applicant has the burden of providing proof that this noise level will not be exceeded.
- (3) Lighting of, or attachment of lighting to, the WECS tower, except as required by the Federal Aviation Administration (FAA) is prohibited. The attachment of any systems or equipment to the WECS tower not required for its operation is prohibited.
- (4) Access to the WECS shall be limited through the installation of a lockable six (6) foot high fence with vegetative screening or by limiting step bolts or ladder access attachments to the WECS tower to not less than twelve (12) feet from final finished grade at the tower base.
- (5) The WECS shall cause no disrupting electromagnetic interference with the use of other operating telecommunication devices including but not limited to radios, television, telephones, personal communication devices and other electronic equipment and devices. If it is determined that a WECS is causing interference, the owner shall take the necessary corrective action to eliminate this interference, subject to the approval of the Building Commissioner. Failure to initiate corrective action within twenty-four (24) hours of notice will result in enforcement action.
- (6) The tip of the WECS blade or of any another rotating device must be a minimum of thirty (30) feet above final finished grade level at the base of the tower.

- (7) The WECS must be designed and installed to withstand natural lightning strikes.
- (8) The WECS shall be equipped with manual (electronic or mechanical) and automatic overspeed controls to limit the blade rotation speed to within the design limits of the WECS and a braking system device capable of halting operation.
- (9) All utility lines serving the WECS shall be installed underground.
- (10) The WECS shall be painted a non-reflective white or gray or other neutral non-reflective unobtrusive color.

#### **I. Maintenance Requirements**

- (1) The applicant shall maintain the WECS and related equipment in good working condition and perform regular maintenance in accordance with an approved maintenance schedule. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. A record shall be kept of all maintenance performed and such records shall be provided to the Town Building Commissioner in December of each year.
- (2) Should the WECS fall into disrepair and/or experience a situation in which it is producing unusual noise or other emissions, the applicant shall have no more than twenty-four (24) hours to implement actions to correct the situation.
- (3) Failure to maintain the WECS or correct duly noticed deficiencies within the time frame identified in this section of the Bylaw may result in enforcement action.
- (4) The applicant shall submit a letter to the Planning Board and the Town Building Commissioner in December of each year confirming that the WECS is still in use.

#### **J. Abandonment**

- (1) The WECS shall be dismantled and removed from the property by the applicant if:
  - (a) Use of the WECS is discontinued for a period of one (1) year without written consent of the Planning Board; or
  - (b) The WECS Special Permit has expired; or
  - (c) The Town Building Commissioner determines that the WECS is structurally unsound and is considered a danger to life/limb after consulting with a licensed structural engineer; or
  - (d) Applicant is unable to correct any electromagnetic interference or excessive noise within ninety (90) days from initial notice of deficiency.

#### **K. Financial Surety**

Applicant shall provide a form of surety, either through an escrow account, bond or otherwise to

cover the cost of removal in an amount and form approved by the Planning Board, but in no event exceed more than 125 percent of the cost of removal.

## **L. Application Review**

An application for a WECS special permit shall be filed in accordance with the requirements of this Bylaw. An application for a special permit shall include the following:

- (1) A site plan prepared by a professional engineer at a scale of 1:40, or other scale as deemed appropriate by the Planning Board, which complies with all requirements of §125-38D of this Bylaw, as it may be amended, and the additional requirements of this section.
- (2) The site plan shall also include the following:
  - (a) Property lines, dimensions, landowners, acreage, and contours at two (2) foot intervals of the subject property and property within 300 feet of the subject property.
  - (b) Location and elevation of the proposed WECS and any appurtenances and equipment. Indicate property boundaries and distances to the base of the WECS tower and to the nearest corners of any appurtenant structures and equipment.
  - (c) Proposed utilities and location of any proposed utility lines.
  - (d) Plans indicating locations and specifics of proposed screening and fencing.
- (3) The applicant shall provide delineation of view shed, or any area from within which the WECS can be viewed.
- (4) The applicant shall provide photographs of the site from key viewpoints where the WECS will be visible from public ways and/or abutting properties. Through means of computer simulation or other renderings, the applicant shall document the visual impact of the proposed WECS from all key viewpoints.
- (5) WECS Manufacturers drawings, plans, design details, maintenance requirements, and all information pertinent to the review of the application under this section of the Bylaw.
- (6) Applicant shall indicate whether the system will be an off-grid or interconnected system, (i.e., connected to the local utility grid).

## **M. Compliance Documents**

The following shall be provided as part of the application:

- (1) Proof of liability insurance that satisfies §125-53E(4) of this section of the Bylaw
- (2) Documentation on how the effects of shadowing and flicker will be minimized that satisfies §125-53F(5) of this section of the Bylaw

- (3) Proof that ice throw will not impact abutting properties that satisfies §125-53F(6) of this section of the Bylaw
- (4) Design calculations certified by a Professional Engineer for the structural design of the WECS tower and foundation that satisfies §125-53G(1) of this section of the Bylaw
- (5) Documentation, listing existing ambient noise levels and maximum projected noise levels from the WECS that satisfies §125-53G(2) of this section of the Bylaw
- (6) A description of financial surety that satisfies §125-53J of this section of the Bylaw
- (7) Approval from the appropriate utility for the installation of a system intended to be interconnected to the local utility electrical grid.

#### **N. Term of Special Permit**

Any special permit granted under this section shall expire twenty (20) years after the date of the decision of the Planning Board granting the Special Permit.

or pass any vote or votes in relation thereto

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

I move that the Town amend the Protective Bylaw, Chapter 125 of the Code of the Town of Harvard, as printed in Article 38 of the 2009 Annual Town Meeting Warrant.

A motion made by Sydney Blackwell to take no action was seconded.

A motion made by Leo Blair to move the question was seconded and voted greater than 2/3rds yes.

Voted majority yes to take no action.

#### **ARTICLE 39: CONSERVATION COMMISSION – AMENDMENT TO WETLANDS BYLAW**

To see if the Town will vote to amend Chapter 119, §119-7, Paragraph F. by adding thereto the following new sentence (indicated in underlining):

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). The Commission is further authorized to require an applicant or requester to pay the costs of an outside consultant, employed pursuant to the provisions of Massachusetts General Laws, Chapter 44, Section 53G, when it requires expert advice unavailable from municipal employees., or pass any vote or votes in relation thereto.

(Inserted by Conservation Commission)

The following motion was made by Jim Breslauer, 130 Poor Farm Road , Conservation Commission, and seconded,

I move that the Town amend the Wetlands Bylaw, Chapter 119 of the Code of the Town of Harvard, as printed in Article 39 of the 2009 Annual Town Meeting Warrant.

Voted greater than 2/3rds yes that the Town will vote to amend Chapter 119, §119-7, Paragraph F. by adding thereto the following new sentence (indicated in underlining):

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). The Commission is further authorized to require an applicant or requester to pay the costs of an outside consultant, employed pursuant to the provisions of Massachusetts General Laws, Chapter 44, Section 53G, when it requires expert advice unavailable from municipal employees., or pass any vote or votes in relation thereto.

**Approved by the Attorney General's Office on August 20, 2009, effective on posting date of August 26, 2009.**

## **ARTICLE 40: BOARD OF HEALTH - LICENSE FEE FOR STABLE PERMITS**

To see if the Town will vote to amend the Code of the Town of Harvard by adding thereto the following new chapter:

### **Chapter 93, STABLE LICENSES**

**§93-1. License Requirement.** No person shall erect, occupy or use for a stable any building in the Town unless such use is licensed by the Board of Health pursuant to a stable license. This

section shall not prevent any such occupation and use authorized by law on May 4, 1885 to the extent and by the person so authorized, but the Board of Health may make such regulations or orders as, in its judgment, the public health requires relative to drainage, ventilation, size and character of stalls, bedding, number of animals and storage and handling of manure in any stable in the Town.

**§93-2. Manure Management Plan.** Prior to the issuance of a stable license, the applicant shall submit a written manure management plan to the Board of Health for its review and action. All changes to approved plans must be approved by the Board of Health. Unless there is a change to an approved plan, stable licenses shall be renewed upon payment of the renewal fee.

**§93-3. Fees.** A fee of \$40.00 shall be paid for the issuance of new stable license. A fee of \$25.00 shall be paid for the renewal of an existing license. The Board of Health may waive the license fee if the applicant demonstrates financial hardship.

**§93-4. Term.** A stable license shall expire on December 31<sup>st</sup> of the year it is issued.

or take any action in relation thereto.

The following motion was made by Tom Philippou, 254 Stow Road, Board of Health, and seconded,

I move that the Town amend the Code of the Town of Harvard as printed in Article 40 of the 2009 Annual Town Meeting Warrant except that 1885 is changed to 1895 and that “A fee of \$40.00” shall be changed to “\$25.00”, and the second sentence of 93-3 is eliminated.

A motion by Wendell Willard to amend §93-2 by striking the last sentence was seconded and accepted by the Board of Health.

Tom Philippou, Board of Health, withdrew § 93-4 because it no longer applied.

A motion to move the question was seconded, but did not receive the necessary 2/3rds vote.

Voted majority no [**does NOT pass**] to amend the Code of the Town of Harvard by adding thereto the following new chapter:

## **Chapter 93, STABLE LICENSES**

**§93-1. License Requirement.** No person shall erect, occupy or use for a stable any building in the Town unless such use is licensed by the Board of Health pursuant to a stable license. This section shall not prevent any such occupation and use authorized by law on May 4, 1895 to the extent and by the person so authorized, but the Board of Health may make such regulations or orders as, in its judgment, the public health requires relative to drainage, ventilation, size and

character of stalls, bedding, number of animals and storage and handling of manure in any stable in the Town.

**§93-2. Manure Management Plan.** Prior to the issuance of a stable license, the applicant shall submit a written manure management plan to the Board of Health for its review and action. All changes to approved plans must be approved by the Board of Health.

**§93-3. Fees.** A fee of \$25.00 shall be paid for the issuance of new stable license. The Board of Health may waive the license fee if the applicant demonstrates financial hardship.

#### **ARTICLE 41: ACCEPTANCE OF WORKERS' COMPENSATION FOR TOWN CLERK**

To see if the Town will vote to accept the provisions of Massachusetts General Laws Chapter 152, Section 69 to include the elected position of Town Clerk in the Town's Workers' Compensation program, or pass any vote or votes in relation thereto.

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

Voted unanimously yes that the Town accept the provisions of Massachusetts General Laws Chapter 152, Section 69 to include the elected position of Town Clerk in the Town's Workers' Compensation program.

#### **ARTICLE 42: EASEMENT FOR SAINT BENEDICTS**

To see if the Town will vote to authorize the Board of Selectmen to a.) transfer the care, custody, management and control of an easement area on Still River Road containing 2,769 square feet and shown as "Proposed Utility Easement" on a plan entitled "Easement Plan in Harvard, Massachusetts" dated March 24, 2009, prepared by Ducharme & Dillis Civil Design Group, Inc., a copy of which plan is on file in the Office of the Town Clerk, from the Board of Selectmen for highway purposes to the Board of Selectmen for the purpose of granting a nonexclusive utility easement to St. Benedicts Center; and b.) grant a nonexclusive utility easement to St. Benedicts Center in, on and under said easement area for the installation, repair, maintenance, improvement and replacement of subsurface utilities, or pass any vote or votes in relation thereto.

The following motion was made by Ronald Ricci, 19 East Bare Hill Road, Board of Selectmen, and seconded,

I move that the Town authorize the Board of Selectmen to transfer and grant a utility easement to Saint Benedicts Center as printed in Article 42 of the 2009 Annual Town Meeting Warrant.



Voted greater than 2/3rds yes that the Town will vote to authorize the Board of Selectmen to a.) transfer the care, custody, management and control of an easement area on Still River Road containing 2,769 square feet and shown as “Proposed Utility Easement” on a plan entitled “Easement Plan in Harvard, Massachusetts” dated March 24, 2009, prepared by Ducharme & Dillis Civil Design Group, Inc., a copy of which plan is on file in the Office of the Town Clerk, from the Board of Selectmen for highway purposes to the Board of Selectmen for the purpose of granting a nonexclusive utility easement to St. Benedicts Center; and b.) grant a nonexclusive utility easement to St. Benedicts Center in, on and under said easement area for the installation, repair, maintenance, improvement and replacement of subsurface utilities.

#### **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.

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

Voted unanimously yes that the Town take no action on Article 43 of the 2009 Annual Town Meeting Warrant.

#### **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.

On a motion by Lucy Wallace, 18 Orchard Hill, 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.

The meeting was dissolved at 4:05 P.M.

Paul Willard was recognized as Citizen of Note.

It was noted that Elizabeth May, at 102 years old, is the oldest citizen in the Town of Harvard. She will receive the Boston Post Cane.

Checkers for the meeting were Patti Anklam, Michelle Catalina, Robert Hughes, Sandy Lefkovits, Ruth Miller, and Marylin Morgan. They checked in 416 voters out of a total of 3973 registered voters (3758 active voters).

Tellers for the meeting were Laura Andrews, James Breslauer, Mary Ann Cheveralls, Patricia Jennings, and Steven Rowse.

Respectively submitted,

Janet A. Vellante  
Town Clerk