

INDIAN PONDS ASSOCIATION

Mystic Lake, Middle Pond, and Hamblin Pond

July 2002

Newsletter

Vol. 2 No. 2

IPA ANNUAL MEETING PLANNED FOR SUNDAY, JULY 21

The annual meeting of the Indian Ponds Association will be held on Sunday, July 21 at the home of Mr. and Mrs. John Kayajan, 32 Heath Row, Marstons Mills. The meeting will begin at 3:30 PM and will be followed by a social hour. All IPA members and prospective members living within the geographical boundaries of the IPA are invited to attend. In case of inclement weather, the meeting will be held at the Liberty Hall Club (adjacent to the Marstons Mills Library); if in doubt as to meeting location, call 508-420-2777 after 1 PM.

The Kayajan home is located in Lynxholm, just off Old Mill Road. If arriving by car, proceed on Regency Drive for approximately ¼ mile to Heath Road, the first street on the right. If arriving by water, look for the dock on the west side of Mystic Lake with the pontoon boat.

The agenda for the annual meeting is as follows:

Call to order (3:30 PM) – *Kevin Kavanagh*

Acceptance of secretary's report of July 20, 2001 annual meeting – *Carolyn Garbutt*

Treasurer's report for year ending June 30, 2002 – *Kevin Kavanagh*

Review of 2001-2002 – *Kevin Kavanagh*

Herring run status and progress – *Edward Schwarm*

President's report – *Kevin Kavanagh*

"The Danger of Invasive Aquatic Plants on Cape Cod" – Guest Speaker

Vote on proposed revisions to IPA Articles of Organization and By-laws – *John Hansen and Sheila Place*

Election of directors – Report of nominating committee (*Joseph Brown, John Hansen, and Jane Smith*)

Adjourn (4:45 PM)

Social hour and meet your neighbors

ELECTION OF NEW BOARD OF DIRECTORS

Under the new By-laws to be voted upon at the annual meeting, there will be a change in how officers are elected. The membership will be presented a slate of candidates for the board of directors by a nominating committee, appointed by the president, chaired by Joseph Brown, immediate past president. As always, nominations will also be accepted from the floor. Following the election, the new directors will meet and, from the board, elect officers for the year.

SUMMARY OF MAJOR REVISIONS TO IPA ARTICLES OF ORGANIZATION AND BY-LAWS

The IPA Articles of Organization and By-laws have been revised and subjected to a legal review to reflect a number of changes since the founding of the IPA in 1958. The most recent change (approved September 4, 1983) was to develop Articles of Organization, independent of the By-laws (that change was to conform to the requirements for filing as a corporation, as well as to obtain IRS determination as an "exempt" organization). Such filings are again being considered. The Articles of Organization have been amplified to include, in the purpose of the organization, its role in protecting and enhancing the environment of the Indian Ponds for the public at large. In determining tax-exempt status, the IRS draws a firm line between charitable institutions and associations (such as homeowner' associations) formed to satisfy private interests.

In the years since IPA's inception, a number of changes have occurred. Considerable new development has occurred, environmental issues have assumed greater importance, and lifestyles have changed. In the area of environmental issues, new requirements and a number of Federal agencies, as well as Cape, County, Town, and Village entities have emerged. The By-laws now reflect the addressing of environmental concerns and working with such agencies. Ownership by families must now be understood to include ownership by individuals and by couples, including same-sex couples. Clarification of "voting members" to represent one vote per property was warranted. In addition, a review of the By-laws showed several areas where redundancies existed, or where more than one interpretation was possible; they were revised accordingly.

Changes in the IPA organization and its needs dictated changes. One example is the elimination of an "historian" since current minutes of meetings adequately serve that intended purpose. Another is the need for a "check and balance" system with respect to the expenditure of IPA funds, which may affect IRS determination of our status as an exempt organization.

PROPOSED ARTICLES OF ORGANIZATION AND BY-LAWS

Indian Ponds Association **Articles of Organization**

Article I - Organization's Name

The organization is the Indian Ponds Association.

Article II - Purpose

Whereas, as a result of land use changes associated with an increasing coastal population, a steady decline in water quality in coastal plains has been noted in recent decades, and

whereas, the freshwater ponds on the coastal plain of Cape Cod represent an environmentally and ecologically rich asset, improving the quality of life of the public while also providing economic benefits, and

whereas, three of the largest freshwater ponds on Cape Cod, totaling 375 acres (Mystic Lake, Middle Pond, and Hamblin Pond, and known as the Indian Ponds), located in the Town of Barnstable in the Commonwealth of Massachusetts, are vulnerable to further degrading effects, both manmade and natural, and

whereas, recent studies conducted of the three downstream bays and coves (North Bay, Cotuit Bay, and West Bay) have shown nutrient-related water quality declines in several areas,

the Indian Ponds Association (IPA) is organized and operated exclusively as a charitable organization to preserve and protect the natural environment and ecological systems of the Indian Ponds and surrounding parcels of lands and watershed. The organization will participate in studies and work with other agencies, individuals, and groups to educate the public, serve the community, and promote and preserve the Indian Ponds and surrounding areas.

Article III - Location

The IPA is located in the Village of Marstons Mills, in the Town of Barnstable, in Barnstable County, MA. The mail address is P.O. Box 383, Marstons Mills, MA 02648.

Article IV - Operation

The operation of the IPA is described in the attached By-laws.

By-laws

Article I - Name and Membership

The organization shall be known as the "Indian Ponds Association". Membership is open to all holders of record title within the Village of Marstons Mills abutting any of the three ponds (Hamblin, Middle, and Mystic) including property not to exceed one lot in depth across the bounding highways from the lake area indicated on the Town of Barnstable Zoning Map dated March 8, 1966. [Bounding highways are Race Lane from Old Mill east to Route 149, south to Lovells Lane, west to River Road, northwest to Bog Road, north to Old Mill Road, and ending again at Race Lane]. Membership is granted upon signing of a register of members maintained by the clerk of the association, and payment of dues.

Article II - Officers of the Association

1. Directors and Officers. A slate of directors to fill open director positions will be presented for election at the annual meeting. Following the annual meeting, the directors will meet and elect, from among the directors, the Association officers.

2. President. The president, with advice of the board of directors, will prepare the agenda, and will chair all meetings of the Association or of its board of directors. He/she will represent the Association before Town agencies and other bodies, unless some other person or director may be specifically designated for that purpose by the president or by the board of directors. He/she will appoint a nominating committee annually, which will prepare a slate of directors for the annual meeting.

3. Vice President. The vice president will preside at meetings in the absence of the president, and otherwise assume the duties of the president when the latter is not available.

4. Treasurer. The treasurer will receive, hold and expend funds of the Association as directed by these By-laws and from time to time by the board of directors. The treasurer will submit a written account of all funds to the membership at the annual meeting and to the board of directors at each of its meetings.

5. Clerk. The clerk will maintain the membership roll of the Association, record the minutes of the annual meeting and board of directors meetings, and distribute those minutes to the members of the board of directors. The record thus kept of the proceedings will serve as the historical record of the Association.

Article III - The Board of Directors

1. Number. The number of directors of the Indian Ponds Association is set at 11, unless and until further determined by members of the Association pursuant to these By-laws. In the event of the loss of a board member, the president will call a meeting of the board to appoint an interim member.

2. Power of the Board. The board of directors shall have the power to manage all of the affairs of the Association, and without limiting the generality of the foregoing or any power vested in the By-laws, the board shall have the power to establish, levy, and collect Association dues as described in Article VI for the purpose of managing and executing the affairs of the IPA, to satisfy IPA goals and to support and improve the three Ponds for the benefit of members and the public at large.

Article IV - Terms of Officers and Directors

1. Terms of the Board. Each director shall be elected for a two-year term unless otherwise noted in the By-laws. No director shall serve more than two consecutive terms. In order to prevent the possible expiration of terms of all directors at one time, terms will be staggered. Accordingly, at the first election of directors following the adoption of these By-laws, five of the eleven directors shall be elected for one-year terms [and eligible for re-election for a two-year term the following year], and six of the eleven directors shall be elected for two-year terms [and eligible for re-election for a second two-year term in two years].

Article V - Meetings of the Association

1. Annual Meeting. An annual meeting shall be held on a Sunday in July at which directors shall be elected, and budgets, expenditures, accomplishments, and future plans shall be discussed. Notice of the annual meeting will be provided to members not later than 14 days before the date of the meeting, together with an annual report of the Association's activities and finances.

2. Board Meetings. The board of directors will meet as called by the president or by a majority of the board, but not less than three times during the year, and will also meet following the Association's annual meeting for the purpose of electing officers.

3. Special Meetings. A special meeting of the membership may be called at the president's discretion, or by a majority of the board, or by request of a minimum of 20 Association voters. At least two weeks prior to the meeting, the president will provide members with written notice of the circumstances warranting the meeting, the issues involved, and a tentative agenda.

4. Quorums. The quorum for the annual meeting or for any special meeting will be comprised of at least 20 percent of the members of record, or their written proxy, at the meeting. The quorum for a meeting of the board shall consist of a majority of the board members.

5. Votes. Each property owner who is a member is entitled to a single vote representing the property in question. That vote may be presented by the property owner/voter present at the meeting, or by a proxy vote received by the board prior to the meeting.

Article VI - Association Funds

1. Annual Dues. The board of directors will set the amount of the annual membership dues. The board will set the annual membership fee to cover anticipated Association expenses, recognizing that the fee should be kept as nominal as possible to encourage membership.

2. Maintenance of Funds. All funds will be kept in an account maintained in the name of the Association. Withdrawal of funds in excess of \$100 will require the signature of the president and treasurer. Withdrawal of funds in excess of \$500.00 will require the approval of the board of directors.

3. Expenditure of Funds. Association funds will be used to cover all administrative costs, including the cost of keeping and maintaining records of the Association, and preparation and mailing to members notices of meetings or newsletters. From time to time, funds may also be expended in the pursuit of the objectives of the Association, and may include such items as hearings, legal fees, and filings.
4. Donations. Donations will be accepted by the Association and will be added to the general fund, unless otherwise specified by the donor.
5. Fiscal Year. The fiscal year shall be from July 1 through June 30.
6. Dissolution. In the event the Association dissolves, any excess money accumulated, net of expenses, would be donated as a charitable gift to the Marstons Mills Library.

Article VII - Committees

1. Nominating Committee. The president will appoint a nominating committee annually. The committee will be comprised of a past president, a current director, and a member at large. The committee will prepare a slate of proposed directors to be voted on at the annual meeting. The proposed slate will have broad geographical representation of the area covered by the Indian Ponds Association.
2. Other committees may be established, as necessary, by the president, with the assent of the board of directors.

Article VIII - Amendments

1. Amendments. These By-laws may be amended at any annual meeting or any special meeting provided only that the proposed amendment will be stated specifically in the notice.

Article IX - Parliamentary Authority

1. Proceedings. Robert's Rules of Order shall generally be accepted to govern the proceedings of the IPA. The president shall appoint a parliamentarian if necessary.

HARD WORK PAYS OFF – WE WON — The proposal for a grant to refurbish 915 feet of the wooden flume of the Marstons Mills herring run has resulted in an award of \$20,000 from the Gulf of Maine Council on the Marine Environment. This will pay for materials and machine rental to replace about 350 feet of the wooden flume most in need of repair, including new rot-resistant materials and a waterproof bottom lining. The project will be under the direction of the Town of Barnstable Division of Natural Resources and DPW. The IPA, Liberty Hall Men's Club, and Trout Unlimited will provide assistance throughout the project. Prior to the start of this work, a survey of the elevations of the Marstons Mills herring run will be made by the Town Engineering Department from within Middle Pond to the exit of the run into the Marstons Mills River. Additionally, a water budget study will be done *pro bono* by Acadia Environmental Technology, Inc. As our budget and grant request was for \$48,000 to do the full 915 feet of the flume, our grant request was also evaluated by the American Rivers/ NOAA Rivers Restoration Program. They were unable to provide the additional funding this summer, but have asked us to resubmit our proposal in the fall for further consideration.

Ed Schwarm, a member of the IPA Board of Directors and a professional engineer, wrote the grant proposal with the help of the Town Manager's Office and Town DPW. Mr. Schwarm is following through for the additional funding.

THE HERRING COMMITTEE is working on problems associated with the herring run. The Committee's efforts have now placed the management of the run directly in the hands of the Town Division of Natural Resources. This is working well. Serious water conservation is now being practiced, the run is regularly inspected, and flow is adjusted to optimize herring proliferation and water conservation.

The IPA still has not agreed with the management plan submitted by the Massachusetts Division of Marine Fisheries (DMF). The plan currently states that the run shall be opened whenever fish are present. With this wording, the priority of a few fish could use water needed later to ensure a major fish run down the ladder in the fall. If the ladder is lowered, as is being requested by some, this lack of definition and priorities could very adversely affect the lake levels in times of low water. Emory Anderson and Ed Schwarm are working with the DMF to resolve this problem.

A BRIEF HISTORY OF THE INDIAN PONDS ASSOCIATION

The Association was formed in 1958 by property owners in Marstons Mills surrounding the so-called Indian Ponds: Mystic Lake, Middle Pond, and Hamblin Pond. These people recognized at an early stage the threat of over-population and exploitation of the fragile ecology in this area. In 1961, the Association convinced the Town of Barnstable that larger lot sizes were essential to prevent contamination of the lakes, and the first one-acre zoning on Cape Cod was established. In 1963, the Association was active in researching and supporting the existing roadway width in the area. In 1967, the Association proposed and was successful in establishing a 1200 acre conservation area by the Town of Barnstable. In the early 1970's, the Association researched and successfully opposed the commercialization of the natural resources. In 1975, the Association proposed and was successful in establishing a Town of Barnstable By-law pertaining to the 10 HP maximum motor size on the freshwater lakes in order to minimize ecological damage. In 1981, the Association succeeded in convincing developers to refrain from draining lake water to supply man-made ponds. In so doing, the Association acquired a restriction that land at the end of Middle Pond be undeveloped and left in a natural state, with permanent rights to oversee this. In 1983, a letter to Selectmen influenced a revision in the Lozanno & White consultants' planning recommendations which gave greater emphasis to water quality as a top priority issue. Also, petitions sent to Selectmen (125 signatures) protesting the Rte 149 and Osterville - West Barnstable Road development had considerable impact in influencing the Town's subsequent acquisition of the area for conservation. In 1984, a letter sent to members, and distributed even more widely, helped marshal public opinion to vote down in referendum the proposed sixty-acre Services and Distribution area proposal in Marstons Mills. During the years, the Association has become a vigilant and concerned participant in matters of local zoning and conservation, actively supporting measures which would protect the environment and maintain the water quality of the three lakes involved.

JOIN THE INDIAN PONDS ASSOCIATION

IPA membership is open to

- all property owners whose land abuts any of the three ponds (Middle Pond, Mystic Lake, and Hamblin Pond)
- or is close enough to be affected by happenings thereon,
- **but** not exceeding one lot depth across the bounding highways from the lake area district (***starting at Race Lane east to Route 149, south to Lovells Lane, west to River Road, northwest to Bog Road, north to Old Mill Road, and ending again at Race Lane***).
- To join the IPA, fill out the application form below and send it with a \$10.00 check made out to **Indian Ponds Association, P.O. Box 383, Marstons Mills, MA 02648**.

APPLICATION FORM

Name_____

IPA Property Address_____

Mailing Address_____

Telephone Number_____E-mail Address_____

_____ Please find enclosed check for \$10.00 for a one-year family membership in IPA.

_____ **Please find enclosed check for \$_____ as an additional donation to the IPA.**

Signature_____

INDIAN PONDS ASSOCIATION BOARD MEMBERS: 2001-2002

President: Kevin Kavanagh

Vice President: Ted Elliott

Board of Directors: Emory Anderson, Robert Frazee, John Hansen,
John Kayajan, Bruce McHenry, Sheila Place, and Edward Schwarm

CHECK OUR WEBSITE AT:

<http://www.indianponds.org>

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P.O. Box 383

Marstons Mills, MA 02648

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