



Belmont Citizens Forum

Vol. 7, No. 3

A Newsletter for Belmont Residents

May 2006

Citizens Forum Files McLean Sewer Challenge

By Sue Bass

The Belmont Citizens Forum and 12 Belmont residents have challenged the state’s issuance of a sewer connection permit to McLean Hospital. The challenged sewer connection would link the future American Retirement Corp. complex and the Belmont ValueRealty R&D development to the town’s sewer system. The challenge is an appeal within the state Department of Environmental Protection (DEP) of the sewer connection permit issued by DEP in February. The appeal, filed on March 24, argues that DEP did not have enough information to evaluate the capacity of both the Belmont sewer system and the Massachusetts Water Resources Authority (MWRA) system into which Belmont discharges sewage.

The appeal argues that if the permit is issued, sewer pipes downstream will become “surcharged” more frequently – so overloaded that the sewage backs up into basements – and that the system will discharge sewage into area ponds and streams. Like all the McLean sewers, this new one would run through Belmont Center and the Winn Brook neighborhood en route to the MWRA connector across Brighton Street on Flanders Road.

“McLean failed to submit and the Department failed to require engineering calculations on sewer system capacity downstream of the McLean project. Such calculations are customarily required by the Department for its consideration prior to issuance of a sewer connection permit,” the appeal says. “There appears to be no engineering assessment that establishes that sufficient sewer capacity exists in all of the sewer sections that will be used to transfer sewage flow from the McLean project, through the

Belmont sewers (approximately 12,000 feet of sewers) to the MWRA connection.”

The appeal notes that the state apparently relied entirely on the town’s prior approval of the permit. The appeal also reports that the documents that the town reviewed before granting approval did not “assess the capacity of the Belmont sewer system downstream of the McLean connection at Pleasant Street.”

McLean’s Mitigation Plan

A major reason for sewer surcharges and backflows is that clean water gets into the sanitary sewer system. In a rainstorm, the stormwater coming into the sanitary sewer pipes overfills the sewer pipes, causing sewage-tainted water to back up into basement toilets and showers in low-lying neighborhoods. Two problems are blamed: water from rooftop drains, sump pumps, and other sources on pri-

continued on page 13

Table of Contents

Environmental Events	2
Waverley Intersection Endangers Bicyclists	3
Homeowners Can Control Invasive Plants	5
Watertown Citizens Defend Environment	9
Uplands Sewers May Get Review	13
Can the Barn Bylaw Limit Ownership?	16

Environmental Events Calendar

Getting to Know the Invasives. Saturday, May 20, 20, 9 a.m.–noon. Join Habitat staff for a leisurely walk around Habitat to see up-close a variety of invasive organisms. Take a look at the Hemlock Woolly Adelgid and other invasive insects and plants that may be in your own yard. This event is sponsored by Habitat Wildlife Sanctuary, 10 Juniper Road, Belmont. \$15 for members, \$18 for non-members. Call 617-489-5050 for required registration.

Spring Birding on Lot 1. Saturday, May 20, 8 a.m.–11 a.m. Experience spring migration at its height on this little-explored part of Lexington. Long sleeves and pants recommended for ticks and poison ivy. This free event is sponsored by Citizens for Lexington Conservation. Meet at the Falzone Field parking lot (Waltham) on Trapelo Road (1/2 mile east of Waltham Street across from Our Lady's church). Leader: Keith Ohmart (781-862-6216).

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Belmont Citizens Forum, Inc.

is a not-for-profit organization that strives to maintain the small-town atmosphere of Belmont, Massachusetts, by preserving its natural and historical resources, limiting traffic growth, and enhancing pedestrian safety. We do this by keeping residents informed about planning and zoning issues, by participating actively in public hearings, and by organizing forums on key subjects.

Our newsletter is published six times a year (January, March, May, July, September, and November).

Published material represents the views of the authors and not necessarily those of the Belmont Citizens Forum.

Letters to the editor may be sent to
P. O. Box 609, Belmont MA 02478
or to editor@belmontcitizensforum.org

Life Under a Log. Sunday, May 21, 1 p.m.–3 p.m. Have you ever wondered what life lurks under a log? Millipedes, centipedes, slugs, beetles, and more! Come join us on this family program as we first learn what invertebrates we may encounter and then go outside to explore under logs. This free Friends of Fresh Pond Reservation event starts at the Maynard Ecology Center, in the basement of Neville Place, 650 Concord Avenue, Cambridge. For more information or to register, contact Elizabeth Wylde at 617-349-6391 or friendsoffreshpond@yahoo.com.

Field Notes from a Catastrophe: Man, Nature, and Climate Change. Sunday, May 21, 7:30 p.m. New Yorker writer Elizabeth Kolbert will discuss her new book, "Field Notes from a Catastrophe: Man, Nature and Climate Change," which details global climate change, geography, and what real people are experiencing right now. The talk will be held in Cary Hall, 1605 Massachusetts Ave., Lexington, on Sunday, May 21, at 7:30 PM. Sponsored by Sustainable Belmont and the Lexington Global Warming Action Committee. Admission is free. For more information, see www.lexgwac.org.

A Northeast Sector Walkabout. Monday, May 22, 6 p.m.–8 p.m. Chip Norton, CWD Watershed Manager, will give a tour of Fresh Pond Reservation's Northeast Sector, the area that is currently under construction. This free Friends of Fresh Pond Reservation event starts at the front door of the Walter J. Sullivan Water Purification Facility, 250 Fresh Pond Parkway, Cambridge. For more information or to register, contact Elizabeth Wylde at 617-349-6391 or friendsoffreshpond@yahoo.com.

Silver Maple Forest Forum and Bluegrass Band Benefit. Tuesday, May 30, 6:30 p.m.–10 p.m., Temple Beth El, 2 Concord Avenue, Belmont. See page 6 for details.

Silver Maples in the Urban Wild: Landscape Paintings of an Endangered Forest. Opening Reception, Thursday, June 1, 6 p.m.–8 p.m. Sarah Leon's paintings of the Belmont Uplands will remain on display through June 31. See them at Habitat

continued on page 4

Waverley Intersection Endangers Bicyclists

By Jane Sherwin

Among Belmont's various traffic hot spots, the triangle at the former Waverley fire station is especially dangerous for bicycle riders. In early March, a cyclist was hit and sent to the hospital, and the next day another car nearly hit another cyclist. Ed Sassler, coach for the Harvard University cycling team has counted at least twenty car-bicycle collisions at the intersection over the years he has been observing it from the neighboring Wheelworks shop where he works.

Waverley Street widens dramatically as it reaches Trapelo Road, creating a vast open space where there are no clear traffic rules. The triangle painted on the roadway to guide turns is hard to see, and heavy traffic on Trapelo Road tempts drivers to float across Trapelo's left hand lane at the most convenient break in traffic. Cars crossing from White Street to enter Waverley increase the confusion, and during commuting hours, the sun shines directly into drivers' eyes. Bicyclists often try to pedal through the terrible triangle.

The wide triangular space between the station, the Congregational church, and Waverley Street once had a purpose: to enable fire trucks to turn quickly in any direction. Until recently, it was exciting to see trucks bursting from the wide doors, sirens wailing and traffic halted. The fire station was a favorite destination for Butler School field trips.

Now that the fire station is being converted into six condominiums, however, the triangle is only a liability. Sergeant James MacIsaac, Belmont's traffic officer, says that interim solutions, like painting lines or putting out barrels, do not solve the problem. Furthermore, he says, a design for one intersection has to fit into a bigger traffic plan.

Happily, Belmont's Traffic Advisory Committee has included recommendations for the intersection as part of the Trapelo Road corridor project. In the proposed design, Waverley Street will gain a normal size width and a T shape at the intersection, with the remainder being green space converted from pavement on the church side. The design could

continued on page 4



Waverley Intersection *continued from page 3*

include a right or left hand turning lane. Also in the design, drivers coming from White Street will be directed to turn right on Trapelo, and then left onto Waverley. Mary Jo Frisoli, chair of the committee, describes the design as “more defined, safer for both pedestrians and traffic, and with less pavement.”

Frisoli emphasizes that the design is only a proposal, not written in stone, and that the committee values community input. The committee has developed designs for all intersections on the corridor.

Once state Transportation Improvement Project funding is available, all intersection designs will receive a comprehensive review. Glen Clancy, the town engineer, hopes that, if funding comes through, construction on the Trapelo corridor, including the Waverley intersection, should begin in 2009. In the meantime, when you negotiate that tricky triangle, watch for cycling teams and sun-blinded drivers.

— *Jane Sherwin is a 26-year resident of Belmont and a published writer and historian.*



Events *continued from page 2*

Wildlife Sanctuary, 10 Juniper Road, Belmont. For more information, see www.artofsarahleon.com

Sustainable Belmont Meeting. Wednesday, June 7, 7 p.m.-9 p.m. Located in the Assembly Room of the Belmont Memorial Library. Contact sustainablebelmont@gmail.com for details.

Biodiversity Day Survey at Arlington's Great Meadow. Sunday, June 11, 1 p.m.-4 p.m. Join the Friends of Arlington's Great Meadows and Citizens for Lexington Conservation at Arlington's Great Meadows for a survey of the area's plants and insects. Meet in the parking lot behind the East Village Nursing Home, off Bryant Street. Bring insect repellent. Field guides, magnifiers and a camera would all come in handy. For more information about this free event, call Andrea Golden, 781-646-3941.

Homeowners Can Control Invasive Plants

By Bruce Wenning

Invasive exotic plants are the silent and secret invaders of our neighborhoods and our nation. They frequently go unnoticed because they blend in with their environment, but these aliens have subtle yet powerful effects on the landscape. These plants can grow on a wide range of differing soil and site conditions and outcompete native plants for water, sunlight, and soil nutrients. Invasive exotic plants suppress the growth and establishment of our native flora, often by creating too much shade for sun-loving natives to grow—or even sprout. They can change which native plants colonize a new site and also provide a different quality of nourishing pollen sources for native pollinating insects.

What Makes a Plant Invasive?

Invasive exotic plants are non-native plants. Some were intentionally introduced for use in agriculture, horticulture, medicine, forestry, or wildlife programs, or for botanical display in estates and arboretums. Others were introduced by accident and became established before anyone noticed. According to Josh Ellsworth, a restoration ecologist, learning the eight ecological traits exhibited by invasive plants will help efforts to control them immensely.

1. High seed production and good seed viability.

The invasive Asiatic bittersweet vine, *Celastrus orbiculatus*, produces a tremendous amount of seed annually. Only two-thirds of them will sprout, but the sheer number of seeds produced ensures that bittersweet spreads rapidly.

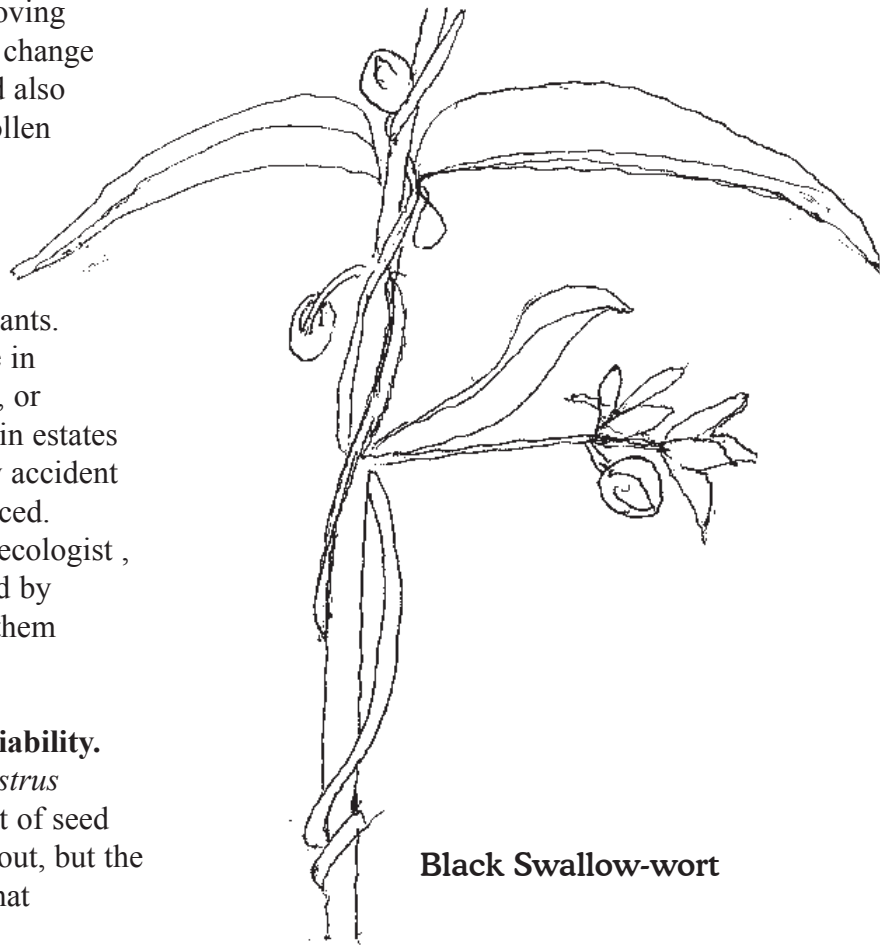
2. Seed is easily dispersed by wind, animals, or water.

The seeds of glossy buckthorn, *Rhamnus frangula*; honeysuckle, *Lonicera* spp.; and autumn olive, *Elaeagnus umbellata*, are primarily dispersed by birds over great distances. The small seeds of common reed, *Phragmites australis*, are effectively carried by wind. The aquatic invasive purple loosestrife, *Lythrum salicaria*, is spread by water currents.

3. Seed viability and sexual reproduction. Some

invasive plants reproduce sexually; the plant requires pollen to fertilize the flower.

Sexual reproduction can either require separate male and female plants (termed dioecious reproduction) or involve male and female reproductive structures on the same plant (monoecious). Monoecious plants can self-fertilize, producing flowers, fruit, and seed on the same plant. Since only a single monoecious plant is needed to start a population, invasives of this type can rapidly



Black Swallow-wort

colonize and spread into new areas. Most invasive plants are monoecious, which is why they are so threatening to our native ecosystems. Once seeds are produced, they will germinate. However, not all seeds germinate as soon as they contact bare soil. Delayed germination may occur. Seeds displaying this trait become part of the seed bank, the collection of dormant seeds in the soil of the infested site and can

continued on page 7



Silver Maple Forest Forum and Bluegrass Band Benefit for the Belmont Uplands

Tuesday, May 30

Forum 6:30 - 8:00 p.m.

Concert 8:30 - 10:00 p.m.

Temple Beth El

2 Concord Ave., Belmont

\$10 donation requested

**Sponsored by
Friends of the Alewife
Reservation**

Forum Speakers

Charles Katuska, Restoration Ecologist

The Future of Our Urban Forests: A Case Study of the Belmont Uplands

Patrick Fairbairn, Senior Ecologist, Normandeau Associates

Ecological Reasons Why We Should Preserve the Uplands

Dr. David Morimoto, Director, Natural Science & Mathematics Dept, Lesley University

Uplands — A Rare New England Urban Wild Ecosystem

Jane Sherwin, Local Historian

Belmont's Historic Uplands

Michael Baram, Professor of Environmental Law, Boston University Law School

Legal Issues Raised by Latest Proposal for Exploiting the Uplands

Virginia Fuller, President emeritus New England Wildlife

Losing a Wildlife Refuge in Belmont's Own Backyard?

Concert by New England's Reunion Bluegrass Band

For more information, see www.friendsofalewifereservation.org

Invasive Plants *continued from page 5*

linger until environmental conditions are right for germination at a later point in time. Ellsworth states that some invasive exotic species such as purple loosestrife and garlic mustard, *Alliaria petiolata*, demonstrate high seed viability: they can persist in soil for many years before germinating.

Be aware at what point in its life cycle an invasive plant produces flowers, fruit, and seed. According to Ellsworth, “You should always think about seeds when undertaking any invasive plant control project.”

4. Vegetative reproduction. Some invasive exotic

plants, such as glossy buckthorn, can sprout from cut stumps or stems pushed to the ground by fallen branches. Others can sprout from roots (rhizomes), like Japanese knotweed, *Fallopia japonica*, black swallow-wort, *Vincetoxicum nigrum*, and Asiatic bittersweet vine.

5. Predator avoidance and/or deterrence. Some invasive exotic plants have physical structures (spines, prickles, etc.) that deter grazing animals and humans from touching them. Japanese barberry, *Berberis thunbergii*, is a good example. Other plants produce chemical compounds unpalatable to plant-feeding animals (e.g., Japanese stiltgrass, *Microstegium vimineum*).

6. Timing of leaf out and of leaf loss.

Some invasive exotic plants gain an edge over our native plants by leafing out earlier in the spring or holding onto their leaves longer in the fall. These traits enable photosynthesis periods that are longer than those of native species, allowing the invasive plants to store more carbohydrates in their roots. Glossy buckthorn, honeysuckles, garlic mustard, and Japanese barberry exhibit this trait.

7. Shade/light tolerance. Seedlings with shade-tolerant traits—such as glossy buckthorn, garlic mustard, and Asiatic bittersweet vine—can germinate and become established in shady areas. Don’t be fooled; shade-tolerant species can grow rapidly when the shade opens up due to tree branch dieback, breakage, or fallen trees. However, some invasive exotic plants are shade intolerant and grow better in sunny areas (e.g., multiflora rose, *Rosa multiflora*).

8. Time of year of fruiting. Different invasives set fruit at different times of the year, not just in the fall. Observe when invasives set their fruit, so that you can control them before they set fruit (seed). [According to Ellsworth, this will give the maximum control for the least amount of effort.

In order to control your invasive exotic

continued on page 8

Top Invasive Plants At Habitat Wildlife Sanctuary

The current invasive exotic plants at the Habitat Wildlife Sanctuary ranked in order of abundance:

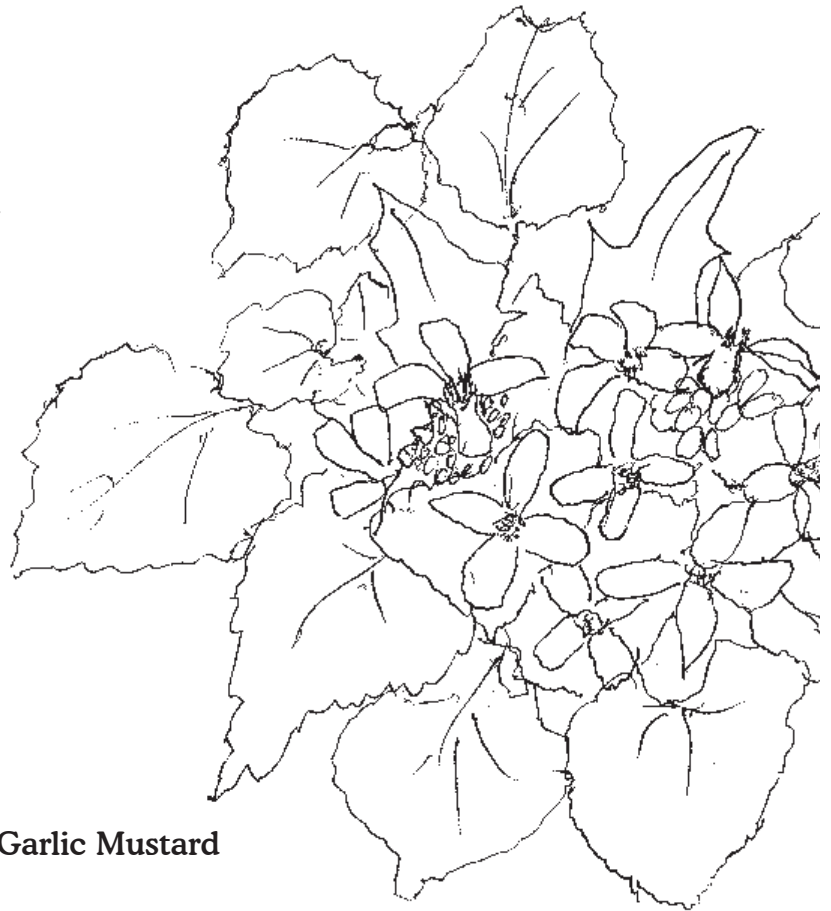
1. Glossy buckthorn (*Rhamnus frangula*)
2. Asiatic bittersweet (*Celastrus orbiculatus*)
3. Goutweed (*Aegopodium podagraria*)
4. Multiflora rose (*Rosa multiflora*)
5. Garlic mustard (*Alliaria petiolata*)
6. Bush honeysuckle (*Lonicera* spp.)
7. Winged euonymous (*Euonymous alatus*)
8. Japanese barberry (*Berberis thunbergii*)
9. Tree of Heaven (*Ailanthus altissima*)
10. Norway maple (*Acer platanooides*)
11. Japanese knotweed (*Fallopia japonica*)
12. Porcelain berry (*Ampelopsis revipedulunculata*)
13. Common buckthorn (*Rhamnus carthartica*)
14. Common barberry (*Berberis vulgaris*)
15. Japanese yew (*Taxus cuspidata*)
16. Black swallow-wort (*Vincetoxicum nigrum*)

plants, identify your invasives correctly and review these traits.

Control Methods and Resources

I hear complaints from Belmont residents about garlic mustard, Asiatic bittersweet vine, Norway maple, *Acer platanoides*, and black swallow-wort. You can start controlling invasives by reviewing the list of invasives found at the Habitat Wildlife Sanctuary (see sidebar) and looking up the best control methods for that plant on the web sites at the end of this article. The three most common control methods are hand-pulling, mowing or repeated cutting, and herbicide applications (stump application for woody plants or foliar application for both woody and herbaceous species). Always keep in mind the eight traits of invasive plants.

You will discover that the best time for any control option is before a plant flowers. In addition, the application of herbicides in July, August, and up to mid-September gives maximum chemical control. These are the months that carbohydrates and other compounds are being transported from the leaves to the roots for storage. This downward flow of plant



Garlic Mustard

compounds helps facilitate the transport of herbicide when applied at this time.

Cutting or mowing of invasive exotic species is very effective during these months for the same reason. When you cut the top off any plant, the roots push up more top growth, depleting the root reserves of carbohydrates and other growth compounds. Every time you cut, you deplete these reserves and weaken the plant. To deplete the root reserves even faster, cut before June on a monthly basis. With repeated cutting over many years, you can deplete the roots of their energy and kill the plant.

The *Save Our Sanctuary* Volunteers

Since 1998, the Habitat Wildlife Sanctuary grounds department has recruited and worked with more than 110 volunteers and removed close to 9,000 glossy buckthorn plants on just over 25 acres. We have reduced the buckthorn population by at least 90 percent on the more heavily infested sites on the sanctuary. Of the 16 invasive exotic plants growing in the sanctuary, glossy buckthorn is the most abundant of them all.



Euonymus Alatus

Removing this plant has allowed more light to reach the woodland floor, enhancing native plant germination and establishment. Save Our Sanctuary volunteers meet four times a year. Community service groups, Boy Scout troops, school groups, and other interested organizations have also volunteered, contributing greatly toward our goal of reducing buckthorn by 90 percent.

For more information about the Save Our Sanctuary volunteer program contact the author at bwenning@massaudubon.org.
— *Bruce Wenning, property manager of MA Audubon Society's Habitat Education Center and Wildlife Sanctuary in Belmont, is on the Board of Directors of the Ecological Landscaping Association, www.ecolandscaping.org.*

For more information about invasive plant species, see:

Invasive Plant Atlas of New England:
<http://invasives.eeb.uconn.edu/ipane>

Invasive and Exotic Species of North America: <http://www.invasive.org>

TNC Wildland Weeds:
<http://tncweeds.ucdavis.edu/esadocs.html>

Invasive Plants Association of Wisconsin:
<http://www.ipaw.org>

Government: www.plants.usda.gov

Other Resources

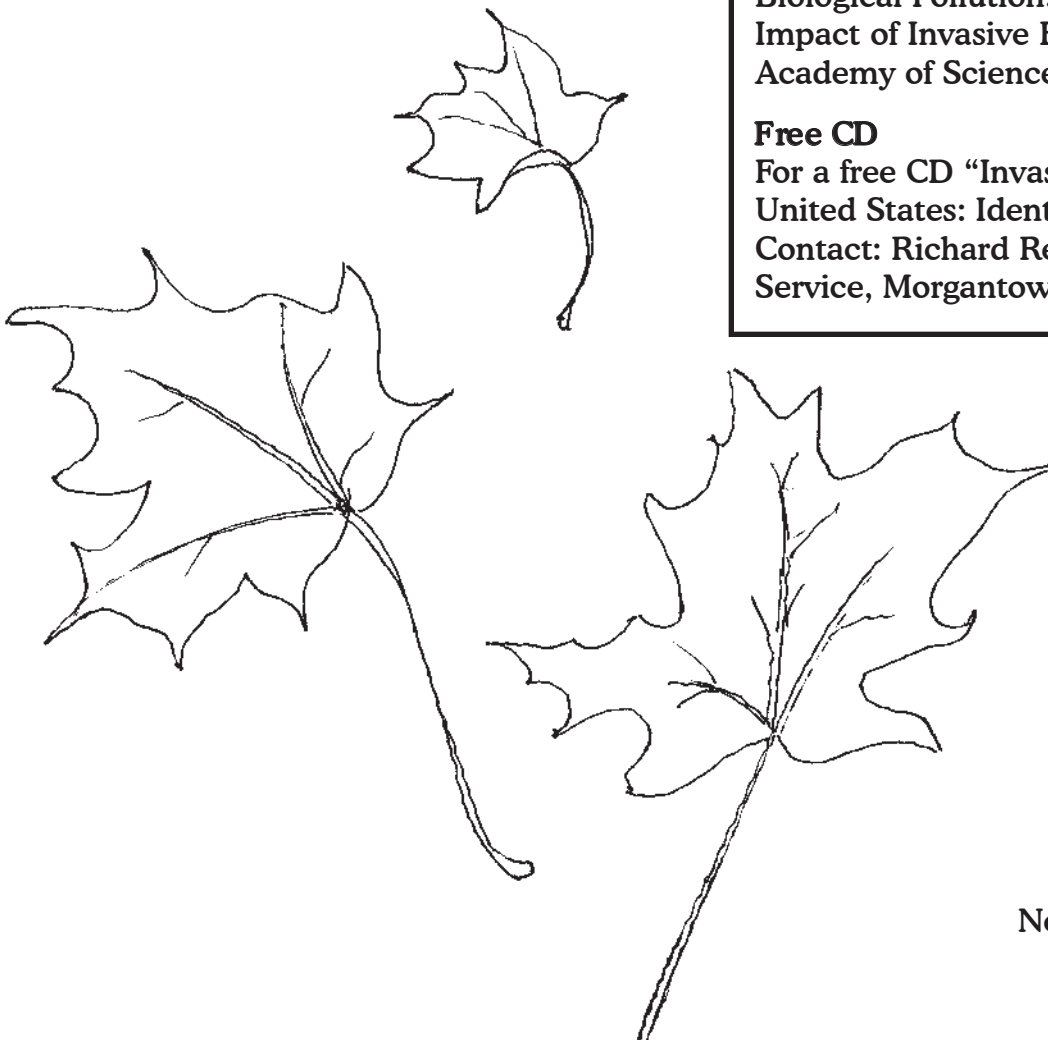
Books on the subject of invasive species

1. Devine, R.S. 1998. Alien Invasion. America's Battle with Non-Native Animals and Plants. National Geographic Society.

2. McNight, Bill, N. (Editor) 1993. Biological Pollution. The Control and Impact of Invasive Exotic Species. Indiana Academy of Science. Indianapolis.

Free CD

For a free CD "Invasive Plants of Eastern United States: Identification and Control." Contact: Richard Reardon, USDA Forest Service, Morgantown, WV. (304)-285-1566.



Norway Maple Leaves

Watertown Citizens for Environmental Safety

By Susan Falkoff

Editor's note: This piece is part of a series of articles about local organizations that support the Belmont Citizens Forum's goals, including preserving natural and historical resources, limiting traffic growth, and enhancing pedestrian safety

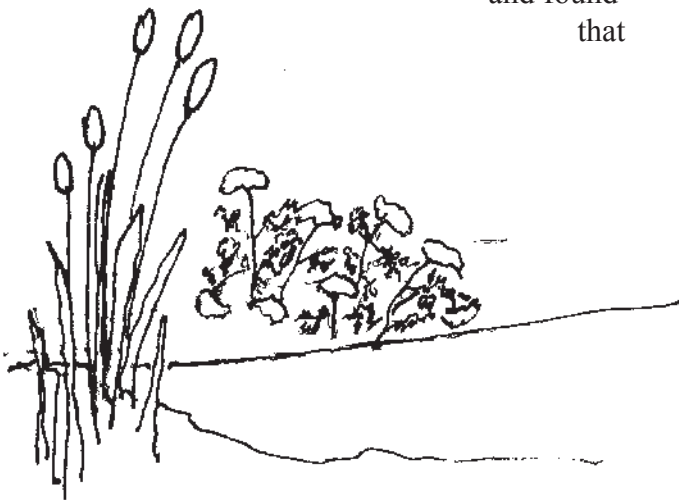
Watertown Citizens for Environmental Safety (WCES) is dedicated to helping residents monitor their local environment. This grassroots group formed in 1979, in response to the nuclear accident at the Three Mile Island nuclear power plant.

One of the group's early projects was to investigate a nuclear reactor on North Beacon Street at the Watertown Arsenal site. The reactor was decommissioned in 1970, but was not dismantled and removed until 1994; contaminated soil was removed under a Superfund site cleanup in 1995-2001. Superfund is a program administered by the federal Environmental Protection Agency (EPA) that identifies and cleans up the most contaminated sites in the country.

WCES Challenges Nuclear Cleanup

WCES's investigation of the Arsenal reactor led to the discovery that depleted uranium was being burned in one of the buildings.

We explored whether this incineration put the community at risk and found that



the incinerators were using very good filters that removed most of the radioactivity from the smoke. However, we also learned some interesting facts. In particular, I remember one memorable meeting with a radiation expert from the University of Lowell who demonstrated that orange Fiestaware was more radioactive than the tennis courts at Arsenal Park. Apparently, orange Fiestaware is notorious for setting off Geiger counters. Although these dishes are not hazardous under normal circumstances, they are nonetheless radioactive. (Newer versions of orange Fiestaware use a different glaze and are not radioactive.) While many Fiestaware owners decide it's acceptable to expose themselves to small amounts of radiation, the Watertown residents had no such choice.



In the early 1980s, we became Watertown's nuclear-freeze group, believing that any other environmental issue paled compared to the threat of nuclear war. A leader in this effort was Elizabeth Ainsley Campbell, aunt of Belmont selectman Will Brownsberger. Elizabeth went on to become a statewide, and then national, leader in the disarmament movement.

Our environmental focus was rekindled in 1987 with the first hints that the Army Materials Technology Laboratory at the Arsenal site might close. The original estimate for performing environmental cleanup and relocating the site's ongoing military research activities came in at \$200 million. This large price tag raised our suspicions about what contaminants might be on the site.

We were a co-plaintiff with the Conservation Law Foundation in a lawsuit against the EPA for failing to evaluate federal facilities in New England for inclusion on the Superfund list. We won the suit, and the Arsenal became a Superfund site. One consequence of this was that WCES received a technical-assistance grant to hire expert

Defend Local Environment, Work for Peace

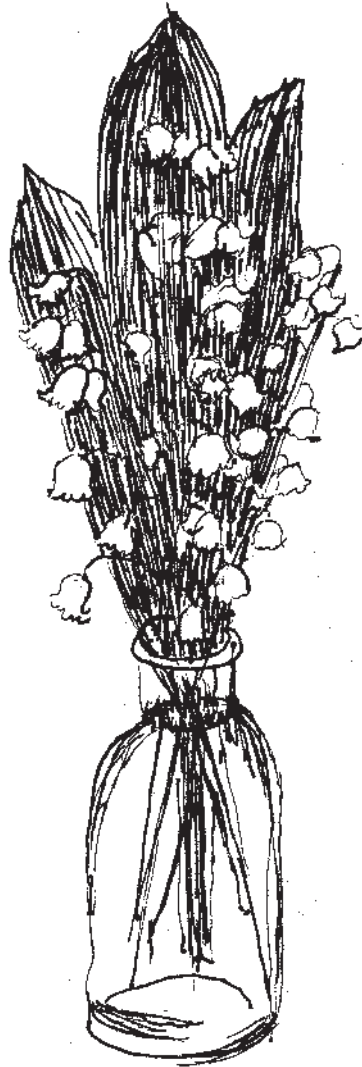
help to make sense of the remediation process. Overcoming initial mistrust, we developed a good working relationship with the army and its subcontractors, and Watertown became a national model for citizen involvement in military cleanup sites.

Peace and the environment have been intertwined throughout WCES's history. In the early years, many meetings were devoted to discussion of whether to change our name in order to better represent this dual focus (and in order to sound less like a radio station). But we never could think of a better name, so we stayed the course. Today, we use the tag line, "Watertown's voice for peace, the environment, and social justice." At times, this multiplicity has led us to feel as though we are spread very thin, but our flexibility to respond to a variety of issues is also, I believe, a source of our longevity. We currently have three active task forces:

- The Justice with Peace group uses education, public protest, and legislative action to create community support for justice, peace, common security, and environmental sustainability through international cooperation and respect. We hosted a local stop on the Military Families Speak Out tour with speakers who had been with Cindy Sheehan at Camp Casey in Crawford, Texas.
- The Environmental Task Force works on a variety of issues related to local quality of life. We cosponsored a forum on traffic calming last year with the Belmont Citizens Forum, and, like the Forum, we are concerned about haphazard and inappropriate development. We want to see a more walkable community, and we received a grant last year to purchase pedometers as part of an initiative to promote healthier lifestyles. We are exploring whether

there is support in Watertown and in the state government to consider breaching the Watertown dam. Let the Charles River run free!

- The third active task force is the Pesticide Use Reduction Education (PURE) committee. You may have seen our colorful display about the dangers of pesticide use at your church, school, or community event. PURE has been circulating a petition to encourage A. Russo & Son's produce market to offer a greater variety of organic produce and to support local agriculture by featuring New England produce.



Several other local groups and town committees began as projects of WCES, including the Watertown–El Salvador Sister City Project, Trees for Watertown, and the town's Recycling Advisory Group, Bicycle & Pedestrian Committee, and Environment and Energy Efficiency Committee. We are a member of the Massachusetts Climate Action Network (MCAN) and of the Boston-area United for Justice with Peace, often support projects of Massachusetts Peace Action, MassPIRG, and Toxics Action Center, and work with groups such as the Belmont Citizens Forum to promote projects of mutual interest. In addition, group members have served on the Watertown Conservation Commission and as town councillors.

I met an activist at a conference a few years ago who wondered admiringly how we successfully combined our focus on peace with our focus on the environment. "The environmental group I work with isn't interested in peace, and the peace groups aren't interested in the environment," he said. To us, they are one and the same.

For more information about WCES, visit www.watertowncitizens.org.

— Susan Falkoff is a longtime member of WCES and a former Watertown town councillor.

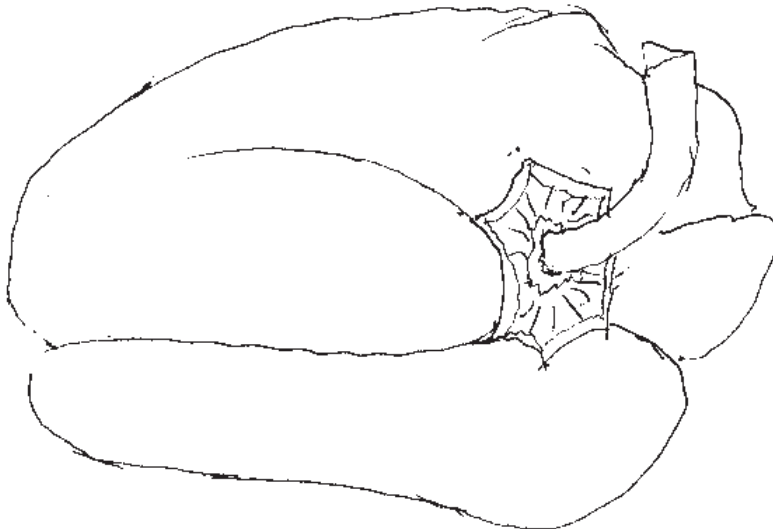


Belmont has a new farmers' market opening June 15!

**Shop in Belmont Center
Thursday afternoons
from 2:00 p.m. to 6:30 p.m.
at the municipal parking lot
behind the Leonard Street stores**

**Local farmers and producers will sell
fresh herbs, vegetables, honey, eggs,
potted plants, lotions, cut flowers, pies, scones, bread,
jam, apples, peaches, plums, berries, pesto, cookies, granola,
and oysters (in season).**

**The market runs from June 15 through October 26, 2006.
For more information, see www.belmontfarmersmarket.org**



Sewers *continued from page 1*

vate property is improperly piped into the sanitary sewer system, a problem called inflow; and groundwater seeps into broken sanitary sewer pipes, a problem called infiltration.

To deal with inflow and infiltration, McLean has promised mitigation: the removal of 5 gallons of water from the sanitary sewer system for every gallon of sewage the developers will add to the system. However, the hospital declined to pay for that removal when it applied to the town for its sewer connection permit, contrary to an agreement with the town, confirmed in an Oct. 20, 2000 letter from McLean and the developers to Tom Gatzunis, then the town engineer.

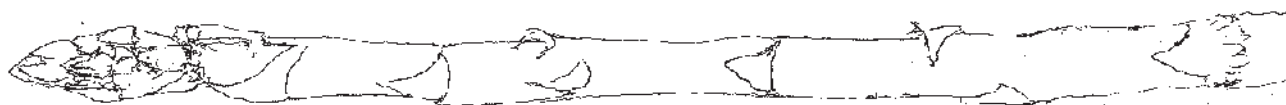
The appeal also questions whether the mitigation promised by McLean is adequate; whether the mitigation is properly targeted to the neighborhoods that will be most affected by the additional sewage; and whether the mitigation will be complete before the new sewage is introduced.

— *Sue Bass is a director of the Belmont Citizens Forum.*

Review of Uplands Sewer Plans Possible

The Belmont Citizens Forum is considering hiring an independent sewer consultant to evaluate the sewer line proposed by O'Neill Properties to convey sewage from its proposed development at the Belmont Uplands into the town's system. The route suggested is via Garrison Road near Little Pond and then across Winn Brook to the Massachusetts Water Resources Authority's Flanders Road connector. If such a sewer review is possible, the consultant could report his findings not only to the Belmont Zoning Board of Appeals, which is now considering an application from O'Neill Properties for a 40B housing development, but also the state board to which O'Neill might appeal. As with other such expert reviews, the Citizens Forum will raise the necessary funds from concerned residents.

— *Sue Bass*



Zoning Board of Appeals Meetings on The Belmont Uplands Comprehensive Permit (Chapter 40B) Application

**Wednesday, May 31
Environmental Issues**

**Wednesday, June 28
Stormwater**

For updated location and time, see
www.town.belmont.ma.us/Public_Documents/BelmontMA_Calendar

Barn bylaw *continued from page 16*

balanced coverage of the issue, but some readers considered it misleading.

In particular, readers objected to Heigham's description of Section 6.11.5 of the proposed bylaw. That section of the bylaw is a list of things the Planning Board could consider when granting special permits; none of the conditions are mandatory. The introduction to Section 6.11.5 reads (emphasis added): "In granting a Special Permit under this Section, the Planning Board *may* impose such conditions, safeguards and limitations on time or use that it determines to be appropriate to assure compliance with the criteria set forth in Section 6.11.5 including, but not limited to conditions" – followed by a list of possible conditions.

Heigham wrote in the March *Belmont Citizens Forum Newsletter*:

"The bylaw's proposed section 6.11.5 would allow the Planning Board to impose clauses in its special permit preventing any 'change in ownership' of premises with a Historic Accessory Building without

Planning Board permission. The validity of such a condition is very doubtful. Massachusetts state law prohibits such conditions in variance decisions. In any event, such a provision can be evaded by use of a long term lease which is legally not a transfer of ownership."

In short, Heigham claimed that the town couldn't keep someone else from buying the renovated barns, effectively subdividing the lots – and even if they could, the buyer could just purchase a long-term lease.

Others think Heigham is incorrect. Town Counsel drafted the bylaw and has vetted every clause, according to the proponents and Jeffrey Wheeler, Belmont's planning coordinator.

Like all legal questions, the barn bylaw's validity comes down to language, specifically the terms "variance" and "special permit." Heigham uses the words interchangeably, but they have different legal meanings. A variance allows a property owner to violate the zoning law in some way, such as by building a structure that is larger than the zoning allows. A special permit gives a property owner



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permission to use land in a particular way that is permitted in zoning law, such as for certain types of home business – if specific requirements are met to ensure that the neighborhood will not be harmed.

The barn bylaw involves special permits, not variances. According to Wheeler, special permits certainly can prohibit transfer of ownership, or limit the special permit to the current owner. This particular issue has been the subject of many court battles; Wheeler wrote, "... in each of these cases, the courts have ruled in favor of such conditions."

In fact, Belmont's Zoning Board of Appeals (ZBA) regularly grants special permits that do not permit a transfer of ownership, including special permits for restaurants, day care in family homes, and wireless telecommunications facilities. The ZBA does this to make sure that new owners will follow special permit restrictions on such issues as noise, traffic, and hours of operation.

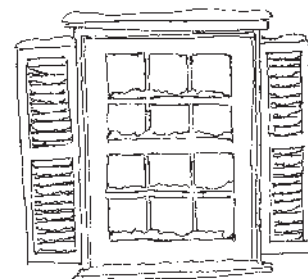
Wheeler explained that the ZBA wants to talk with the new owner to make sure that he or she understands the limitations of the special permit. Requiring the new owner to apply for a new special permit also gives the neighborhood a chance to comment on the permit and to recommend additional

conditions. The ZBA can use the opportunity to rein in a property owner who has been disrespectful of neighbors. "I can think of several instances where this has occurred," Wheeler commented in an e-mail.

Wheeler said he recalls no objection by an applicant to a change-of-ownership provision in a special permit, much less a suit against the town about it.

Asked for further comment on Wheeler's points, Heigham said, "I just disagree on whether the Planning Board has the authority to prevent changes in ownership... A long-term lease could be used to get around the whole thing."

— Meg Muckenhaupt is Editor of the Belmont Citizens Forum Newsletter.



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People Are Asking

Can the Barn Bylaw Limit Ownership?

By Meg Muckenhoupt

Belmont was once a town of farms. Now it is a town of homes, and the few remaining structures that farmers once used – barns, carriage houses, and greenhouses - are on house lots. The proposed Historic Accessory Building Preservation Bylaw (also called the “barn bylaw”) is designed to make it easier for homeowners to preserve these historic buildings, but it has caused considerable controversy and misunderstanding. The proposal seeks to allow owners of barns, carriage houses, and greenhouses built before 1921 to apply for a special permit to convert them to

another use, such as a small residential unit or a small non-retail business. The town Planning Board would grant these permits, subject to specific conditions. As written, the bylaw would protect 18 historic accessory buildings in Belmont.

Because of an unhappy accident, the barn bylaw could not be voted on at April Town Meeting. The warrant for that Town Meeting unintentionally omitted an entire paragraph of the bylaw. That missing paragraph meant that the warrant did not give adequate legal notice for the bylaw. It will be considered at a special Town Meeting on May 22.

In March, the *Belmont Citizens Forum Newsletter* published a brief article on the barn bylaw by James C. Heigham titled “Barn Bylaw Would Disrupt Neighborhoods.” It was printed in an effort to provide

continued on page 14