

Town of Amherst
UNOFFICIAL RECORD OF VOTES OF THE TOWN COUNCIL

Monday, November 15, 2021

6:02 p.m.

Virtual Meeting

Councilors Participating Remotely: Bahl-Milne left the meeting at 10:33 pm, Brewer, De Angelis, DuMont, Griesemer, Hanneke, Pam, Ross, Ryan, Schoen, Schreiber joined at 6:30 pm, Steinberg, Swartz

Councilors Absent: None

Finance Committee members: Matt Holloway, Bob Hegner, Bernie Kubiak

Library Trustees: Lee Edwards, Tamson Ely, Austin Sarat, Alex Lefebvre, Chris Hoffmann, Bob Pam

School Committee Members: Peter Demling, Allison McDonald, Kerry Spitzer, Heather Lord

Others Participating Remotely: Town Manager Paul Bockelman, Clerk of the Council Athena O'Keeffe, Finance Director Sean Mangano, Comptroller Sonia Aldrich, Assistant Comptroller Holly Bowser, Regional School Finance Director Doug Slaughter, Library Director Sharon Sharry, Principal Assessor Kim Mew, Schools Superintendent Mike Morris, Treasurer Jennifer LaFountain

When remote participation is used, 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.

President Griesemer called the Town Council meeting to order at 6:02 p.m.

Town Council adjourned financial indicators meeting at 7:27 p.m.

Library Trustees called to order at 6:03 p.m.; adjourned at 7:26 p.m.

School Committee 6:04 p.m.; adjourned at 7:25 p.m.

Finance Committee called to order at 6:05 p.m.; adjourned at 7:26 p.m.

Town Council Public Forum on the Budget call to order at 7:27 p.m.; adjourned at 8:15 p.m.

Finance Committee call to order at 7:28 p.m.; adjourned at 8:15 p.m.

Regular Town Council meeting called to order at 8:28 p.m.; adjourned at 11:24 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.

MOVED: 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 the following agenda items:

- ~~○ 8.c.(1) Public Information and Emergency Communication Signs
Removed by DuMont~~
- 8.c.(3) Extension of Back-in Parking Spaces on North Pleasant Street
- ~~○ 8.d. Landfill Solar Project Conservation Restriction Removed from the agenda~~
- 6.a. **Waiver of Town Council Rules of Procedure rule 8.6** for the Proclamation in Support of Small Business Saturday® and Merry Days
- 6.a. **Adoption** of Proclamation in Support of Small Business Saturday® and Merry Days
- 8.a.(1) Acknowledging the Council’s vote on October 18, 2021 was invalid, to **adopt** a minimum residential factor of one, equal tax rate for all classes of properties for Fiscal Year 2022 and that no open space discount be granted.
- 8.a.(3) Acknowledging the Council’s vote on October 18, 2021 was invalid, to **NOT adopt** a Small Commercial Exemption for Fiscal Year 2022.
- ~~● 8.c.(1) **Approval** of use of public way: Soofa Public Information and Emergency Communication Signs Removed by Pam~~
- 8.c.(2) **Approval** of use of public way: Embracing Community: Art Mural Project on the East Common
- 8.c.(3) **Suspension** of Town Council Policy Regarding the Control and Regulation of the Public Ways Section 2.c.
- 8.c.(3) **Approval** of Extension of Back-in Parking Spaces at 37-51 North Pleasant Street
- ~~● 8.d. **Approval** of Landfill Solar Project Conservation Restriction Removed from the agenda~~
- 9.b.(1) **Designation of Town Council Representatives** for the November 20, 2021 Four Towns Meeting

Motion by: Griesemer

Seconded by: Ross

ROLL CALL VOTE: Unanimous, 13-0

6. Resolutions and Proclamations

a. Proclamation in Support of Small Business Saturday® and Merry Days

VOTED VIA CONSENT AGENDA:

MOVED: To waive Town Council Rules of Procedure rule 8.6 for the Proclamation in Support of Small Business Saturday® and Merry Days.

VOTED VIA CONSENT AGENDA:

MOVED: To adopt the Proclamation in Support of Small Business Saturday® and Merry Days, as presented.

8. Action Items

a. Tax Classification: Tax Rate and Exemptions

(1) VOTED VIA CONSENT AGENDA:

MOVED: Acknowledging the Council’s vote on October 18, 2021 was invalid, to adopt a minimum residential factor of one, equal tax rate for all classes of properties for Fiscal Year 2022 and that no open space discount be granted.

- (2) **MOVED:** Acknowledging the Council’s vote on October 18, 2021 was invalid, to NOT adopt a Residential Exemption for Fiscal Year 2022.

Motion by: Griesemer

Seconded by: Hanneke

ROLL CALL VOTE: Unanimous, 13-0

- (3) **VOTED VIA CONSENT AGENDA:**

MOTION: Acknowledging the Council’s vote on October 18, 2021 was invalid, to NOT adopt a Small Commercial Exemption for Fiscal Year 2022.

b. Financial Orders – First Discussion

Automatic referral to Finance Committee – no action required.

c. Use of the Public Way

- (1) **Soofa Public Information and Emergency Communication Signs**

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

Motion by: Griesemer

Seconded by: Ryan

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

MOVED: To approve the extension of the existing one-year pilot use of the public way for information and communication signs at three locations in Amherst for the period of one additional year at the following locations:

- One (1) Information Sign on North Pleasant St. by the crosswalk (across from Central Fire Station/in front of former Starbucks location)
- One (1) Information Sign at the northwest corner of Amity St. and North Pleasant St.
- One (1) Information Sign at the sidewalk of South Pleasant Street and Spring Street (in front of the Town Common by the Spring St. Parking Lot)

Motion by: Griesemer

Seconded by: Ryan

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

- (2) **Embracing Community: Art Mural Project on the East Common**

VOTED VIA CONSENT AGENDA:

MOVED: To approve the “Embracing Community” project request by Gigi Barnhill and Eric Broudy for Long-Term Event Use reservation of the southern third of the East Town Common between Main Street and Watson Farms, to place a maximum of ten (10) three-sided triangular structures, each side measuring a maximum of 13’ tall and 10’ wide, with

the lower portion of the structures no more than 5' off the ground, under Town Council Policy Regarding Control and Regulation of the Public Ways, from May 1, 2023 through October 30, 2023, with final review and approval of placement by the Town Manager, with a report to the Town Council upon approval.

(3) Extension of Back-in Parking Spaces at 37-51 North Pleasant Street

VOTED VIA CONSENT AGENDA

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

VOTED VIA CONSENT AGENDA

MOVED: To suspend Town Council Policy Regarding the Control and Regulation of the Public Ways Section 2.c. because a Public Hearing is not essential for a long-term temporary change to a minimal amount of parking through April 30, 2022.

VOTED VIA CONSENT AGENDA

MOVED: To extend the approval of the long-term change of four (4) parallel parking spaces in front of 37-51 North Pleasant Street to six back-in angle parking spaces from November 30, 2021 to April 30, 2022.

e. Reorganization of Town Agencies – Charter Sec. 6.1: Establishment of Community Responders for Equity, Safety, and Service (CRESS) and Diversity, Equity and Inclusion (DEI) Departments

MOVED: In accordance with Charter Sec. 6.1, to refer the Town Manager's Reorganization Plan: Diversity, Equity, and Inclusion Office, dated November 12, 2021, to the Town Services and Outreach Committee, for a public forum by December 12, 2021, and not later than the second regular meeting of the Town Council following the public forum but in advance of the last Council meeting scheduled before January 11, 2022, make a recommendation to the Town Council that it should approve or disapprove of the plan.

Motion by: Griesemer

Seconded by: Ross

ROLL CALL VOTE: 12-0, with 1 absent (Brewer, De Angelis, DuMont, Griesemer, Hanneke, Pam, Ross, Ryan, Schoen, Schreiber, Steinberg, and Swartz voted Yes; Bahl-Milne was absent)

MOVED: In accordance with Charter Sec. 6.1, to refer the Town Manager's Reorganization Plan: Community Responders for Equity, Safety, and Service, dated November 12, 2021, to the Town Services and Outreach Committee, for a public forum by December 12, 2021, and not later than the second regular meeting of the Town Council following the public forum but in advance of the last Council meeting scheduled before January 11, 2022, a recommendation to the Town Council that it should approve or disapprove of the plan.

Motion by: Griesemer

Seconded by: Hanneke

ROLL CALL VOTE: 12-0, with 1 absent (Brewer, De Angelis, DuMont, Griesemer, Hanneke, Pam, Ross, Ryan, Schoen, Schreiber, Steinberg, and Swartz voted Yes; Bahl-Milne was absent)

f. Surveillance Technology Bylaw

MOVED: To adopt the Surveillance Technology Bylaw, as shown on pages 8-15 of the Motions sheet, with the Town Clerk to add the appropriate Bylaw number references after adoption, as amended.

Motion by: Hanneke

Seconded by: De Angelis

ROLL CALL VOTE: 12-0, with 1 absent (Brewer, De Angelis, DuMont, Griesemer, Hanneke, Pam, Ross, Ryan, Schoen, Schreiber, Steinberg, and Swartz voted Yes; Bahl-Milne was absent)

MOVED: To amend the proposed Surveillance Technology Oversight Bylaw as follows: (1) to remove the following clause from the first sentence of Section H.3: “and the Surveillance Technology Community Equity Impact Assessment and Policy Guidance, as detailed in Section I.1” and (2) to delete Section I in its entirety, and to rename the subsequent sections accordingly.

Motion by: Ryan

Seconded by: Schoen

ROLL CALL VOTE: 8-4, with 1 absent (Brewer, Griesemer, Pam, Ryan, Schoen, Schreiber, Steinberg, and Swartz voted Yes; De Angelis, DuMont, Hanneke, and Ross voted No; Bahl-Milne was absent)

Move to call the question.

Motion by: Pam

Seconded by: Hanneke

ROLL CALL VOTE: 12-0, with 1 absent (Brewer, De Angelis, DuMont, Griesemer, Hanneke, Pam, Ross, Ryan, Schoen, Schreiber, Steinberg, and Swartz voted Yes; Bahl-Milne was absent)

9. Appointments

b. Town Council Appointments

(1) Designation of Town Council Representatives for the November 20, 2021 Four Towns Meeting

VOTED VIA CONSENT AGENDA

MOVED: To designate the Town Council President and Chair of the Finance Committee as Town Council representatives to speak on behalf of the Town Council at the November 20, 2021 Four Towns Meeting.

14. Topics Not Anticipated 48 Hours in Advance of the Meeting

MOVED: Under rule 7.5 (a), having voted in favor of the referral of the Solar Bylaw

Moratorium to the Planning Board and the Community Resources Committee, to reconsider that motion.

Motion by: Steinberg

Seconded by: Hanneke

MOVED: To postpone the current discussion to November 22 as the last action item.

Motion by: Hanneke

Seconded by: Ryan

ROLL CALL VOTE: 11-1, with 1 absent (Brewer, De Angelis, DuMont, Griesemer, Hanneke, Pam, Ryan, Schoen, Schreiber, Steinberg, and Swartz voted Yes; Ross voted No; Bahl-Milne was absent)

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3.XX - SURVEILLANCE TECHNOLOGY OVERSIGHT

A. **Purpose.**

The purpose of this Bylaw is to provide for the regulation of Surveillance Technology acquisition or use by the City known as the Town of Amherst or the use of the Surveillance Data it provides, to safeguard the right of individuals to privacy balanced with the need to promote and provide safety and security.

B. **Definitions.**

1. "Disparate Impact" means an adverse effect that is disproportionately experienced by individual(s) having any traits, characteristics, or status as to which discrimination is prohibited under the Constitution or any law of the United States, the constitution or any law of the Commonwealth of Massachusetts, or the Amherst Home Rule Charter or any law of the Town of Amherst than by similarly situated individual(s) not having such traits, characteristics, or status.
2. "Exigent Circumstances" means the Police Chief's or the Police Chief's designee's good faith belief that an emergency involving danger of death or physical injury requires use of the Surveillance Technology or the Surveillance Data it provides. The use of Surveillance Technology in Exigent Circumstances shall not infringe upon an individual's right to peacefully protest and exercise other lawful and protected Constitutional Rights.
3. "Marginalized Communities" means communities that are defined by a common race, ethnicity, religion, national origin, disability, income level, sexual orientation, or political perspective.
4. "Personal Communication Device" means a cellular telephone that has not been modified beyond stock manufacturer capabilities, a personal digital assistant, a wireless capable tablet, or similar wireless two-way communications and/or portable Internet-accessing devices, whether procured or subsidized by a Town entity or personally owned, that is used in the regular course of conducting Town business.
5. "Surveillance Data" means any electronic data collected, captured, recorded, retained, processed, intercepted, or analyzed by Surveillance Technology acquired by the Town or operated at the direction of the Town.
6. "Surveillance Technology" means any software, electronic device, system utilizing an electronic device, or similar used, designed, or primarily intended to collect, retain, process, or share audio, electronic, visual, location, thermal, biometric, olfactory or similar information specifically associated with, or capable of being associated with, any individual or group.
 - a. "Surveillance Technology" includes, but is not limited to:
 1. International Mobile Subscriber Identity ("IMSI") catchers and other cell site simulators;
 2. Automatic license plate readers;
 3. Electronic toll readers;
 4. Closed-circuit television cameras except as otherwise provided herein;
 5. Biometric Surveillance Technology, including facial, voice, iris, and gait-recognition software and databases;
 6. Mobile DNA capture technology;
 7. Gunshot detection and location hardware and services;

8. X-ray vans;
 9. Video and audio monitoring and/or recording technology, such as surveillance cameras, vehicle cameras, and wearable body cameras;
 10. Tools, including software and hardware, used to gain unauthorized access to a computer, computer service, or computer network;
 11. Social media monitoring software;
 12. Radio-frequency identification (RFID) scanners; and
 13. Software designed to integrate or analyze data from Surveillance Technology, including surveillance target tracking and predictive policing software.
- b. For the purposes of this Bylaw, "Surveillance Technology" does not include the following devices, hardware, or software:
1. Office hardware, such as televisions, computers, credit card machines, copy machines, telephones, and printers that are in widespread use by the Town and are used for routine Town business and transactions;
 2. Town databases and enterprise systems that contain information kept in the ordinary course of Town business, including, but not limited to, human resources, permits, licenses, and business records;
 3. Town databases and enterprise systems that do not contain any data or other information collected, captured, recorded, retained, processed, intercepted, or analyzed by Surveillance Technology, including payroll, accounting, or other fiscal databases;
 4. Information technology security systems, including firewalls and other cybersecurity systems;
 5. Physical access control systems, employee identification management systems, inventory control systems, and other physical control systems;
 6. Infrastructure and mechanical control systems, including those that control or manage street lights, traffic lights, electrical, natural gas, or water or sewer functions;
 7. LiDAR technology and systems used for Geographic Information Systems imagery purposes;
 8. Global Positioning System technology used to collect field data or track Town-owned vehicles that are stored on Town property when not in use;
 9. Computers, software, hardware, or other devices used in monitoring the work and work-related activities involving Town employees, contractors and volunteers or used in conducting internal investigations involving Town employees, contractors and volunteers;
 10. Cameras installed on the exterior or the interior of Town property solely for security purposes, such as to monitor entryways and outdoor areas of Town-owned or controlled buildings and property for the purpose maintaining the safety of Town employees and visitors to Town buildings, protecting Town property, or to protect the physical integrity of Town infrastructure;

11. Cameras, computers, software, hardware, or devices used for videoconferencing or to facilitate broadcast or recording if public meetings;
 12. Police department interview room, holding cell, and police department internal security audio/video recording systems;
 13. Police department computer-aided dispatch (CAD), records/case management, Live Scan, booking, Department of Motor Vehicles, 9-1-1, and related dispatch and operation or emergency services systems;
 14. Police department early warning systems;
 15. Parking Ticket Devices ("PTDs") and related databases;
 16. Manually-operated, handheld cameras, audio recorders, and video recorders whose functionality is limited to manually capturing and manually downloading video and/or audio recordings;
 17. Surveillance devices that cannot record or transmit audio or video or be remotely accessed, such as image stabilizing binoculars or night vision goggles;
 18. Manually-operated technological devices that are used primarily for internal Town communications, such as radios, personal communications devices, and email systems; and
 19. Parking access and revenue control systems, including proximity card readers and transponder readers at Town-owned or controlled parking garages.
7. "Surveillance Use Policy" means a publicly-released, legally enforceable written policy for governing the Town's use of Surveillance Technology, approved by the Town Attorney as to form, and submitted by the Town Manager to and approved by the Town Council. The Surveillance Use Policy shall at a minimum, include the following:
- a. Purpose: The specific purpose(s) that the Surveillance Technology item is intended to advance;
 - b. Authorized Use: The uses that are authorized, the rules and processes required prior to such use, the location(s) it may be deployed, and uses of the Surveillance Technology that will be expressly prohibited;
 - c. Data Collection: What types of Surveillance Data will be collected, captured, recorded, intercepted, or retained by the Surveillance Technology;
 - d. Data Access: The category of individuals who can access or use the collected information, , and the rules and processes required prior to access or use of the information;
 - e. Data Protection: The general safeguards that protect information from unauthorized access, including encryption and access control mechanisms;
 - f. Data Retention: The limited time period, if any, that information collected by the Surveillance Technology will be routinely retained, the reason such retention period is appropriate to further the purpose(s) enumerated in the Surveillance Use Policy, the process by which the information is regularly deleted after that period lapses, and the specific conditions that must be met to retain information beyond that period;

- g. **Public Access:** How collected information can be accessed or used by members of the public, including criminal defendants, consistent with the provisions of the Public Records Law and its implementing regulations;
 - h. **Third-Party Data-Sharing:** If and how other Amherst or non-Amherst entities, agencies, departments, bureaus, divisions, or units can access or use the data collected by the Surveillance Technology, including any required justification or legal standard necessary to share that data, and how Town of Amherst will ensure that any entity sharing or receiving such data complies with the Surveillance Use Policy;
 - i. **Maintenance:** Whether use or maintenance of the Surveillance Technology will require data gathered by the Surveillance Technology to be handled or stored by a third-party vendor on an ongoing basis and, if so, the parameters of the third-party vendor's use, handling, or storage;
 - j. **Training:** The training required for any individual authorized to use the Surveillance Technology or to access information collected by the Surveillance Technology;
 - k. **Complaints:** What procedures will be put in place by which members of the public can register complaints or concerns, or submit questions about the deployment or use of a specific surveillance technology, and how the municipal entity will ensure each question and complaint is responded to in a timely manner; and
 - l. **Auditing and Oversight:** The mechanisms to ensure that the Surveillance Use Policy is followed, including internal personnel assigned to ensure compliance with the policy, internal record keeping of the use of the technology or access to information collected by the technology, technical measures to monitor for misuse, any independent person or entity with oversight authority, and the legally enforceable sanctions for violations of the policy.
8. "Town of Amherst" means any department, agency, bureau, and/or subordinate division of the Town of Amherst, except those under the jurisdiction of the School Committee, Regional School Committee, or Library Trustees.
- C. Town Council Review and Approval Mandatory for Surveillance Decisions.**
1. The Town Manager shall obtain Town Council approval of a Surveillance Use Policy for use of Surveillance Technology by the Town of Amherst prior to engaging in any of the following:
 - a. Acquiring or borrowing new Surveillance Technology whether or not that acquisition is made through the exchange of monies or for other or no consideration;
 - b. Using new or existing Surveillance Technology for a purpose, in a manner, or in a location not previously approved by the Town Council in accordance with this Bylaw; or
 - c. Entering into an agreement, including a written or oral agreement, with a non-Town of Amherst entity to acquire, share, or otherwise use Surveillance Technology or its Surveillance Data.
 2. Any Surveillance Use Policy submitted to the Town Council for approval shall be published on the Town Bulletin Board no fewer than fourteen (14) days prior to the date of the Council meeting where it shall be discussed.
 3. Prior to approval, the Town Council may request revisions to the Surveillance Use Policy submitted by the Town Manager.

D. Exceptions.

1. The following situations constitute the use, acquisition, or borrowing of Surveillance Technology or Surveillance Data; however, the provisions of this Bylaw shall not apply said situations:
 - a. Use of Surveillance Technology or Surveillance Data by the Police Department with regard to Exigent Circumstances and compelling law enforcement needs that make it impractical to obtain a court order; provided that the Police Chief confirms that such use is appropriate, and, further that the receipt, access or use is logged in the Town Department Surveillance Report addressed under **Section 3. __H**, and signed off by the Police Chief.
 - b. The receipt of evidence derived from Surveillance Technology or Surveillance Data pursuant to a warrant issued in relation to the investigation of a crime.
 - c. A Town department head may, with the approval of the Town Manager, apply a technical patch or upgrade that is necessary to mitigate threats to the Town's environment. The department shall not use the new surveillance capabilities of the technology until the requirements **of Section 3. __C** are met, unless the Town Manager determines that the use is unavoidable; in that case, the Town Manager shall request Town Council approval as soon as possible. The request shall include a report to the Town Council of how the altered surveillance capabilities were used since the time of the upgrade.

E. Surveillance Technology Impact Report and Surveillance Use Policy Submission.

1. When seeking approval under **Section 3. __C** of this Bylaw, the Town Manager shall submit to the Town Council a Surveillance Technology Impact Report and a proposed Surveillance Use Policy pertaining to the specific Surveillance Technology for which approval is sought at least fourteen (14) days prior to the date of the Council meeting where it shall be discussed under **Section 3. __C**. The proposed Surveillance Technology Impact Report and proposed Surveillance Use Policy shall be posted on the Town Bulletin Board at least fourteen (14) days prior to the date of the Council meeting where it shall be discussed.
2. The Surveillance Technology Impact Report shall be written and include at a minimum the following:
 - a. If applicable, the crime statistics for any location(s) the Technology will be deployed;
 - b. An assessment identifying any potential impact on civil liberties and civil rights and a description of a plan to safeguard the rights of the public, including identifying with specificity (1) Any potential adverse impacts the Surveillance Technology, if deployed, might have on civil liberties and civil rights of any individuals, communities, or groups, including, but not limited to, Marginalized Communities in the Town; and (2) what specific, affirmative measures will be implemented to safeguard the public from those potential adverse impacts;
 - c. The fiscal costs for the Surveillance Technology, including initial purchase and other ongoing costs and excluding personnel costs, and any current or potential sources of funding; and
 - d. A summary of the experience, if any, other governmental entities have had with the proposed technology, including information about the effectiveness, any known adverse information about the Surveillance Technology such as unanticipated costs, failures, civil rights, or civil liberties abuses.

F. Standard of Approval.

The Town Council shall only approve a request under **Section 3. C** of this Bylaw if it determines the benefits to the community of the proposed Surveillance Technology outweigh its costs, that the Surveillance Use Policy will safeguard civil liberties and civil rights, that no alternative with lesser economic cost or impact on civil rights or liberties would be as effective, and that the uses and deployments of the Surveillance Technology will not be based upon discriminatory or viewpoint-based factors or have a Disparate Impact on any community or group.

G. Compliance for Existing Surveillance Technology.

1. The Town Manager shall submit to the Town Council for its review and approval pursuant to **Sections 3. C and E** a proposed Surveillance Use Policy applicable to each Surveillance Technology in use by the Town of Amherst at the time this Bylaw becomes effective no later than 180 days following the effective date of this Bylaw.
2. If the Town Manager is unable to meet this 180-day timeline, the Town Manager may notify the Town Council in writing requesting to extend this period and the reasons for that request. The Town Council may grant an extension to the Town Manager to submit a proposed Surveillance Use Policy of up to ninety (90) days beyond the 180-day timeline.
3. If the Town Council has not approved the continuing use of Surveillance Technology through approval of a Surveillance Use Policy pursuant to **Sections 3. C and E**, within one hundred eighty (180) days of its submission to the Town Council, the Surveillance Use Policy shall be deemed approved.

H. Oversight Following Council Approval.

1. For each Surveillance Technology approved for use under this Bylaw, upon request by the Town Council, the Town Manager, or designee, shall submit to the Town Council and publish on the Town Bulletin Board a Town Department Surveillance Report by the date stated in the Town Council's request, and no more frequently than once every twelve (12) months. If the Town Manager, or designee, is unable to meet the deadline, the Town Manager shall request, in writing, the Town Council extend this period, and shall provide the reasons for the request. The Town Council may grant reasonable extensions for good cause.
2. Within sixty (60) days of receiving the Town Department Surveillance Report, the Town Council shall discuss the Report at a regular Council Meeting.
3. Based upon information in the Town Department Surveillance Report and the Surveillance Technology Community Equity Impact Assessment and Policy Guidance, as detailed in **Section I.1**, the Town Council shall reassess whether the Surveillance Technology as used continues to meet the standard of approval set forth in **Section 3. F** of this Bylaw. If it does not, the Town Council shall consider (1) directing that the use of the Surveillance Technology cease; (2) requiring modifications to the Surveillance Use Policy that are designed to address the Council's concerns; and/or (3) directing a report-back from the Town Manager regarding steps taken to address the Council's concerns.
4. The Town Department Surveillance Report shall be written, shall concern specific Surveillance Technology, and shall include the following:
 - a. A description of how the Surveillance Technology has been used;
 - b. A description of whether and how often data acquired through the use of the Surveillance Technology was shared with outside entities, the name of any recipient entity, the type(s) of data disclosed, under what legal standard(s) the information was disclosed, and the justification for the disclosure;

- c. A summary of community complaints or concerns about the Surveillance Technology, if any;
 - d. The results of any internal audits required by the Surveillance Use Policy, any information about violations of the Surveillance Use Policy, and a general description of any actions taken in response;
 - e. Information that helps the Town Council assess whether the Surveillance Technology has been effective at achieving its identified purposes;
 - f. Statistics and information about any related public records requests;
 - g. Total annual costs for the Surveillance Technology, including personnel and other ongoing costs, and what source of funding will fund the Technology in the coming year;
 - h. Any requested modifications to the Surveillance Use Policy and a detailed basis for the request; and
 - i. Where applicable, a breakdown of what physical objects the Surveillance Technology was installed upon, using general descriptive terms; for Surveillance Technology software, a breakdown of what data sources the Surveillance Technology was applied to.
5. If the Town Manager believes that data or other information is insufficient to report on any of the requirements for the Report, the Manager shall indicate the same in the Report.
- I. Surveillance Technology Community Equity Impact Assessment and Policy Guidance**
- 1. Upon referral by the Town Council or in conjunction with a request to the Town Manager for a Town Department Surveillance Report, the appropriate Town Council Committee shall produce and submit to the Town Manager and Town Council by the date stated by the Town Council, and no more frequently than once every twelve (12) months and for the specific Surveillance Technology identified in the referral or request to the Town Manager, a Surveillance Technology Community Equity Impact Assessment and Policy Guidance, which shall, at a minimum, address the following:
 - a. What communities and groups in the Town, if any, are Disparately Impacted by the use of Surveillance Technologies, what disparities were perceived and/or experienced, and what were the resulting adverse impacts on the community's or group's civil rights and/or civil liberties;
 - b. With respect to each perceived or experienced disparity identified in response to **Section 3. __ I.1.a**, what remedial adjustments to laws and policies, including but not limited to prior approvals granted pursuant to this Bylaw, should be made so as to achieve a more just and equitable outcome in the future;
 - c. With respect to each remedial adjustment identified in response to **Section 3. __ I.1.b**, what additional funding, implementation strategies, and/or accountability mechanisms would be needed to effectuate the adjustment; and
 - d. In light of the collective responses to **Sections 3. __ I.1.a-c**, what new approaches and considerations should the Town Council bring to future reviews of applications submitted pursuant to this Bylaw.
- J. Enforcement.**
- 1. Violation. Any violation of this Bylaw may be enforced through any means in law or in equity; provided, however, that the following conditions must first be met:

- a. Prior to the initiation of any legal proceeding under this Bylaw, the Town of Amherst shall be given written notice of the violation(s) and an opportunity to correct such alleged violation(s) within 30 days of receipt of the notice.
 - b. If the alleged violation is substantiated and subsequently cured, a notice shall be posted in a conspicuous space on the Town's website that generally describes the corrective measure(s) taken to address the violation(s).
2. Whistleblower Protections. Subject to the limitations and requirements set forth in M.G.L. Ch. 149, Sec. 185 (known as the "Massachusetts Whistleblower Statute" and cited herein as "Section 185") as it may be amended from time to time, any Town employee as defined in Section 185 who reports an alleged violation of this Bylaw, shall be afforded protections against retaliation if applicable pursuant to Section 185, as set forth in and subject to the limitations and requirements of Section 185.
 3. Nothing in this Chapter shall be construed to limit or affect any individual's rights under state or federal laws.
- K. **Effective Date.**
This Chapter shall take effect 90 days after its adoption.

DRAFT