



NEWS

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The Arlington Land Trust is a community-based nonprofit organization established in 2000 to protect undeveloped land in Arlington. As a membership organization, ALT accepts donations and welcomes volunteers to support its work.

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Arlington Adopts Subdivision Controls

Town Meeting in 2008 took a major step forward in shaping Arlington's future development by enacting an updated—and groundbreaking—set of controls on small-scale residential subdivisions.

Replacing a nineteenth-century Board of Survey process that gave the Town essentially no oversight of subdivisions of fewer than six units, this new law creates a fair and efficient review system that levels the playing field between developers and the community. It gives the Town leverage to guide development that is appropriate to the land, addresses the concerns of neighbors, and respects the size and scale of nearby dwellings.

With the urging and support of Land Trust members, the Board of Selectmen brought to Town Meeting an updated Board of Survey process that is the first of its kind in the Commonwealth.

Arlington has long operated under a two-tier subdivision control process: a good and thorough review mechanism by the Planning (Redevelopment) Board for subdivisions of six units or more, and an arcane Board of Survey process for smaller subdivisions. The latter process cast the Board of Selectmen as the presiding Board of Survey, and limited its authority to review only the location, direction, width, and grade of roadways. No review of utilities, stormwater and drainage, or broader environmental impacts on the site or the community was possible, and there was no way to require the developer to meet with neighbors about his plans.

Subdivision Control, the provision of Chapter 41 of state law adopted by most municipalities, is a mechanism that attempts to provide such oversight, but it does so in a broad-brush manner better suited to managing 50-acre suburban developments than to the unique challenges of a mature community such as Arlington. It is cumbersome and expensive both for town and developer, and it has major flaws. One glaring example—and a reason often given in the past for not adopting Subdivision Control in Arlington—is a grandfathering provision that allows would-be developers to

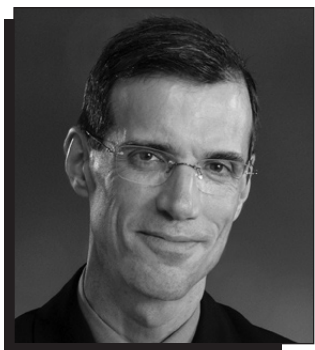
file a subdivision plan and lock in current zoning status for eight years—and then, to build something that in no way resembles the original plan.

The Board of Selectmen, with the assistance of attorney Jay Wickersham, a former Arlington resident and head of MEPA (Massachusetts Environmental Protection Act), developed a creative rethinking of the Board of Survey law. It incorporates and builds upon the most valuable provisions of Subdivision Control, in a form that is simpler, more efficient, and in the end more powerful for the community.

The new law makes the Arlington Redevelopment Board the reviewing body. The ARB has far more experience and expertise in development matters than the Selectmen, and is already the board that reviews development proposals of six units or more. The law provides for the promulgation of rules and regulations by the ARB that govern the content of what must be submitted, the design and construction of site improvements, and the board's procedures and review standards, including requirements for public hearings and input. Critically, it provides that the scope of the ARB's review emphasize environmental impacts including stormwater storage requirements, the appropriateness of the design to the land, and mitigation of traffic impacts.

Continued on page 4.

Challenges Continue in the Alewife Area *By Rep. Will Brownsberger*



Alewife Reservation Master Plan

The plan is partially implemented in the area of the Arthur D. Little parking lot, but is waiting for Cambridge CSO work in the area across Little River from the lot. The proposed Belmont Uplands acquisition was vetoed by Governor Patrick, and without those funds DCR does not feel it has the financial ability to acquire the property. Implementation of the master plan in the area toward Little Pond will occur as a later phase.

Regarding the proposed bike-path segment in the Sunnyside area of Arlington, DCR is planning to organize more conversations with town officials this fall to resolve differences about the location of the bike path. (November update: A Conservation Commission hearing was held in early November; discussions continue.)

Amelia Earhart Dam

DCR feels that the FY08 and FY09 budget earmarks to study the dam suffice to move forward to address (a) the feasibility and cost of installing a fourth pump; and (b) the feasibility and advisability of changing pumping protocols at the Amelia Earhart Dam to control flooding. DCR expects to announce an RFP in late 2008. (November update: This funding was stricken by the Governor's 9C cuts; Commissioner Sullivan has not yet stated whether he plans to go forward with the project.)

For the past five years, Arlington, Belmont, and Cambridge officials and citizens have been working together to identify and implement projects to control flooding in the Alewife area. Much of the necessary work is being done under the direction of the state Department of Conservation and Recreation (DCR).

The following notes summarize a September 25 meeting at the State House regarding the status of flood control and other projects in the Alewife area (with some more recent updates). Attendees included Arlington Selectman Clarissa Rowe, the current chairman of the tri-community working group; most of the Alewife and Mystic River region legislators; and key members of DCR's management team. I am grateful to DCR Commissioner Rick Sullivan for his continuing attention to this wide range of concerns.

Mystic Lakes Dam

DCR is well along in designing the repair and reconstruction of the Mystic Lakes Dam to address safety reasons due to the dam's weakened condition. The renovations will also create a fish ladder and allow active management of the upper lake for flood storage purposes. DCR hopes to put out an ENF before the end of the year. One inevitable negative impact of the reconstruction will be the removal of trees on the dam. The trees are all volunteers and their roots create faults in the dam that diminish its strength. It is expected that construction will start in Fall 2009 and take approximately two years.

Dredging and Debris Removal in the Little River and Alewife Brook

The ongoing concern about maintaining a free-flowing channel in these waterways is well recognized by both DCR and community groups. Currently, DCR is testing the materials in the channel bottom to identify possible hazardous materials (including debris from the homeless population) and to define the process to be used in clearance and/or dredging. DCR cannot order large crews of people to work in the channel, even for branch removal, before assessing risks. They expect to make findings this fall and to define a course of action from there.

Blair Pond

DCR is currently doing depth mapping to design their approach to dredging the pond to alleviate sedimentation problems. It may or may not be possible to move materials within the pond as opposed to trucking materials off-site. This decision will affect permitting issues and the timeline. No deadlines were set, but the work appears to be moving forward.

McCrehan Pool

It was agreed that DCR would review the possibility of allocating staff resources to participate in a visioning conversation about the pool—to inventory short-term needs as well as longer-term possible goals. (November update: Pool neighbors met and sent to DCR a list of short-term suggestions.)

Bikepath Right-of-Way

The transfers and easements to create the right-of-way for the Belmont to Alewife bikepath are all approved by the grantors. The actual documentation received has to be approved by two other

state agencies, the Executive Office of Energy and Environmental Affairs and Division of Capital Asset Management. The DCR General Counsel is attending to the movement of the documents through these approvals.

Craddock Bridge Reconstruction

Design for this project in Medford Square is proceeding under the direction of Mass Highway. Engineers from the tri-community group will be meeting with Mass Highway engineers this fall to confirm that the new design will maximize channel width and minimize the likelihood of obstruction by debris. Many believe that debris problems at this bridge (last removed in 2003) raised the water level in the larger flooding events of the preceding decade.

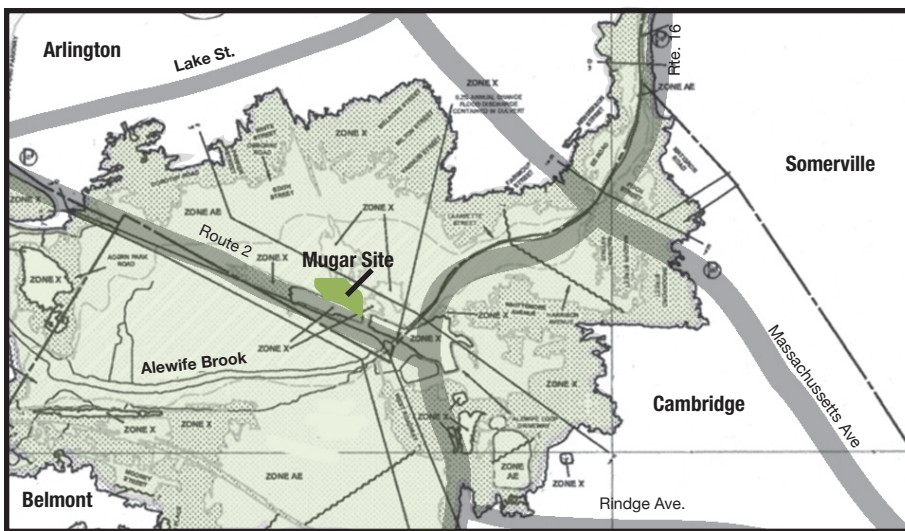
Note: This article is adapted from Rep. Brownsberger's report published in the *Arlington Advocate* and *Belmont Citizen-Herald* on October 9, 2008. For more information, contact www.willbrownsberger.com.

Arlington Land Trust Annual Meeting

Monday, January 26, 2009
7:00–9:00 pm

Robbins Library Community Room
700 Massachusetts Avenue, Arlington, MA

Guest speaker **Rep. Will Brownsberger** will address the topic "Making Land Conservation a Priority in the Alewife Area." Refreshments will be provided, and a short business meeting will follow his talk.



Updated FEMA Maps Show Expanded Flood Zones

The U.S. Federal Emergency Management Agency (FEMA) this fall took a step closer to completion of updated flood maps for communities in the Mystic River Watershed, including Arlington and its neighbors. The new maps have a significant impact on residents of some areas of Arlington, and may have important implications for the future development potential of the Mugar site.

Special Flood Hazard Areas (SFHA) are determined by FEMA to have a 1-in-100 chance of flooding in any given year, which is often referred to as the "100-year flood zone." It comes as no surprise to many residents who have experienced flooding in recent years that the remapped SFHAs in East Arlington are significantly larger than those shown on the current Flood Insurance Rate Maps (FIRM), which date from 1982.

Property owners in flood zones who have mortgages provided by federally regulated lenders are required to purchase flood insurance, so many more homeowners may be affected by this rule once the new maps are finalized. The owners of homes in the newly designated flood areas can be "grandfathered" into the lower rates available now, until the FEMA maps are formally adopted by Arlington Town Meeting in the spring of 2009.

During the public comment period conducted by FEMA, the Town of Arlington engaged an outside consultant, a specialist in FEMA maps and data, to review the draft material. Although he found that the proposed mapping was generally sound, he gave the town some comments on certain areas where he thought the data was incomplete, and the town has requested further clarification from FEMA.

In September Arlington officials also held a public meeting for citizens affected by the changes in the maps. Massachusetts FEMA officials, Homeland Security representatives, and Town Engineer

Michael Rademacher were available to answer technical questions about the draft maps and about whether citizens need to purchase flood insurance. Every homeowner in the expanded areas and abutters to these areas were notified of the meeting by mail, and more than 150 people attended.

Another important issue addressed at the public forum was the procedure by which homeowners might contest a property's inclusion in the flood zone. An SFHA is defined by applying the "100-year flood" elevation to a detailed topographic map of the area; parcels shown as lying below that elevation are included in the SFHA. No mapping is perfect, however, and FEMA recognizes that there are limitations of scale and definition in the source maps they used.

A homeowner who questions the results can request a Letter of Map Amendment (LOMA) by submitting certain mapping and survey information to FEMA and ask that the property be removed from the SFHA. In most cases, the applicant will need to hire a licensed land surveyor or registered professional engineer to prepare an elevation certificate for the property.

All FEMA designations are referenced by Arlington's local zoning bylaw, and by the regulations of the Conservation Commission. These local regulations can govern what (if any) development or other disturbance is permitted in affected areas. Both the zoning bylaw and the ConCom regulations will have to be updated to reflect the new maps, once they are made final.

The updated FEMA maps are available for viewing at www.arlingtonma.gov/fema, or at the office of the Town Engineer on Grove Street. Concerns about how the new maps may affect property values in those areas can be addressed to the Town Assessor's office.

Envisioning a Future for the Mugar Site

After Governor Deval Patrick vetoed funds for the acquisition of the Belmont Uplands and Silver Maple Forest in Belmont and Cambridge last summer, legislators and local officials mobilized to continue to look for ways to save both the Uplands and the Mugar property on the Arlington side of Route 2. During negotiations with the Governor, Rep. Will Brownsberger, Arlington Selectman Clarissa Rowe, and others emphasized the importance of both parcels to the ecological balance of the area, once known as the "Great Swamp."

Reinforcing the regional impacts of land conservation and flood control, the new draft FEMA maps show that most of the Mugar site is now in the flood way, which will make it more difficult to build any development on that site. Before the FEMA maps become final in the spring of 2009, ALT plans to approach the Mugar family to renew discussion of conservation options for the site. It is our hope that the increased challenges to development of the parcel will help spur the owners to consider the benefits of a below-market "bargain sale" or outright donation to the Town.

In the meantime, to facilitate new ways of thinking about the site, ALT is considering a schematic landscape plan that envisions the Mugar property as public parkland with flood storage as a major component of its design. We plan to convene a public discussion of these ideas to gather the experience and vision of the community, and we will be talking with the Mugar development team and town officials about this alternative use of the land.

Support Land and Water with a New License Plate



You can help fund land conservation in Massachusetts by signing up for the new Land and Water license plate from the Massachusetts Environmental Trust. Like the other Trust plates (right whale, fish and wildlife, Blackstone Valley) whose proceeds fund important environmental work, this plate will specifically fund the permanent protection of watershed lands in the Commonwealth.

Before the Registry of Motor Vehicles will produce the plates, 3,000 people must order a plate (numbers 1 to 3,000!) and actually send a check. (If M.E.T. is not able to place 3,000 orders, your check will be returned.)

Go to www.masslandandwater.info, print the application, mail it in with your check, and get your friends to do it, too. These great-looking license plates are the Trust's primary source of revenue, and through them M.E.T. has distributed \$16 million to hard-working environmental organizations across the state for projects that enhance and protect water quality.

This Land and Water plate will allow the Trust to fund its new land conservation program in wetland and watershed communities across the state. And, your vehicle will proudly display your commitment to the environment with an attractive, low-number plate!

Symmes Project Stalls, Forest Plan Goes On

At the end of August, after a noisy summer of blasting, all construction stopped at the Symmes site. The developer, JPI of Texas, is in negotiations with a regional bank to secure further construction financing, but to date no financing has been obtained. The majority of the JPI Symmes project staff has been laid off, although JPI has stated their commitment to completing the Symmes project and other construction projects in Massachusetts. The Arlington Redevelopment Board is wrestling with how to encourage JPI to finish the project, and whether to invoke the late penalties in their joint agreement. This delay may result in a deferral of building permit revenue that was expected in FY2009.

Meanwhile, as part of the agreement that governs the conservation restriction to be imposed on the open spaces of the parcel once development is complete, ALT and the Conservation Commission (both future holders of the CR) have begun the process of creating a Forest Inventory and Forest Management Plan. Over the summer urban forester George Ackerson held a public meeting and conducted several informal walks with interested "friends of the woods" to gather experience and concerns about the plant communities at the site, and he is now completing the inventory phase.

The resulting Forest Management Plan will form the basis for future stewardship of the wooded open spaces of the site. The plan will lay out "recommendations for maintaining and improving the health of the Summer Street Woods and Buffer Areas and for ensuring their perpetual effectiveness as habitat, buffer, and public green space." We look forward to helping form a "Friends of Symmes Woods" group to assist in long-term stewardship, and welcome the participation of neighbors in creating the plan. Please contact info@arlingtonlandtrust.org for more information.

Arlington Open Space and Recreation Plan Approved

The Arlington Open Space and Recreation Plan Update for 2007–2012 was approved by the Division of Conservation Services of the Executive Office of Energy and Environmental Affairs, as required for all municipalities, and was presented to the Board of Selectmen and Town Meeting in May 2008.

The Plan and accompanying Appendix were prepared by the Arlington Open Space Committee with consulting assistance from Ralph Willmer, a project planner with Vanasse Hangen Brustlin, Inc. of Watertown.

The Plan includes a long list of open space and recreation accomplishments over the past five years, and outlines many specific objectives and actions to be accomplished over the next five years to address the following goals:

- 1. Acquire undeveloped lands** for permanent protection as open space in neighborhoods throughout the Town.
- 2. Preserve, protect, and enhance existing open spaces**, including watersheds, water bodies, and natural areas; parks, playgrounds, and outdoor rec-

reational facilities; and historic sites and cultural landscapes.

- 3. Coordinate and strengthen local and regional planning** and management of open spaces in conjunction with various Town departments, commissions, and volunteer groups, and work closely with nearby towns and regional entities and with state and federal officials and agencies.

- 4. Increase public awareness, accessibility, and community stewardship** of the Town's open spaces and recreational facilities.

The complete plan is posted on the Open Space Committee page of the Town Web site (www.town.arlington.ma.us), and printed copies are available in several Town departments and the Robbins Library.

Continued from page 1.

This law is not a panacea for prevention of subdividing lots and shoe-horning new houses; it can only govern subdivisions that require one or more roadways to provide frontage and access to the subdivided lots. Under Massachusetts zoning, "approval not required" (ANR) lots can be created without any review if they meet the requirement of having sufficient frontage and area. So, for example, the classic "double lot"—if it has two times the frontage and square footage as in the required zoning—can still be subdivided without local control. We cannot solve that problem at the local level; only long-overdue statewide zoning reform can alter that right.

We applaud our Board of Selectmen for its creative leadership in developing this new legislation, and our Town Meeting for adopting it. This home rule petition must be approved by the Legislature, but action is expected shortly, and the new law will take effect upon passage.

MEMBER PROFILES



From the CFO's seat at Mass Audubon, Banks Poor has a bird's-eye view of conservation. "We have to act at every level—nationally, regionally, statewide, and locally—to achieve real preservation. Protecting open space in a community as densely populated as Arlington is particularly important, both for the wildlife in town and for the residents. I know the Arlington Land Trust is doing great things at the local level and I am proud to be a member."

Bancroft Poor
High Haith Road



Spending time outdoors as a family has been a long-term pastime and priority for the Bernsteins—and they appreciate all that the town has to offer. Monica says, "One of the great things about living in Arlington is being so close to the city but not being in the city. Arlington is so green. We support Arlington Land Trust because there is still open space here in town that can be saved. And open space is calming and welcoming, no matter how small."

Monica and David Bernstein
Norfolk Road



"I've lived in Arlington for 51 years, love this town, and feel very fortunate to live in New England. We have explored saving open spaces and the rights of the public to use such spaces, including protecting an island off the Maine Coast. I know from personal experience that, as hard as you try, an individual can't always protect the land she loves. That's why it is so important to support conservation organizations like the Arlington Land Trust that bring resources and support to key open space initiatives."

Grace Dingee
Claremont Avenue

Elizabeth Island – Status Quo

From the perspective of the yellow warbler, eastern kingbird, warbling vireo, and other species that nest on Elizabeth Island, nothing much has changed in 2008. The island remains in its natural state, and home to more than 100 species of birds that nest or swim nearby, or just stop off during migration.

The threat of loss remains, however, as the island continues to be marketed for sale with no limitations on its use and no restrictions that would maintain its visual character and wildlife habitats.

We had hoped to report to you this year on the permanent protection of this centerpiece of Spy Pond. Our conversations with the island's owner continue cordially, but we have thus far been unable to reach common ground on financial arrangements for the acquisition and conservation of the island.

We were heartened by the support demonstrated by the state's Conservation Partnership Program in awarding to ALT a pledge toward acquisition. Without a concluded purchase arrangement with the owner, however, we had to forego the pledge this year. The state has strongly encouraged us to continue our efforts and to apply again for the substantial assistance (up to \$75,000) that this program can provide.

We are grateful that, even while marketing the island for sale, the owner has continued her long-standing tradition of permitting public access. We expect to meet with her again near the end of the year, and look forward to continuing the conversation.



Easements on Small Parcels

An "easement in gross" is a restriction on land use that runs with the deed on the property, binding subsequent owners. Although not technically perpetual (like a state-approved conservation restriction), it can protect the land for thirty years and is renewable for successive twenty-year extensions by the Land Trust, which serves as "holder" or enforcer of the easement.

The Arlington Land Trust has developed a template for preparing easements in gross to simplify the process for local landowners. The costs to place an easement on your land, including fees for legal document preparation and filing at the Registry of Deeds, can range from \$500 to \$1,500 depending on the complexity of the restriction. Because this type of easement is not technically permanent, there are no income or estate tax benefits to the homeowner. There may be local property tax considerations, if a formerly buildable parcel is reassessed as unbuildable during the term of the easement. For more information, contact info@arlingtonlandtrust.org.

Special Conservation Funds

Photo by David E. White

The Conservation Stewards Fund is providing support to update the book *Walking the Open Spaces of Arlington*. First published in 1994, this guide to local open spaces is being revised and expanded by members of the Arlington Conservation Commission, land stewards, and other volunteers. The book will be published in both print and electronic form in 2009.

The Friends of Arlington's Great Meadows have been active in a number of outreach projects this year. Member Don Miller has led a regular third-Saturday nature walk, following the seasonal changes through this year. A location of special interest has been the re-growth in the wooded area near Infinity Pond that burned in the April 2008 fire. An outreach project with the Waldorf School has involved students in setting up beehives and collecting honey. The number of visitors and public awareness of the Great Meadows continues to increase. Some of the upland meadow areas are growing in with trees and shrubs, and thus may no longer provide a diversified habitat necessary for species such as the American Woodcock. Frances Clark also cited this concern in her 2001 report, *Resource Inventory and Stewardship Plan*. The Friends have engaged Jeff Collins of Massachusetts Audubon to look at some of these areas and make recommendations for restoration projects that will maintain their open nature. Any actual work will be discussed in public meetings and will need approval of town officials.



Member Don Miller introduces Great Meadows to others during one of his third-Saturday nature walks.

Donors Receive Tax Credits for Land Conservation

The Environmental Bond Bill—legislation signed by Governor Patrick in August 2008 to fund state land protection and other environmental programs over the next five years—includes a long-awaited state income tax credit for landowners who donate qualifying conservation or agricultural land to a municipality, the state, or a nonprofit conservation organization.

Effective in January 2010, this program still needs legislative approval; it is being considered in the informal session of the legislature this fall. The incentive complements the capital funds provided by the Environmental Bond, and will enhance the ability of the state and land trusts to preserve natural areas.

Under the Act, the Massachusetts Executive Office of Energy and Environmental Affairs must first determine whether lands proposed for donation are in the public interest for natural resource protection. Lands that protect drinking water supplies,

unfragmented wildlife habitat, agricultural and forest products, archaeological and historical resources, scenic vistas, and recreational opportunities may be eligible. All donated lands must be permanently protected.

The Act grants a state income credit based on 50 percent of the appraised fair market value of the land. For example, if the donated property is valued at \$40,000, the landowner receives a \$20,000 credit towards his state income tax. The credit cannot exceed one's annual tax liability; however, it may be carried forward for ten consecutive years. In this

example, the donor could receive a \$2,000 credit toward his state income tax each year for the next ten years.

This state action supplements the federal income tax incentive that allows conservation easement donors to deduct a larger portion of their income over a longer period of time. Passed as part of

the 2008 Farm Bill, the federal program extends only through 2009. The national Land Trust Alliance and other advocates are encouraging citizens to contact their members of Congress to make this easement incentive permanent. For more information, visit www.landtrustalliance.org/policy/taxincentives.

Thanks to you!

The Arlington Land Trust thanks its members and friends for their generous contributions during 2008. Some of these donors also support dedicated funds for the Friends of Arlington Great Meadows and the Arlington Conservation Stewards Fund.

If you would like to support the Arlington Land Trust and help make a difference in our community, please contact info@arlingtonlandtrust.org.

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Babson Capital Mgmt
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UPCOMING EVENTS

ANNUAL MEETING

Monday, January 26, 2009

7:00–9:00 pm

**Robbins Library Community Room
700 Massachusetts Avenue, Arlington**

Guest Speaker

Rep. Will Brownsberger

***Making Land Conservation a Priority
in the Alewife Area***

Will Brownsberger has been a tireless advocate for the Alewife area for many years. He was a Belmont Selectman from 1998 to 2007, when he was elected to the 24th Middlesex District seat representing parts of East Arlington, Belmont, and Cambridge. He succeeded Anne Paulsen, who retired following many productive years advocating for similar issues in the House of Representatives.

Born in Boston and raised in Watertown, Will has lived in Belmont since 1992 with his wife and three daughters. Will holds a JD degree from Harvard Law School and a BA from Harvard College. He is an attorney who has focused primarily on criminal justice—as a prosecutor, an academic, and a defense attorney. Previously he managed software development on Wall Street.

Saturday, March 28, 2009

9:00 am – 1:00 pm

EcoFest

Arlington Town Hall Auditorium
730 Massachusetts Avenue
Arlington, MA

David Epstein, a meteorologist at WCVB-TV who reports a weekly “*Extreme Garden Makeover*,” will speak on lawn alternatives and ecological gardening. He wrote the book *Gardens of New England* with photographer Michael Hubley.

Committees, groups, and vendors involved in ecological gardening, landscaping, and related activities will have tables to publicize their works or hawk their services. Public committees may request tables free of charge, but private vendors will be asked to pay a fee.

For more information, contact Ruth Yannetti at the Arlington Department of Public Works: ryannetti@town.arlington.ma.us

Saturday, March 28, 2009

8:00 am – 4:30 pm

19th Massachusetts Land Conservation Conference

Worcester, MA

This annual training and networking event provides land trust volunteers, board members, staff, municipal commission members, and others interested in land conservation with the information, skills, and connections needed to be most effective. The theme of this year's conference is *Finding Common Ground: Land Conservation and Civic Engagement*. Workshops on a variety of related topics are presented for all experience levels.

For more information and to receive the conference brochure when it is available, email: info@arlingtonlandtrust.org