

## Town of Amherst

### UNOFFICIAL RECORD OF VOTES OF THE TOWN COUNCIL

Monday, November 16, 2020

6:45 p.m.

Virtual Meeting

Members Participating Remotely: Bahl-Milne, Brewer, De Angelis, DuMont, Griesemer, Hanneke, Pam, Ross, Ryan, Schoen, Schreiber, Steinberg, Swartz

Members Absent:

Others Participating Remotely: Town Manager Paul Bockelman, Principal Assessor Elizabeth Duffy, Finance Director Sean Mangano, Comptroller Sonia Aldrich, Board of Assessors Member Ken Hargreaves, Planner Ben Breger, Communications Manager Brianna Sunryd, Department of Public Works Superintendent Guilford Mooring, IT Director Sean Hannon, and Clerk of the Council Athena O'Keeffe

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, this meeting of the Town Council is being conducted via remote participation.

**All votes will be taken by roll call.**

Per MGL Chapter 30A Section 20(f), this meeting is being recorded and broadcast by Amherst Media.

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President Griesemer called the meeting to order at 6:48 p.m.

#### 5. Consent Agenda

Consent Agenda: The following items were selected because they were considered to be routine and it was reasonable to expect they would pass with no controversy. To remove an item from the consent agenda for discussion later in the meeting, ask that it be removed when the President lists the consent agenda items. The request to remove an item from the consent agenda does not require a second.

**MOTION:** To move the following items, and the printed motions thereunder and approve those items as a single unit:

- Suspension of Town Council Rules of Procedure rule 8.4 for agenda ~~items 8.e.~~ and 8.g.
- 8.b. Adoption of Council Order FY21-05B
- ~~8.e. To adopt a minimum residential factor of one, equal tax rate for all classes of properties for Fiscal Year 2021 and that no open space discount be granted~~
- ~~8.e. To not adopt a Residential Exemption for Fiscal Year 2021~~
- ~~8.e. To not adopt a Small Commercial Exemption for Fiscal Year 2021~~
- 8.e. To amend Zoning Article 14 – Temporary Zoning
- 8.g. Adoption of the 2021 Town Council Meeting Schedule
- 9.a. Approval of Town Manager Appointments to the following boards/committees:
  - 9.a.(1) Community Safety Working Group
- 9.b.(1) Approval of Town Council Appointment of Four Towns Meeting Representative

DuMont removed suspension of Town Council Rules of Procedure rule 8.4 for agenda item 8.c.

DuMont removed agenda items 8.c.

Motion by: Griesemer

Seconded by: Hanneke

**ROLL CALL VOTE:** 13-0 Bahl-Milne, Brewer, De Angelis, DuMont, Griesemer, Hanneke, Pam, Ross, Ryan, Schoen, Schreiber, Steinberg, Swartz

#### 8. Action Items

##### a. North Common Presentation

**MOTION:** To refer the Planning Director Memo 11-13-20 Regarding the North Common and Main Street Parking Lot Project – A First Look to the Town Services and Outreach Committee, for review and recommendation to the Town Council within 90 days.

Motion by: Griesemer

Seconded by: Ross

**ROLL CALL VOTE:** Unanimous, 13-0 (Councilors Bahl-Milne, Brewer, De Angelis, DuMont, Griesemer, Hanneke, Pam, Ross, Ryan, Schoen, Schreiber, Steinberg, and Swartz voted Yes)

**b. Appropriation outside the annual budget – Council Order FY21-05B Purchase of a new ambulance – Second discussion**

**VOTED VIA CONSENT AGENDA:**

**MOTION:** In accordance with Charter Sec. 5.6, having been reviewed and recommended by the Finance Committee report of November 16, 2020, published on the Town Bulletin Board for a minimum of 10 days on November 4, 2020, and held a Public Forum on November 16, 2020, to adopt Council Order 21-05B, An Order Appropriating Funds for the Town of Amherst Capital Program – Purchase of a new Ambulance, as presented.

**c. Tax Classification**

**MOTION:** To suspend Town Council Rules of Procedure rule 8.4 for the current agenda item.

Motion by: Hanneke

Seconded by: Schoen

**ROLL CALL VOTE:** 12-1 (Councilors Bahl-Milne, Brewer, De Angelis, Griesemer, Hanneke, Pam, Ross, Ryan, Schoen, Schreiber, Steinberg, and Swartz voted Yes; Councilor DuMont voted No)

**1. MOTION:** To adopt a minimum residential factor of one, equal tax rate for all classes of properties for Fiscal Year 2021 and that no open space discount be granted.

Motion by: Griesemer

Seconded by: Hanneke

**ROLL CALL VOTE:** 12-1 (Councilors Bahl-Milne, Brewer, De Angelis, Griesemer, Hanneke, Pam, Ross, Ryan, Schoen, Schreiber, Steinberg, and Swartz voted Yes; Councilor DuMont voted No)

**2. MOTION:** To NOT adopt a Residential Exemption for Fiscal Year 2021.

Motion by: Griesemer

Seconded by: DeAngelis

**ROLL CALL VOTE:** 12-1 (Councilors Bahl-Milne, Brewer, De Angelis, Griesemer, Hanneke, Pam, Ross, Ryan, Schoen, Schreiber, Steinberg, and Swartz voted Yes; Councilor DuMont voted No)

**3. MOTION:** To NOT adopt a Small Commercial Exemption for Fiscal Year 2021.

Motion by: Griesemer

Seconded by: Steinberg

**ROLL CALL VOTE:** Unanimous, 13-0 (Councilors Bahl-Milne, Brewer, De Angelis, DuMont, Griesemer, Hanneke, Pam, Ross, Ryan, Schoen, Schreiber, Steinberg, and Swartz voted Yes)

**d. Use of the Public Way – First Discussion**

**(2) Public Information and Emergency Communication Signs**

**MOTION:** To refer the permanent use of public ways request for Public Information and Emergency Communication Signs to the Town Services and Outreach Committee for a report and recommendation

to the Council by December 21, 2020.

Motion by: Griesemer

Seconded by: Ryan

**ROLL CALL VOTE:** Unanimous, 13-0 (Councilors Bahl-Milne, Brewer, De Angelis, DuMont, Griesemer, Hanneke, Pam, Ross, Ryan, Schoen, Schreiber, Steinberg, and Swartz voted Yes)

**MOTION:** To amend the motion by changing the date from December 21, 2020 to December 7, 2020.

Motion by: Hanneke

Seconded by: Ryan

**ROLL CALL VOTE:** Unanimous, 13-0 (Councilors Bahl-Milne, Brewer, De Angelis, DuMont, Griesemer, Hanneke, Pam, Ross, Ryan, Schoen, Schreiber, Steinberg, and Swartz voted Yes)

**(3) Bus Stop Improvements**

**MOTION:** To suspend Town Council Rules of Procedure rule 8.4 for the current agenda item.

**ROLL CALL VOTE:** 11-2 (Councilors Bahl-Milne, Brewer, De Angelis, DuMont, Griesemer, Hanneke, Ross, Ryan, Schoen, Steinberg, and Swartz voted Yes; Councilors Pam and Schreiber voted No)

**MOTION:** To approve the use of the public way for improvements to PVTA Bus Stops located at:

- One (1) new bus shelter at the intersection of North Pleasant Street and Cowles Lane (in front of St Brigid's Parish);
- One (1) new bus shelter at the intersection of South Pleasant Street and Spring Street (in front of the Town Common);
- One (1) replacement bus shelter on the south bound side of Main Street, adjacent to the Town Common

Motion by: Griesemer

Seconded by: Ryan

**ROLL CALL VOTE:** 11-2 (Councilors Bahl-Milne, Brewer, De Angelis, DuMont, Griesemer, Hanneke, Ross, Ryan, Schoen, Steinberg, and Swartz voted Yes; Councilors Pam and Schreiber voted No)

**(1) Revision to Policy Regarding Control and Regulation of the Public Ways**

**MOTION:** To refer the Town Manager Memo 11-12-20 "Revisions to Policy Regarding the Control and Regulation of the Public Ways" to the Town Services and Outreach Committee and to the Governance, Organization, and Legislation Committee, for review and recommendation to the Town Council by December 7, 2020.

Motion by: Griesemer

Seconded by: Hanneke

**The motion was retracted.**

**MOTION:** To refer the Town Manager Memo 11-12-20 "Revisions to Policy Regarding the Control and Regulation of the Public Ways" to the Town Services and Outreach Committee and to the Governance, Organization, and Legislation Committee, for review and recommendation regarding section 4 of the policy to the Town Council by December 7, 2020 and remaining sections of the public ways policy by January 25, 2021.

Motion by: Hanneke

Seconded by: Ryan

**ROLL CALL VOTE:** Unanimous, 13-0 (Councilors Bahl-Milne, Brewer, De Angelis, DuMont, Griesemer, Hanneke, Pam, Ross, Ryan, Schoen, Schreiber, Steinberg, and Swartz voted Yes)

**e. Amendments to Zoning Article 14 – Temporary Zoning – Second Reading – Charter Sec. 2.10(a)**

**VOTED VIA CONSENT AGENDA:**

**MOTION:** To amend Zoning Bylaw Article 14, Temporary Zoning, as follows:

1. In the first paragraph, delete the phrase "for a period of 180 days, beginning on June 16, 2020" and replace with the phrase "until December 31, 2021".
2. In the first sentence of Affected Uses, delete the word "and" before "COM," and add the phrase "OP, and PRP" after the word "COM,".
3. In Affected Uses, add "Section 3.360 Medical Uses" as a new line after the phrase "Section 3.3.52 Food and Drink Establishments".
4. Add the following language immediately before the section Waivers and Modifications as part of the section Affected Uses:

For Temporary Use or changes in response to COVID-19 issues, including the placement of temporary structures, in any zoning district for the following uses:

Section 3.312 Class I and Class II Farm Stand  
Section 3.330.0 Non-profit educational institution  
Section 3.333 Church or other place of worship, parish house, rectory or convent  
Section 3.334 Not for profit library or museum  
Section 3.336 Medical or residential institutions  
Section 3.342 Governmental Administration building, fire or police station  
Section 3.344 Other governmental use not specifically listed herein

Temporary Use: A use or alteration established for a fixed period of time with the intent to discontinue and return to the original condition upon expiration of the time period.

5. Add the sentence "At the time of application and for no less than 10 days, applicant shall prominently place notice of its application, with contact information for the Building Inspector and Planning Director, at the main entrance of the building on a front window, door or siding." to the end of the first paragraph of Application Process.

**f. Prohibiting the Use of Wild and Exotic Animals in Traveling Shows and Circuses Bylaw – Second Reading, Charter Sec. 2.10(a)**

**MOTION:** To adopt the Prohibiting the Use of Wild and Exotic Animals in Traveling Shows and Circuses Bylaw as a General Bylaw, as follows:

**3.XX PROHIBITING THE USE OF WILD AND EXOTIC ANIMALS IN TRAVELING SHOWS AND CIRCUSES**

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**PENALTIES FOR VIOLATION OF THE PROHIBITING THE USE OF WILD AND EXOTIC ANIMALS IN TRAVELING SHOWS AND CIRCUSES BYLAW**

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**Criminal Enforcement for Violation:** \$150 - \$300 fine per animal per day

**Noncriminal Disposition:** \$300 fine per animal per day (enforcement by: Police Department, Animal Welfare Officer)

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## A. Purpose

It is the intent of the Amherst Town Council to protect the public against hazards that Wild and Exotic Animals used in Traveling Shows and Circuses pose to society and to protect Wild and Exotic Animals from cruel and inhumane treatment.

## B. Definitions

For the purpose of this Bylaw only, the following words and terms shall be deemed to mean and to be construed as follows:

1. "Circus" means a class C licensee that is licensed under the Animal Welfare Act (7 USC Section 2131 et seq.) and its subsequent amendments, regulations, and standards adopted pursuant to the Act, that offers performances by live animals, clowns and/or acrobats.
2. "Person" means an individual, partnership, corporation, joint venture, association, trust, estate, or any legal entity, and any officer, member, shareholder, director, employee, agent or representative of these.
3. "Traveling Show" means any mobile or stationary act or exhibition, Circus, public show, trade show, photographic opportunity, carnival, city or county fair, ride, parade, race, performance, or similar undertaking incorporating Wild or Exotic Animals wherein the animals are taken from their permanent residence and required to walk or travel for any distance.
4. "Wild or Exotic Animal" means any or all of the following orders and families, whether born in the wild or in captivity, and also any or all of their hybrids, including hybrids with domestic species. The animals listed in parentheses are intended to act as examples and are not to be construed as an exhaustive list or limit the generality of each group of animals, unless otherwise specified:
  - a. Non-human primates and prosimians (such as chimpanzees, baboons, monkeys, etc.) –All species.
  - b. Felidae (such as lions, tigers, cougars, leopards, ocelots, servals, etc.) – All species except domestic cats.
  - c. Canidae (such as wolves, coyotes, etc.) – All species except domestic dogs.
  - d. Ursidae (such as bears) – All species.
  - e. Marsupialia (such as kangaroos, etc.) All species.
  - f. Proboscidae (such as elephants) – All species.
  - g. Crocodilia (such as crocodiles, alligators, etc.) – All species.
  - h. Artiodactyla (such as hippopotamuses, giraffes, camels, etc.)- All species except domestic cattle, swine, sheep, goats, llamas, or alpacas.
  - i. Perissodactyla (such as zebras, rhinos, and tapirs) - All species except domestic horses, donkeys or mules.
  - j. Struthioniformes (such as ostriches) -All species.
  - k. Casuariiformes (such as emus) - All species.
  - l. Pinnipeds (such as sea lions) – All species.
5. "Wildlife Sanctuary" means a 501 (c)(3) organization described in Section 170 (b)(1)(A)(vi) Internal Revenue Code 1986, and its subsequent amendments where:

- a. No commercial trade in animals occurs (including, but not limited to, sale of animals, animal parts, by-products, offspring, photographic opportunities or public events for financial profit, or any other entertainment purposes);
- b. No propagation of animals occurs in the facility; and
- c. No unescorted public visitation is allowed; no direct contact between the public and wild animals is allowed; animals are not taken from the sanctuary or enclosures for exhibition.

### **C. Prohibition**

It shall be unlawful for any Person to conduct, sponsor, walk, exhibit, or operate a Traveling Show or Circus that includes live Wild or Exotic Animals on any public or private land within the Town of Amherst, MA.

### **D. Exceptions**

The provisions of this Bylaw shall not apply to:

1. Institutions accredited by the Association of Zoos and Aquariums;
2. Any Wildlife Sanctuary as defined under this Bylaw;
3. An exhibition that takes place at a non-mobile, permanent institution or other fixed facility, provided that the covered animal is not transported to such location for the purpose of such exhibition; or
4. Any demonstrations or exhibitions by a college or university for bona fide educational or research purposes, and not for amusement or entertainment purposes.

Motion by: Griesemer

Seconded by: Bahl-Milne

**ROLL CALL VOTE:** 13-0 (Councilors Bahl-Milne, Brewer, De Angelis, DuMont, Griesemer, Hanneke, Pam, Ross, Ryan, Schoen, Schreiber, Steinberg, and Swartz voted Yes)

### **g. 2021 Town Council Meeting Schedule**

**VOTED VIA CONSENT AGENDA:**

**MOTION:** To suspend Town Council Rules of Procedure rule 8.4 for the current agenda item.

**VOTED VIA CONSENT AGENDA:**

**MOTION:** To adopt the 2021 Town Council meeting schedule, as presented.

### **9. Appointments**

#### **a. Town Manager Appointments – Consent Agenda**

##### **(1) Community Safety Working Group**

**VOTED VIA CONSENT AGENDA:**

**MOTION:** To approve the following Town Manager appointment to the Community Safety Working Group, effective immediately, as filed with the Town Clerk on November 10, 2020, and recommended by the Town Services and Outreach Committee report of November 12, 2020:

- For a term to last the length of the Working Group's efforts:
  - Russ Vernon-Jones

#### **b. Town Council Appointments**

##### **(1) Four Towns Meeting Representative**

**VOTED VIA CONSENT AGENDA:**

**MOTION:** To designate Councilor Steinberg as the Town Council representative and to speak on behalf of the Town Council during the Four Towns Meeting on December 5, 2020 and any subsequent deliberations and meetings.

The Council adjourned at 11:33 p.m.

DRAFT